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**SUBSTITUTE SENATE BILL 5197**

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**State of Washington**

**60th Legislature**

**2007 Regular Session**

**By** Senate Committee on Labor, Commerce, Research & Development  
(originally sponsored by Senators Tom, Kohl-Welles, Kline, Fairley,  
Murray, Weinstein, Regala and Jacobsen)

READ FIRST TIME 02/28/07.

1 AN ACT Relating to the sale of firearms at gun shows and events;  
2 amending RCW 9.41.010; adding a new section to chapter 9.41 RCW; and  
3 prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 9.41 RCW  
6 to read as follows:

7 (1) Except as otherwise provided in subsection (5) of this section,  
8 a person who, while at a gun show or event, offers to sell or transfer  
9 a firearm to another person must be licensed as a dealer under 18  
10 U.S.C. Sec. 923 and RCW 9.41.100 and 9.41.110 and post the license in  
11 accordance with 27 C.F.R. Secs. 178.91 and 178.100(a) and RCW 9.41.110.

12 (2) The licensed dealer shall:

13 (a) Perform a background check of the prospective transferee in  
14 accordance with RCW 9.41.090 and 18 U.S.C. Sec. 921 et seq.; and

15 (b) Obtain approval of a transfer from the local law enforcement  
16 agency for a handgun or the Federal Bureau of Investigation, national  
17 crime information center, for a long gun, in accordance with RCW  
18 9.41.090 and 18 U.S.C. Sec. 921 et seq.

1 (3) The licensed dealer who performs the background check on a  
2 prospective transferee shall record the transfer, as provided in RCW  
3 9.41.090 and 18 U.S.C. Sec. 922, indicating that the firearm was sold  
4 at a gun show, and shall retain the records in the same manner as when  
5 conducting a sale, rental, or exchange at retail, as provided in RCW  
6 9.41.090 and in 18 U.S.C. Sec. 922.

7 (4) A person who organizes, promotes, or otherwise sponsors a gun  
8 show or event shall:

9 (a) Ensure that any person who, while at the gun show or event,  
10 offers to sell or transfer a firearm to another person complies with  
11 the requirements of subsection (2)(a) of this section;

12 (b) Provide the services of a person licensed as a dealer under 18  
13 U.S.C. Sec. 923 and RCW 9.41.100 and 9.41.110 to conduct the  
14 transactions described in subsection (2)(a) of this section; and

15 (c) Post prominently a notice, in a form to be described by the  
16 director of the department of licensing or his or her designee, setting  
17 forth the requirements for a background check as provided in this  
18 section.

19 (5) A person other than a dealer may only offer for sale or  
20 transfer a firearm while at a gun show or event, if any resulting sale  
21 or transfer of the firearm is conducted through a person licensed as a  
22 dealer under 18 U.S.C. Sec. 923, and that licensed dealer performs a  
23 background check in accordance with RCW 9.41.090 and 18 U.S.C. Sec. 921  
24 et seq.

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

26 **Sec. 2.** RCW 9.41.010 and 2001 c 300 s 2 are each amended to read  
27 as follows:

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

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

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

35 (3) "Rifle" means a weapon designed or redesigned, made or remade,  
36 and intended to be fired from the shoulder and designed or redesigned,

1 made or remade, and intended to use the energy of the explosive in a  
2 fixed metallic cartridge to fire only a single projectile through a  
3 rifled bore for each single pull of the trigger.

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

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

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

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

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

33 (9) "Loaded" means:

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

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

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

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

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

5 (10) "Dealer" means a person engaged in the business of selling  
6 firearms at wholesale or retail who has, or is required to have, a  
7 federal firearms license under 18 U.S.C. Sec. 923(a). A person who  
8 does not have, and is not required to have, a federal firearms license  
9 under 18 U.S.C. Sec. 923(a), is not a dealer if that person makes only  
10 occasional sales, exchanges, or purchases of firearms for the  
11 enhancement of a personal collection or for a hobby, or sells all or  
12 part of his or her personal collection of firearms, in a private  
13 transaction not through a gun show or event.

14 (11) "Crime of violence" means:

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

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

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

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

34 (a) Any crime of violence;

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

38 (c) Child molestation in the second degree;

1 (d) Incest when committed against a child under age fourteen;  
2 (e) Indecent liberties;  
3 (f) Leading organized crime;  
4 (g) Promoting prostitution in the first degree;  
5 (h) Rape in the third degree;  
6 (i) Drive-by shooting;  
7 (j) Sexual exploitation;  
8 (k) Vehicular assault, when caused by the operation or driving of  
9 a vehicle by a person while under the influence of intoxicating liquor  
10 or any drug or by the operation or driving of a vehicle in a reckless  
11 manner;  
12 (l) Vehicular homicide, when proximately caused by the driving of  
13 any vehicle by any person while under the influence of intoxicating  
14 liquor or any drug as defined by RCW 46.61.502, or by the operation of  
15 any vehicle in a reckless manner;  
16 (m) Any other class B felony offense with a finding of sexual  
17 motivation, as "sexual motivation" is defined under RCW 9.94A.030;  
18 (n) Any other felony with a deadly weapon verdict under RCW  
19 9.94A.602; or  
20 (o) Any felony offense in effect at any time prior to June 6, 1996,  
21 that is comparable to a serious offense, or any federal or out-of-state  
22 conviction for an offense that under the laws of this state would be a  
23 felony classified as a serious offense.  
24 (13) "Law enforcement officer" includes a general authority  
25 Washington peace officer as defined in RCW 10.93.020, or a specially  
26 commissioned Washington peace officer as defined in RCW 10.93.020.  
27 "Law enforcement officer" also includes a limited authority Washington  
28 peace officer as defined in RCW 10.93.020 if such officer is duly  
29 authorized by his or her employer to carry a concealed pistol.  
30 (14) "Felony" means any felony offense under the laws of this state  
31 or any federal or out-of-state offense comparable to a felony offense  
32 under the laws of this state.  
33 (15) "Sell" refers to the actual approval of the delivery of a  
34 firearm in consideration of payment or promise of payment of a certain  
35 price in money.  
36 (16) "Barrel length" means the distance from the bolt face of a  
37 closed action down the length of the axis of the bore to the crown of

1 the muzzle, or in the case of a barrel with attachments to the end of  
2 any legal device permanently attached to the end of the muzzle.

3 (17) "Family or household member" means "family" or "household  
4 member" as used in RCW 10.99.020.

5 (18)(a) "Gun show or event" means a place or event, a gun trade  
6 show, gun collectors' show, flea market, or auction, other than a  
7 permanent retail store, at which three or more individuals assemble to  
8 display, sell, lease, or transfer new or used firearms or firearm  
9 components to the public and that is not exempt from collecting sales  
10 tax under RCW 82.08.0251.

11 (b) "Gun show or event" includes a place or event where ten or more  
12 firearms are offered for transfer or transferred.

13 (c) "Gun show or event" includes, but is not limited to, an area  
14 near the gun show or event that the sponsor knows or should reasonably  
15 know will be used for parking for the gun show or event.

16 (d) "Gun show or event" does not include dinners, banquets,  
17 raffles, or auctions held by a nonprofit organization where the sale or  
18 transfer of firearms to raise money for charitable purposes is not the  
19 primary reason the dinner, banquet, raffle, or auction is held.

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