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HOUSE BILL 1133

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State of Washington

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By Representatives Campbell, Stevens, Padden, Benton, Sheldon, Crouse, Carlson and Sherstad

Read first time 01/13/95. Referred to Committee on Law & Justice.

1 AN ACT Relating to firearm dealers; amending RCW 9.41.110; and  
2 reenacting and amending RCW 9.41.010.

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

4 **Sec. 1.** RCW 9.41.010 and 1994 sp.s. c 7 s 401 and 1994 c 121 s 1  
5 are each reenacted and amended to read as follows:

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

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

10 (2) "Pistol" means any firearm with a barrel less than twelve  
11 inches in length, or is designed to be held and fired by the use of a  
12 single hand.

13 (3) "Rifle" means a weapon designed or redesigned, made or remade,  
14 and intended to be fired from the shoulder and designed or redesigned,  
15 made or remade, and intended to use the energy of the explosive in a  
16 fixed metallic cartridge to fire only a single projectile through a  
17 rifled bore for each single pull of the trigger.

18 (4) "Short-barreled rifle" means a rifle having one or more barrels  
19 less than sixteen inches in length and any weapon made from a rifle by

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

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

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

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

20 (8) "Antique firearm" means a firearm or replica of a firearm not  
21 designed or redesigned for using rim fire or conventional center fire  
22 ignition with fixed ammunition and manufactured in or before 1898,  
23 including any matchlock, flintlock, percussion cap, or similar type of  
24 ignition system and also any firearm using fixed ammunition  
25 manufactured in or before 1898, for which ammunition is no longer  
26 manufactured in the United States and is not readily available in the  
27 ordinary channels of commercial trade.

28 (9) "Loaded" means:

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

30 (b) Bullets are in a clip that is locked in place in the firearm;

31 (c) There is a cartridge in the cylinder of the firearm, if the  
32 firearm is a revolver; or

33 (d) There is a cartridge in the tube, magazine, or other  
34 compartment of the firearm.

35 (10) "Dealer" means a person (~~engaged in the business of selling~~  
36 ~~firearms or ammunition at wholesale or retail~~) who has, or is required  
37 to have, a federal firearms license under 18 U.S.C. Sec. 923(a). (~~A~~  
38 ~~person who does not have, and is not required to have, a federal~~  
39 ~~firearms license under 18 U.S.C. Sec. 923(a), is not a dealer if that~~

1 ~~person makes only occasional sales, exchanges, or purchases of firearms~~  
2 ~~for the enhancement of a personal collection or for a hobby, or sells~~  
3 ~~all or part of his or her personal collection of firearms.))~~

4 (11) "Crime of violence" means:

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

15 (b) Any conviction for a felony offense in effect at any time prior  
16 to July 1, 1976, which is comparable to a felony classified as a crime  
17 of violence in (a) of this subsection; and

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

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

24 (a) Any crime of violence;

25 (b) Child molestation in the second degree;

26 (c) Controlled substance homicide;

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

28 (e) Indecent liberties;

29 (f) Leading organized crime;

30 (g) Promoting prostitution in the first degree;

31 (h) Rape in the third degree;

32 (i) Sexual exploitation;

33 (j) Vehicular assault;

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

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

1 (m) Any other felony with a deadly weapon verdict under RCW  
2 9.94A.125; or

3 (n) Any felony offense in effect at any time prior to July 1, 1994,  
4 that is comparable to a serious offense, or any federal or out-of-state  
5 conviction for an offense that under the laws of this state would be a  
6 felony classified as a serious offense.

7 **Sec. 2.** RCW 9.41.110 and 1994 sp.s. c 7 s 416 are each amended to  
8 read as follows:

9 (1) No dealer may sell or otherwise transfer, or expose for sale or  
10 transfer, or have in his or her possession with intent to sell, or  
11 otherwise transfer, any (~~pistol~~) firearm without being licensed under  
12 18 U.S.C. Sec. 923(a) and as provided in this section.

13 ~~(2) (No dealer may sell or otherwise transfer, or expose for sale~~  
14 ~~or transfer, or have in his or her possession with intent to sell, or~~  
15 ~~otherwise transfer, any firearm other than a pistol without being~~  
16 ~~licensed as provided in this section.~~

17 ~~(3) No dealer may sell or otherwise transfer, or expose for sale~~  
18 ~~or transfer, or have in his or her possession with intent to sell, or~~  
19 ~~otherwise transfer, any ammunition without being licensed as provided~~  
20 ~~in this section.~~

21 ~~(4))~~ The duly constituted licensing authorities of any city, town,  
22 or political subdivision of this state shall grant licenses in forms  
23 prescribed by the director of licensing effective for not more than one  
24 year from the date of issue permitting the licensee to sell firearms  
25 within this state subject to the following conditions, for breach of  
26 any of which the license shall be forfeited and the licensee subject to  
27 punishment as provided in RCW 9.41.010 through 9.41.810. A licensing  
28 authority shall forward a copy of each license granted to the  
29 department of licensing. The department of licensing shall notify the  
30 department of revenue of the name and address of each dealer licensed  
31 under this section.

32 ~~((5)(a))~~ (3) A licensing authority shall, within thirty days  
33 after the filing of an application of any person for a dealer's  
34 license, determine whether to grant the license. ~~((However, if the~~  
35 ~~applicant does not have a valid permanent Washington driver's license~~  
36 ~~or Washington state identification card, or has not been a resident of~~  
37 ~~the state for the previous consecutive ninety days, the licensing~~  
38 ~~authority shall have up to sixty days to determine whether to issue a~~

1 license.)) No person shall qualify for a license under this section  
2 without first receiving a federal firearms license ((and undergoing  
3 fingerprinting and a background check. In addition, no person  
4 ineligible to possess a firearm under RCW 9.41.040 or ineligible for a  
5 concealed pistol license under RCW 9.41.070 shall qualify for a  
6 dealer's license.

7 (b) A dealer shall require every employee who may sell a firearm in  
8 the course of his or her employment to undergo fingerprinting and a  
9 background check. An employee must be eligible to possess a firearm,  
10 and must not have been convicted of a crime that would make the person  
11 ineligible for a concealed pistol license, before being permitted to  
12 sell a firearm. Every employee shall comply with requirements  
13 concerning purchase applications and restrictions on delivery of  
14 pistols that are applicable to dealers)). Except for a person whose  
15 dealer's license has been permanently revoked under this section, any  
16 applicant who has a valid federal firearms license shall be granted a  
17 dealer's license.

18 ((+6+)) (4)(a) Except as otherwise provided in (b) of this  
19 subsection, the business shall be carried on only in the building  
20 designated in the license. For the purpose of this section,  
21 advertising firearms for sale shall not be considered the carrying on  
22 of business.

23 (b) A dealer may conduct business temporarily at a location other  
24 than the building designated in the license, if the temporary location  
25 is within Washington state and is the location of a gun show sponsored  
26 by a national, state, or local organization, or an affiliate of any  
27 such organization, devoted to the collection, competitive use, or other  
28 sporting use of firearms in the community. Nothing in this subsection  
29 ((+6+)) (4)(b) authorizes a dealer to conduct business in or from a  
30 motorized or towed vehicle.

31 In conducting business temporarily at a location other than the  
32 building designated in the license, the dealer shall comply with all  
33 other requirements imposed on dealers by RCW 9.41.090, 9.41.100, and  
34 9.41.110. The license of a dealer who fails to comply with the  
35 requirements of RCW 9.41.080 and 9.41.090 and subsection ((+8+)) (6) of  
36 this section while conducting business at a temporary location shall be  
37 revoked, and the dealer shall be permanently ineligible for a dealer's  
38 license.

1       ~~((+7+))~~ (5) The license or a copy thereof, certified by the issuing  
2 authority, shall be displayed on the premises in the area where  
3 firearms are sold, or at the temporary location, where it can easily be  
4 read.

5       ~~((+8+))~~ (6)(a) No pistol may be sold: (i) In violation of any  
6 provisions of RCW 9.41.010 through 9.41.810; nor (ii) may a pistol be  
7 sold under any circumstances unless the purchaser is personally known  
8 to the dealer or shall present clear evidence of his or her identity.

9       (b) A dealer who sells or delivers any firearm in violation of RCW  
10 9.41.080 is guilty of a class C felony. In addition to any other  
11 penalty provided for by law, the dealer is subject to mandatory  
12 permanent revocation of his or her dealer's license and permanent  
13 ineligibility for a dealer's license.

14       (c) The license fee ~~((for pistols))~~ shall be one hundred twenty-  
15 five dollars. ~~((The license fee for firearms other than pistols shall  
16 be one hundred twenty five dollars. The license fee for ammunition  
17 shall be one hundred twenty five dollars. Any dealer who obtains any  
18 license under subsection (1), (2), or (3) of this section may also  
19 obtain the remaining licenses without payment of any fee.))~~ The fees  
20 received under this section shall be deposited in the account under RCW  
21 69.50.520.

22       ~~((+9+))~~ (7)(a) A true record in triplicate shall be made of every  
23 pistol sold, in a book kept for the purpose, the form of which may be  
24 prescribed by the director of licensing and shall be personally signed  
25 by the purchaser and by the person effecting the sale, each in the  
26 presence of the other, and shall contain the date of sale, the caliber,  
27 make, model and manufacturer's number of the weapon, the name, address,  
28 occupation, and place of birth of the purchaser and a statement signed  
29 by the purchaser that he or she is not ineligible under RCW 9.41.040 to  
30 possess a firearm.

31       (b) One copy shall within six hours be sent by certified mail to  
32 the chief of police of the municipality or the sheriff of the county of  
33 which the purchaser is a resident; the duplicate the dealer shall  
34 within seven days send to the director of licensing; the triplicate the  
35 dealer shall retain for six years.

36       ~~((+10+))~~ (8) Subsections (2) through ~~((+9+))~~ (7) of this section  
37 shall not apply to sales at wholesale.

38       ~~((+11+))~~ (9) The dealer's licenses authorized to be issued by this  
39 section are general licenses covering all sales by the licensee within

1 the effective period of the licenses. The department shall provide a  
2 single application form for dealer's licenses (~~(and a single license~~  
3 ~~form which shall indicate the type or types of licenses granted)~~).

4 (~~(12)~~) (10) Except as provided in RCW 9.41.090, every city, town,  
5 and political subdivision of this state is prohibited from requiring  
6 the purchaser to secure a permit to purchase or from requiring the  
7 dealer to secure an individual permit for each sale.

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