

ESSB 5552 - H COMM AMD  
By Committee on Judiciary

ADOPTED 04/07/2017

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 9.41.010 and 2015 c 1 s 2 are each amended to read  
4 as follows:

5 Unless the context clearly requires otherwise, the definitions in  
6 this section apply throughout this chapter.

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

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

19 (3) "Crime of violence" means:

20 (a) Any of the following felonies, as now existing or hereafter  
21 amended: Any felony defined under any law as a class A felony or an  
22 attempt to commit a class A felony, criminal solicitation of or  
23 criminal conspiracy to commit a class A felony, manslaughter in the  
24 first degree, manslaughter in the second degree, indecent liberties  
25 if committed by forcible compulsion, kidnapping in the second degree,  
26 arson in the second degree, assault in the second degree, assault of  
27 a child in the second degree, extortion in the first degree, burglary  
28 in the second degree, residential burglary, and robbery in the second  
29 degree;

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

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

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

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

14 (6) "Felony" means any felony offense under the laws of this  
15 state or any federal or out-of-state offense comparable to a felony  
16 offense under the laws of this state.

17 (7) "Felony firearm offender" means a person who has previously  
18 been convicted or found not guilty by reason of insanity in this  
19 state of any felony firearm offense. A person is not a felony firearm  
20 offender under this chapter if any and all qualifying offenses have  
21 been the subject of an expungement, pardon, annulment, certificate,  
22 or rehabilitation, or other equivalent procedure based on a finding  
23 of the rehabilitation of the person convicted or a pardon, annulment,  
24 or other equivalent procedure based on a finding of innocence.

25 (8) "Felony firearm offense" means:

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

27 (b) A violation of RCW 9A.36.045;

28 (c) A violation of RCW 9A.56.300;

29 (d) A violation of RCW 9A.56.310;

30 (e) Any felony offense if the offender was armed with a firearm  
31 in the commission of the offense.

32 (9) "Firearm" means a weapon or device from which a projectile or  
33 projectiles may be fired by an explosive such as gunpowder. "Firearm"  
34 does not include a flare gun or other pyrotechnic visual distress  
35 signaling device, or a powder-actuated tool or other device designed  
36 solely to be used for construction purposes.

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

38 (11) "Law enforcement officer" includes a general authority  
39 Washington peace officer as defined in RCW 10.93.020, or a specially  
40 commissioned Washington peace officer as defined in RCW 10.93.020.

1 "Law enforcement officer" also includes a limited authority  
2 Washington peace officer as defined in RCW 10.93.020 if such officer  
3 is duly authorized by his or her employer to carry a concealed  
4 pistol.

5 (12) "Lawful permanent resident" has the same meaning afforded a  
6 person "lawfully admitted for permanent residence" in 8 U.S.C. Sec.  
7 1101(a)(20).

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

10 (14) "Loaded" means:

11 (a) There is a cartridge in the chamber of the firearm;

12 (b) Cartridges are in a clip that is locked in place in the  
13 firearm;

14 (c) There is a cartridge in the cylinder of the firearm, if the  
15 firearm is a revolver;

16 (d) There is a cartridge in the tube or magazine that is inserted  
17 in the action; or

18 (e) There is a ball in the barrel and the firearm is capped or  
19 primed if the firearm is a muzzle loader.

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

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

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

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

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

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

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

6 (a) Any crime of violence;

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

10 (c) Child molestation in the second degree;

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

12 (e) Indecent liberties;

13 (f) Leading organized crime;

14 (g) Promoting prostitution in the first degree;

15 (h) Rape in the third degree;

16 (i) Drive-by shooting;

17 (j) Sexual exploitation;

18 (k) Vehicular assault, when caused by the operation or driving of  
19 a vehicle by a person while under the influence of intoxicating  
20 liquor or any drug or by the operation or driving of a vehicle in a  
21 reckless manner;

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

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

28 (n) Any other felony with a deadly weapon verdict under RCW  
29 9.94A.825;

30 (o) Any felony offense in effect at any time prior to June 6,  
31 1996, that is comparable to a serious offense, or any federal or out-  
32 of-state conviction for an offense that under the laws of this state  
33 would be a felony classified as a serious offense; or

34 (p) Any felony conviction under RCW 9.41.115.

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

39 (23) "Short-barreled shotgun" means a shotgun having one or more  
40 barrels less than eighteen inches in length and any weapon made from

1 a shotgun by any means of modification if such modified weapon has an  
2 overall length of less than twenty-six inches.

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

9 (25) "Transfer" means the intended delivery of a firearm to  
10 another person without consideration of payment or promise of payment  
11 including, but not limited to, gifts and loans. "Transfer" does not  
12 include the delivery of a firearm owned or leased by an entity  
13 licensed or qualified to do business in the state of Washington to,  
14 or return of such a firearm by, any of that entity's employees or  
15 agents, defined to include volunteers participating in an honor  
16 guard, for lawful purposes in the ordinary course of business.

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

19 (27) "Curio or relic" has the same meaning as provided in 27  
20 C.F.R. Sec. 478.11.

21 (28) "Licensed collector" means a person who is federally  
22 licensed under 18 U.S.C. Sec. 923(b).

23 **Sec. 2.** RCW 9.41.113 and 2015 c 1 s 3 are each amended to read  
24 as follows:

25 (1) All firearm sales or transfers, in whole or part in this  
26 state including without limitation a sale or transfer where either  
27 the purchaser or seller or transferee or transferor is in Washington,  
28 shall be subject to background checks unless specifically exempted by  
29 state or federal law. The background check requirement applies to all  
30 sales or transfers including, but not limited to, sales and transfers  
31 through a licensed dealer, at gun shows, online, and between  
32 unlicensed persons.

33 (2) No person shall sell or transfer a firearm unless:

34 (a) The person is a licensed dealer;

35 (b) The purchaser or transferee is a licensed dealer; or

36 (c) The requirements of subsection (3) of this section are met.

37 (3) Where neither party to a prospective firearms transaction is  
38 a licensed dealer, the parties to the transaction shall complete the  
39 sale or transfer through a licensed dealer as follows:

1 (a) The seller or transferor shall deliver the firearm to a  
2 licensed dealer to process the sale or transfer as if it is selling  
3 or transferring the firearm from its inventory to the purchaser or  
4 transferee, except that the unlicensed seller or transferor may  
5 remove the firearm from the business premises of the licensed dealer  
6 while the background check is being conducted. If the seller or  
7 transferor removes the firearm from the business premises of the  
8 licensed dealer while the background check is being conducted, the  
9 purchaser or transferee and the seller or transferor shall return to  
10 the business premises of the licensed dealer and the seller or  
11 transferor shall again deliver the firearm to the licensed dealer  
12 prior to completing the sale or transfer.

13 (b) Except as provided in (a) of this subsection, the licensed  
14 dealer shall comply with all requirements of federal and state law  
15 that would apply if the licensed dealer were selling or transferring  
16 the firearm from its inventory to the purchaser or transferee,  
17 including but not limited to conducting a background check on the  
18 prospective purchaser or transferee in accordance with federal and  
19 state law requirements and fulfilling all federal and state  
20 recordkeeping requirements.

21 (c) The purchaser or transferee must complete, sign, and submit  
22 all federal, state, and local forms necessary to process the required  
23 background check to the licensed dealer conducting the background  
24 check.

25 (d) If the results of the background check indicate that the  
26 purchaser or transferee is ineligible to possess a firearm, then the  
27 licensed dealer shall return the firearm to the seller or transferor.

28 (e) The licensed dealer may charge a fee that reflects the fair  
29 market value of the administrative costs and efforts incurred by the  
30 licensed dealer for facilitating the sale or transfer of the firearm.

31 (4) This section does not apply to:

32 (a) A transfer between immediate family members, which for this  
33 subsection shall be limited to spouses, domestic partners, parents,  
34 parents-in-law, children, siblings, siblings-in-law, grandparents,  
35 grandchildren, nieces, nephews, first cousins, aunts, and uncles,  
36 that is a bona fide gift or loan;

37 (b) The sale or transfer of an antique firearm;

38 (c) A temporary transfer of possession of a firearm if such  
39 transfer is necessary to prevent imminent death or great bodily harm  
40 to the person to whom the firearm is transferred if:

1 (i) The temporary transfer only lasts as long as immediately  
2 necessary to prevent such imminent death or great bodily harm; and

3 (ii) The person to whom the firearm is transferred is not  
4 prohibited from possessing firearms under state or federal law;

5 (d) A temporary transfer of possession of a firearm if: (i) The  
6 transfer is intended to prevent suicide or self-inflicted great  
7 bodily harm; (ii) the transfer lasts only as long as reasonably  
8 necessary to prevent death or great bodily harm; and (iii) the  
9 firearm is not utilized by the transferee for any purpose for the  
10 duration of the temporary transfer;

11 (e) Any law enforcement or corrections agency and, to the extent  
12 the person is acting within the course and scope of his or her  
13 employment or official duties, any law enforcement or corrections  
14 officer, United States marshal, member of the armed forces of the  
15 United States or the national guard, or federal official;

16 ~~((e))~~ (f) A federally licensed gunsmith who receives a firearm  
17 solely for the purposes of service or repair, or the return of the  
18 firearm to its owner by the federally licensed gunsmith;

19 ~~((f))~~ (g) The temporary transfer of a firearm (i) between  
20 spouses or domestic partners; (ii) if the temporary transfer occurs,  
21 and the firearm is kept at all times, at an established shooting  
22 range authorized by the governing body of the jurisdiction in which  
23 such range is located; (iii) if the temporary transfer occurs and the  
24 transferee's possession of the firearm is exclusively at a lawful  
25 organized competition involving the use of a firearm, or while  
26 participating in or practicing for a performance by an organized  
27 group that uses firearms as a part of the performance; (iv) to a  
28 person who is under eighteen years of age for lawful hunting,  
29 sporting, or educational purposes while under the direct supervision  
30 and control of a responsible adult who is not prohibited from  
31 possessing firearms; ~~((e))~~ (v) under circumstances in which the  
32 transferee and the firearm remain in the presence of the transferor;  
33 or (vi) while hunting if the hunting is legal in all places where the  
34 person to whom the firearm is transferred possesses the firearm and  
35 the person to whom the firearm is transferred has completed all  
36 training and holds all licenses or permits required for such hunting,  
37 provided that any temporary transfer allowed by this subsection is  
38 permitted only if the person to whom the firearm is transferred is  
39 not prohibited from possessing firearms under state or federal law;  
40 ~~((e))~~

1       ~~(g))~~ (h) A person who (i) acquired a firearm other than a pistol  
2 by operation of law upon the death of the former owner of the firearm  
3 or (ii) acquired a pistol by operation of law upon the death of the  
4 former owner of the pistol within the preceding sixty days. At the  
5 end of the sixty-day period, the person must either have lawfully  
6 transferred the pistol or must have contacted the department of  
7 licensing to notify the department that he or she has possession of  
8 the pistol and intends to retain possession of the pistol, in  
9 compliance with all federal and state laws; or  
10       (i) A sale or transfer when the purchaser or transferee is a  
11 licensed collector and the firearm being sold or transferred is a  
12 curio or relic."

13       Correct the title.

EFFECT: Amends the provision stating that "transfer" does not include the delivery of a firearm between an entity and its employees or agents in the ordinary course of business by providing that "agents" is defined to include volunteers participating in an honor guard.

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