
HOUSE BILL 2867

State of Washington

64th Legislature

2016 Regular Session

By Representatives Scott, Shea, Taylor, Young, Short, Haler, G. Hunt, Schmick, Dent, and Wilson

Read first time 01/25/16. Referred to Committee on Judiciary.

1 AN ACT Relating to authorizing conceal carry on campuses of
2 institutions of higher education; amending RCW 9.41.010 and
3 9.41.0975; adding new sections to chapter 9.41 RCW; creating new
4 sections; prescribing penalties; and providing an effective date.

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

6 **Sec. 1.** RCW 9.41.010 and 2015 c 1 s 2 (Initiative Measure No.
7 594) are each amended to read as follows:

8 Unless the context clearly requires otherwise, the definitions in
9 this section apply throughout this chapter.

10 (1) "Antique firearm" means a firearm or replica of a firearm not
11 designed or redesigned for using rim fire or conventional center fire
12 ignition with fixed ammunition and manufactured in or before 1898,
13 including any matchlock, flintlock, percussion cap, or similar type
14 of ignition system and also any firearm using fixed ammunition
15 manufactured in or before 1898, for which ammunition is no longer
16 manufactured in the United States and is not readily available in the
17 ordinary channels of commercial trade.

18 (2) "Barrel length" means the distance from the bolt face of a
19 closed action down the length of the axis of the bore to the crown of
20 the muzzle, or in the case of a barrel with attachments to the end of
21 any legal device permanently attached to the end of the muzzle.

1 (3) "Crime of violence" means:

2 (a) Any of the following felonies, as now existing or hereafter
3 amended: Any felony defined under any law as a class A felony or an
4 attempt to commit a class A felony, criminal solicitation of or
5 criminal conspiracy to commit a class A felony, manslaughter in the
6 first degree, manslaughter in the second degree, indecent liberties
7 if committed by forcible compulsion, kidnapping in the second degree,
8 arson in the second degree, assault in the second degree, assault of
9 a child in the second degree, extortion in the first degree, burglary
10 in the second degree, residential burglary, and robbery in the second
11 degree;

12 (b) Any conviction for a felony offense in effect at any time
13 prior to June 6, 1996, which is comparable to a felony classified as
14 a crime of violence in (a) of this subsection; and

15 (c) Any federal or out-of-state conviction for an offense
16 comparable to a felony classified as a crime of violence under (a) or
17 (b) of this subsection.

18 (4) "Dealer" means a person engaged in the business of selling
19 firearms at wholesale or retail who has, or is required to have, a
20 federal firearms license under 18 U.S.C. Sec. 923(a). A person who
21 does not have, and is not required to have, a federal firearms
22 license under 18 U.S.C. Sec. 923(a), is not a dealer if that person
23 makes only occasional sales, exchanges, or purchases of firearms for
24 the enhancement of a personal collection or for a hobby, or sells all
25 or part of his or her personal collection of firearms.

26 (5) "Family or household member" means "family" or "household
27 member" as used in RCW 10.99.020.

28 (6) "Felony" means any felony offense under the laws of this
29 state or any federal or out-of-state offense comparable to a felony
30 offense under the laws of this state.

31 (7) "Felony firearm offender" means a person who has previously
32 been convicted or found not guilty by reason of insanity in this
33 state of any felony firearm offense. A person is not a felony firearm
34 offender under this chapter if any and all qualifying offenses have
35 been the subject of an expungement, pardon, annulment, certificate,
36 or rehabilitation, or other equivalent procedure based on a finding
37 of the rehabilitation of the person convicted or a pardon, annulment,
38 or other equivalent procedure based on a finding of innocence.

39 (8) "Felony firearm offense" means:

40 (a) Any felony offense that is a violation of this chapter;

1 (b) A violation of RCW 9A.36.045;
2 (c) A violation of RCW 9A.56.300;
3 (d) A violation of RCW 9A.56.310;
4 (e) Any felony offense if the offender was armed with a firearm
5 in the commission of the offense.

6 (9) "Firearm" means a weapon or device from which a projectile or
7 projectiles may be fired by an explosive such as gunpowder.

8 (10) "Gun" has the same meaning as firearm.

9 (11) "Law enforcement officer" includes a general authority
10 Washington peace officer as defined in RCW 10.93.020, or a specially
11 commissioned Washington peace officer as defined in RCW 10.93.020.
12 "Law enforcement officer" also includes a limited authority
13 Washington peace officer as defined in RCW 10.93.020 if such officer
14 is duly authorized by his or her employer to carry a concealed
15 pistol.

16 (12) "Lawful permanent resident" has the same meaning afforded a
17 person "lawfully admitted for permanent residence" in 8 U.S.C. Sec.
18 1101(a)(20).

19 (13) "Licensed dealer" means a person who is federally licensed
20 under 18 U.S.C. Sec. 923(a).

21 (14) "Loaded" means:
22 (a) There is a cartridge in the chamber of the firearm;
23 (b) Cartridges are in a clip that is locked in place in the
24 firearm;
25 (c) There is a cartridge in the cylinder of the firearm, if the
26 firearm is a revolver;
27 (d) There is a cartridge in the tube or magazine that is inserted
28 in the action; or
29 (e) There is a ball in the barrel and the firearm is capped or
30 primed if the firearm is a muzzle loader.

31 (15) "Machine gun" means any firearm known as a machine gun,
32 mechanical rifle, submachine gun, or any other mechanism or
33 instrument not requiring that the trigger be pressed for each shot
34 and having a reservoir clip, disc, drum, belt, or other separable
35 mechanical device for storing, carrying, or supplying ammunition
36 which can be loaded into the firearm, mechanism, or instrument, and
37 fired therefrom at the rate of five or more shots per second.

38 (16) "Nonimmigrant alien" means a person defined as such in 8
39 U.S.C. Sec. 1101(a)(15).

1 (17) "Person" means any individual, corporation, company,
2 association, firm, partnership, club, organization, society, joint
3 stock company, or other legal entity.

4 (18) "Pistol" means any firearm with a barrel less than sixteen
5 inches in length, or is designed to be held and fired by the use of a
6 single hand.

7 (19) "Rifle" means a weapon designed or redesigned, made or
8 remade, and intended to be fired from the shoulder and designed or
9 redesigned, made or remade, and intended to use the energy of the
10 explosive in a fixed metallic cartridge to fire only a single
11 projectile through a rifled bore for each single pull of the trigger.

12 (20) "Sale" and "sell" mean the actual approval of the delivery
13 of a firearm in consideration of payment or promise of payment.

14 (21) "Serious offense" means any of the following felonies or a
15 felony attempt to commit any of the following felonies, as now
16 existing or hereafter amended:

17 (a) Any crime of violence;

18 (b) Any felony violation of the uniform controlled substances
19 act, chapter 69.50 RCW, that is classified as a class B felony or
20 that has a maximum term of imprisonment of at least ten years;

21 (c) Child molestation in the second degree;

22 (d) Incest when committed against a child under age fourteen;

23 (e) Indecent liberties;

24 (f) Leading organized crime;

25 (g) Promoting prostitution in the first degree;

26 (h) Rape in the third degree;

27 (i) Drive-by shooting;

28 (j) Sexual exploitation;

29 (k) Vehicular assault, when caused by the operation or driving of
30 a vehicle by a person while under the influence of intoxicating
31 liquor or any drug or by the operation or driving of a vehicle in a
32 reckless manner;

33 (l) Vehicular homicide, when proximately caused by the driving of
34 any vehicle by any person while under the influence of intoxicating
35 liquor or any drug as defined by RCW 46.61.502, or by the operation
36 of any vehicle in a reckless manner;

37 (m) Any other class B felony offense with a finding of sexual
38 motivation, as "sexual motivation" is defined under RCW 9.94A.030;

39 (n) Any other felony with a deadly weapon verdict under RCW
40 9.94A.825;

1 (o) Any felony offense in effect at any time prior to June 6,
2 1996, that is comparable to a serious offense, or any federal or out-
3 of-state conviction for an offense that under the laws of this state
4 would be a felony classified as a serious offense; or

5 (p) Any felony conviction under RCW 9.41.115.

6 (22) "Short-barreled rifle" means a rifle having one or more
7 barrels less than sixteen inches in length and any weapon made from a
8 rifle by any means of modification if such modified weapon has an
9 overall length of less than twenty-six inches.

10 (23) "Short-barreled shotgun" means a shotgun having one or more
11 barrels less than eighteen inches in length and any weapon made from
12 a shotgun by any means of modification if such modified weapon has an
13 overall length of less than twenty-six inches.

14 (24) "Shotgun" means a weapon with one or more barrels, designed
15 or redesigned, made or remade, and intended to be fired from the
16 shoulder and designed or redesigned, made or remade, and intended to
17 use the energy of the explosive in a fixed shotgun shell to fire
18 through a smooth bore either a number of ball shot or a single
19 projectile for each single pull of the trigger.

20 (25) "Transfer" means the intended delivery of a firearm to
21 another person without consideration of payment or promise of payment
22 including, but not limited to, gifts and loans.

23 (26) "Unlicensed person" means any person who is not a licensed
24 dealer under this chapter.

25 (27) "Campus" means all land and buildings owned or leased by an
26 institution of higher education.

27 (28) "Institution of higher education" has the same meaning as in
28 RCW 28B.10.016. An institution of higher education includes private
29 or independent institutions.

30 (29) "Premises" means a building or a portion of a building, and
31 does not include any public or private driveway, street, sidewalk or
32 walkway, parking lot, parking garage, or other parking area.

33 NEW SECTION. Sec. 2. (1) A license holder may carry a concealed
34 pistol on or about the license holder's person while the license
35 holder is on the campus of an institution of higher education in this
36 state.

37 (2) Except as provided by subsection (3) or (4) of this section,
38 an institution of higher education in this state may not adopt any

1 rule, regulation, or other provision prohibiting license holders from
2 carrying pistols on the campus of the institution.

3 (3) An institution of higher education in this state may
4 establish rules, regulations, or other provisions concerning the
5 storage of pistols in dormitories or other residential facilities
6 that are owned or leased and operated by the institution and located
7 on the campus of the institution.

8 (4) After consulting with students, staff, and faculty of the
9 institution regarding the nature of the student population, specific
10 safety considerations, and the uniqueness of the campus environment,
11 the president, chancellor, or other chief executive officer of an
12 institution of higher education in this state shall establish
13 reasonable rules, regulations, or other provisions regarding the
14 carrying of pistols by license holders on the campus of the
15 institution or on premises that are owned or leased and operated by
16 the institution and located on the campus of the institution. The
17 president, chancellor, or officer may not establish provisions that
18 generally prohibit or have the effect of generally prohibiting
19 license holders from carrying concealed pistols on the campus of the
20 institution. The president, chancellor, or officer may amend the
21 provisions as necessary for campus safety. The provisions take effect
22 as determined by the president, chancellor, or officer unless
23 subsequently amended by the board of regents, trustees, or other
24 governing board under subsection (5) of this section. The institution
25 must give effective notice, with respect to any portion of a premises
26 on which license holders may not carry.

27 (5) By the ninetieth day after the date that the rules,
28 regulations, or other provisions are established as described by
29 subsection (4) of this section, the board of regents, trustees, or
30 other governing board of the institution of higher education shall
31 review the provisions. The board of regents, trustees, or other
32 governing board may, by a vote of not less than two-thirds of the
33 board, amend wholly or partly the provisions established under
34 subsection (4) of this section. If amended under this subsection, the
35 provisions are considered to be those of the institution as
36 established under subsection (4) of this section.

37 (6) An institution of higher education shall widely distribute
38 the rules, regulations, or other provisions described by subsection
39 (4) of this section to the institution's students, staff, and

1 faculty, including by prominently publishing the provisions on the
2 institution's web site.

3 (7) By September 1st of each even-numbered year, each institution
4 of higher education in this state shall submit a report to the
5 legislature and to the standing committees of the legislature with
6 jurisdiction over the implementation and continuation of this section
7 that:

8 (a) Describes its rules, regulations, or other provisions
9 regarding the carrying of concealed pistols on the campus of the
10 institution; and

11 (b) Explains the reasons the institution has established those
12 provisions.

13 (8) A private or independent institution of higher education in
14 this state, after consulting with students, staff, and faculty of the
15 institution, may establish rules, regulations, or other provisions
16 prohibiting license holders from carrying pistols on the campus of
17 the institution, any grounds or building on which an activity
18 sponsored by the institution is being conducted, or a passenger
19 transportation vehicle owned by the institution.

20 **Sec. 3.** RCW 9.41.0975 and 2009 c 216 s 7 are each amended to
21 read as follows:

22 (1) The state, local governmental entities, any public or private
23 agency, and the employees of any state or local governmental entity
24 or public or private agency, acting in good faith, are immune from
25 liability:

26 (a) For failure to prevent the sale or transfer of a firearm to a
27 person whose receipt or possession of the firearm is unlawful;

28 (b) For preventing the sale or transfer of a firearm to a person
29 who may lawfully receive or possess a firearm;

30 (c) For issuing a concealed pistol license or alien firearm
31 license to a person ineligible for such a license;

32 (d) For failing to issue a concealed pistol license or alien
33 firearm license to a person eligible for such a license;

34 (e) For revoking or failing to revoke an issued concealed pistol
35 license or alien firearm license;

36 (f) For errors in preparing or transmitting information as part
37 of determining a person's eligibility to receive or possess a
38 firearm, or eligibility for a concealed pistol license or alien
39 firearm license;

1 (g) For issuing a dealer's license to a person ineligible for
2 such a license; or

3 (h) For failing to issue a dealer's license to a person eligible
4 for such a license.

5 (2) An application may be made to a court of competent
6 jurisdiction for a writ of mandamus:

7 (a) Directing an issuing agency to issue a concealed pistol
8 license or alien firearm license wrongfully refused;

9 (b) Directing a law enforcement agency to approve an application
10 to purchase wrongfully denied;

11 (c) Directing that erroneous information resulting either in the
12 wrongful refusal to issue a concealed pistol license or alien firearm
13 license or in the wrongful denial of a purchase application be
14 corrected; or

15 (d) Directing a law enforcement agency to approve a dealer's
16 license wrongfully denied.

17 The application for the writ may be made in the county in which
18 the application for a concealed pistol license or alien firearm
19 license or to purchase a pistol was made, or in Thurston county, at
20 the discretion of the petitioner. A court shall provide an expedited
21 hearing for an application brought under this subsection (2) for a
22 writ of mandamus. A person granted a writ of mandamus under this
23 subsection (2) shall be awarded reasonable attorneys' fees and costs.

24 (3)(a) A court may not hold an employee or officer of the state,
25 any institution of higher education or an officer or employee of an
26 institution of higher education that has not adopted rules under
27 section 2(8) of this act, a peace officer, or a qualified firearms
28 instructor liable for damages caused by:

29 (i) An action authorized under this chapter or a failure to
30 perform a duty imposed by this chapter; or

31 (ii) The actions of an applicant or license holder that occur
32 after the applicant has received a license or been denied a license
33 under this chapter.

34 (b) The immunities granted under (a)(i) and (ii) of this
35 subsection do not apply to:

36 (i) An act or a failure to act by the state, an officer of the
37 state, an institution of higher education or an officer or employee
38 of an institution of higher education, or a peace officer if the act
39 or failure to act was capricious or arbitrary; or

1 (ii) Any officer or employee of an institution of higher
2 education who possesses a pistol on the campus of that institution
3 and whose conduct with regard to the pistol is made the basis of a
4 claim for personal injury or property damage.

5 NEW SECTION. **Sec. 4.** A person commits an offense if the person
6 intentionally, knowingly, or recklessly possesses or goes with a
7 firearm, illegal knife, club, or prohibited weapon on the physical
8 premises of a school or institution of higher education, any grounds
9 or building on which an activity sponsored by a school or institution
10 of higher education is being conducted, or a passenger transportation
11 vehicle of a school or institution of higher education, whether the
12 school or institution of higher education is public or private,
13 unless:

14 (1) Pursuant to written regulations or written authorization of
15 the institution; or

16 (2) The person possesses or goes with a concealed pistol that the
17 person is licensed to carry under this chapter, and no other weapon
18 to which this section applies, on the premises of an institution of
19 higher education, on any grounds or building on which an activity
20 sponsored by the institution is being conducted, or in a passenger
21 transportation vehicle of the institution.

22 NEW SECTION. **Sec. 5.** (1) A license holder commits an offense if
23 the license holder carries a partially or wholly visible pistol,
24 regardless of whether the pistol is holstered, on or about the
25 license holder's person, and intentionally or knowingly displays the
26 pistol in plain view of another person:

27 (a) On the premises of an institution of higher education; or

28 (b) On any public or private driveway, street, sidewalk or
29 walkway, parking lot, parking garage, or other parking area of an
30 institution of higher education or private or independent institution
31 of higher education.

32 (2) Except as provided in subsection (1) of this section, a
33 license holder commits an offense if the license holder carries a
34 pistol on the campus of a private or independent institution of
35 higher education in this state that has established rules,
36 regulations, or other provisions prohibiting license holders from
37 carrying pistols pursuant to section 2(8) of this act, or on the
38 grounds or building on which an activity sponsored by such an

1 institution is being conducted, or in a passenger transportation
2 vehicle of such an institution, regardless of whether the pistol is
3 concealed, provided the institution gives effective notice.

4 (3) Except as provided in subsection (1) of this section, a
5 license holder commits an offense if the license holder intentionally
6 carries a concealed pistol on a portion of a premises located on the
7 campus of an institution of higher education in this state on which
8 the carrying of a concealed pistol is prohibited by rules,
9 regulations, or other provisions established under section 2(4) of
10 this act, provided the institution gives effective notice with
11 respect to that portion.

12 (4) A violation of this section is a gross misdemeanor.

13 (5) It is a defense to prosecution under this section that the
14 actor, at the time of the commission of the offense, displayed the
15 pistol under circumstances in which the actor would have been
16 justified in the use of force or deadly force under chapter 9A RCW.

17 (6) For the purposes of this section:

18 (a) "Effective notice" is given if the owner of the property or
19 someone with apparent authority to act for the owner provides notice
20 to the person by oral or written communication.

21 (b) "Written communication" means: A card or other document on
22 which is written language identical to the following: "A person
23 licensed under chapter 9.41 RCW, may not enter this property with a
24 concealed pistol."

25 NEW SECTION. **Sec. 6.** Section 3 of this act only applies to a
26 cause of action that accrues on or after the effective date of this
27 section. A cause of action that accrued before the effective date of
28 this section, is governed by the law in effect immediately before the
29 effective date of this section, and that law is continued in effect
30 for that purpose.

31 NEW SECTION. **Sec. 7.** Section 4 of this act only applies to an
32 offense committed on or after the effective date of this section. An
33 offense committed before the effective date of this section, is
34 governed by the law in effect when the offense was committed, and the
35 former law is continued in effect for that purpose. For purposes of
36 this section, an offense was committed before the effective date of
37 this section, if any element of the offense occurred before that
38 date.

1 NEW SECTION. **Sec. 8.** Sections 2, 4, and 5 of this act are each
2 added to chapter 9.41 RCW.

3 NEW SECTION. **Sec. 9.** This act takes effect August 1, 2016.

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