

FINAL BILL REPORT

SHB 2373

C 168 L 92

Synopsis As Enacted

Brief Description: Changing provisions relating to eligibility for a concealed weapon permit.

By House Committee on Judiciary (originally sponsored by Representatives Kremen, Rayburn, Winsley, Anderson, McLean, Roland, R. Johnson, O'Brien, Pruitt, Chandler, Heavey, Betrozoff, Scott, Rasmussen, G. Cole, Spanel, Cantwell, Grant, Brekke, Peery, Braddock, G. Fisher, Paris, Wineberry, J. Kohl, Orr, Sheldon and Haugen).

House Committee on Judiciary
Senate Committee on Law & Justice

Background: State and federal laws on the possession of firearms differ in some respects. The federal list of offenses which disqualify a person from possessing a firearm is more extensive than the state list. Federal law disqualifies persons convicted of any felony. State law disqualifies persons convicted of any class A felony or other felony "crime of violence" or any felony violation of the Uniform Controlled Substances Act. Thus, a given person's criminal record may prevent him or her from possessing a firearm under federal law, when state law would not deny him the possession of a firearm. However, because federal law preempts state law where the two are inconsistent, such a person could not legally possess a firearm.

Even though an individual is prohibited from possessing a pistol under federal law, in some instances the person may still technically be eligible to obtain a concealed pistol permit under state law. This is so because the state permit law denies a permit to anyone ineligible to own a pistol under state law, but does not explicitly prohibit issuance of a permit to an applicant ineligible to possess a weapon under federal law. A permit issued in such a case would be hollow and not allow the permit holder to possess a pistol, concealed or otherwise.

A recent state supreme court decision declared the firearms statute unconstitutional as it applies to the mentally ill. The court found the statute to violate the Equal Protection clause because it provides a method for criminals to have

their firearms rights restored, but does not do so for the mentally ill.

Summary: Additional felony crimes are added to the category of offenses that disqualify a person from obtaining a state concealed pistol permit. Those crimes are: assault in the third degree, indecent liberties, malicious mischief in the first degree, possession of stolen property in the first or second degree, and theft in the first or second degree. One year after successful completion of a sentence imposed for violation of one of these new crimes, a person's eligibility for a concealed pistol permit is restored.

Firearm dealers, importers, manufacturers, or others who are convicted of certain federal felonies will not lose their rights to possess firearms under state law. Those felonies include antitrust law violations or other business practices act violations. Such persons who are convicted of other federal felonies will have their rights to possess firearms restored under state law if the secretary of the treasury has found them not to be "likely to act in a manner dangerous to public safety."

A person may not possess any firearm if he or she has been committed by court order for treatment of mental illness under the state's criminal insanity statute or for at least 90 days confinement under the state's Involuntary Treatment Act. At the time of commitment, the court must inform the person, orally and in writing, that he or she is prohibited from possessing firearms. The secretary of the Department of Social and Health Services must develop rules to create an approval process which allows a person committed for treatment of mental illness or insanity to regain his or her right to possess a firearm. The rules must provide for the immediate restoration of the person's right to possess a firearm upon a court showing that the person no longer is required to: 1) participate in an inpatient or outpatient treatment program and 2) take medication to treat any condition related to the commitment.

Unlawful possession of a firearm by a mentally ill or insane person is a class C felony.

Votes on Final Passage:

House	96	0	
Senate	45	0	(Senate amended)
House	96	0	(House concurred)

Effective: June 11, 1992