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SENATE BILL 5177

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State of Washington                      57th Legislature                      2001 Regular Session

By Senators Zarelli, Benton and Hochstatter

Read first time 01/15/2001. Referred to Committee on Judiciary.

1            AN ACT Relating to records of pistol purchases or transfers; and  
2 amending RCW 9.41.129, 9.41.090, and 9.41.110.

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

4            **Sec. 1.** RCW 9.41.129 and 1994 sp.s. c 7 s 417 are each amended to  
5 read as follows:

6            The department of licensing may keep copies or records of  
7 applications for concealed pistol licenses provided for in RCW  
8 9.41.070(~~(7)~~) and copies or records of applications for alien firearm  
9 licenses(~~(, copies or records of applications to purchase pistols~~  
10 ~~provided for in RCW 9.41.090, and copies or records of pistol transfers~~  
11 ~~provided for in RCW 9.41.110)~~). The copies and records shall not be  
12 disclosed except as provided in RCW 42.17.318.

13            **Sec. 2.** RCW 9.41.090 and 1996 c 295 s 8 are each amended to read  
14 as follows:

15            (1) In addition to the other requirements of this chapter, no  
16 dealer may deliver a pistol to the purchaser thereof until:

17            (a) The purchaser produces a valid concealed pistol license and the  
18 dealer has recorded the purchaser's name, license number, and issuing

1 agency, such record to be made in (~~triplicate~~) duplicate and  
2 processed as provided in subsection (5) of this section. For purposes  
3 of this subsection (1)(a), a "valid concealed pistol license" does not  
4 include a temporary emergency license, and does not include any license  
5 issued before July 1, 1996, unless the issuing agency conducted a  
6 records search for disqualifying crimes under RCW 9.41.070 at the time  
7 of issuance;

8 (b) The dealer is notified in writing by the chief of police or the  
9 sheriff of the jurisdiction in which the purchaser resides that the  
10 purchaser is eligible to possess a pistol under RCW 9.41.040 and that  
11 the application to purchase is approved by the chief of police or  
12 sheriff; or

13 (c) Five business days, meaning days on which state offices are  
14 open, have elapsed from the time of receipt of the application for the  
15 purchase thereof as provided herein by the chief of police or sheriff  
16 designated in subsection (5) of this section, and, when delivered, the  
17 pistol shall be securely wrapped and shall be unloaded. However, if  
18 the purchaser does not have a valid permanent Washington driver's  
19 license or state identification card or has not been a resident of the  
20 state for the previous consecutive ninety days, the waiting period  
21 under this subsection (1)(c) shall be up to sixty days.

22 (2)(a) Except as provided in (b) of this subsection, in determining  
23 whether the purchaser meets the requirements of RCW 9.41.040, the chief  
24 of police or sheriff, or the designee of either, shall check with the  
25 national crime information center, the Washington state patrol  
26 electronic data base, the department of social and health services  
27 electronic data base, and with other agencies or resources as  
28 appropriate, to determine whether the applicant is ineligible under RCW  
29 9.41.040 to possess a firearm.

30 (b) Once the system is established, a dealer shall use the state  
31 system and national instant criminal background check system, provided  
32 for by the Brady Handgun Violence Prevention Act (18 U.S.C. Sec. 921 et  
33 seq.), to make criminal background checks of applicants to purchase  
34 firearms. However, a chief of police or sheriff, or a designee of  
35 either, shall continue to check the department of social and health  
36 services' electronic data base and with other agencies or resources as  
37 appropriate, to determine whether applicants are ineligible under RCW  
38 9.41.040 to possess a firearm.

1 (3) In any case under subsection (1)(c) of this section where the  
2 applicant has an outstanding warrant for his or her arrest from any  
3 court of competent jurisdiction for a felony or misdemeanor, the dealer  
4 shall hold the delivery of the pistol until the warrant for arrest is  
5 served and satisfied by appropriate court appearance. The local  
6 jurisdiction for purposes of the sale shall confirm the existence of  
7 outstanding warrants within seventy-two hours after notification of the  
8 application to purchase a pistol is received. The local jurisdiction  
9 shall also immediately confirm the satisfaction of the warrant on  
10 request of the dealer so that the hold may be released if the warrant  
11 was for an offense other than an offense making a person ineligible  
12 under RCW 9.41.040 to possess a pistol.

13 (4) In any case where the chief or sheriff of the local  
14 jurisdiction has reasonable grounds based on the following  
15 circumstances: (a) Open criminal charges, (b) pending criminal  
16 proceedings, (c) pending commitment proceedings, (d) an outstanding  
17 warrant for an offense making a person ineligible under RCW 9.41.040 to  
18 possess a pistol, or (e) an arrest for an offense making a person  
19 ineligible under RCW 9.41.040 to possess a pistol, if the records of  
20 disposition have not yet been reported or entered sufficiently to  
21 determine eligibility to purchase a pistol, the local jurisdiction may  
22 hold the sale and delivery of the pistol beyond five days up to thirty  
23 days in order to confirm existing records in this state or elsewhere.  
24 After thirty days, the hold will be lifted unless an extension of the  
25 thirty days is approved by a local district court or municipal court  
26 for good cause shown. A dealer shall be notified of each hold placed  
27 on the sale by local law enforcement and of any application to the  
28 court for additional hold period to confirm records or confirm the  
29 identity of the applicant.

30 (5) At the time of applying for the purchase of a pistol, the  
31 purchaser shall sign in (~~triplicate~~) duplicate and deliver to the  
32 dealer an application containing his or her full name, residential  
33 address, date and place of birth, race, and gender; the date and hour  
34 of the application; the applicant's driver's license number or state  
35 identification card number; a description of the pistol including the  
36 make, model, caliber and manufacturer's number if available at the time  
37 of applying for the purchase of a pistol. If the manufacturer's number  
38 is not available, the application may be processed, but delivery of the  
39 pistol to the purchaser may not occur unless the manufacturer's number

1 is recorded on the application by the dealer and transmitted to the  
2 chief of police of the municipality or the sheriff of the county in  
3 which the purchaser resides; and a statement that the purchaser is  
4 eligible to possess a pistol under RCW 9.41.040.

5 The application shall contain a warning substantially as follows:

6 CAUTION: Although state and local laws do not differ, federal  
7 law and state law on the possession of firearms differ. If you  
8 are prohibited by federal law from possessing a firearm, you  
9 may be prosecuted in federal court. State permission to  
10 purchase a firearm is not a defense to a federal prosecution.

11 The purchaser shall be given a copy of the department of fish and  
12 wildlife pamphlet on the legal limits of the use of firearms, firearms  
13 safety, and the fact that local laws and ordinances on firearms are  
14 preempted by state law and must be consistent with state law.

15 The dealer shall, by the end of the business day, sign and attach  
16 his or her address and deliver a copy of the application and such other  
17 documentation as required under subsection (1) of this section to the  
18 chief of police of the municipality or the sheriff of the county of  
19 which the purchaser is a resident. The (~~triplicate~~) duplicate shall  
20 be retained by the dealer for six years. The dealer shall deliver the  
21 pistol to the purchaser following the period of time specified in this  
22 section unless the dealer is notified of an investigative hold under  
23 subsection (4) of this section in writing by the chief of police of the  
24 municipality or the sheriff of the county, whichever is applicable,  
25 denying the purchaser's application to purchase and the grounds  
26 thereof. The application shall not be denied unless the purchaser is  
27 not eligible to possess a pistol under RCW 9.41.040 or 9.41.045, or  
28 federal law.

29 The chief of police of the municipality or the sheriff of the  
30 county shall retain or destroy applications to purchase a pistol in  
31 accordance with the requirements of 18 U.S.C. Sec. 922.

32 (6) A person who knowingly makes a false statement regarding  
33 identity or eligibility requirements on the application to purchase a  
34 pistol is guilty of false swearing under RCW 9A.72.040.

35 (7) This section does not apply to sales to licensed dealers for  
36 resale or to the sale of antique firearms.

1       **Sec. 3.** RCW 9.41.110 and 1994 sp.s. c 7 s 416 are each amended to  
2 read as follows:

3       (1) No dealer may sell or otherwise transfer, or expose for sale or  
4 transfer, or have in his or her possession with intent to sell, or  
5 otherwise transfer, any pistol without being licensed as provided in  
6 this section.

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

11       (3) No dealer may sell or otherwise transfer, or expose for sale  
12 or transfer, or have in his or her possession with intent to sell, or  
13 otherwise transfer, any ammunition without being licensed as provided  
14 in this section.

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

26       (5)(a) A licensing authority shall, within thirty days after the  
27 filing of an application of any person for a dealer's license,  
28 determine whether to grant the license. However, if the applicant does  
29 not have a valid permanent Washington driver's license or Washington  
30 state identification card, or has not been a resident of the state for  
31 the previous consecutive ninety days, the licensing authority shall  
32 have up to sixty days to determine whether to issue a license. No  
33 person shall qualify for a license under this section without first  
34 receiving a federal firearms license and undergoing fingerprinting and  
35 a background check. In addition, no person ineligible to possess a  
36 firearm under RCW 9.41.040 or ineligible for a concealed pistol license  
37 under RCW 9.41.070 shall qualify for a dealer's license.

38       (b) A dealer shall require every employee who may sell a firearm in  
39 the course of his or her employment to undergo fingerprinting and a

1 background check. An employee must be eligible to possess a firearm,  
2 and must not have been convicted of a crime that would make the person  
3 ineligible for a concealed pistol license, before being permitted to  
4 sell a firearm. Every employee shall comply with requirements  
5 concerning purchase applications and restrictions on delivery of  
6 pistols that are applicable to dealers.

7 (6)(a) Except as otherwise provided in (b) of this subsection, the  
8 business shall be carried on only in the building designated in the  
9 license. For the purpose of this section, advertising firearms for  
10 sale shall not be considered the carrying on of business.

11 (b) A dealer may conduct business temporarily at a location other  
12 than the building designated in the license, if the temporary location  
13 is within Washington state and is the location of a gun show sponsored  
14 by a national, state, or local organization, or an affiliate of any  
15 such organization, devoted to the collection, competitive use, or other  
16 sporting use of firearms in the community. Nothing in this subsection  
17 (6)(b) authorizes a dealer to conduct business in or from a motorized  
18 or towed vehicle.

19 In conducting business temporarily at a location other than the  
20 building designated in the license, the dealer shall comply with all  
21 other requirements imposed on dealers by RCW 9.41.090, 9.41.100, and  
22 9.41.110. The license of a dealer who fails to comply with the  
23 requirements of RCW 9.41.080 and 9.41.090 and subsection (8) of this  
24 section while conducting business at a temporary location shall be  
25 revoked, and the dealer shall be permanently ineligible for a dealer's  
26 license.

27 (7) The license or a copy thereof, certified by the issuing  
28 authority, shall be displayed on the premises in the area where  
29 firearms are sold, or at the temporary location, where it can easily be  
30 read.

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

35 (b) A dealer who sells or delivers any firearm in violation of RCW  
36 9.41.080 is guilty of a class C felony. In addition to any other  
37 penalty provided for by law, the dealer is subject to mandatory  
38 permanent revocation of his or her dealer's license and permanent  
39 ineligibility for a dealer's license.

1 (c) The license fee for pistols shall be one hundred twenty-five  
2 dollars. The license fee for firearms other than pistols shall be one  
3 hundred twenty-five dollars. The license fee for ammunition shall be  
4 one hundred twenty-five dollars. Any dealer who obtains any license  
5 under subsection (1), (2), or (3) of this section may also obtain the  
6 remaining licenses without payment of any fee. The fees received under  
7 this section shall be deposited in the account under RCW 69.50.520.

8 (9)(a) A true record in (~~(triplicate)~~) duplicate shall be made of  
9 every pistol sold, in a book kept for the purpose, (~~(the form of which~~  
10 ~~may be prescribed by the director of licensing and)~~) shall be  
11 personally signed by the purchaser and by the person effecting the  
12 sale, each in the presence of the other, and shall contain the date of  
13 sale, the caliber, make, model and manufacturer's number of the weapon,  
14 the name, address, occupation, and place of birth of the purchaser, and  
15 a statement signed by the purchaser that he or she is not ineligible  
16 under RCW 9.41.040 to possess a firearm.

17 (b) One copy shall within six hours be sent by certified mail to  
18 the chief of police of the municipality or the sheriff of the county of  
19 which the purchaser is a resident(~~(; the duplicate the dealer shall~~  
20 ~~within seven days send to the director of licensing)~~); the  
21 (~~(triplicate)~~) duplicate the dealer shall retain for six years.

22 (10) Subsections (2) through (9) of this section shall not apply to  
23 sales at wholesale.

24 (11) The dealer's licenses authorized to be issued by this section  
25 are general licenses covering all sales by the licensee within the  
26 effective period of the licenses. The department shall provide a  
27 single application form for dealer's licenses and a single license form  
28 which shall indicate the type or types of licenses granted.

29 (12) Except as provided in RCW 9.41.090, every city, town, and  
30 political subdivision of this state is prohibited from requiring the  
31 purchaser to secure a permit to purchase or from requiring the dealer  
32 to secure an individual permit for each sale.

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