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HOUSE BILL 1191

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State of Washington

53rd Legislature

1993 Regular Session

By Representatives Anderson and Leonard

Read first time 01/20/93. Referred to Committee on Judiciary.

1 AN ACT Relating to concealed pistols; amending RCW 9.41.070,  
2 9.41.090, and 9.41.095; repealing RCW 9.41.093; and prescribing  
3 penalties.

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

5 **Sec. 1.** RCW 9.41.070 and 1992 c 168 s 1 are each amended to read  
6 as follows:

7 (1) The judge of a court of record, the chief of police of a  
8 municipality, or the sheriff of a county, shall within thirty days  
9 after the filing of an application of any person issue a license to  
10 such person to carry a pistol concealed on his or her person within  
11 this state for four years from date of issue, for the purposes of  
12 protection or while engaged in business, sport, or while traveling.  
13 However, if the applicant does not have a valid permanent Washington  
14 driver's license or Washington state identification card or has not  
15 been a resident of the state for the previous consecutive ninety days,  
16 the issuing authority shall have up to sixty days after the filing of  
17 the application to issue a license. Such applicant's constitutional  
18 right to bear arms shall not be denied, unless he or she:

1       (a) Fails to demonstrate a justifiable need for a concealed pistol  
2 as determined by standards developed by the Washington state patrol; or  
3       (b) Does not have a certificate indicating successful completion of  
4 a course sanctioned by the Washington state patrol on weapon safety and  
5 the legal limits on the use of force and indicating that the person is  
6 physically able to safely operate a pistol; or  
7       (c) Is ineligible to own a pistol under the provisions of RCW  
8 9.41.040; or  
9       ~~((b))~~ (d) Is under twenty-one years of age; or  
10       ~~((e))~~ (e) Is subject to a court order or injunction regarding  
11 firearms pursuant to RCW 10.99.040, 10.99.045, or 26.09.060; or  
12       ~~((d))~~ (f) Is free on bond or personal recognizance pending trial,  
13 appeal, or sentencing for a crime of violence; or  
14       ~~((e))~~ (g) Has an outstanding warrant for his or her arrest from  
15 any court of competent jurisdiction for a felony or misdemeanor; or  
16       ~~((f))~~ (h) Has been ordered to forfeit a firearm under RCW  
17 9.41.098(1)(d) within one year before filing an application to carry a  
18 pistol concealed on his or her person; or  
19       ~~((g))~~ (i) Has been convicted of any of the following offenses:  
20 Assault in the third degree, indecent liberties, malicious mischief in  
21 the first degree, possession of stolen property in the first or second  
22 degree, or theft in the first or second degree. Any person who becomes  
23 ineligible for a concealed pistol ~~((permit))~~ license as a result of a  
24 conviction for a crime listed in this subsection (1)~~((g))~~ (i) and  
25 then successfully completes all terms of his or her sentence, as  
26 evidenced by a certificate of discharge issued under RCW 9.94A.220 in  
27 the case of a sentence under chapter 9.94A RCW, and has not again been  
28 convicted of any crime and is not under indictment for any crime, may,  
29 one year or longer after such successful sentence completion, petition  
30 the district court for a declaration that the person is no longer  
31 ineligible for a concealed pistol ~~((permit))~~ license under this  
32 subsection (1)~~((g))~~ (i).  
33       (2) Any person whose firearms rights have been restricted and who  
34 has been granted relief from disabilities by the secretary of the  
35 treasury under 18 U.S.C. Sec. 925(c) or who is exempt under 18 U.S.C.  
36 Sec. 921(a)(20) shall have his or her right to acquire, receive,  
37 transfer, ship, transport, carry, and possess firearms in accordance  
38 with Washington state law restored.

1 (3) The license shall be revoked by the issuing authority  
2 immediately upon conviction of a crime which makes such a person  
3 ineligible to own a pistol or upon the third conviction for a violation  
4 of this chapter within five calendar years.

5 (4) Upon an order to forfeit a firearm under RCW 9.41.098(1)(d) the  
6 issuing authority shall:

7 (a) On the first forfeiture, revoke the license for one year;

8 (b) On the second forfeiture, revoke the license for two years;

9 (c) On the third or subsequent forfeiture, revoke the license for  
10 five years.

11 Any person whose license is revoked as a result of a forfeiture of a  
12 firearm under RCW 9.41.098(1)(d) may not reapply for a new license  
13 until the end of the revocation period. The issuing authority shall  
14 notify, in writing, the department of licensing upon revocation of a  
15 license. The department of licensing shall record the revocation.

16 (5) The license shall be in triplicate, in form to be prescribed by  
17 the department of licensing, and shall bear the name, address, and  
18 description, fingerprints, and signature of the licensee, and the  
19 licensee's driver's license number or state identification card number  
20 if used for identification in applying for the license. The license  
21 application shall contain a warning substantially as follows:

22 CAUTION: Although state and local laws do not differ, federal  
23 law and state law on the possession of firearms differ. If you  
24 are prohibited by federal law from possessing a firearm, you  
25 may be prosecuted in federal court. A state license is not a  
26 defense to a federal prosecution.

27 The license application shall contain a description of the major  
28 differences between state and federal law and an explanation of the  
29 fact that local laws and ordinances on firearms are preempted by state  
30 law and must be consistent with state law. The application shall  
31 contain questions about the applicant's place of birth, whether the  
32 applicant is a United States citizen, and if not a citizen whether the  
33 applicant has declared the intent to become a citizen and whether he or  
34 she has been required to register with the state or federal government  
35 and any identification or registration number, if applicable. The  
36 applicant shall not be required to produce a birth certificate or other  
37 evidence of citizenship. An applicant who is not a citizen shall  
38 provide documentation showing resident alien status and the applicant's

1 intent to become a citizen. (~~(A person who makes a false statement~~  
2 ~~regarding citizenship on the application is guilty of a misdemeanor.)~~)  
3 A person who is not a citizen of the United States, or has not declared  
4 his or her intention to become a citizen shall meet the additional  
5 requirements of RCW 9.41.170.

6 The original thereof shall be delivered to the licensee, the  
7 duplicate shall within seven days be sent by registered mail to the  
8 director of licensing and the triplicate shall be preserved for six  
9 years, by the authority issuing (~~(said)~~) the license.

10 (6) The fee for the original issuance of a four-year license shall  
11 be twenty-three dollars(~~(:—PROVIDED, That)~~). No other (~~(additional~~  
12 ~~charges by any)~~) branch or unit of government (~~(shall be borne by)~~) may  
13 impose any additional charges on the applicant for the issuance of the  
14 license(~~(:—PROVIDED FURTHER, That)~~).

15 The fee shall be distributed as follows:

16 (a) Four dollars shall be paid to the state general fund;

17 (b) Four dollars shall be paid to the agency taking the  
18 fingerprints of the person licensed;

19 (c) Twelve dollars shall be paid to the issuing authority for the  
20 purpose of enforcing this chapter; and

21 (d) Three dollars to the firearms range account in the general  
22 fund.

23 (7) The fee for the renewal of such license shall be fifteen  
24 dollars(~~(:—PROVIDED, That)~~). No other (~~(additional charges by any)~~)  
25 branch or unit of government (~~(shall be borne by)~~) may impose any  
26 additional charges on the applicant for the renewal of the license(~~(:—~~  
27 ~~PROVIDED FURTHER, That)~~).

28 The renewal fee shall be distributed as follows:

29 (a) Four dollars shall be paid to the state general fund;

30 (b) Eight dollars shall be paid to the issuing authority for the  
31 purpose of enforcing this chapter; and

32 (c) Three dollars to the firearms range account in the general  
33 fund.

34 (8) Payment shall be by cash, check, or money order at the option  
35 of the applicant. Additional methods of payment may be allowed at the  
36 option of the issuing authority.

37 (9) A licensee may renew a license if the licensee applies for  
38 renewal within ninety days before or after the expiration date of the  
39 license. A license so renewed shall take effect on the expiration date

1 of the prior license. A licensee renewing after the expiration date of  
2 the license must pay a late renewal penalty of ten dollars in addition  
3 to the renewal fee specified in subsection (7) of this section. The  
4 fee shall be distributed as follows:

5 (a) Three dollars shall be deposited in the state wildlife fund and  
6 used exclusively for the printing and distribution of a pamphlet on the  
7 legal limits of the use of firearms, firearms safety, and the  
8 preemptive nature of state law. The pamphlet shall be given to each  
9 applicant for a license; and

10 (b) Seven dollars shall be paid to the issuing authority for the  
11 purpose of enforcing this chapter.

12 (10) Notwithstanding the requirements of subsections (1) through  
13 (9) of this section, the chief of police of the municipality or the  
14 sheriff of the county of the applicant's residence may issue a  
15 temporary emergency license for good cause pending review under  
16 subsection (1) of this section.

17 (11) A political subdivision of the state shall not modify the  
18 requirements of this section or chapter, nor may a political  
19 subdivision ask the applicant to voluntarily submit any information not  
20 required by this section. A civil suit may be brought to enjoin a  
21 wrongful refusal to issue a license or a wrongful modification of the  
22 requirements of this section or chapter. The civil suit may be brought  
23 in the county in which the application was made or in Thurston county  
24 at the discretion of the petitioner. Any person who prevails against  
25 a public agency in any action in the courts for a violation of this  
26 chapter shall be awarded costs, including reasonable attorneys' fees,  
27 incurred in connection with such legal action.

28 (12) A person who makes a false statement regarding citizenship,  
29 identity, or other required information on an application for a  
30 concealed pistol license is guilty of a misdemeanor.

31 **Sec. 2.** RCW 9.41.090 and 1988 c 36 s 2 are each amended to read as  
32 follows:

33 (1) In addition to the other requirements of this chapter, no  
34 ~~((commercial seller shall))~~ person may sell, transfer, or deliver a  
35 pistol to ((the purchaser thereof)) another person until:

36 (a) The ~~((purchaser))~~ person receiving the pistol produces a valid  
37 concealed pistol license and the ((commercial seller)) person selling,  
38 transferring or delivering has recorded the ((purchaser's)) receiver's

1 name, license number, and issuing agency, such record to be made in  
2 triplicate and processed as provided in subsection (4) of this section;  
3 or

4 (b) The ~~((seller))~~ person selling, transferring, or delivering is  
5 notified in writing by the chief of police of the municipality or the  
6 sheriff of the county that the ~~((purchaser))~~ receiver meets the  
7 requirements of RCW 9.41.040 and 9.41.070 and that the application ~~((to~~  
8 purchase)) is granted; or

9 (c) Five consecutive days including Saturday, Sunday and holidays  
10 have elapsed from the time of receipt of the application for the  
11 ~~((purchase))~~ receipt thereof as provided herein by the chief of police  
12 or sheriff designated in subsection (4) of this section, and, when  
13 sold, transferred or delivered, ~~((said))~~ the pistol shall be securely  
14 wrapped and shall be unloaded. However, if the ~~((purchaser))~~ receiver  
15 does not have a valid permanent Washington driver's license or state  
16 identification card or has not been a resident of the state for the  
17 previous consecutive ninety days, the waiting period under this  
18 subsection (1)(c) shall be up to sixty days.

19 (2) In any case under subsection (1)(c) of this section where the  
20 applicant has an outstanding warrant for his or her arrest from any  
21 court of competent jurisdiction for a felony or misdemeanor, the  
22 ~~((seller))~~ person selling, transferring or delivering shall hold the  
23 sale, transfer or delivery of the pistol until the warrant for arrest  
24 is served and satisfied by appropriate court appearance. The local  
25 jurisdiction for purposes of the sale transfer, or deliver shall  
26 confirm the existence of outstanding warrants within seventy-two hours  
27 after notification of the application to ~~((purchase))~~ receive a pistol  
28 is received. The local jurisdiction shall also immediately confirm the  
29 satisfaction of the warrant on request of the ~~((seller))~~ person  
30 selling, transferring, or delivering so that the hold may be released  
31 if the warrant was for a crime other than a crime of violence.

32 (3) In any case where the chief or sheriff of the local  
33 jurisdiction has reasonable grounds based on the following  
34 circumstances: (a) Open criminal charges, (b) pending criminal  
35 proceedings, (c) pending commitment proceedings, (d) an outstanding  
36 warrant for a crime of violence, or (e) an arrest for a crime of  
37 violence if the records of disposition have not yet been reported or  
38 entered sufficiently to determine eligibility to ~~((purchase))~~ receive  
39 a pistol, the local jurisdiction may hold the sale ~~((and)),~~ transfer,

1 or delivery of the pistol beyond five days up to thirty days in order  
2 to confirm existing records in this state or elsewhere. After thirty  
3 days, the hold will be lifted unless an extension of the thirty days is  
4 approved by a local district court or municipal court for good cause  
5 shown. An applicant shall be notified of each hold placed on the sale,  
6 transfer, or delivery by local law enforcement and of any application  
7 to the court for additional hold period to confirm records or confirm  
8 the identity of the applicant.

9 (4) At the time of applying for the ((~~purchase~~)) receipt of a  
10 pistol, the ((~~purchaser~~)) receiver shall sign in triplicate and deliver  
11 to the ((~~seller~~)) person selling, transferring, or delivering an  
12 application containing his or her full name, address, place of birth,  
13 and the date and hour of the application; the applicant's driver's  
14 license number or state identification card number; and a description  
15 of the weapon including, the make, model, caliber and manufacturer's  
16 number; and a statement that the ((~~purchaser~~)) receiver is eligible to  
17 own a pistol under RCW 9.41.040 and 9.41.070. The application shall  
18 contain a warning substantially as follows:

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

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

29 The ((~~seller~~)) person selling, transferring, or delivering shall,  
30 by the end of the business day, sign and attach his or her address and  
31 deliver the original of the application and such other documentation as  
32 required under subsection (1) of this section to the chief of police of  
33 the municipality or the sheriff of the county of which the ((~~seller~~))  
34 person is a resident. The ((~~seller~~)) person shall sell, transfer, or  
35 deliver the pistol to the ((~~purchaser~~)) receiver following the period  
36 of time specified in this section unless the ((~~seller~~)) person selling,  
37 transferring, or delivering is notified in writing by the chief of  
38 police of the municipality or the sheriff of the county, whichever is

1 applicable, denying the ((purchaser's)) receiver's application ((to  
2 purchase)) and the grounds thereof. The application shall not be  
3 denied unless the ((purchaser)) receiver fails to meet the requirements  
4 specified in RCW 9.41.040 and 9.41.070. The chief of police of the  
5 municipality or the county sheriff shall maintain a file containing the  
6 original of the application to ((purchase)) receive a pistol.

7 (5) Sales by wholesalers to dealers are exempt from the provisions  
8 of this section.

9 (6) A person who makes a false statement regarding residency,  
10 identity, or other required information on the application to receive  
11 a pistol is guilty of a misdemeanor.

12 **Sec. 3.** RCW 9.41.095 and 1969 ex.s. c 227 s 3 are each amended to  
13 read as follows:

14 Any person whose application to ((purchase)) receive a pistol as  
15 provided in RCW 9.41.090 ((as now or hereinafter amended)) is denied  
16 shall have a right to appeal to the legislative body of the  
17 municipality or of the county, whichever is applicable, for a review of  
18 the denial at a public hearing to be conducted within fifteen days  
19 after denial. It shall be the duty of the law enforcement officer  
20 recommending the denial to appear at such hearing and to present proof  
21 relating to the grounds for denial. In the event that the evidence so  
22 presented does not sustain one of the grounds for denial enumerated in  
23 RCW 9.41.090, the legislative authority shall authorize the sale.

24 Any person aggrieved by a determination of the appropriate  
25 legislative body not to permit the sale of such weapon is entitled to  
26 judicial review by the superior court in the appropriate county.

27 NEW SECTION. **Sec. 4.** RCW 9.41.093 and 1969 ex.s. c 227 s 2 are  
28 each repealed.

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