

2 SB 6109 - S AMD  
3 By Senator Talmadge

4  
5 Strike everything after the enacting clause and insert the  
6 following:

7 "Sec. 1. RCW 9.41.010 and 1983 c 232 s 1 are each amended to read  
8 as follows:

9 (1) "Short firearm" or "pistol" as used in this chapter means any  
10 firearm with a barrel less than twelve inches in length.

11 (2) "Crime of violence" as used in this chapter means:

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

21 (b) Any conviction for a felony offense in effect at any time prior  
22 to July 1, 1976, which is comparable to a felony classified as a crime  
23 of violence in subsection (2) (a) of this section; and

24 (c) Any federal or out-of-state conviction for an offense  
25 comparable to a felony classified as a crime of violence under  
26 subsection (2) (a) or (b) of this section.

27 (3) "Firearm" as used in this chapter means a weapon or device from  
28 which a projectile may be fired by an explosive such as gunpowder.

1 (4) "Commercial seller" as used in this chapter means a person who  
2 has a federal firearms license.

3 (5) "Antique firearms" as used in this chapter means any firearm  
4 manufactured on or before 1918."

5 "Sec. 2. RCW 9.41.098 and 1989 c 222 s 8 are each amended to read  
6 as follows:

7 (1) The superior courts and the courts of limited jurisdiction of  
8 the state may order forfeiture of a firearm which is proven to be:

9 (a) Found concealed on a person not authorized by RCW 9.41.060 or  
10 9.41.070 to carry a concealed pistol: PROVIDED, That it is an absolute  
11 defense to forfeiture if the person possessed a valid Washington  
12 concealed pistol license within the preceding two years and has not  
13 become ineligible for a concealed pistol license in the interim.  
14 Before the firearm may be returned, the person must pay the past due  
15 renewal fee and the current renewal fee;

16 (b) Commercially sold to any person without an application as  
17 required by RCW 9.41.090;

18 (c) Found in the possession or under the control of a person at the  
19 time the person committed or was arrested for committing a crime of  
20 violence or a crime in which a firearm was used or displayed or a  
21 felony violation of the uniform controlled substances act, chapter  
22 69.50 RCW;

23 (d) Found concealed on a person who is in any place in which a  
24 concealed pistol license is required, and who is under the influence of  
25 any drug or under the influence of intoxicating liquor, having 0.10  
26 grams or more of alcohol per two hundred ten liters of breath or 0.10  
27 percent or more by weight of alcohol in the person's blood, as shown by  
28 analysis of the person's breath, blood, or other bodily substance;

1 (e) Found in the possession of a person prohibited from possessing  
2 the firearm under RCW 9.41.040;

3 (f) Found in the possession of a person free on bail or personal  
4 recognizance pending trial, appeal, or sentencing for a crime of  
5 violence or a crime in which a firearm was used or displayed, except  
6 that violations of Title 77 RCW shall not result in forfeiture under  
7 this section;

8 (g) Found in the possession of a person found to have been mentally  
9 incompetent while in possession of a firearm when apprehended or who is  
10 thereafter committed pursuant to chapter 10.77 or 71.05 RCW;

11 (h) Known to have been used or displayed by a person in the  
12 violation of a proper written order of a court of general jurisdiction;  
13 or

14 (i) Known to have been used in the commission of a crime of  
15 violence or a crime in which a firearm was used or displayed or a  
16 felony violation of the uniformed controlled substances act, chapter  
17 69.50 RCW.

18 (2) Upon order of forfeiture, the court in its discretion shall  
19 order destruction of any firearm that is illegal for any person to  
20 possess. All firearms legal for citizen possession that are judicially  
21 forfeited or forfeited due to failure to make a claim under RCW  
22 63.32.010, 63.40.010, or 63.35.020 (~~shall~~) may be submitted for  
23 auction to commercial sellers once a year if the submitting agency has  
24 accumulated at least ten firearms authorized for sale. If a  
25 municipality chooses to destroy such firearms a municipality shall  
26 enact an ordinance providing for the destruction of such firearms.  
27 Antique firearms are exempted from destruction. Law enforcement  
28 agencies may conduct joint auctions for the purpose of maximizing  
29 efficiency. A maximum of ten percent of such firearms may be retained  
30 for use by local law enforcement agencies and the Washington state

1 patrol. Before submission for auction or destruction, a court may  
2 temporarily retain forfeited firearms if needed for evidence. The  
3 proceeds from any sale shall be divided as follows: The local  
4 jurisdiction and the Washington state patrol shall retain its costs,  
5 including actual costs of storage and sale, and shall forward the  
6 remainder to the state department of wildlife for use in its firearms  
7 training program pursuant to RCW 77.32.155.

8 If a firearm is delivered to a law enforcement agency and the  
9 agency no longer requires use of the firearm, the agency shall dispose  
10 of the firearm (~~(by auction)~~) as provided by this subsection. The  
11 public auctioning agency shall, as a minimum, maintain a record of all  
12 forfeited firearms by manufacturer, model, caliber, serial number, date  
13 and circumstances of forfeiture, and final disposition. The records  
14 shall be open to public inspection and copying.

15 (3) The court shall order the firearm returned to the owner upon a  
16 showing that there is no probable cause to believe a violation of  
17 subsection (1) of this section existed or the firearm was stolen from  
18 the owner or the owner neither had knowledge of nor consented to the  
19 act or omission involving the firearm which resulted in its forfeiture.

20 (4) A law enforcement officer of the state or of any county or  
21 municipality may confiscate a firearm found to be in the possession of  
22 a person under circumstances specified in subsection (1) of this  
23 section. After confiscation, the firearm shall not be surrendered  
24 except: (a) To the prosecuting attorney for use in subsequent legal  
25 proceedings; (b) for disposition according to an order of a court  
26 having jurisdiction as provided in subsection (1) of this section; or  
27 (c) to the owner if the proceedings are dismissed or as directed in  
28 subsection (3) of this section."

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4 On page 1, line 2 of the title, after "parts;" strike the remainder  
5 of the title and insert "and amending RCW 9.41.010 and 9.41.098."