

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2373

52nd Legislature
1992 Regular Session

Passed by the House March 7, 1992
Yeas 96 Nays 0

**Speaker of the
House of Representatives**

Passed by the Senate March 3, 1992
Yeas 45 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Alan Thompson, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is SUBSTITUTE HOUSE BILL 2373 as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2373

AS AMENDED BY THE SENATE

Passed Legislature - 1992 Regular Session

State of Washington 52nd Legislature 1992 Regular Session

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)

Read first time 02/07/92.

1 AN ACT Relating to eligibility for a concealed weapon permit;
2 amending RCW 9.41.070, 9.41.040, and 71.05.240; and prescribing
3 penalties.

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

5 **Sec. 1.** RCW 9.41.070 and 1990 c 195 s 6 are each amended to read
6 as follows:

7 (1) The judge of a court of record, the chief of police of a
8 municipality, or the sheriff of a county, shall within thirty days
9 after the filing of an application of any person issue a license to
10 such person to carry a pistol concealed on his or her person within
11 this state for four years from date of issue, for the purposes of
12 protection or while engaged in business, sport, or while traveling.
13 However, if the applicant does not have a valid permanent Washington
14 driver's license or Washington state identification card or has not

1 been a resident of the state for the previous consecutive ninety days,
2 the issuing authority shall have up to sixty days after the filing of
3 the application to issue a license. Such applicant's constitutional
4 right to bear arms shall not be denied (~~(to him)~~), unless he or she:

5 (a) Is ineligible to own a pistol under the provisions of RCW
6 9.41.040; or

7 (b) Is under twenty-one years of age; or

8 (c) Is subject to a court order or injunction regarding firearms
9 pursuant to RCW 10.99.040, 10.99.045, or 26.09.060; or

10 (d) Is free on bond or personal recognizance pending trial, appeal,
11 or sentencing for a crime of violence; or

12 (e) Has an outstanding warrant for his or her arrest from any court
13 of competent jurisdiction for a felony or misdemeanor; or

14 (f) Has been ordered to forfeit a firearm under RCW 9.41.098(1)(d)
15 within one year before filing an application to carry a pistol
16 concealed on his or her person; or

17 (g) Has been convicted of any of the following offenses: Assault
18 in the third degree, indecent liberties, malicious mischief in the
19 first degree, possession of stolen property in the first or second
20 degree, or theft in the first or second degree. Any person who becomes
21 ineligible for a concealed pistol permit as a result of a conviction
22 for a crime listed in this subsection (1)(g) and then successfully
23 completes all terms of his or her sentence, as evidenced by a
24 certificate of discharge issued under RCW 9.94A.220 in the case of a
25 sentence under chapter 9.94A RCW, and has not again been convicted of
26 any crime and is not under indictment for any crime, may, one year or
27 longer after such successful sentence completion, petition the district
28 court for a declaration that the person is no longer ineligible for a
29 concealed pistol permit under this subsection (1)(g).

1 (2) Any person whose firearms rights have been restricted and who
2 has been granted relief from disabilities by the secretary of the
3 treasury under 18 U.S.C. Sec. 925(c) or who is exempt under 18 U.S.C.
4 Sec. 921(a)(20) shall have his or her right to acquire, receive,
5 transfer, ship, transport, carry, and possess firearms in accordance
6 with Washington state law restored.

7 (3) The license shall be revoked by the issuing authority
8 immediately upon conviction of a crime which makes such a person
9 ineligible to own a pistol or upon the third conviction for a violation
10 of this chapter within five calendar years.

11 ~~((2))~~ (4) Upon an order to forfeit a firearm under RCW
12 9.41.098(1)(d) the ~~((license))~~ issuing authority shall:

13 (a) On the first forfeiture, ~~((be revoked by the department of~~
14 ~~licensing))~~ revoke the license for one year;

15 (b) On the second forfeiture, ~~((be revoked by the department of~~
16 ~~licensing))~~ revoke the license for two years;

17 (c) On the third or subsequent forfeiture, ~~((be revoked by the~~
18 ~~department of licensing))~~ revoke the license for five years.

19 Any person whose license is revoked as a result of a forfeiture of a
20 firearm under RCW 9.41.098(1)(d) may not reapply for a new license
21 until the end of the revocation period. The issuing authority shall
22 notify, in writing, the department of licensing upon revocation of a
23 license. The department of licensing shall record the revocation.

24 (5) The license shall be in triplicate, in form to be prescribed by
25 the department of licensing, and shall bear the name, address, and
26 description, fingerprints, and signature of the licensee, and the
27 licensee's driver's license number or state identification card number
28 if used for identification in applying for the license. The license
29 application shall contain a warning substantially as follows:

1 CAUTION: Although state and local laws do not differ, federal
2 law and state law on the possession of firearms differ. If you
3 are prohibited by federal law from possessing a firearm, you
4 may be prosecuted in federal court. A state license is not a
5 defense to a federal prosecution.

6 The license application shall contain a description of the major
7 differences between state and federal law and an explanation of the
8 fact that local laws and ordinances on firearms are preempted by state
9 law and must be consistent with state law. The application shall
10 contain questions about the applicant's place of birth, whether the
11 applicant is a United States citizen, and if not a citizen whether the
12 applicant has declared the intent to become a citizen and whether he or
13 she has been required to register with the state or federal government
14 and any identification or registration number, if applicable. The
15 applicant shall not be required to produce a birth certificate or other
16 evidence of citizenship. An applicant who is not a citizen shall
17 provide documentation showing resident alien status and the applicant's
18 intent to become a citizen. A person who makes a false statement
19 regarding citizenship on the application is guilty of a misdemeanor. A
20 person who is not a citizen of the United States, or has not declared
21 his or her intention to become a citizen shall meet the additional
22 requirements of RCW 9.41.170.

23 The original thereof shall be delivered to the licensee, the
24 duplicate shall within seven days be sent by registered mail to the
25 director of licensing and the triplicate shall be preserved for six
26 years, by the authority issuing said license.

27 ~~((3))~~ (6) The fee for the original issuance of a four-year
28 license shall be twenty-three dollars: PROVIDED, That no other
29 additional charges by any branch or unit of government shall be borne

1 by the applicant for the issuance of the license: PROVIDED FURTHER,
2 That the fee shall be distributed as follows:

3 (a) Four dollars shall be paid to the state general fund;

4 (b) Four dollars shall be paid to the agency taking the
5 fingerprints of the person licensed;

6 (c) Twelve dollars shall be paid to the issuing authority for the
7 purpose of enforcing this chapter; and

8 (d) Three dollars to the firearms range account in the general
9 fund.

10 (~~(4)~~) (7) The fee for the renewal of such license shall be
11 fifteen dollars: PROVIDED, That no other additional charges by any
12 branch or unit of government shall be borne by the applicant for the
13 renewal of the license: PROVIDED FURTHER, That the fee shall be
14 distributed as follows:

15 (a) Four dollars shall be paid to the state general fund;

16 (b) Eight dollars shall be paid to the issuing authority for the
17 purpose of enforcing this chapter; and

18 (c) Three dollars to the firearms range account in the general
19 fund.

20 (~~(5)~~) (8) Payment shall be by cash, check, or money order at the
21 option of the applicant. Additional methods of payment may be allowed
22 at the option of the issuing authority.

23 (~~(6)~~) (9) A licensee may renew a license if the licensee applies
24 for renewal within ninety days before or after the expiration date of
25 the license. A license so renewed shall take effect on the expiration
26 date of the prior license. A licensee renewing after the expiration
27 date of the license must pay a late renewal penalty of ten dollars in
28 addition to the renewal fee specified in subsection (~~(4)~~) (7) of this
29 section. The fee shall be distributed as follows:

1 (a) Three dollars shall be deposited in the state wildlife fund and
2 used exclusively for the printing and distribution of a pamphlet on the
3 legal limits of the use of firearms, firearms safety, and the
4 preemptive nature of state law. The pamphlet shall be given to each
5 applicant for a license; and

6 (b) Seven dollars shall be paid to the issuing authority for the
7 purpose of enforcing this chapter.

8 ~~((+7+))~~ (10) Notwithstanding the requirements of subsections (1)
9 through ~~((+6+))~~ (9) of this section, the chief of police of the
10 municipality or the sheriff of the county of the applicant's residence
11 may issue a temporary emergency license for good cause pending review
12 under subsection (1) of this section.

13 ~~((+8+))~~ (11) A political subdivision of the state shall not modify
14 the requirements of this section or chapter, nor may a political
15 subdivision ask the applicant to voluntarily submit any information not
16 required by this section. A civil suit may be brought to enjoin a
17 wrongful refusal to issue a license or a wrongful modification of the
18 requirements of this section or chapter. The civil suit may be brought
19 in the county in which the application was made or in Thurston county
20 at the discretion of the petitioner. Any person who prevails against
21 a public agency in any action in the courts for a violation of this
22 chapter shall be awarded costs, including reasonable attorneys' fees,
23 incurred in connection with such legal action.

24 **Sec. 2.** RCW 9.41.040 and 1983 c 232 s 2 are each amended to read
25 as follows:

26 (1) A person is guilty of the crime of unlawful possession of a
27 short firearm or pistol, if, having previously been convicted in this
28 state or elsewhere of a crime of violence or of a felony in which a

1 firearm was used or displayed, the person owns or has in his possession
2 any short firearm or pistol.

3 (2) Unlawful possession of a short firearm or pistol shall be
4 punished as a class C felony under chapter 9A.20 RCW.

5 (3) As used in this section, a person has been "convicted" at such
6 time as a plea of guilty has been accepted or a verdict of guilty has
7 been filed, notwithstanding the pendency of any future proceedings
8 including but not limited to sentencing, post-trial motions, and
9 appeals. A person shall not be precluded from possession if the
10 conviction has been the subject of a pardon, annulment, certificate of
11 rehabilitation, or other equivalent procedure based on a finding of the
12 rehabilitation of the person convicted or the conviction has been the
13 subject of a pardon, annulment, or other equivalent procedure based on
14 a finding of innocence.

15 (4) Except as provided in subsection (5) of this section, a person
16 is guilty of the crime of unlawful possession of a short firearm or
17 pistol if, after having been convicted of any felony violation of the
18 uniform controlled substances act, chapter 69.50 RCW, or equivalent
19 statutes of another jurisdiction, (~~or after any period of confinement~~
20 ~~under RCW 71.05.320 or an equivalent statute of another jurisdiction,~~
21 ~~or following a record of commitment pursuant to chapter 10.77 RCW or~~
22 ~~equivalent statutes of another jurisdiction, he)) the person owns or
23 has in his or her possession or under his or her control any short
24 firearm or pistol.~~

25 (5) Notwithstanding subsection (1) of this section, a person
26 convicted of an offense other than murder, manslaughter, robbery, rape,
27 indecent liberties, arson, assault, kidnapping, extortion, burglary, or
28 violations with respect to controlled substances under RCW 69.50.401(a)
29 and 69.50.410, who received a probationary sentence under RCW 9.95.200,
30 and who received a dismissal of the charge under RCW 9.95.240, shall

1 not be precluded from ownership, possession, or control of a firearm as
2 a result of the conviction.

3 (6)(a) A person who has been committed by court order for treatment
4 of mental illness under RCW 71.05.320 or chapter 10.77 RCW, or
5 equivalent statutes of another jurisdiction, may not possess, in any
6 manner, a firearm as defined in RCW 9.41.010.

7 (b) At the time of commitment, the court shall specifically state
8 to the person under (a) of this subsection and give the person notice
9 in writing that the person is barred from possession of firearms.

10 (c) The secretary of social and health services shall develop
11 appropriate rules to create an approval process under this subsection.
12 The rules must provide for the immediate restoration of the right to
13 possess a firearm upon a showing in a court of competent jurisdiction
14 that a person no longer is required to participate in an inpatient or
15 outpatient treatment program, and is no longer required to take
16 medication to treat any condition related to the commitment. Unlawful
17 possession of a firearm under this subsection shall be punished as a
18 class C felony under chapter 9A.20 RCW.

19 **Sec. 3.** RCW 71.05.240 and 1987 c 439 s 5 are each amended to read
20 as follows:

21 If a petition is filed for fourteen day involuntary treatment or
22 ninety days of less restrictive alternative treatment, the court shall
23 hold a probable cause hearing within seventy-two hours of the initial
24 detention of such person as determined in RCW 71.05.180, as now or
25 hereafter amended. If requested by the detained person or his or her
26 attorney, the hearing may be postponed for a period not to exceed
27 forty-eight hours. The hearing may also be continued subject to the
28 conditions set forth in RCW 71.05.210 or subject to the petitioner's
29 showing of good cause for a period not to exceed twenty-four hours.

1 At the conclusion of the probable cause hearing, if the court finds
2 by a preponderance of the evidence that such person, as the result of
3 mental disorder, presents a likelihood of serious harm to others or
4 himself or herself, or is gravely disabled, and, after considering less
5 restrictive alternatives to involuntary detention and treatment, finds
6 that no such alternatives are in the best interests of such person or
7 others, the court shall order that such person be detained for
8 involuntary treatment not to exceed fourteen days in a facility
9 certified to provide treatment by the department of social and health
10 services. If the court finds that such person, as the result of a
11 mental disorder, presents a likelihood of serious harm to others or
12 himself or herself, or is gravely disabled, but that treatment in a
13 less restrictive setting than detention is in the best interest of such
14 person or others, the court shall order an appropriate less restrictive
15 course of treatment for not to exceed ninety days.

16 The court shall specifically state to such person and give such
17 person notice in writing that if involuntary treatment beyond the
18 fourteen day period or beyond the ninety days of less restrictive
19 treatment is to be sought, such person will have the right to a full
20 hearing or jury trial as required by RCW 71.05.310. The court shall
21 also provide written notice that the person is barred from the
22 possession of firearms.

23 NEW SECTION. **Sec. 4.** If any provision of this act or its
24 application to any person or circumstance is held invalid, the
25 remainder of the act or the application of the provision to other
26 persons or circumstances is not affected.