H-3687.2

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**HOUSE BILL 2867**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

**By** Representatives Scott, Shea, Taylor, Young, Short, Haler, G. Hunt, Schmick, Dent, and Wilson

AN ACT Relating to authorizing conceal carry on campuses of institutions of higher education; amending RCW 9.41.010 and 9.41.0975; adding new sections to chapter 9.41 RCW; creating new sections; prescribing penalties; and providing an effective date.

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

**Sec.**  RCW 9.41.010 and 2015 c 1 s 2 (Initiative Measure No. 594) are each amended to read as follows:

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

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

(2) "Barrel length" means the distance from the bolt face of a closed action down the length of the axis of the bore to the crown of the muzzle, or in the case of a barrel with attachments to the end of any legal device permanently attached to the end of the muzzle.

(3) "Crime of violence" means:

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

(b) Any conviction for a felony offense in effect at any time prior to June 6, 1996, which is comparable to a felony classified as a crime of violence in (a) of this subsection; and

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

(4) "Dealer" means a person engaged in the business of selling firearms at wholesale or retail who has, or is required to have, a federal firearms license under 18 U.S.C. Sec. 923(a). A person who does not have, and is not required to have, a federal firearms license under 18 U.S.C. Sec. 923(a), is not a dealer if that person makes only occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or sells all or part of his or her personal collection of firearms.

(5) "Family or household member" means "family" or "household member" as used in RCW 10.99.020.

(6) "Felony" means any felony offense under the laws of this state or any federal or out-of-state offense comparable to a felony offense under the laws of this state.

(7) "Felony firearm offender" means a person who has previously been convicted or found not guilty by reason of insanity in this state of any felony firearm offense. A person is not a felony firearm offender under this chapter if any and all qualifying offenses have been the subject of an expungement, pardon, annulment, certificate, or rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted or a pardon, annulment, or other equivalent procedure based on a finding of innocence.

(8) "Felony firearm offense" means:

(a) Any felony offense that is a violation of this chapter;

(b) A violation of RCW 9A.36.045;

(c) A violation of RCW 9A.56.300;

(d) A violation of RCW 9A.56.310;

(e) Any felony offense if the offender was armed with a firearm in the commission of the offense.

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

(10) "Gun" has the same meaning as firearm.

(11) "Law enforcement officer" includes a general authority Washington peace officer as defined in RCW 10.93.020, or a specially commissioned Washington peace officer as defined in RCW 10.93.020. "Law enforcement officer" also includes a limited authority Washington peace officer as defined in RCW 10.93.020 if such officer is duly authorized by his or her employer to carry a concealed pistol.

(12) "Lawful permanent resident" has the same meaning afforded a person "lawfully admitted for permanent residence" in 8 U.S.C. Sec. 1101(a)(20).

(13) "Licensed dealer" means a person who is federally licensed under 18 U.S.C. Sec. 923(a).

(14) "Loaded" means:

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

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

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

(d) There is a cartridge in the tube or magazine that is inserted in the action; or

(e) There is a ball in the barrel and the firearm is capped or primed if the firearm is a muzzle loader.

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

(16) "Nonimmigrant alien" means a person defined as such in 8 U.S.C. Sec. 1101(a)(15).

(17) "Person" means any individual, corporation, company, association, firm, partnership, club, organization, society, joint stock company, or other legal entity.

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

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

(20) "Sale" and "sell" mean the actual approval of the delivery of a firearm in consideration of payment or promise of payment.

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

(a) Any crime of violence;

(b) Any felony violation of the uniform controlled substances act, chapter 69.50 RCW, that is classified as a class B felony or that has a maximum term of imprisonment of at least ten years;

(c) Child molestation in the second degree;

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

(e) Indecent liberties;

(f) Leading organized crime;

(g) Promoting prostitution in the first degree;

(h) Rape in the third degree;

(i) Drive-by shooting;

(j) Sexual exploitation;

(k) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner;

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

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

(n) Any other felony with a deadly weapon verdict under RCW 9.94A.825;

(o) Any felony offense in effect at any time prior to June 6, 1996, that is comparable to a serious offense, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious offense; or

(p) Any felony conviction under RCW 9.41.115.

(22) "Short-barreled rifle" means a rifle having one or more barrels less than sixteen inches in length and any weapon made from a rifle by any means of modification if such modified weapon has an overall length of less than twenty-six inches.

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

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

(25) "Transfer" means the intended delivery of a firearm to another person without consideration of payment or promise of payment including, but not limited to, gifts and loans.

(26) "Unlicensed person" means any person who is not a licensed dealer under this chapter.

(27) "Campus" means all land and buildings owned or leased by an institution of higher education.

(28) "Institution of higher education" has the same meaning as in RCW 28B.10.016. An institution of higher education includes private or independent institutions.

(29) "Premises" means a building or a portion of a building, and does not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area.

NEW SECTION. **Sec.**  (1) A license holder may carry a concealed pistol on or about the license holder's person while the license holder is on the campus of an institution of higher education in this state.

(2) Except as provided by subsection (3) or (4) of this section, an institution of higher education in this state may not adopt any rule, regulation, or other provision prohibiting license holders from carrying pistols on the campus of the institution.

(3) An institution of higher education in this state may establish rules, regulations, or other provisions concerning the storage of pistols in dormitories or other residential facilities that are owned or leased and operated by the institution and located on the campus of the institution.

(4) After consulting with students, staff, and faculty of the institution regarding the nature of the student population, specific safety considerations, and the uniqueness of the campus environment, the president, chancellor, or other chief executive officer of an institution of higher education in this state shall establish reasonable rules, regulations, or other provisions regarding the carrying of pistols by license holders on the campus of the institution or on premises that are owned or leased and operated by the institution and located on the campus of the institution. The president, chancellor, or officer may not establish provisions that generally prohibit or have the effect of generally prohibiting license holders from carrying concealed pistols on the campus of the institution. The president, chancellor, or officer may amend the provisions as necessary for campus safety. The provisions take effect as determined by the president, chancellor, or officer unless subsequently amended by the board of regents, trustees, or other governing board under subsection (5) of this section. The institution must give effective notice, with respect to any portion of a premises on which license holders may not carry.

(5) By the ninetieth day after the date that the rules, regulations, or other provisions are established as described by subsection (4) of this section, the board of regents, trustees, or other governing board of the institution of higher education shall review the provisions. The board of regents, trustees, or other governing board may, by a vote of not less than two-thirds of the board, amend wholly or partly the provisions established under subsection (4) of this section. If amended under this subsection, the provisions are considered to be those of the institution as established under subsection (4) of this section.

(6) An institution of higher education shall widely distribute the rules, regulations, or other provisions described by subsection (4) of this section to the institution's students, staff, and faculty, including by prominently publishing the provisions on the institution's web site.

(7) By September 1st of each even-numbered year, each institution of higher education in this state shall submit a report to the legislature and to the standing committees of the legislature with jurisdiction over the implementation and continuation of this section that:

(a) Describes its rules, regulations, or other provisions regarding the carrying of concealed pistols on the campus of the institution; and

(b) Explains the reasons the institution has established those provisions.

(8) A private or independent institution of higher education in this state, after consulting with students, staff, and faculty of the institution, may establish rules, regulations, or other provisions prohibiting license holders from carrying pistols on the campus of the institution, any grounds or building on which an activity sponsored by the institution is being conducted, or a passenger transportation vehicle owned by the institution.

**Sec.**  RCW 9.41.0975 and 2009 c 216 s 7 are each amended to read as follows:

(1) The state, local governmental entities, any public or private agency, and the employees of any state or local governmental entity or public or private agency, acting in good faith, are immune from liability:

(a) For failure to prevent the sale or transfer of a firearm to a person whose receipt or possession of the firearm is unlawful;

(b) For preventing the sale or transfer of a firearm to a person who may lawfully receive or possess a firearm;

(c) For issuing a concealed pistol license or alien firearm license to a person ineligible for such a license;

(d) For failing to issue a concealed pistol license or alien firearm license to a person eligible for such a license;

(e) For revoking or failing to revoke an issued concealed pistol license or alien firearm license;

(f) For errors in preparing or transmitting information as part of determining a person's eligibility to receive or possess a firearm, or eligibility for a concealed pistol license or alien firearm license;

(g) For issuing a dealer's license to a person ineligible for such a license; or

(h) For failing to issue a dealer's license to a person eligible for such a license.

(2) An application may be made to a court of competent jurisdiction for a writ of mandamus:

(a) Directing an issuing agency to issue a concealed pistol license or alien firearm license wrongfully refused;

(b) Directing a law enforcement agency to approve an application to purchase wrongfully denied;

(c) Directing that erroneous information resulting either in the wrongful refusal to issue a concealed pistol license or alien firearm license or in the wrongful denial of a purchase application be corrected; or

(d) Directing a law enforcement agency to approve a dealer's license wrongfully denied.

The application for the writ may be made in the county in which the application for a concealed pistol license or alien firearm license or to purchase a pistol was made, or in Thurston county, at the discretion of the petitioner. A court shall provide an expedited hearing for an application brought under this subsection (2) for a writ of mandamus. A person granted a writ of mandamus under this subsection (2) shall be awarded reasonable attorneys' fees and costs.

(3)(a) A court may not hold an employee or officer of the state, any institution of higher education or an officer or employee of an institution of higher education that has not adopted rules under section 2(8) of this act, a peace officer, or a qualified firearms instructor liable for damages caused by:

(i) An action authorized under this chapter or a failure to perform a duty imposed by this chapter; or

(ii) The actions of an applicant or license holder that occur after the applicant has received a license or been denied a license under this chapter.

(b) The immunities granted under (a)(i) and (ii) of this subsection do not apply to:

(i) An act or a failure to act by the state, an officer of the state, an institution of higher education or an officer or employee of an institution of higher education, or a peace officer if the act or failure to act was capricious or arbitrary; or

(ii) Any officer or employee of an institution of higher education who possesses a pistol on the campus of that institution and whose conduct with regard to the pistol is made the basis of a claim for personal injury or property damage.

NEW SECTION. **Sec.**  A person commits an offense if the person intentionally, knowingly, or recklessly possesses or goes with a firearm, illegal knife, club, or prohibited weapon on the physical premises of a school or institution of higher education, any grounds or building on which an activity sponsored by a school or institution of higher education is being conducted, or a passenger transportation vehicle of a school or institution of higher education, whether the school or institution of higher education is public or private, unless:

(1) Pursuant to written regulations or written authorization of the institution; or

(2) The person possesses or goes with a concealed pistol that the person is licensed to carry under this chapter, and no other weapon to which this section applies, on the premises of an institution of higher education, on any grounds or building on which an activity sponsored by the institution is being conducted, or in a passenger transportation vehicle of the institution.

NEW SECTION. **Sec.**  (1) A license holder commits an offense if the license holder carries a partially or wholly visible pistol, regardless of whether the pistol is holstered, on or about the license holder's person, and intentionally or knowingly displays the pistol in plain view of another person:

(a) On the premises of an institution of higher education; or

(b) On any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area of an institution of higher education or private or independent institution of higher education.

(2) Except as provided in subsection (1) of this section, a license holder commits an offense if the license holder carries a pistol on the campus of a private or independent institution of higher education in this state that has established rules, regulations, or other provisions prohibiting license holders from carrying pistols pursuant to section 2(8) of this act, or on the grounds or building on which an activity sponsored by such an institution is being conducted, or in a passenger transportation vehicle of such an institution, regardless of whether the pistol is concealed, provided the institution gives effective notice.

(3) Except as provided in subsection (1) of this section, a license holder commits an offense if the license holder intentionally carries a concealed pistol on a portion of a premises located on the campus of an institution of higher education in this state on which the carrying of a concealed pistol is prohibited by rules, regulations, or other provisions established under section 2(4) of this act, provided the institution gives effective notice with respect to that portion.

(4) A violation of this section is a gross misdemeanor.

(5) It is a defense to prosecution under this section that the actor, at the time of the commission of the offense, displayed the pistol under circumstances in which the actor would have been justified in the use of force or deadly force under chapter 9A RCW.

(6) For the purposes of this section:

(a) "Effective notice" is given if the owner of the property or someone with apparent authority to act for the owner provides notice to the person by oral or written communication.

(b) "Written communication" means: A card or other document on which is written language identical to the following: "A person licensed under chapter 9.41 RCW, may not enter this property with a concealed pistol."

NEW SECTION. **Sec.**  Section 3 of this act only applies to a cause of action that accrues on or after the effective date of this section. A cause of action that accrued before the effective date of this section, is governed by the law in effect immediately before the effective date of this section, and that law is continued in effect for that purpose.

NEW SECTION. **Sec.**  Section 4 of this act only applies to an offense committed on or after the effective date of this section. An offense committed before the effective date of this section, is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this section, if any element of the offense occurred before that date.

NEW SECTION. **Sec.**  Sections 2, 4, and 5 of this act are each added to chapter 9.41 RCW.

NEW SECTION. **Sec.**  This act takes effect August 1, 2016.

**--- END ---**