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**HOUSE BILL 2653**

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**State of Washington 64th Legislature 2016 Regular Session**

**By** Representatives Cody, Jinkins, Tharinger, Fitzgibbon, S. Hunt, and Fey

AN ACT Relating to the excise taxation of personalized handguns; amending RCW 9.41.090; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; and creating new sections.

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

NEW SECTION. **Sec.**  (1) This section is the tax preference performance statement for the tax preference contained in this act. This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes this tax preference as one intended to induce certain designated behavior by taxpayers, as indicated in RCW 82.32.808(2)(a).

(3) It is the legislature's specific public policy objective to promote the purchase of personalized handguns, in order to reduce injuries and deaths from accidental discharging of firearms and stolen firearms.

(4) To measure the effectiveness of this act in achieving the specific public policy objective described in subsection (3) of this section, the joint legislative audit and review committee must, at minimum, evaluate the following:

(a) The number of personalized handguns sold in Washington state, as reported to the department of licensing each year;

(b) The number of licensed dealers of firearms retailing personalized handguns, as reported to the department of licensing each year;

(c) Total numbers of accidental discharges of firearms and theft of firearms, as well as whether or not these incidents resulted in injury or death or involved personalized handguns, as collected by state or local law enforcement agencies or by the state department of health; and

(d) In addition to the data sources described under this section, the joint legislative audit and review committee may use any other data it deems necessary in performing the evaluation under subsection (3) of this section.

**Sec.**  RCW 9.41.090 and 2015 c 1 s 5 (Initiative Measure No. 594) are each amended to read as follows:

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

(a) The purchaser produces a valid concealed pistol license and the dealer has recorded the purchaser's name, license number, and issuing agency, such record to be made in triplicate and processed as provided in subsection (5) of this section. For purposes of this subsection (1)(a), a "valid concealed pistol license" does not include a temporary emergency license, and does not include any license issued before July 1, 1996, unless the issuing agency conducted a records search for disqualifying crimes under RCW 9.41.070 at the time of issuance;

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

(c) The requirements or time periods in RCW 9.41.092 have been satisfied.

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

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

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

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

(5)(a) At the time of applying for the purchase of a pistol, the purchaser ((~~shall~~)) must sign in triplicate and deliver to the dealer an application containing his or her full name, residential address, date and place of birth, race, and gender; the date and hour of the application; the applicant's driver's license number or state identification card number; a description of the pistol including the make, model, caliber ((~~and~~)), manufacturer's number if available at the time of applying for the purchase of a pistol, and whether the pistol is a personalized handgun as defined in section 3 of this act. If the manufacturer's number is not available, the application may be processed, but delivery of the pistol to the purchaser may not occur unless the manufacturer's number is recorded on the application by the dealer and transmitted to the chief of police of the municipality or the sheriff of the county in which the purchaser resides; and a statement that the purchaser is eligible to possess a pistol under RCW 9.41.040.

(b) The application ((~~shall~~)) must contain a warning substantially as follows:

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

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

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

(e) The chief of police of the municipality or the sheriff of the county ((~~shall~~)) must retain or destroy applications to purchase a pistol in accordance with the requirements of 18 U.S.C. Sec. 922.

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

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

NEW SECTION. **Sec.**  A new section is added to chapter 82.08 RCW to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to the retail sale of a personalized handgun.

(2) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Authorized user" means the owner of a handgun or a person authorized by the owner to possess and use the handgun.

(b) "Personalized handgun" means a handgun that incorporates within its design, and as part of its original manufacture, technology that automatically limits its operational use and that cannot be readily deactivated, so that it may only be fired by an authorized user.

(i) The technology limiting the handgun's operational use may include, but not be limited to: Radio frequency tagging, touch memory, remote control, fingerprint, magnetic encoding, and other automatic user identification systems utilizing biometric, mechanical, or electronic systems.

(ii) No make or model of a handgun may be deemed to be a "personalized handgun" unless the Washington state patrol has determined, through testing or other reasonable means, that the handgun meets any reliability standards that the manufacturer may require for its commercially available handguns that are not personalized or, if the manufacturer has no such reliability standards, that the handgun meets the reliability standards generally used in the industry for commercially available handguns. The Washington state patrol must publish on a public web site the makes and models of handguns which it determines to be personalized handguns.

NEW SECTION. **Sec.**  A new section is added to chapter 82.12 RCW to read as follows:

(1) The provisions of this section do not apply with respect to the use of a personalized handgun.

(2) For the purposes of this section, "personalized handgun" has the same meaning as provided in section 3 of this act.

NEW SECTION. **Sec.**  Sections 3 and 4 of this act apply to the sale or use of personalized handguns made on or after July 1, 2016.

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