



A PROCLAMATION BY THE GOVERNOR:

WHEREAS, under the provisions of Article II, Section 1 of the Constitution of the state of Washington, there was submitted to the electorate of the state of Washington for their approval or rejection at the state General Election held on the 4<sup>th</sup> day of November 2014, an Initiative to the Legislature and Referred to the People identified as Initiative Measure No. 594 and entitled:

"Initiative Measure No. 594 concerns background checks for firearm sales and transfers. This measure would apply currently used criminal and public safety background checks by licensed dealers to all firearm sales and transfers, including gun show and online sales, with specific exceptions. Should this measure be enacted into law?"

WHEREAS, Kim Wyman, as Secretary of State, has on the 2<sup>nd</sup> day of December 2014, canvassed the votes cast on this measure at the state General Election and certified that 1,242,734 votes were cast in favor of Initiative Measure No. 594 and 853,990 votes were cast against Initiative Measure No. 594; and

WHEREAS, as appears from this certification, a majority of the votes cast on this proposition at the state General Election were in favor of its adoption;

NOW, THEREFORE, I, Jay Inslee, Governor of the state of Washington, do hereby proclaim that the voters of the state of Washington approved the proposed law as set forth in Initiative Measure No. 594.



IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the state of Washington to be affixed this 2<sup>nd</sup> day of December 2014.

JAY INSLEE  
Governor

ATTEST:

  
KIM WYMAN  
Secretary of State

INITIATIVE 594

To the People

Chapter 1, Laws of 2015

Background checks for firearm sales and transfers.

EFFECTIVE DATE: December 4, 2014

Approved by the  
People of the State of Washington  
in the General Election on  
November 4, 2014

ORIGINALLY FILED

June 17, 2013

**Secretary of State**

1 AN ACT Relating to requiring criminal and public safety  
2 background checks for gun sales and transfers; amending RCW 9.41.010,  
3 9.41.090, 9.41.122, 9.41.124, and 82.12.040; adding new sections to  
4 chapter 9.41 RCW; adding a new section to chapter 82.08 RCW; creating  
5 a new section; and prescribing penalties.

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

7 NEW SECTION. **Sec. 1.** There is broad consensus that felons,  
8 persons convicted of domestic violence crimes, and persons  
9 dangerously mentally ill as determined by a court should not be  
10 eligible to possess guns for public safety reasons. Criminal and  
11 public safety background checks are an effective and easy mechanism  
12 to ensure that guns are not purchased by or transferred to those who  
13 are prohibited from possessing them. Criminal and public safety  
14 background checks also reduce illegal gun trafficking. Because  
15 Washington's current background check requirements apply only to  
16 sales or transfers by licensed firearms dealers, many guns are sold  
17 or transferred without a criminal and public safety background check,  
18 allowing criminals and dangerously mentally ill individuals to gain  
19 access to guns.

20 Conducting criminal and public safety background checks will help  
21 ensure that all persons buying guns are legally eligible to do so.

1 The people find that it is in the public interest to strengthen our  
2 background check system by extending the requirement for a background  
3 check to apply to all gun sales and transfers in the state, except as  
4 permitted herein. To encourage compliance with background check  
5 requirements, the sales tax imposed by RCW 82.08.020 would not apply  
6 to the sale or transfer of any firearms between two unlicensed  
7 persons if the unlicensed persons have complied with all background  
8 check requirements.

9 This measure would extend criminal and public safety background  
10 checks to all gun sales or transfers. Background checks would not be  
11 required for gifts between immediate family members or for antiques.

12 **Sec. 2.** RCW 9.41.010 and 2013 c 183 s 2 are each amended to read  
13 as follows:

14 Unless the context clearly requires otherwise, the definitions in  
15 this section apply throughout this chapter.

16 (1) "Antique firearm" means a firearm or replica of a firearm not  
17 designed or redesigned for using rim fire or conventional center fire  
18 ignition with fixed ammunition and manufactured in or before 1898,  
19 including any matchlock, flintlock, percussion cap, or similar type  
20 of ignition system and also any firearm using fixed ammunition  
21 manufactured in or before 1898, for which ammunition is no longer  
22 manufactured in the United States and is not readily available in the  
23 ordinary channels of commercial trade.

24 (2) "Barrel length" means the distance from the bolt face of a  
25 closed action down the length of the axis of the bore to the crown of  
26 the muzzle, or in the case of a barrel with attachments to the end of  
27 any legal device permanently attached to the end of the muzzle.

28 (3) "Crime of violence" means:

29 (a) Any of the following felonies, as now existing or hereafter  
30 amended: Any felony defined under any law as a class A felony or an  
31 attempt to commit a class A felony, criminal solicitation of or  
32 criminal conspiracy to commit a class A felony, manslaughter in the  
33 first degree, manslaughter in the second degree, indecent liberties  
34 if committed by forcible compulsion, kidnapping in the second degree,  
35 arson in the second degree, assault in the second degree, assault of  
36 a child in the second degree, extortion in the first degree, burglary  
37 in the second degree, residential burglary, and robbery in the second  
38 degree;

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

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

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

15 (5) "Family or household member" means "family" or "household  
16 member" as used in RCW 10.99.020.

17 (6) "Felony" means any felony offense under the laws of this  
18 state or any federal or out-of-state offense comparable to a felony  
19 offense under the laws of this state.

20 (7) "Felony firearm offender" means a person who has previously  
21 been convicted or found not guilty by reason of insanity in this  
22 state of any felony firearm offense. A person is not a felony firearm  
23 offender under this chapter if any and all qualifying offenses have  
24 been the subject of an expungement, pardon, annulment, certificate,  
25 or rehabilitation, or other equivalent procedure based on a finding  
26 of the rehabilitation of the person convicted or a pardon, annulment,  
27 or other equivalent procedure based on a finding of innocence.

28 (8) "Felony firearm offense" means:

29 (a) Any felony offense that is a violation of this chapter (~~9.41~~  
30 ~~RCW~~);

31 (b) A violation of RCW 9A.36.045;

32 (c) A violation of RCW 9A.56.300;

33 (d) A violation of RCW 9A.56.310;

34 (e) Any felony offense if the offender was armed with a firearm  
35 in the commission of the offense.

36 (9) "Firearm" means a weapon or device from which a projectile or  
37 projectiles may be fired by an explosive such as gunpowder.

38 (10) "Gun" has the same meaning as firearm.

39 (11) "Law enforcement officer" includes a general authority  
40 Washington peace officer as defined in RCW 10.93.020, or a specially

1 commissioned Washington peace officer as defined in RCW 10.93.020.  
2 "Law enforcement officer" also includes a limited authority  
3 Washington peace officer as defined in RCW 10.93.020 if such officer  
4 is duly authorized by his or her employer to carry a concealed  
5 pistol.

6 ~~((11))~~ (12) "Lawful permanent resident" has the same meaning  
7 afforded a person "lawfully admitted for permanent residence" in 8  
8 U.S.C. Sec. 1101(a)(20).

9 ~~((12))~~ (13) "Licensed dealer" means a person who is federally  
10 licensed under 18 U.S.C. Sec. 923(a).

11 (14) "Loaded" means:

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

13 (b) Cartridges are in a clip that is locked in place in the  
14 firearm;

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

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

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

21 ~~((13))~~ (15) "Machine gun" means any firearm known as a machine  
22 gun, mechanical rifle, submachine gun, or any other mechanism or  
23 instrument not requiring that the trigger be pressed for each shot  
24 and having a reservoir clip, disc, drum, belt, or other separable  
25 mechanical device for storing, carrying, or supplying ammunition  
26 which can be loaded into the firearm, mechanism, or instrument, and  
27 fired therefrom at the rate of five or more shots per second.

28 ~~((14))~~ (16) "Nonimmigrant alien" means a person defined as such  
29 in 8 U.S.C. Sec. 1101(a)(15).

30 ~~((15))~~ (17) "Person" means any individual, corporation,  
31 company, association, firm, partnership, club, organization, society,  
32 joint stock company, or other legal entity.

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

36 ~~((16))~~ (19) "Rifle" means a weapon designed or redesigned, made  
37 or remade, and intended to be fired from the shoulder and designed or  
38 redesigned, made or remade, and intended to use the energy of the  
39 explosive in a fixed metallic cartridge to fire only a single  
40 projectile through a rifled bore for each single pull of the trigger.

1       (~~(17)~~) (20) "Sale" and "sell" (~~(refers to)~~) mean the actual  
2 approval of the delivery of a firearm in consideration of payment or  
3 promise of payment (~~(of a certain price in money)~~).

4       (~~(18)~~) (21) "Serious offense" means any of the following  
5 felonies or a felony attempt to commit any of the following felonies,  
6 as now existing or hereafter amended:

7       (a) Any crime of violence;

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

11       (c) Child molestation in the second degree;

12       (d) Incest when committed against a child under age fourteen;

13       (e) Indecent liberties;

14       (f) Leading organized crime;

15       (g) Promoting prostitution in the first degree;

16       (h) Rape in the third degree;

17       (i) Drive-by shooting;

18       (j) Sexual exploitation;

19       (k) Vehicular assault, when caused by the operation or driving of  
20 a vehicle by a person while under the influence of intoxicating  
21 liquor or any drug or by the operation or driving of a vehicle in a  
22 reckless manner;

23       (l) Vehicular homicide, when proximately caused by the driving of  
24 any vehicle by any person while under the influence of intoxicating  
25 liquor or any drug as defined by RCW 46.61.502, or by the operation  
26 of any vehicle in a reckless manner;

27       (m) Any other class B felony offense with a finding of sexual  
28 motivation, as "sexual motivation" is defined under RCW 9.94A.030;

29       (n) Any other felony with a deadly weapon verdict under RCW  
30 9.94A.825; (~~(or)~~)

31       (o) Any felony offense in effect at any time prior to June 6,  
32 1996, that is comparable to a serious offense, or any federal or out-  
33 of-state conviction for an offense that under the laws of this state  
34 would be a felony classified as a serious offense; or

35       (p) Any felony conviction under section 9 of this act.

36       (~~(19)~~) (22) "Short-barreled rifle" means a rifle having one or  
37 more barrels less than sixteen inches in length and any weapon made  
38 from a rifle by any means of modification if such modified weapon has  
39 an overall length of less than twenty-six inches.

1       (~~(20)~~) (23) "Short-barreled shotgun" means a shotgun having one  
2 or more barrels less than eighteen inches in length and any weapon  
3 made from a shotgun by any means of modification if such modified  
4 weapon has an overall length of less than twenty-six inches.

5       (~~(21)~~) (24) "Shotgun" means a weapon with one or more barrels,  
6 designed or redesigned, made or remade, and intended to be fired from  
7 the shoulder and designed or redesigned, made or remade, and intended  
8 to use the energy of the explosive in a fixed shotgun shell to fire  
9 through a smooth bore either a number of ball shot or a single  
10 projectile for each single pull of the trigger.

11       (25) "Transfer" means the intended delivery of a firearm to  
12 another person without consideration of payment or promise of payment  
13 including, but not limited to, gifts and loans.

14       (26) "Unlicensed person" means any person who is not a licensed  
15 dealer under this chapter.

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

18       (1) All firearm sales or transfers, in whole or part in this  
19 state including without limitation a sale or transfer where either  
20 the purchaser or seller or transferee or transferor is in Washington,  
21 shall be subject to background checks unless specifically exempted by  
22 state or federal law. The background check requirement applies to all  
23 sales or transfers including, but not limited to, sales and transfers  
24 through a licensed dealer, at gun shows, online, and between  
25 unlicensed persons.

26       (2) No person shall sell or transfer a firearm unless:

27       (a) The person is a licensed dealer;

28       (b) The purchaser or transferee is a licensed dealer; or

29       (c) The requirements of subsection (3) of this section are met.

30       (3) Where neither party to a prospective firearms transaction is  
31 a licensed dealer, the parties to the transaction shall complete the  
32 sale or transfer through a licensed dealer as follows:

33       (a) The seller or transferor shall deliver the firearm to a  
34 licensed dealer to process the sale or transfer as if it is selling  
35 or transferring the firearm from its inventory to the purchaser or  
36 transferee, except that the unlicensed seller or transferor may  
37 remove the firearm from the business premises of the licensed dealer  
38 while the background check is being conducted. If the seller or  
39 transferor removes the firearm from the business premises of the



1 licensed dealer while the background check is being conducted, the  
2 purchaser or transferee and the seller or transferor shall return to  
3 the business premises of the licensed dealer and the seller or  
4 transferor shall again deliver the firearm to the licensed dealer  
5 prior to completing the sale or transfer.

6 (b) Except as provided in (a) of this subsection, the licensed  
7 dealer shall comply with all requirements of federal and state law  
8 that would apply if the licensed dealer were selling or transferring  
9 the firearm from its inventory to the purchaser or transferee,  
10 including but not limited to conducting a background check on the  
11 prospective purchaser or transferee in accordance with federal and  
12 state law requirements and fulfilling all federal and state  
13 recordkeeping requirements.

14 (c) The purchaser or transferee must complete, sign, and submit  
15 all federal, state, and local forms necessary to process the required  
16 background check to the licensed dealer conducting the background  
17 check.

18 (d) If the results of the background check indicate that the  
19 purchaser or transferee is ineligible to possess a firearm, then the  
20 licensed dealer shall return the firearm to the seller or transferor.

21 (e) The licensed dealer may charge a fee that reflects the fair  
22 market value of the administrative costs and efforts incurred by the  
23 licensed dealer for facilitating the sale or transfer of the firearm.

24 (4) This section does not apply to:

25 (a) A transfer between immediate family members, which for this  
26 subsection shall be limited to spouses, domestic partners, parents,  
27 children, siblings, grandparents, grandchildren, nieces, nephews,  
28 first cousins, aunts, and uncles, that is a bona fide gift;

29 (b) The sale or transfer of an antique firearm;

30 (c) A temporary transfer of possession of a firearm if such  
31 transfer is necessary to prevent imminent death or great bodily harm  
32 to the person to whom the firearm is transferred if:

33 (i) The temporary transfer only lasts as long as immediately  
34 necessary to prevent such imminent death or great bodily harm; and

35 (ii) The person to whom the firearm is transferred is not  
36 prohibited from possessing firearms under state or federal law;

37 (d) Any law enforcement or corrections agency and, to the extent  
38 the person is acting within the course and scope of his or her  
39 employment or official duties, any law enforcement or corrections

1 officer, United States marshal, member of the armed forces of the  
2 United States or the national guard, or federal official;

3 (e) A federally licensed gunsmith who receives a firearm solely  
4 for the purposes of service or repair, or the return of the firearm  
5 to its owner by the federally licensed gunsmith;

6 (f) The temporary transfer of a firearm (i) between spouses or  
7 domestic partners; (ii) if the temporary transfer occurs, and the  
8 firearm is kept at all times, at an established shooting range  
9 authorized by the governing body of the jurisdiction in which such  
10 range is located; (iii) if the temporary transfer occurs and the  
11 transferee's possession of the firearm is exclusively at a lawful  
12 organized competition involving the use of a firearm, or while  
13 participating in or practicing for a performance by an organized  
14 group that uses firearms as a part of the performance; (iv) to a  
15 person who is under eighteen years of age for lawful hunting,  
16 sporting, or educational purposes while under the direct supervision  
17 and control of a responsible adult who is not prohibited from  
18 possessing firearms; or (v) while hunting if the hunting is legal in  
19 all places where the person to whom the firearm is transferred  
20 possesses the firearm and the person to whom the firearm is  
21 transferred has completed all training and holds all licenses or  
22 permits required for such hunting, provided that any temporary  
23 transfer allowed by this subsection is permitted only if the person  
24 to whom the firearm is transferred is not prohibited from possessing  
25 firearms under state or federal law; or

26 (g) A person who (i) acquired a firearm other than a pistol by  
27 operation of law upon the death of the former owner of the firearm or  
28 (ii) acquired a pistol by operation of law upon the death of the  
29 former owner of the pistol within the preceding sixty days. At the  
30 end of the sixty-day period, the person must either have lawfully  
31 transferred the pistol or must have contacted the department of  
32 licensing to notify the department that he or she has possession of  
33 the pistol and intends to retain possession of the pistol, in  
34 compliance with all federal and state laws.

35 NEW SECTION. **Sec. 4.** A new section is added to chapter 9.41 RCW  
36 to read as follows:

37 Except as otherwise provided in this chapter, a licensed dealer  
38 may not deliver any firearm to a purchaser or transferee until the  
39 earlier of:

1 (1) The results of all required background checks are known and  
2 the purchaser or transferee is not prohibited from owning or  
3 possessing a firearm under federal or state law; or

4 (2) Ten business days have elapsed from the date the licensed  
5 dealer requested the background check. However, for sales and  
6 transfers of pistols if the purchaser or transferee does not have a  
7 valid permanent Washington driver's license or state identification  
8 card or has not been a resident of the state for the previous  
9 consecutive ninety days, then the time period in this subsection  
10 shall be extended from ten business days to sixty days.

11 **Sec. 5.** RCW 9.41.090 and 1996 c 295 s 8 are each amended to read  
12 as follows:

13 (1) In addition to the other requirements of this chapter, no  
14 dealer may deliver a pistol to the purchaser thereof until:

15 (a) The purchaser produces a valid concealed pistol license and  
16 the dealer has recorded the purchaser's name, license number, and  
17 issuing agency, such record to be made in triplicate and processed as  
18 provided in subsection (5) of this section. For purposes of this  
19 subsection (1)(a), a "valid concealed pistol license" does not  
20 include a temporary emergency license, and does not include any  
21 license issued before July 1, 1996, unless the issuing agency  
22 conducted a records search for disqualifying crimes under RCW  
23 9.41.070 at the time of issuance;

24 (b) The dealer is notified in writing by the chief of police or  
25 the sheriff of the jurisdiction in which the purchaser resides that  
26 the purchaser is eligible to possess a pistol under RCW 9.41.040 and  
27 that the application to purchase is approved by the chief of police  
28 or sheriff; or

29 (c) The requirements or time periods in section 4 of this act  
30 have been satisfied (~~Five business days, meaning days on which state~~  
31 ~~offices are open, have elapsed from the time of receipt of the~~  
32 ~~application for the purchase thereof as provided herein by the chief~~  
33 ~~of police or sheriff designated in subsection (5) of this section,~~  
34 ~~and, when delivered, the pistol shall be securely wrapped and shall~~  
35 ~~be unloaded. However, if the purchaser does not have a valid~~  
36 ~~permanent Washington driver's license or state identification card or~~  
37 ~~has not been a resident of the state for the previous consecutive~~  
38 ~~ninety days, the waiting period under this subsection (1)(c) shall be~~  
39 ~~up to sixty days)).~~

1 (2)(a) Except as provided in (b) of this subsection, in  
2 determining whether the purchaser meets the requirements of RCW  
3 9.41.040, the chief of police or sheriff, or the designee of either,  
4 shall check with the national crime information center, the  
5 Washington state patrol electronic database, the department of social  
6 and health services electronic database, and with other agencies or  
7 resources as appropriate, to determine whether the applicant is  
8 ineligible under RCW 9.41.040 to possess a firearm.

9 (b) Once the system is established, a dealer shall use the state  
10 system and national instant criminal background check system,  
11 provided for by the Brady Handgun Violence Prevention Act (18 U.S.C.  
12 Sec. 921 et seq.), to make criminal background checks of applicants  
13 to purchase firearms. However, a chief of police or sheriff, or a  
14 designee of either, shall continue to check the department of social  
15 and health services' electronic database and with other agencies or  
16 resources as appropriate, to determine whether applicants are  
17 ineligible under RCW 9.41.040 to possess a firearm.

18 (3) In any case under (~~subsection (1)(c) of~~) this section where  
19 the applicant has an outstanding warrant for his or her arrest from  
20 any court of competent jurisdiction for a felony or misdemeanor, the  
21 dealer shall hold the delivery of the pistol until the warrant for  
22 arrest is served and satisfied by appropriate court appearance. The  
23 local jurisdiction for purposes of the sale shall confirm the  
24 existence of outstanding warrants within seventy-two hours after  
25 notification of the application to purchase a pistol is received. The  
26 local jurisdiction shall also immediately confirm the satisfaction of  
27 the warrant on request of the dealer so that the hold may be released  
28 if the warrant was for an offense other than an offense making a  
29 person ineligible under RCW 9.41.040 to possess a pistol.

30 (4) In any case where the chief or sheriff of the local  
31 jurisdiction has reasonable grounds based on the following  
32 circumstances: (a) Open criminal charges, (b) pending criminal  
33 proceedings, (c) pending commitment proceedings, (d) an outstanding  
34 warrant for an offense making a person ineligible under RCW 9.41.040  
35 to possess a pistol, or (e) an arrest for an offense making a person  
36 ineligible under RCW 9.41.040 to possess a pistol, if the records of  
37 disposition have not yet been reported or entered sufficiently to  
38 determine eligibility to purchase a pistol, the local jurisdiction  
39 may hold the sale and delivery of the pistol (~~beyond five days~~) up  
40 to thirty days in order to confirm existing records in this state or

1 elsewhere. After thirty days, the hold will be lifted unless an  
2 extension of the thirty days is approved by a local district court or  
3 municipal court for good cause shown. A dealer shall be notified of  
4 each hold placed on the sale by local law enforcement and of any  
5 application to the court for additional hold period to confirm  
6 records or confirm the identity of the applicant.

7 (5) At the time of applying for the purchase of a pistol, the  
8 purchaser shall sign in triplicate and deliver to the dealer an  
9 application containing his or her full name, residential address,  
10 date and place of birth, race, and gender; the date and hour of the  
11 application; the applicant's driver's license number or state  
12 identification card number; a description of the pistol including the  
13 make, model, caliber and manufacturer's number if available at the  
14 time of applying for the purchase of a pistol. If the manufacturer's  
15 number is not available, the application may be processed, but  
16 delivery of the pistol to the purchaser may not occur unless the  
17 manufacturer's number is recorded on the application by the dealer  
18 and transmitted to the chief of police of the municipality or the  
19 sheriff of the county in which the purchaser resides; and a statement  
20 that the purchaser is eligible to possess a pistol under RCW  
21 9.41.040.

22 The application shall contain a warning substantially as follows:  
23

24 CAUTION: Although state and local laws do not differ, federal law and  
25 state law on the possession of firearms differ. If you are prohibited  
26 by federal law from possessing a firearm, you may be prosecuted in  
27 federal court. State permission to purchase a firearm is not a  
28 defense to a federal prosecution.  
29

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

35 The dealer shall, by the end of the business day, sign and attach  
36 his or her address and deliver a copy of the application and such  
37 other documentation as required under subsection (1) of this section  
38 to the chief of police of the municipality or the sheriff of the  
39 county of which the purchaser is a resident. The triplicate shall be  
40 retained by the dealer for six years. The dealer shall deliver the

1 pistol to the purchaser following the period of time specified in  
2 this (~~section~~) chapter unless the dealer is notified of an  
3 investigative hold under subsection (4) of this section in writing by  
4 the chief of police of the municipality or the sheriff of the county,  
5 whichever is applicable, denying the purchaser's application to  
6 purchase and the grounds thereof. The application shall not be denied  
7 unless the purchaser is not eligible to possess a pistol under RCW  
8 9.41.040 or 9.41.045, or federal law.

9 The chief of police of the municipality or the sheriff of the  
10 county shall retain or destroy applications to purchase a pistol in  
11 accordance with the requirements of 18 U.S.C. Sec. 922.

12 (6) A person who knowingly makes a false statement regarding  
13 identity or eligibility requirements on the application to purchase a  
14 pistol is guilty of false swearing under RCW 9A.72.040.

15 (7) This section does not apply to sales to licensed dealers for  
16 resale or to the sale of antique firearms.

17 **Sec. 6.** RCW 9.41.122 and 1970 ex.s. c 74 s 1 are each amended to  
18 read as follows:

19 Residents of Washington may purchase rifles and shotguns in a  
20 state other than Washington: PROVIDED, That such residents conform to  
21 the applicable provisions of the federal Gun Control Act of 1968,  
22 Title IV, Pub. L. 90-351 as administered by the United States  
23 secretary of the treasury: AND PROVIDED FURTHER, That such residents  
24 are eligible to purchase or possess such weapons in Washington and in  
25 the state in which such purchase is made: AND PROVIDED FURTHER, That  
26 when any part of the transaction takes place in Washington,  
27 including, but not limited to, internet sales, such residents are  
28 subject to the procedures and background checks required by this  
29 chapter.

30 **Sec. 7.** RCW 9.41.124 and 1970 ex.s. c 74 s 2 are each amended to  
31 read as follows:

32 Residents of a state other than Washington may purchase rifles  
33 and shotguns in Washington: PROVIDED, That such residents conform to  
34 the applicable provisions of the federal Gun Control Act of 1968,  
35 Title IV, Pub. L. 90-351 as administered by the United States  
36 secretary of the treasury: AND PROVIDED FURTHER, That such residents  
37 are eligible to purchase or possess such weapons in Washington and in  
38 the state in which such persons reside: AND PROVIDED FURTHER, That

1 such residents are subject to the procedures and background checks  
2 required by this chapter.

3 NEW SECTION. **Sec. 8.** A new section is added to chapter 9.41 RCW  
4 to read as follows:

5 The department of licensing shall have the authority to adopt  
6 rules for the implementation of this chapter as amended. In addition,  
7 the department of licensing shall report any violation of this  
8 chapter by a licensed dealer to the bureau of alcohol, tobacco,  
9 firearms and explosives within the United States department of  
10 justice and shall have the authority, after notice and a hearing, to  
11 revoke the license of any licensed dealer found to be in violation of  
12 this chapter.

13 NEW SECTION. **Sec. 9.** A new section is added to chapter 9.41 RCW  
14 to read as follows:

15 Notwithstanding the penalty provisions in this chapter, any  
16 person knowingly violating section 3 of this act is guilty of a gross  
17 misdemeanor punishable under chapter 9A.20 RCW. If a person  
18 previously has been found guilty under this section, then the person  
19 is guilty of a class C felony punishable under chapter 9A.20 RCW for  
20 each subsequent knowing violation of section 3 of this act. A person  
21 is guilty of a separate offense for each and every gun sold or  
22 transferred without complying with the background check requirements  
23 of section 3 of this act. It is an affirmative defense to any  
24 prosecution brought under this section that the sale or transfer  
25 satisfied one of the exceptions in section 3(4) of this act.

26 NEW SECTION. **Sec. 10.** A new section is added to chapter 82.08  
27 RCW to read as follows:

28 The tax imposed by RCW 82.08.020 does not apply to the sale or  
29 transfer of any firearms between two unlicensed persons if the  
30 unlicensed persons have complied with all background check  
31 requirements of chapter 9.41 RCW.

32 **Sec. 11.** RCW 82.12.040 and 2011 1st sp.s. c 20 s 103 are each  
33 amended to read as follows:

34 (1) Every person who maintains in this state a place of business  
35 or a stock of goods, or engages in business activities within this  
36 state, shall obtain from the department a certificate of

1 registration, and shall, at the time of making sales of tangible  
2 personal property, digital goods, digital codes, digital automated  
3 services, extended warranties, or sales of any service defined as a  
4 retail sale in RCW 82.04.050 (2) (a) or (g), (3)(a), or (6)(b), or  
5 making transfers of either possession or title, or both, of tangible  
6 personal property for use in this state, collect from the purchasers  
7 or transferees the tax imposed under this chapter. The tax to be  
8 collected under this section must be in an amount equal to the  
9 purchase price multiplied by the rate in effect for the retail sales  
10 tax under RCW 82.08.020. For the purposes of this chapter, the phrase  
11 "maintains in this state a place of business" shall include the  
12 solicitation of sales and/or taking of orders by sales agents or  
13 traveling representatives. For the purposes of this chapter, "engages  
14 in business activity within this state" includes every activity which  
15 is sufficient under the Constitution of the United States for this  
16 state to require collection of tax under this chapter. The department  
17 must in rules specify activities which constitute engaging in  
18 business activity within this state, and must keep the rules current  
19 with future court interpretations of the Constitution of the United  
20 States.

21 (2) Every person who engages in this state in the business of  
22 acting as an independent selling agent for persons who do not hold a  
23 valid certificate of registration, and who receives compensation by  
24 reason of sales of tangible personal property, digital goods, digital  
25 codes, digital automated services, extended warranties, or sales of  
26 any service defined as a retail sale in RCW 82.04.050 (2) (a) or (g),  
27 (3)(a), or (6)(b), of his or her principals for use in this state,  
28 must, at the time such sales are made, collect from the purchasers  
29 the tax imposed on the purchase price under this chapter, and for  
30 that purpose is deemed a retailer as defined in this chapter.

31 (3) The tax required to be collected by this chapter is deemed to  
32 be held in trust by the retailer until paid to the department, and  
33 any retailer who appropriates or converts the tax collected to the  
34 retailer's own use or to any use other than the payment of the tax  
35 provided herein to the extent that the money required to be collected  
36 is not available for payment on the due date as prescribed is guilty  
37 of a misdemeanor. In case any seller fails to collect the tax herein  
38 imposed or having collected the tax, fails to pay the same to the  
39 department in the manner prescribed, whether such failure is the  
40 result of the seller's own acts or the result of acts or conditions



1 beyond the seller's control, the seller is nevertheless personally  
2 liable to the state for the amount of such tax, unless the seller has  
3 taken from the buyer a copy of a direct pay permit issued under RCW  
4 82.32.087.

5 (4) Any retailer who refunds, remits, or rebates to a purchaser,  
6 or transferee, either directly or indirectly, and by whatever means,  
7 all or any part of the tax levied by this chapter is guilty of a  
8 misdemeanor.

9 (5) Notwithstanding subsections (1) through (4) of this section,  
10 any person making sales is not obligated to collect the tax imposed  
11 by this chapter if:

12 (a) The person's activities in this state, whether conducted  
13 directly or through another person, are limited to:

14 (i) The storage, dissemination, or display of advertising;

15 (ii) The taking of orders; or

16 (iii) The processing of payments; and

17 (b) The activities are conducted electronically via a web site on  
18 a server or other computer equipment located in Washington that is  
19 not owned or operated by the person making sales into this state nor  
20 owned or operated by an affiliated person. "Affiliated persons" has  
21 the same meaning as provided in RCW 82.04.424.

22 (6) Subsection (5) of this section expires when: (a) The United  
23 States congress grants individual states the authority to impose  
24 sales and use tax collection duties on remote sellers; or (b) it is  
25 determined by a court of competent jurisdiction, in a judgment not  
26 subject to review, that a state can impose sales and use tax  
27 collection duties on remote sellers.

28 (7) Notwithstanding subsections (1) through (4) of this section,  
29 any person making sales is not obligated to collect the tax imposed  
30 by this chapter if the person would have been obligated to collect  
31 retail sales tax on the sale absent a specific exemption provided in  
32 chapter 82.08 RCW, and there is no corresponding use tax exemption in  
33 this chapter. Nothing in this subsection (7) may be construed as  
34 relieving purchasers from liability for reporting and remitting the  
35 tax due under this chapter directly to the department.

36 (8) Notwithstanding subsections (1) through (4) of this section,  
37 any person making sales is not obligated to collect the tax imposed  
38 by this chapter if the state is prohibited under the Constitution or  
39 laws of the United States from requiring the person to collect the  
40 tax imposed by this chapter.

1       (9) Notwithstanding subsections (1) through (4) of this section,  
2 any licensed dealer facilitating a firearm sale or transfer between  
3 two unlicensed persons by conducting background checks under chapter  
4 9.41 RCW is not obligated to collect the tax imposed by this chapter.

5       NEW SECTION.    **Sec. 12.**    If any provision of this act or its  
6 application to any person or circumstance is held invalid, the  
7 remainder of the act or the application of the provision to other  
8 persons or circumstances is not affected.