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SENATE BILL 5485

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State of Washington

53rd Legislature

1993 Regular Session

By Senator Williams

Read first time 01/29/93. Referred to Committee on Law & Justice.

1 AN ACT Relating to firearms; amending RCW 9.41.090; reenacting and  
2 amending RCW 9.41.010 and 9.41.040; and prescribing penalties.

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

4 **Sec. 1.** RCW 9.41.010 and 1992 c 205 s 117 and 1992 c 145 s 5 are  
5 each reenacted and amended to read as follows:

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

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

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

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

1 degree, burglary in the second degree, and robbery in the second  
2 degree;

3 (b) Any conviction or adjudication for a felony offense in effect  
4 at any time prior to July 1, 1976, which is comparable to a felony  
5 classified as a crime of violence in subsection (2)(a) of this section;  
6 and

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

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

12 (4) "Semiautomatic firearm" means a firearm having an automatic  
13 chambering mechanism but requiring the manual operation of the trigger  
14 for each round fired.

15 (5) "Commercial seller" (~~as used in this chapter~~) means a person  
16 who has a federal firearms license.

17 **Sec. 2.** RCW 9.41.040 and 1992 c 205 s 118 and 1992 c 168 s 2 are  
18 each reenacted and amended to read as follows:

19 (1) A person is guilty of the crime of unlawful possession of a  
20 short firearm (~~or~~), pistol, or semiautomatic firearm, if, having  
21 previously been convicted or, as a juvenile, adjudicated in this state  
22 or elsewhere of a crime of violence or of a felony in which a firearm  
23 was used or displayed, the person owns or has in his or her possession  
24 any short firearm (~~or~~), pistol, or semiautomatic firearm.

25 (2) Unlawful possession of a short firearm (~~or~~), pistol, or  
26 semiautomatic firearm shall be punished as a class C felony under  
27 chapter 9A.20 RCW.

28 (3) As used in this section, a person has been "convicted or  
29 adjudicated" at such time as a plea of guilty has been accepted or a  
30 verdict of guilty has been filed, notwithstanding the pendency of any  
31 future proceedings including but not limited to sentencing or  
32 disposition, post-trial or post-factfinding motions, and appeals. A  
33 person shall not be precluded from possession if the conviction or  
34 adjudication has been the subject of a pardon, annulment, certificate  
35 of rehabilitation, or other equivalent procedure based on a finding of  
36 the rehabilitation of the person convicted or adjudicated or the  
37 conviction or disposition has been the subject of a pardon, annulment,  
38 or other equivalent procedure based on a finding of innocence.

1 (4) Except as provided in subsection (5) of this section, a person  
2 is guilty of the crime of unlawful possession of a short firearm  
3 ~~((or))~~, pistol, or semiautomatic firearm if, after having been  
4 convicted or adjudicated of any felony violation of the uniform  
5 controlled substances act, chapter 69.50 RCW, or equivalent statutes of  
6 another jurisdiction, the person owns or has in his or her possession  
7 or under his or her control any short firearm ~~((or))~~, pistol, or  
8 semiautomatic firearm.

9 (5) Notwithstanding subsection (1) of this section, a person  
10 convicted of an offense other than murder, manslaughter, robbery, rape,  
11 indecent liberties, arson, assault, kidnapping, extortion, burglary, or  
12 violations with respect to controlled substances under RCW 69.50.401(a)  
13 and 69.50.410, who received a probationary sentence under RCW 9.95.200,  
14 and who received a dismissal of the charge under RCW 9.95.240, shall  
15 not be precluded from ownership, possession, or control of a firearm as  
16 a result of the conviction.

17 (6)(a) A person who has been committed by court order for treatment  
18 of mental illness under RCW 71.05.320 or chapter 10.77 RCW, or  
19 equivalent statutes of another jurisdiction, may not possess, in any  
20 manner, a firearm as defined in RCW 9.41.010.

21 (b) At the time of commitment, the court shall specifically state  
22 to the person under (a) of this subsection and give the person notice  
23 in writing that the person is barred from possession of firearms.

24 (c) The secretary of social and health services shall develop  
25 appropriate rules to create an approval process under this subsection.  
26 The rules must provide for the immediate restoration of the right to  
27 possess a firearm upon a showing in a court of competent jurisdiction  
28 that a person no longer is required to participate in an inpatient or  
29 outpatient treatment program, and is no longer required to take  
30 medication to treat any condition related to the commitment. Unlawful  
31 possession of a firearm under this subsection shall be punished as a  
32 class C felony under chapter 9A.20 RCW.

33 **Sec. 3.** RCW 9.41.090 and 1988 c 36 s 2 are each amended to read as  
34 follows:

35 (1) In addition to the other requirements of this chapter, no  
36 commercial seller shall deliver a pistol or a semiautomatic firearm to  
37 the purchaser thereof until:

1       (a)(i) For pistol purchases: The purchaser produces a valid  
2 concealed pistol license and the commercial seller has recorded the  
3 purchaser's name, license number, and issuing agency, such record to be  
4 made in triplicate and processed as provided in subsection (4) of this  
5 section;

6       (ii) For semiautomatic firearm purchases: The commercial seller  
7 has recorded the purchaser's name, such record to be made in triplicate  
8 and processed as provided in subsection (4) of this section; or

9       (b) The seller is notified in writing by the chief of police of the  
10 municipality or the sheriff of the county that the purchaser meets the  
11 requirements of RCW 9.41.040 and that the application to purchase is  
12 granted; or

13       (c) Five consecutive days including Saturday, Sunday and holidays  
14 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 (4) of this section, and, when delivered,  
17 (~~said~~) the pistol or semiautomatic firearm shall be securely wrapped  
18 and shall be unloaded. However, if the purchaser does not have a valid  
19 permanent Washington driver's license or state identification card or  
20 has not been a resident of the state for the previous consecutive  
21 ninety days, the waiting period under this subsection (1)(c) shall be  
22 up to sixty days.

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

35       (3) In any case where the chief or sheriff of the local  
36 jurisdiction has reasonable grounds based on the following  
37 circumstances: (a) Open criminal charges, (b) pending criminal  
38 proceedings, (c) pending commitment proceedings, (d) an outstanding  
39 warrant for a crime of violence, or (e) an arrest for a crime of

1 violence if the records of disposition have not yet been reported or  
2 entered sufficiently to determine eligibility to purchase a pistol or  
3 a semiautomatic firearm, the local jurisdiction may hold the sale and  
4 delivery of the pistol or the semiautomatic firearm beyond five days up  
5 to thirty days in order to confirm existing records in this state or  
6 elsewhere. After thirty days, the hold will be lifted unless an  
7 extension of the thirty days is approved by a local district court or  
8 municipal court for good cause shown. An applicant shall be notified  
9 of each hold placed on the sale by local law enforcement and of any  
10 application to the court for additional hold period to confirm records  
11 or confirm the identity of the applicant.

12 (4) At the time of applying for the purchase of a pistol or a  
13 semiautomatic firearm, the purchaser shall sign in triplicate and  
14 deliver to the seller an application containing his or her full name,  
15 address, place of birth, and the date and hour of the application; the  
16 applicant's driver's license number or state identification card  
17 number; and a description of the weapon including, the make, model,  
18 caliber and manufacturer's number; and a statement that the purchaser  
19 is eligible to own a pistol or a semiautomatic firearm under RCW  
20 9.41.040. The application shall contain a warning substantially as  
21 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. State permission to  
26 purchase a firearm is not a defense to a federal prosecution.

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

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

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

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