
HOUSE BILL 2653

State of Washington

64th Legislature

2016 Regular Session

By Representatives Cody, Jinkins, Tharinger, Fitzgibbon, S. Hunt, and Fey

Read first time 01/18/16. Referred to Committee on Finance.

1 AN ACT Relating to the excise taxation of personalized handguns;
2 amending RCW 9.41.090; adding a new section to chapter 82.08 RCW;
3 adding a new section to chapter 82.12 RCW; and creating new sections.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** (1) This section is the tax preference
6 performance statement for the tax preference contained in this act.
7 This performance statement is only intended to be used for subsequent
8 evaluation of the tax preference. It is not intended to create a
9 private right of action by any party or be used to determine
10 eligibility for preferential tax treatment.

11 (2) The legislature categorizes this tax preference as one
12 intended to induce certain designated behavior by taxpayers, as
13 indicated in RCW 82.32.808(2)(a).

14 (3) It is the legislature's specific public policy objective to
15 promote the purchase of personalized handguns, in order to reduce
16 injuries and deaths from accidental discharging of firearms and
17 stolen firearms.

18 (4) To measure the effectiveness of this act in achieving the
19 specific public policy objective described in subsection (3) of this
20 section, the joint legislative audit and review committee must, at
21 minimum, evaluate the following:

1 (a) The number of personalized handguns sold in Washington state,
2 as reported to the department of licensing each year;

3 (b) The number of licensed dealers of firearms retailing
4 personalized handguns, as reported to the department of licensing
5 each year;

6 (c) Total numbers of accidental discharges of firearms and theft
7 of firearms, as well as whether or not these incidents resulted in
8 injury or death or involved personalized handguns, as collected by
9 state or local law enforcement agencies or by the state department of
10 health; and

11 (d) In addition to the data sources described under this section,
12 the joint legislative audit and review committee may use any other
13 data it deems necessary in performing the evaluation under subsection
14 (3) of this section.

15 **Sec. 2.** RCW 9.41.090 and 2015 c 1 s 5 (Initiative Measure No.
16 594) are each amended to read as follows:

17 (1) In addition to the other requirements of this chapter, no
18 dealer may deliver a pistol to the purchaser thereof until:

19 (a) The purchaser produces a valid concealed pistol license and
20 the dealer has recorded the purchaser's name, license number, and
21 issuing agency, such record to be made in triplicate and processed as
22 provided in subsection (5) of this section. For purposes of this
23 subsection (1)(a), a "valid concealed pistol license" does not
24 include a temporary emergency license, and does not include any
25 license issued before July 1, 1996, unless the issuing agency
26 conducted a records search for disqualifying crimes under RCW
27 9.41.070 at the time of issuance;

28 (b) The dealer is notified in writing by the chief of police or
29 the sheriff of the jurisdiction in which the purchaser resides that
30 the purchaser is eligible to possess a pistol under RCW 9.41.040 and
31 that the application to purchase is approved by the chief of police
32 or sheriff; or

33 (c) The requirements or time periods in RCW 9.41.092 have been
34 satisfied.

35 (2)(a) Except as provided in (b) of this subsection, in
36 determining whether the purchaser meets the requirements of RCW
37 9.41.040, the chief of police or sheriff, or the designee of either,
38 (~~shall~~) must check with the national crime information center, the
39 Washington state patrol electronic database, the department of social

1 and health services electronic database, and with other agencies or
2 resources as appropriate, to determine whether the applicant is
3 ineligible under RCW 9.41.040 to possess a firearm.

4 (b) Once the system is established, a dealer (~~shall~~) must use
5 the state system and national instant criminal background check
6 system, provided for by the Brady Handgun Violence Prevention Act (18
7 U.S.C. Sec. 921 et seq.), to make criminal background checks of
8 applicants to purchase firearms. However, a chief of police or
9 sheriff, or a designee of either, (~~shall~~) must continue to check
10 the department of social and health services' electronic database and
11 with other agencies or resources as appropriate, to determine whether
12 applicants are ineligible under RCW 9.41.040 to possess a firearm.

13 (3) In any case under this section where the applicant has an
14 outstanding warrant for his or her arrest from any court of competent
15 jurisdiction for a felony or misdemeanor, the dealer (~~shall~~) must
16 hold the delivery of the pistol until the warrant for arrest is
17 served and satisfied by appropriate court appearance. The local
18 jurisdiction for purposes of the sale (~~shall~~) must confirm the
19 existence of outstanding warrants within seventy-two hours after
20 notification of the application to purchase a pistol is received. The
21 local jurisdiction (~~shall~~) must also immediately confirm the
22 satisfaction of the warrant on request of the dealer so that the hold
23 may be released if the warrant was for an offense other than an
24 offense making a person ineligible under RCW 9.41.040 to possess a
25 pistol.

26 (4) In any case where the chief or sheriff of the local
27 jurisdiction has reasonable grounds based on the following
28 circumstances: (a) Open criminal charges, (b) pending criminal
29 proceedings, (c) pending commitment proceedings, (d) an outstanding
30 warrant for an offense making a person ineligible under RCW 9.41.040
31 to possess a pistol, or (e) an arrest for an offense making a person
32 ineligible under RCW 9.41.040 to possess a pistol, if the records of
33 disposition have not yet been reported or entered sufficiently to
34 determine eligibility to purchase a pistol, the local jurisdiction
35 may hold the sale and delivery of the pistol up to thirty days in
36 order to confirm existing records in this state or elsewhere. After
37 thirty days, the hold will be lifted unless an extension of the
38 thirty days is approved by a local district court or municipal court
39 for good cause shown. A dealer (~~shall~~) must be notified of each
40 hold placed on the sale by local law enforcement and of any

1 application to the court for additional hold period to confirm
2 records or confirm the identity of the applicant.

3 (5)(a) At the time of applying for the purchase of a pistol, the
4 purchaser (~~shall~~) must sign in triplicate and deliver to the dealer
5 an application containing his or her full name, residential address,
6 date and place of birth, race, and gender; the date and hour of the
7 application; the applicant's driver's license number or state
8 identification card number; a description of the pistol including the
9 make, model, caliber (~~and~~), manufacturer's number if available at
10 the time of applying for the purchase of a pistol, and whether the
11 pistol is a personalized handgun as defined in section 3 of this act.
12 If the manufacturer's number is not available, the application may be
13 processed, but delivery of the pistol to the purchaser may not occur
14 unless the manufacturer's number is recorded on the application by
15 the dealer and transmitted to the chief of police of the municipality
16 or the sheriff of the county in which the purchaser resides; and a
17 statement that the purchaser is eligible to possess a pistol under
18 RCW 9.41.040.

19 (b) The application (~~shall~~) must contain a warning
20 substantially as follows:

21 CAUTION: Although state and local laws do not differ, federal law and
22 state law on the possession of firearms differ. If you are prohibited
23 by federal law from possessing a firearm, you may be prosecuted in
24 federal court. State permission to purchase a firearm is not a
25 defense to a federal prosecution.

26 (c) The purchaser (~~shall~~) must be given a copy of the
27 department of fish and wildlife pamphlet on the legal limits of the
28 use of firearms, firearms safety, and the fact that local laws and
29 ordinances on firearms are preempted by state law and must be
30 consistent with state law.

31 (d) The dealer (~~shall~~) must, by the end of the business day,
32 sign and attach his or her address and deliver a copy of the
33 application and such other documentation as required under subsection
34 (1) of this section to the chief of police of the municipality or the
35 sheriff of the county of which the purchaser is a resident. The
36 triplicate (~~shall~~) must be retained by the dealer for six years.
37 The dealer (~~shall~~) must deliver the pistol to the purchaser
38 following the period of time specified in this chapter unless the
39 dealer is notified of an investigative hold under subsection (4) of

1 this section in writing by the chief of police of the municipality or
2 the sheriff of the county, whichever is applicable, denying the
3 purchaser's application to purchase and the grounds thereof. The
4 application (~~shall~~) may not be denied unless the purchaser is not
5 eligible to possess a pistol under RCW 9.41.040 or 9.41.045, or
6 federal law.

7 (e) The chief of police of the municipality or the sheriff of the
8 county (~~shall~~) must retain or destroy applications to purchase a
9 pistol in accordance with the requirements of 18 U.S.C. Sec. 922.

10 (6) A person who knowingly makes a false statement regarding
11 identity or eligibility requirements on the application to purchase a
12 pistol is guilty of false swearing under RCW 9A.72.040.

13 (7) This section does not apply to sales to licensed dealers for
14 resale or to the sale of antique firearms.

15 NEW SECTION. Sec. 3. A new section is added to chapter 82.08
16 RCW to read as follows:

17 (1) The tax levied by RCW 82.08.020 does not apply to the retail
18 sale of a personalized handgun.

19 (2) The definitions in this subsection apply throughout this
20 section unless the context clearly requires otherwise.

21 (a) "Authorized user" means the owner of a handgun or a person
22 authorized by the owner to possess and use the handgun.

23 (b) "Personalized handgun" means a handgun that incorporates
24 within its design, and as part of its original manufacture,
25 technology that automatically limits its operational use and that
26 cannot be readily deactivated, so that it may only be fired by an
27 authorized user.

28 (i) The technology limiting the handgun's operational use may
29 include, but not be limited to: Radio frequency tagging, touch
30 memory, remote control, fingerprint, magnetic encoding, and other
31 automatic user identification systems utilizing biometric,
32 mechanical, or electronic systems.

33 (ii) No make or model of a handgun may be deemed to be a
34 "personalized handgun" unless the Washington state patrol has
35 determined, through testing or other reasonable means, that the
36 handgun meets any reliability standards that the manufacturer may
37 require for its commercially available handguns that are not
38 personalized or, if the manufacturer has no such reliability
39 standards, that the handgun meets the reliability standards generally

1 used in the industry for commercially available handguns. The
2 Washington state patrol must publish on a public web site the makes
3 and models of handguns which it determines to be personalized
4 handguns.

5 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.12
6 RCW to read as follows:

7 (1) The provisions of this section do not apply with respect to
8 the use of a personalized handgun.

9 (2) For the purposes of this section, "personalized handgun" has
10 the same meaning as provided in section 3 of this act.

11 NEW SECTION. **Sec. 5.** Sections 3 and 4 of this act apply to the
12 sale or use of personalized handguns made on or after July 1, 2016.

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