H-2262.1

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**SUBSTITUTE HOUSE BILL 1705**

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**State of Washington 67th Legislature 2022 Regular Session**

**By** House Civil Rights & Judiciary (originally sponsored by Representatives Berry, Valdez, Ryu, Fitzgibbon, Berg, Bateman, Duerr, Walen, Callan, Davis, Taylor, Macri, Peterson, Ramel, Ramos, Santos, Senn, Simmons, Slatter, Bergquist, Tharinger, Pollet, Frame, Harris-Talley, Hackney, and Kloba)

AN ACT Relating to limiting ghost guns, including untraceable firearms and untraceable unfinished frames and receivers that can be used to manufacture or assemble untraceable firearms, with exceptions for licensed federal firearm manufacturers, dealers, and importers, and firearms that have been rendered permanently inoperable, are antiques, or were manufactured before 1968; amending RCW 7.80.120, 9.41.010, 9.41.190, and 43.43.580; adding new sections to chapter 9.41 RCW; creating a new section; prescribing penalties; and providing an effective date.

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

NEW SECTION. **Sec.**  The legislature finds that ghost guns are untraceable and unregulated firearms that lack a unique serial number that would allow them to be traced to a specific manufacturer, dealer, and purchaser. The absence of a serial number on ghost guns undermines the ability of law enforcement to identify individuals who have used such guns in the commission of a crime, which incentivizes the use of ghost guns in criminal acts, makes it easier for criminals to evade detection and employ lethal force, and endangers public safety.

The legislature further finds that ghost guns are often manufactured or assembled by unlicensed individuals who could not pass a background check and lawfully obtain a firearm, and that such individuals often purchase unfinished frames or receivers (also known as 80 percent receivers) and build-it-yourself ghost gun kits from unregulated online sellers, in retail stores, and at gun shows. Such kits typically contain all the parts, tools, and instructions needed to assemble a ghost gun, and are designed to enable untrained individuals to readily assemble ghost guns with common household tools in a matter of hours, regardless of whether that individual could lawfully purchase or obtain a firearm.

The legislature further finds the proliferation of ghost guns, ghost gun kits, and untraceable unfinished frames and receivers threatens public safety. Nationwide, the bureau of alcohol, tobacco, firearms, and explosives reported that about 10,000 ghost guns were recovered in 2019. Between 2016 and 2020, more than 23,000 unserialized firearms were recovered by law enforcement from potential crime scenes, including 325 homicide or attempted homicide crime scenes. Nationally, untraceable ghost guns have been used to perpetrate mass shootings, attack law enforcement officers, and commit robbery and assault. Ghost guns are becoming increasingly prevalent throughout the west coast and across the United States.

The legislature further finds that Washington currently imposes few restrictions on untraceable firearms and concludes Washington law must be updated to limit the spread of ghost guns and mitigate the harms caused by these weapons.

The legislature intends this act to be interpreted in a manner consistent with federal firearm laws and regulations, subject to the modifications in proposed federal rule 2021R-05, updating 27 C.F.R. Parts 447, 478, and 479, published in the federal register (Vol. 86, No. 97) on May 21, 2021.

**Sec.**  RCW 7.80.120 and 2021 c 65 s 8 are each amended to read as follows:

(1) A person found to have committed a civil infraction shall be assessed a monetary penalty.

(a) The maximum penalty and the default amount for a class 1 civil infraction shall be ((~~two hundred fifty dollars~~)) $250, not including statutory assessments, except for an infraction of state law involving (i) potentially dangerous litter as specified in RCW 70A.200.060(4) or violent video or computer games under RCW 9.91.180, in which case the maximum penalty and default amount is ((~~five hundred dollars~~)) $500; or (ii) a person's refusal to submit to a test or tests pursuant to RCW 79A.60.040 and 79A.60.700, in which case the maximum penalty and default amount is ((~~one thousand dollars~~)) $1,000; or (iii) the misrepresentation of service animals under RCW 49.60.214, in which case the maximum penalty and default amount is ((~~five hundred dollars~~)) $500; or (iv) untraceable firearms pursuant to section 5 of this act or unfinished frames or receivers pursuant to section 6 of this act, in which case the maximum penalty and default amount is $500;

(b) The maximum penalty and the default amount for a class 2 civil infraction shall be ((~~one hundred twenty-five dollars~~)) $125, not including statutory assessments;

(c) The maximum penalty and the default amount for a class 3 civil infraction shall be ((~~fifty dollars~~)) $50, not including statutory assessments; and

(d) The maximum penalty and the default amount for a class 4 civil infraction shall be ((~~twenty-five dollars~~)) $25, not including statutory assessments.

(2) The supreme court shall prescribe by rule the conditions under which local courts may exercise discretion in assessing fines for civil infractions.

(3) Whenever a monetary penalty is imposed by a court under this chapter it is immediately payable. If the person is unable to pay at that time the court may grant an extension of the period in which the penalty may be paid. If the penalty is not paid on or before the time established for payment, the court may proceed to collect the penalty in the same manner as other civil judgments and may notify the prosecuting authority of the failure to pay.

(4) The court may also order a person found to have committed a civil infraction to make restitution.

**Sec.**  RCW 9.41.010 and 2021 c 215 s 93 are each amended to read as follows:

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

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

(2) "Assemble" means to fit together component parts.

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

((~~(3)~~)) (4) "Bump-fire stock" means a butt stock designed to be attached to a semiautomatic firearm with the effect of increasing the rate of fire achievable with the semiautomatic firearm to that of a fully automatic firearm by using the energy from the recoil of the firearm to generate reciprocating action that facilitates repeated activation of the trigger.

((~~(4)~~)) (5) "Crime of violence" means:

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

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

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

((~~(5)~~)) (6) "Curio or relic" has the same meaning as provided in 27 C.F.R. Sec. 478.11.

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

((~~(7)~~)) (8) "Family or household member" has the same meaning as in RCW 7.105.010.

((~~(8)~~)) (9) "Federal firearms dealer" means a licensed dealer as defined in 18 U.S.C. Sec. 921(a)(11).

(10) "Federal firearms importer" means a licensed importer as defined in 18 U.S.C. Sec. 921(a)(9).

(11) "Federal firearms manufacturer" means a licensed manufacturer as defined in 18 U.S.C. Sec. 921(a)(10).

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

((~~(9)~~)) (13) "Felony firearm offender" means a person who has previously been convicted or found not guilty by reason of insanity in this state of any felony firearm offense. A person is not a felony firearm offender under this chapter if any and all qualifying offenses have been the subject of an expungement, pardon, annulment, certificate, or rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted or a pardon, annulment, or other equivalent procedure based on a finding of innocence.

((~~(10)~~)) (14) "Felony firearm offense" means:

(a) Any felony offense that is a violation of this chapter;

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

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

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

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

((~~(11)~~)) (15) "Firearm" means a weapon or device from which a projectile or projectiles may be fired by an explosive such as gunpowder. "Firearm" does not include a flare gun or other pyrotechnic visual distress signaling device, or a powder-actuated tool or other device designed solely to be used for construction purposes.

((~~(12)~~)) (16)(a) "Frame or receiver" means a part of a firearm that, when the complete firearm is assembled, is visible from the exterior and provides housing or a structure designed to hold or integrate one or more fire control components, even if pins or other attachments are required to connect the fire control components. Any such part identified with a serial number shall be presumed, absent an official determination by the bureau of alcohol, tobacco, firearms, and explosives or other reliable evidence to the contrary, to be a frame or receiver.

(b) For purposes of this subsection, "fire control component" means a component necessary for the firearm to initiate, complete, or continue the firing sequence, including any of the following: Hammer, bolt, bolt carrier, breechblock, cylinder, trigger mechanism, firing pin, striker, or slide rails.

(17) "Gun" has the same meaning as firearm.

((~~(13)~~)) (18) "Intimate partner" has the same meaning as provided in RCW 7.105.010.

((~~(14)~~)) (19) "Law enforcement officer" includes a general authority Washington peace officer as defined in RCW 10.93.020, or a specially commissioned Washington peace officer as defined in RCW 10.93.020. "Law enforcement officer" also includes a limited authority Washington peace officer as defined in RCW 10.93.020 if such officer is duly authorized by his or her employer to carry a concealed pistol.

((~~(15)~~)) (20) "Lawful permanent resident" has the same meaning afforded a person "lawfully admitted for permanent residence" in 8 U.S.C. Sec. 1101(a)(20).

((~~(16)~~)) (21) "Licensed collector" means a person who is federally licensed under 18 U.S.C. Sec. 923(b).

((~~(17)~~)) (22) "Licensed dealer" means a person who is federally licensed under 18 U.S.C. Sec. 923(a).

((~~(18)~~)) (23) "Loaded" means:

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

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

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

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

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

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

((~~(20)~~)) (25) "Manufacture" means, with respect to a firearm, the fabrication, making, formation, production, or construction of a firearm, by manual labor or by machinery.

((~~(21)~~)) (26) "Nonimmigrant alien" means a person defined as such in 8 U.S.C. Sec. 1101(a)(15).

((~~(22)~~)) (27) "Person" means any individual, corporation, company, association, firm, partnership, club, organization, society, joint stock company, or other legal entity.

((~~(23)~~)) (28) "Pistol" means any firearm with a barrel less than sixteen inches in length, or is designed to be held and fired by the use of a single hand.

((~~(24)~~)) (29) "Rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned, made or remade, and intended to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

((~~(25)~~)) (30) "Sale" and "sell" mean the actual approval of the delivery of a firearm in consideration of payment or promise of payment.

((~~(26)~~)) (31) "Secure gun storage" means:

(a) A locked box, gun safe, or other secure locked storage space that is designed to prevent unauthorized use or discharge of a firearm; and

(b) The act of keeping an unloaded firearm stored by such means.

((~~(27)~~)) (32)(a) "Semiautomatic assault rifle" means any rifle which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge.

(b) "Semiautomatic assault rifle" does not include antique firearms, any firearm that has been made permanently inoperable, or any firearm that is manually operated by bolt, pump, lever, or slide action.

((~~(28)~~)) (33) "Serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies, as now existing or hereafter amended:

(a) Any crime of violence;

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

(c) Child molestation in the second degree;

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

(e) Indecent liberties;

(f) Leading organized crime;

(g) Promoting prostitution in the first degree;

(h) Rape in the third degree;

(i) Drive-by shooting;

(j) Sexual exploitation;

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

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

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

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

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

(p) Any felony conviction under RCW 9.41.115.

((~~(29)~~)) (34) "Short-barreled rifle" means a rifle having one or more barrels less than sixteen inches in length and any weapon made from a rifle by any means of modification if such modified weapon has an overall length of less than twenty-six inches.

((~~(30)~~)) (35) "Short-barreled shotgun" means a shotgun having one or more barrels less than eighteen inches in length and any weapon made from a shotgun by any means of modification if such modified weapon has an overall length of less than twenty-six inches.

((~~(31)~~)) (36) "Shotgun" means a weapon with one or more barrels, designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned, made or remade, and intended to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

((~~(32)~~)) (37) "Transfer" means the intended delivery of a firearm to another person without consideration of payment or promise of payment including, but not limited to, gifts and loans. "Transfer" does not include the delivery of a firearm owned or leased by an entity licensed or qualified to do business in the state of Washington to, or return of such a firearm by, any of that entity's employees or agents, defined to include volunteers participating in an honor guard, for lawful purposes in the ordinary course of business.

((~~(33)~~)) (38) "Undetectable firearm" means any firearm that is not as detectable as 3.7 ounces of 17-4 PH stainless steel by walk-through metal detectors or magnetometers commonly used at airports or any firearm where the barrel, the slide or cylinder, or the frame or receiver of the firearm would not generate an image that accurately depicts the shape of the part when examined by the types of X-ray machines commonly used at airports.

((~~(34)~~)) (39)(a) "Unfinished frame or receiver" means a frame or receiver that is partially complete, disassembled, or inoperable, that: (i) Has reached a stage in manufacture where it may readily be completed, assembled, converted, or restored to a functional state; or (ii) is marketed or sold to the public to become or be used as the frame or receiver of a functional firearm once finished or completed, including without limitation products marketed or sold to the public as an 80 percent frame or receiver or unfinished frame or receiver.

(b) For purposes of this subsection:

(i) "Readily" means a process that is fairly or reasonably efficient, quick, and easy, but not necessarily the most efficient, speedy, or easy process. Factors relevant in making this determination, with no single one controlling, include the following: (A) Time, i.e., how long it takes to finish the process; (B) ease, i.e., how difficult it is to do so; (C) expertise, i.e., what knowledge and skills are required; (D) equipment, i.e., what tools are required; (E) availability, i.e., whether additional parts are required, and how easily they can be obtained; (F) expense, i.e., how much it costs; (G) scope, i.e., the extent to which the subject of the process must be changed to finish it; and (H) feasibility, i.e., whether the process would damage or destroy the subject of the process, or cause it to malfunction.

(ii) "Partially complete," as it modifies frame or receiver, means a forging, casting, printing, extrusion, machined body, or similar article that has reached a stage in manufacture where it is clearly identifiable as an unfinished component part of a firearm.

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

((~~(35)~~)) (41) "Untraceable firearm" means any firearm manufactured after July 1, 2019, that is not an antique firearm and that cannot be traced by law enforcement by means of a serial number affixed to the firearm by a ((~~federally licensed manufacturer or importer~~)) federal firearms manufacturer, federal firearms importer, or federal firearms dealer in compliance with all federal laws and regulations.

**Sec.**  RCW 9.41.190 and 2019 c 243 s 3 are each amended to read as follows:

(1) Except as otherwise provided in this section, it is unlawful for any person to:

(a) Manufacture, own, buy, sell, loan, furnish, transport, or have in possession or under control, any machine gun, bump-fire stock, undetectable firearm, short-barreled shotgun, or short-barreled rifle;

(b) Manufacture, own, buy, sell, loan, furnish, transport, or have in possession or under control, any part designed and intended solely and exclusively for use in a machine gun, bump-fire stock, undetectable firearm, short-barreled shotgun, or short-barreled rifle, or in converting a weapon into a machine gun, short-barreled shotgun, or short-barreled rifle;

(c) Assemble or repair any machine gun, bump-fire stock, undetectable firearm, short-barreled shotgun, or short-barreled rifle; or

(d) Manufacture, cause to be manufactured, assemble, or cause to be assembled, an untraceable firearm with the intent to sell the untraceable firearm.

(2) It is not unlawful for a person to manufacture, own, buy, sell, loan, furnish, transport, assemble, or repair, or have in possession or under control, a short-barreled rifle, or any part designed or intended solely and exclusively for use in a short-barreled rifle or in converting a weapon into a short-barreled rifle, if the person is in compliance with applicable federal law.

(3) Subsection (1) of this section shall not apply to:

(a) Any peace officer in the discharge of official duty or traveling to or from official duty, or to any officer or member of the armed forces of the United States or the state of Washington in the discharge of official duty or traveling to or from official duty; or

(b) A person, including an employee of such person if the employee has undergone fingerprinting and a background check, who or which is exempt from or licensed under federal law, and engaged in the production, manufacture, repair, or testing of machine guns, bump-fire stocks, short-barreled shotguns, or short-barreled rifles:

(i) To be used or purchased by the armed forces of the United States;

(ii) To be used or purchased by federal, state, county, or municipal law enforcement agencies; or

(iii) For exportation in compliance with all applicable federal laws and regulations.

(4) It shall be an affirmative defense to a prosecution brought under this section that the machine gun or short-barreled shotgun was acquired prior to July 1, 1994, and is possessed in compliance with federal law.

(5) Any person violating this section is guilty of a class C felony.

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

(1) No person may manufacture, cause to be manufactured, assemble, or cause to be assembled an untraceable firearm.

(2) After March 10, 2023, no person may knowingly or recklessly possess, transport, or receive an untraceable firearm, unless the party possessing, transporting, or receiving the untraceable firearm is a law enforcement agency or a federal firearms importer, federal firearms manufacturer, or federal firearms dealer.

(3) No person may sell, offer to sell, transfer, or purchase an untraceable firearm.

(4) Subsections (2) and (3) of this section do not apply to any firearm that:

(a) Has been rendered permanently inoperable;

(b) Is an antique firearm, as defined in 18 U.S.C. Sec. 921(a)(16);

(c) Was manufactured before 1968; or

(d) Has been imprinted by a federal firearms dealer or other federal licensee authorized to provide marking services as provided for in section 7 of this act.

(5)(a) Any person who violates this section commits a civil infraction and shall be assessed a monetary penalty of $500.

(b) If a person previously has been found to have violated this section, then the person is guilty of a misdemeanor punishable under chapter 9A.20 RCW for each subsequent violation of this section.

(c) If a person previously has been found to have violated this section two or more times, then the person is guilty of a gross misdemeanor punishable under chapter 9A.20 RCW for each subsequent violation of this section.

(d) If a person violates this section by manufacturing, causing to be manufactured, assembling, causing to be assembled, possessing, transporting, receiving, selling, offering to sell, transferring, or purchasing three or more untraceable firearms at a time, then the person is guilty of a gross misdemeanor punishable under chapter 9A.20 RCW for each violation of this section.

(e) A person commits a separate violation of this section for each and every firearm to which this section applies.

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

(1) After March 10, 2023, no person may knowingly or recklessly possess, transport, or receive an unfinished frame or receiver, unless: (a) The party possessing, transporting, or receiving the unfinished frame or receiver is a law enforcement agency or a federal firearms importer, federal firearms manufacturer, or federal firearms dealer; or (b) the unfinished frame or receiver has been imprinted with a serial number issued by a federal firearms importer, federal firearms manufacturer, or federal firearms dealer.

(2) No person may sell, offer to sell, transfer, or purchase an unfinished frame or receiver, unless: (a) The party purchasing the unfinished frame or receiver is a federal firearms importer, federal firearms manufacturer, or federal firearms dealer; or (b) the unfinished frame or receiver has been imprinted with a serial number issued by a federal firearms importer, federal firearms manufacturer, or federal firearms dealer.

(3) Subsection (1) of this section does not apply to any unfinished frame or receiver that has been imprinted by a federal firearms dealer or other federal licensee authorized to provide marking services as provided for in section 7 of this act.

(4)(a) Any person who violates this section commits a civil infraction and shall be assessed a monetary penalty of $500.

(b) If a person previously has been found to have violated this section, then the person is guilty of a misdemeanor punishable under chapter 9A.20 RCW for each subsequent violation of this section.

(c) If a person previously has been found to have violated this section two or more times, then the person is guilty of a gross misdemeanor punishable under chapter 9A.20 RCW for each subsequent violation of this section.

(d) If a person violates this section by possessing, transporting, receiving, selling, offering to sell, transferring, or purchasing three or more unfinished frames or receivers at a time, then the person is guilty of a gross misdemeanor punishable under chapter 9A.20 RCW for each violation of this section.

(e) A person commits a separate violation of this section for each and every unfinished frame or receiver to which this section applies.

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

(1) A federal firearms dealer or other federal licensee authorized to provide marking services for firearms may imprint a firearm or unfinished frame or receiver with a serial number.

(2) The firearm or unfinished frame or receiver shall be imprinted with the licensee's abbreviated federal firearms license number as a prefix (which is the first three and last five digits) followed by a hyphen, and then followed by a number as a suffix, e.g., "12345678-(number)." The serial number must be placed in a manner that accords with the requirements under federal law for affixing serial numbers to firearms, including the requirements that the serial number be at the minimum size and depth, and not susceptible to being readily obliterated, altered, or removed.

(3) The serial number must not duplicate any serial numbers placed by the federal firearms dealer or other federal licensee on any other firearm or unfinished frame or receiver.

(4) Whenever a federal firearms dealer or other federal licensee imprints a firearm or unfinished frame or receiver with a serial number, the licensee shall retain records that accord with the requirements under federal law in the case of the sale of a firearm.

**Sec.**  RCW 43.43.580 and 2020 c 28 s 1 are each amended to read as follows:

(1) The Washington state patrol shall establish a firearms background check unit to serve as a centralized single point of contact for dealers to conduct background checks for firearms sales or transfers required under chapter 9.41 RCW and the federal Brady handgun violence prevention act (18 U.S.C. Sec. 921 et seq.). The Washington state patrol shall establish an automated firearms background check system to conduct background checks on applicants for the purchase or transfer of a firearm. The system must include the following characteristics:

(a) Allow a dealer to contact the Washington state patrol through a web portal or other electronic means and by telephone to request a background check of an applicant for the purchase or transfer of a firearm;

(b) Provide a dealer with a notification that a firearm purchase or transfer application has been received;

(c) Assign a unique identifier to the background check inquiry;

(d) Provide an automated response to the dealer indicating whether the transfer may proceed or is denied, or that the check is indeterminate and will require further investigation;

(e) Include measures to ensure data integrity and the confidentiality and security of all records and data transmitted and received by the system; and

(f) Include a performance metrics tracking system to evaluate the performance of the background check system.

(2) Upon receipt of a request from a dealer for a background check in connection with the sale or transfer of a firearm, the Washington state patrol shall:

(a) Provide the dealer with a notification that a firearm transfer application has been received;

(b) Conduct a check of the national instant criminal background check system and the following additional records systems to determine whether the transferee is prohibited from possessing a firearm under state or federal law: (i) The Washington crime information center and Washington state identification system; (ii) the health care authority electronic database; (iii) the federal bureau of investigation national data exchange database and any available repository of statewide local law enforcement record management systems information; (iv) the administrative office of the courts case management system; and (v) other databases or resources as appropriate;

(c) Perform an equivalency analysis on criminal charges in foreign jurisdictions to determine if the applicant has been convicted as defined in RCW 9.41.040(3) and if the offense is equivalent to a Washington felony as defined in RCW 9.41.010((~~(8)~~));

(d) Notify the dealer without delay that the records indicate the individual is prohibited from possessing a firearm and the transfer is denied or that the individual is approved to complete the transfer. If the results of the background check are indeterminate, the Washington state patrol shall notify the dealer of the delay and conduct necessary research and investigation to resolve the inquiry; and

(e) Provide the dealer with a unique identifier for the inquiry.

(3) The Washington state patrol may hold the delivery of a firearm to an applicant under the circumstances provided in RCW 9.41.090 (4) and (5).

(4)(a) The Washington state patrol shall require a dealer to charge each firearm purchaser or transferee a fee for performing background checks in connection with firearms transfers. The fee must be set at an amount necessary to cover the annual costs of operating and maintaining the firearm background check system but shall not exceed eighteen dollars. The Washington state patrol shall transmit the fees collected to the state treasurer for deposit in the state firearms background check system account created in RCW 43.43.590. It is the intent of the legislature that once the state firearm background check system is established, the fee established in this section will replace the fee required in RCW 9.41.090(7).

(b) The background check fee required under this subsection does not apply to any background check conducted in connection with a pawnbroker's receipt of a pawned firearm or the redemption of a pawned firearm.

(5) The Washington state patrol shall establish a procedure for a person who has been denied a firearms transfer as the result of a background check to appeal the denial to the Washington state patrol and to obtain information on the basis for the denial and procedures to review and correct any erroneous records that led to the denial.

(6) The Washington state patrol shall work with the administrative office of the courts to build a link between the firearm background check system and the administrative office of the courts case management system for the purpose of accessing court records to determine a person's eligibility to possess a firearm.

(7) Upon establishment of the firearm background check system under this section, the Washington state patrol shall notify each dealer in the state of the existence of the system, and the dealer must use the system to conduct background checks for firearm sales or transfers beginning on the date that is thirty days after issuance of the notification.

(8) The Washington state patrol shall consult with the Washington background check advisory board created in RCW 43.43.585 in carrying out its duties under this section.

(9) All records and information prepared, obtained, used, or retained by the Washington state patrol in connection with a request for a firearm background check are exempt from public inspection and copying under chapter 42.56 RCW.

(10) The Washington state patrol may adopt rules necessary to carry out the purposes of this section.

(11) For the purposes of this section, "dealer" has the same meaning as given in RCW 9.41.010.

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

NEW SECTION. **Sec.**  This act takes effect July 1, 2022.

**--- END ---**