

ESHB 1041 - S COMM AMD
By Committee on Judiciary

ADOPTED AND ENGROSSED 4/5/11

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 9.41.060 and 2005 c 453 s 3 are each amended to read
4 as follows:

5 The provisions of RCW 9.41.050 shall not apply to:

6 (1) Marshals, sheriffs, prison or jail wardens or their deputies,
7 correctional personnel and community corrections officers as long as
8 they are employed as such who have completed government-sponsored law
9 enforcement firearms training and have been subject to a check through
10 the national instant criminal background check system or an equivalent
11 background check within the past five years, or other law enforcement
12 officers of this state or another state. Correctional personnel and
13 community corrections officers seeking the waiver provided for by this
14 section are required to pay for any background check that is needed in
15 order to exercise the waiver;

16 (2) Members of the armed forces of the United States or of the
17 national guard or organized reserves, when on duty;

18 (3) Officers or employees of the United States duly authorized to
19 carry a concealed pistol;

20 (4) Any person engaged in the business of manufacturing, repairing,
21 or dealing in firearms, or the agent or representative of the person,
22 if possessing, using, or carrying a pistol in the usual or ordinary
23 course of the business;

24 (5) Regularly enrolled members of any organization duly authorized
25 to purchase or receive pistols from the United States or from this
26 state;

27 (6) Regularly enrolled members of clubs organized for the purpose
28 of target shooting, when those members are at or are going to or from
29 their places of target practice;

1 (7) Regularly enrolled members of clubs organized for the purpose
2 of modern and antique firearm collecting, when those members are at or
3 are going to or from their collector's gun shows and exhibits;

4 (8) Any person engaging in a lawful outdoor recreational activity
5 such as hunting, fishing, camping, hiking, or horseback riding, only
6 if, considering all of the attendant circumstances, including but not
7 limited to whether the person has a valid hunting or fishing license,
8 it is reasonable to conclude that the person is participating in lawful
9 outdoor activities or is traveling to or from a legitimate outdoor
10 recreation area;

11 (9) Any person while carrying a pistol unloaded and in a closed
12 opaque case or secure wrapper; or

13 (10) Law enforcement officers retired for service or physical
14 disabilities, except for those law enforcement officers retired because
15 of mental or stress-related disabilities. This subsection applies only
16 to a retired officer who has: (a) Obtained documentation from a law
17 enforcement agency within Washington state from which he or she retired
18 that is signed by the agency's chief law enforcement officer and that
19 states that the retired officer was retired for service or physical
20 disability; and (b) not been convicted or found not guilty by reason of
21 insanity of a crime making him or her ineligible for a concealed pistol
22 license.

23 **Sec. 2.** RCW 9.41.300 and 2008 c 33 s 1 are each amended to read as
24 follows:

25 (1) It is unlawful for any person to enter the following places
26 when he or she knowingly possesses or knowingly has under his or her
27 control a weapon:

28 (a) The restricted access areas of a jail, or of a law enforcement
29 facility, or any place used for the confinement of a person (i)
30 arrested for, charged with, or convicted of an offense, (ii) held for
31 extradition or as a material witness, or (iii) otherwise confined
32 pursuant to an order of a court, except an order under chapter 13.32A
33 or 13.34 RCW. Restricted access areas do not include common areas of
34 egress or ingress open to the general public;

35 (b) Those areas in any building which are used in connection with
36 court proceedings, including courtrooms, jury rooms, judge's chambers,
37 offices and areas used to conduct court business, waiting areas, and

1 corridors adjacent to areas used in connection with court proceedings.
2 The restricted areas do not include common areas of ingress and egress
3 to the building that is used in connection with court proceedings, when
4 it is possible to protect court areas without restricting ingress and
5 egress to the building. The restricted areas shall be the minimum
6 necessary to fulfill the objective of this subsection (1)(b).

7 For purposes of this subsection (1)(b), "weapon" means any firearm,
8 explosive as defined in RCW 70.74.010, or any weapon of the kind
9 usually known as slung shot, sand club, or metal knuckles, or any
10 knife, dagger, dirk, or other similar weapon that is capable of causing
11 death or bodily injury and is commonly used with the intent to cause
12 death or bodily injury.

13 In addition, the local legislative authority shall provide either
14 a stationary locked box sufficient in size for pistols and key to a
15 weapon owner for weapon storage, or shall designate an official to
16 receive weapons for safekeeping, during the owner's visit to restricted
17 areas of the building. The locked box or designated official shall be
18 located within the same building used in connection with court
19 proceedings. The local legislative authority shall be liable for any
20 negligence causing damage to or loss of a weapon either placed in a
21 locked box or left with an official during the owner's visit to
22 restricted areas of the building.

23 The local judicial authority shall designate and clearly mark those
24 areas where weapons are prohibited, and shall post notices at each
25 entrance to the building of the prohibition against weapons in the
26 restricted areas;

27 (c) The restricted access areas of a public mental health facility
28 certified by the department of social and health services for inpatient
29 hospital care and state institutions for the care of the mentally ill,
30 excluding those facilities solely for evaluation and treatment.
31 Restricted access areas do not include common areas of egress and
32 ingress open to the general public;

33 (d) That portion of an establishment classified by the state liquor
34 control board as off-limits to persons under twenty-one years of age;
35 or

36 (e) The restricted access areas of a commercial service airport
37 designated in the airport security plan approved by the federal
38 transportation security administration, including passenger screening

1 checkpoints at or beyond the point at which a passenger initiates the
2 screening process. These areas do not include airport drives, general
3 parking areas and walkways, and shops and areas of the terminal that
4 are outside the screening checkpoints and that are normally open to
5 unscreened passengers or visitors to the airport. Any restricted
6 access area shall be clearly indicated by prominent signs indicating
7 that firearms and other weapons are prohibited in the area.

8 (2) Cities, towns, counties, and other municipalities may enact
9 laws and ordinances:

10 (a) Restricting the discharge of firearms in any portion of their
11 respective jurisdictions where there is a reasonable likelihood that
12 humans, domestic animals, or property will be jeopardized. Such laws
13 and ordinances shall not abridge the right of the individual guaranteed
14 by Article I, section 24 of the state Constitution to bear arms in
15 defense of self or others; and

16 (b) Restricting the possession of firearms in any stadium or
17 convention center, operated by a city, town, county, or other
18 municipality, except that such restrictions shall not apply to:

19 (i) Any pistol in the possession of a person licensed under RCW
20 9.41.070 or exempt from the licensing requirement by RCW 9.41.060; or

21 (ii) Any showing, demonstration, or lecture involving the
22 exhibition of firearms.

23 (3)(a) Cities, towns, and counties may enact ordinances restricting
24 the areas in their respective jurisdictions in which firearms may be
25 sold, but, except as provided in (b) of this subsection, a business
26 selling firearms may not be treated more restrictively than other
27 businesses located within the same zone. An ordinance requiring the
28 cessation of business within a zone shall not have a shorter
29 grandfather period for businesses selling firearms than for any other
30 businesses within the zone.

31 (b) Cities, towns, and counties may restrict the location of a
32 business selling firearms to not less than five hundred feet from
33 primary or secondary school grounds, if the business has a storefront,
34 has hours during which it is open for business, and posts
35 advertisements or signs observable to passersby that firearms are
36 available for sale. A business selling firearms that exists as of the
37 date a restriction is enacted under this subsection (3)(b) shall be
38 grandfathered according to existing law.

1 (4) Violations of local ordinances adopted under subsection (2) of
2 this section must have the same penalty as provided for by state law.

3 (5) The perimeter of the premises of any specific location covered
4 by subsection (1) of this section shall be posted at reasonable
5 intervals to alert the public as to the existence of any law
6 restricting the possession of firearms on the premises.

7 (6) Subsection (1) of this section does not apply to:

8 (a) A person engaged in military activities sponsored by the
9 federal or state governments, while engaged in official duties;

10 (b) Law enforcement personnel, except that subsection (1)(b) of
11 this section does apply to a law enforcement officer who is present at
12 a courthouse building as a party to an action under chapter 10.14,
13 10.99, or 26.50 RCW, or an action under Title 26 RCW where any party
14 has alleged the existence of domestic violence as defined in RCW
15 26.50.010; or

16 (c) Security personnel while engaged in official duties.

17 (7) Subsection (1)(a), (b), (c), and (e) of this section does not
18 apply to correctional personnel or community corrections officers, as
19 long as they are employed as such, who have completed government-
20 sponsored law enforcement firearms training, except that subsection
21 (1)(b) of this section does apply to a correctional employee or
22 community corrections officer who is present at a courthouse building
23 as a party to an action under chapter 10.14, 10.99, or 26.50 RCW, or an
24 action under Title 26 RCW where any party has alleged the existence of
25 domestic violence as defined in RCW 26.50.010.

26 (8) Subsection (1)(a) of this section does not apply to a person
27 licensed pursuant to RCW 9.41.070 who, upon entering the place or
28 facility, directly and promptly proceeds to the administrator of the
29 facility or the administrator's designee and obtains written permission
30 to possess the firearm while on the premises or checks his or her
31 firearm. The person may reclaim the firearms upon leaving but must
32 immediately and directly depart from the place or facility.

33 ~~((+8))~~ (9) Subsection (1)(c) of this section does not apply to any
34 administrator or employee of the facility or to any person who, upon
35 entering the place or facility, directly and promptly proceeds to the
36 administrator of the facility or the administrator's designee and
37 obtains written permission to possess the firearm while on the
38 premises.

1 ~~((9))~~ (10) Subsection (1)(d) of this section does not apply to
2 the proprietor of the premises or his or her employees while engaged in
3 their employment.

4 ~~((10))~~ (11) Government-sponsored law enforcement firearms
5 training must be training that correctional personnel and community
6 corrections officers receive as part of their job requirement and
7 reference to such training does not constitute a mandate that it be
8 provided by the correctional facility.

9 (12) Any person violating subsection (1) of this section is guilty
10 of a gross misdemeanor.

11 ~~((11))~~ (13) "Weapon" as used in this section means any firearm,
12 explosive as defined in RCW 70.74.010, or instrument or weapon listed
13 in RCW 9.41.250.

14 NEW SECTION. Sec. 3. A new section is added to chapter 9.41 RCW
15 to read as follows:

16 The exemptions from firearms restrictions in RCW 9.41.060 and
17 9.41.300 for correctional personnel and community corrections officers
18 who complete government-sponsored law enforcement firearms training do
19 not create a duty on the part of the state or local governmental
20 entities with respect to the off-duty conduct of correctional personnel
21 and community corrections officers involving the use or misuse of a
22 firearm.

23 The state of Washington, local governmental entities, and their
24 officers, employees, and agents are not liable for any civil damages
25 caused by the use or misuse of a firearm by off-duty correctional
26 personnel or community corrections officers based on any act or
27 omission in the provision of government-sponsored firearms training to
28 the correctional personnel or community corrections officers."

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29 On page 1, line 4 of the title, after "restrictions;" strike the

1 remainder of the title and insert "amending RCW 9.41.060 and 9.41.300;
2 and adding a new section to chapter 9.41 RCW."

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