

Title 9. Crimes and Punishments

Chapter 9.41. Firearms and Dangerous Weapons

9.41.010. Terms defined.

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

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

(3) **"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.

(4) **"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.

(5) **"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.

(6) **"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.

(7) **"Machinegun"** means any firearm known as a machinegun, mechanical rifle, submachinegun, 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 there from at the rate of five or more shots per second.

(8) **"Antique firearm"** means a firearm or replica of a firearm not designed or redesigned for using rim fire or conventional centerfire 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.

(9) **"Loaded"** means:

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

(b) Bullets 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; or

(d) There is a cartridge in the tube, magazine, or other compartment of the firearm.

(10) **"Dealer"** means a person engaged in the business of selling firearms or ammunition 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.

(11) **"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, rape in the second degree, kidnapping in the second degree, arson in the second degree, assault in the second degree, extortion in the first degree, burglary in the second degree, and robbery in the second degree;

(b) Any conviction for a felony offense in effect at any time prior to June 6, 1976, which is comparable to a felony classified as a crime of violence in (a) of this section; 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 section.

(12) **"Serious offense"** means any of the following felonies or a felony attempt

(a) Any crime of violence;

(b) Any felony violation of the uniform controlled substance 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;

(l) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxication 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.125; or

(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.

**(13) "Law enforcement officer"** includes a general authority Washington peace officer defined in RCW 10.93.020, or a specially commissioned Washington peace officer as defined in RCW 10.93.020. "Law Enforcement officers" 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.

**(14) "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.

**(15) "Sell"** refers to the actual approval of the delivery of a firearm in consideration of payment or promise of payment of a certain price in money.

**(16) "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.

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

#### **9.41.040. Unlawful possession of a firearm - Ownership, possession of firearms by certain persons.**

**(1)** A person, whether an adult or juvenile, is guilty of the crime of unlawful possession of a firearm in the first degree, if the person owns has in his or her possession or has in his or her control any firearm after having been convicted in this state or elsewhere of any serious offense as defined in this chapter.

**(b)** A person, whether an adult or juvenile, is guilty of the crime of unlawful possession of a firearm in the second degree, if the person does not qualify under (a) of this subsection for the crime of unlawful possession of a firearm in the first degree and the person who owns, has in his or her possession, or has in his or her control any firearm:

**(i)** After having previously been convicted in this state or elsewhere of a any felony not specifically listed as prohibiting firearms possession under (a) of this subsection, or any of the following crimes when committed by one household member against another, committed on or after July 1, 1993: Assault in the fourth degree, coercion, stalking, reckless endangerment, criminal trespass in the first degree, or violation of the provisions of a protection order or no-contact order restraining the person or excluding the person from a residence. (RCW 26.50.060, 26.50.070, 26.50.130, 10.99.040);

**(ii)** After having previously been involuntarily committed for mental health treatment under 71.05.320, 71.34.090, chapter 10.77 RCW, or equivalent statutes of another jurisdiction, unless his or her right to possess a firearm has been restored as provided in RCW 9.41.047;

**(iii)** If the person is under eighteen years of age, except as provided in RCW 9.41.042; and/or

**(iv)** If the person is free on bond or personal recognizance pending trial, appeal, or sentencing for a serious offense as defined in RCW 9.41.010.

**(2)(a)** Unlawful possession of a firearm is a Class B felony, punishable under chapter 9A.20 RCW.

**(b)** Unlawful possession of a firearm in the second degree is a Class C felony punishable under chapter 9A.20 RCW.

**(3)** Notwithstanding RCW 9.41.047 or any provisions of law, as used in this

chapter, a person has been "convicted", whether in an adult court or adjudicated in a juvenile court, at such times as a plea of guilty has been accepted, or a verdict of guilty has been filed, notwithstanding the pendency of any future proceedings including but not limited to sentencing or disposition, post-trial or post-fact-finding motions, and appeals. Conviction includes a dismissal entered after a period of probation, suspension or deferral of sentence, and also includes equivalent dispositions by courts in jurisdictions other than Washington state. A person shall not be precluded from possession of a firearm if the conviction has been the subject of a pardon, annulment, certificate of rehabilitation of the person convicted or the conviction or disposition of the charges can be found, there shall be a rebuttable presumption that the person was not convicted of the charge.

**(4)** Notwithstanding subsection (1) of this section, a person convicted of an offense other than murder, manslaughter, robbery, rape, indecent liberties, arson, assault, kidnapping, extortion, burglary, or violations with respect to controlled substances under RCW 69.50.401(a) and 69.50.410, who received a probationary sentence under RCW 9.95.200, and who received a dismissal of the charge under RCW 9.95.240, shall not be precluded from possession of a firearm as a result of the conviction. Notwithstanding any other provision of this section, if a person is prohibited from possession of a firearm under subsection (1) of this section and has not previously been convicted of a sex offense prohibiting firearm ownership under subsection (1) of this section and/or any felony defined under any law as a Class A felony or with a maximum sentence of at least twenty years, or both, the individual may petition a court of record to have his or her right to possess a firearm restored;

**(a)** Under RCW 9.41.047; and/or

**(b)(1)** If the conviction was for a felony offense, after five or more consecutive years in the community without being convicted or currently charged with any felony, gross misdemeanor, or misdemeanor crimes, if the individual has no prior felony convictions that prohibit the possession of a firearm counted as part of the offender score under RCW 9.94A.360; or

**(ii)** If the conviction was for a nonfelony offense, after three or more consecutive years in the community without being convicted or currently charged with any felony, gross misdemeanor, or misdemeanor crimes, if the individual has no prior felony convictions that prohibit the possession of a firearm counted as part of the offender score under RCW 9.94A.360 and the individual has completed all conditions of the sentence.

**(5)** In addition to any other penalty provided for by law, if a person under the age of eighteen years is found by a court to have possessed a firearm in a vehicle in violation of subsection (1) of this section or to have committed an offense while armed with a firearm during which offense a motor vehicle served an integral function, the court shall notify the department of licensing within twenty-four hours and the person's privilege to drive shall be revoked under RCW 46.20.265.

**(6)** Nothing in chapter 129, Laws of 1995 shall be construed or interpreted as preventing an offender from being charged and subsequently convicted for the separate felony crimes of theft of a firearm or possession of a stolen firearm, or both, in addition to being charged and subsequently convicted under this section for unlawful possession of a firearm in the first or second degree. Notwithstanding any other law, if the offender is convicted under this section for unlawful possession of a firearm in the first or second degree

and for the felony crimes of theft of a firearm or possession of a stolen firearm, or both, then the offender shall serve consecutive sentences for each of the felony crimes of conviction listed in this subsection.

(7) Each firearm unlawfully possessed under this section shall be a separate offense.

**9.41.042. Children - Permissible firearm possession.**

9.41.040(1)(e) shall not apply to any person under the age of eighteen years who is:

(1) In attendance at a hunter's safety course;

(2) Engaging in practice in the use of a firearm or target shooting at an established range authorized by the governing body of the jurisdiction in which such range is located or any other area where the discharge of a firearm is not prohibited;

(3) Engaging in an organized competition involving the use of a firearm, or participating in or practicing for a performance by an organized group that uses firearms as part of the performance;

(4) Hunting or trapping under a valid license issued to the person under Title 77 RCW;

(5) In an area where the discharge of a firearm is permitted, is not trespassing, and the person either: (a) is at least fourteen years of age, has been issued a hunter safety certificate, and is using a lawful firearm other than a pistol; or (b) is under the supervision of a parent, guardian, or other adult approved for the purpose by the parent or guardian.

(6) Traveling with any unloaded firearm in the person's possession to or from any activity described in subsection (1), (2), (3), (4), or (5) of this section;

(7) On real property under the control of his or her parent, other relative, or legal guardian and who has the permission to the parent or legal guardian to possess a firearm; \* \* \*

(8) At his or her residence and who, with the permission of his or her parent or legal guardian, possesses a firearm for the purpose of exercising the rights specified in RCW 9A.16.020(3); or

(9) Is a member of the armed forces of the United States, national guard, or organized reserves, when on duty.

**9.41.045. Possession by offenders.** As a sentence condition and requirement, offenders under the supervision of the department of corrections pursuant to chapter 9.94A shall not own, use, or possess firearms or ammunition. In addition to any penalty imposed pursuant to RCW 9.41.040 when applicable, offenders found to be in actual or constructive possession of a firearm or ammunition shall be subject to the appropriate violation process and sanctions as provided for in RCW 9.94A.200. Firearms or ammunition owned, used, or possessed by offenders may be confiscated by community corrections officers and turned over to the Washington state patrol for disposal as provided in RCW 9.41.098.

**9.41.047. Restoration of possession rights.**

(1) At the time a person is convicted of an offense making the person ineligible to possess a firearm, or at the time a person is committed by court order under RCW 71.05.320, 71.34.090, or chapter 10.77 RCW for mental health

treatment, the convicting or committing court shall notify the person, orally and in writing, that the person must immediately surrender any concealed pistol license and, that the person may not possess a firearm unless his or her right to do so is restored by a court of record.

The convicting or committing court also shall forward a copy of the person's driver's license or identification card, or comparable information to the department of licensing, along with the date of conviction or commitment.

(2) Upon receipt of the information provided for by subsection (1) of this section, the department of licensing shall determine if the convicted or committed person has a concealed pistol license. If the person does have a concealed pistol license, the department of licensing shall immediately notify the license-issuing authority which, upon receipt of such notification, shall immediately revoke the license.

(3)(a) A person who is prohibited from possessing a firearm, by reason of having been involuntarily committed for mental health treatment under RCW 71.05.320, 71.34.090, chapter 10.77 RCW, or equivalent statutes of another jurisdiction may, upon discharge, petition a court of record to have his or her right to possess a firearm restored. At the time of commitment, the court shall specifically state to the person that he or she is barred from possession of firearms.

(b) The secretary of social and health services shall develop appropriate rules to create an approval process under this subsection. The rules must provide for the restoration of the right to possess a firearm upon showing in a court of competent jurisdiction that the person is no longer required to participate in an inpatient or outpatient treatment program, is no longer required to take medication to treat any condition related to the commitment, and does not present a substantial danger to himself, others, or the public. Unlawful possession of a firearm under this subsection shall be punished as a Class C felony under chapter 9A.20 RCW,

(c) A person petitioning the court under this subsection (3) shall bear the burden of proving by a preponderance of the evidence that the circumstances resulting in the commitment no longer exist and are not reasonably likely to occur.

#### **9.41.060. Exceptions to restrictions on carrying firearms.**

The provisions of RCW 9.41.050 shall not apply to:

- (1) Marshals, sheriffs, prison or jail wardens or their deputies, or other law enforcement officers;
- (2) Members of the armed forces of the United States or of the National Guard or organized reserves, when on duty;
- (3) Officers or employees of the United States duly authorized to carry a concealed pistol;
- (4) Any person engaged in the business of manufacturing, repairing, or dealing in firearms, or the agent or representative of the person, if possessing, using, or carrying a pistol in the usual or ordinary course of the business;
- (5) Regularly enrolled members of any organization duly authorized to purchase or receive pistols from the United States from this state;
- (6) Regularly enrolled members of clubs organized for the purpose of target shooting, when those members are at or are going to or from their places of target practice;
- (7) Regularly enrolled members of clubs organized for the purpose of modern

and antique firearm collecting, when those members are at or are going to or from their collector's gun shows and exhibits;

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

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

(10) Law enforcement officers retired for service or physical disabilities, except for those law enforcement officers retired because of mental or stress-related disabilities. This subsection applies only to a retired officer who has: (a) Obtained documentation from a law enforcement agency within Washington state from which he or she retired that is signed by the agency's chief law enforcement officer and that states that the retired officer was retired for service or physical disability; and (b) not convicted of a crime making him or her ineligible for a concealed pistol permit.

#### **Publisher's Note:**

**In order to qualify as an "alternate" State under the Brady Act, the Washington State statutes would have to be amended to disqualify any person convicted of a crime punishable by imprisonment for a term exceeding 1 year from receiving or possessing firearms. Additionally, the law must require that an authorized government official verify from available information, e.g., National Crime Information Center (NCIC), would not violate the law. Finally, the law must require that such record checks would have to be performed upon renewal of the concealed weapons license.**

#### **9.41.070 Concealed pistol license - Application - Fee - Renewal.**

(1) The chief of police of a municipality, or the sheriff of a county, shall within thirty days after the filing of an application of any person issue a license to such person to carry a pistol concealed on his or her person within this state for four years from date of issue, for the purpose of protection or while engaged in business, sport, or while traveling. However, if the applicant does not have a valid permanent Washington driver's license or Washington state identification card or has not been a resident of the state for the previous consecutive ninety days, the issuing authority shall have up to sixty days after the filing of the application to issue a license. The issuing authority shall not refuse to accept completed applications for concealed pistol licenses during regular business hours.

The applicant's constitutional right to bear arms shall not be denied, unless:

(a) He or she is ineligible to possess a firearm under the provisions of RCW 9.41.040 or 9.41.045;

(b) The applicant's concealed pistol license is in a revoked status;

(c) Is under twenty-one years of age;

(d) Is subject to a court order or injunction regarding firearms pursuant to RCW 9A.46.080, 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060, 26.10.040, 26.10.115, 26.26.130, 26.26.137, 26.50.060, or 26.50.070;

(e) He or she is free on bond or personal recognizance pending trial, appeal, or sentencing for a serious offense;

(f) He or she has an outstanding warrant for his or her arrest from any court of competent jurisdiction for a felony or misdemeanor; or

(g) He or she has been ordered to forfeit a firearm under RCW 9.41.098(1)(d) within one year before filing an application to carry a pistol concealed on his or her person.

No person convicted of a felony may have his or her right to possess firearms restored, unless the person has been granted relief from disabilities by the secretary of the treasury under 18 U.S.C. Sec. 925(c), or RCW 9.41.040(3) or (4) applies.

(2) The issuing authority shall check with the national crime information center, the Washington state patrol electronic data base, the department of social and health services electronic data base, and with other agencies or resources as appropriate, to determine whether the applicant is ineligible under RCW 9.41.040 or 9.41.045 to possess a firearm and therefore ineligible for a concealed pistol license. This subsection applies whether the applicant is applying for a new concealed pistol license or to renew a concealed pistol license.

(3) Any person whose firearms rights have been restricted and who has been granted relief from disabilities by the secretary of the treasury under 18 U.S.C. Sec 925(c) or who is exempt under 18 U.S.C. Sec 921(a)(20)(A) shall have his or her right to acquire, receive, transfer, ship transport, carry, and possess firearms in accordance with Washington state law restored except as otherwise prohibited by this chapter.

(4) The license application shall bear the full name, residential address, telephone number at option of the applicant, date and place of birth, race, gender, description, fingerprints, and signature of the licensee, and the licensee's driver's license number or state identification card number if used for identification in applying for the license. A signed application for a concealed pistol license shall constitute a waiver of confidentiality and written request that the department of social and health services, mental health institutions, and other health care facilities release information relevant to the applicant's eligibility for a concealed pistol license to an inquiring court or law enforcement agency. The application for an original license shall include two complete sets of fingerprints to be forwarded to the Washington State Patrol.

The license application shall contain a warning substantially as follows:

**CAUTION: Although State And Local Laws Do Not Differ, Federal Law And State Law On The Possession Of Firearms Differ. If You Are Prohibited By Federal Law From Possessing A Firearm, You May Be Prosecuted In Federal Court. A State License Is Not A Defense To A Federal Prosecution.**

The license shall contain a description of the major differences between state and federal law and an explanation of the fact that local laws and ordinances on firearms are preempted by state law and must be consistent with state law. The application shall contain questions about the applicant's eligibility under RCW 9.41.040 to possess a pistol, the applicant's place of birth, whether the applicant is a United States citizen, and whether he or she has been required to register with the state or federal government and any identification or registration number, if applicable. The applicant shall not be required to produce a birth certificate or other evidence of

citizenship. A person who is not a citizen of the United States shall meet the additional requirements of RCW 9.41.170 and product proof of compliance with RCW 9.41.070 upon application. The license shall be in triplicate and in a form to be prescribed by the department of licensing.

The original thereof shall be delivered to the licensee, the duplicate shall within seven days be sent by registered mail to the director of licensing and the triplicate shall be preserved for six years, by the authority issuing the license.

The department of licensing shall make available to law enforcement and corrections agencies, in an on-line format, all information received under this subsection.

(5) The nonrefundable fee, paid upon application, for the original five-year license shall be thirty-six dollars plus additional charges imposed by the Federal Bureau of Investigation that are passed on to the applicant. No other state or local branch unit or government may impose any additional charges on the applicant for the issuance of the license. \* \* \*

(6) The nonrefundable fee for the renewal of such license shall be thirty-two dollars. No other branch or unit of government may impose any additional charges on the applicant for the renewal of the license. \* \* \*

(7) The nonrefundable fee for replacement of lost or damaged licenses is ten dollars to be paid to the issuing authority.

(8) Payment shall be by cash, check, or money order at the option of the applicant. Additional methods of payment may be allowed at the option of the issuing authority.

(9) A licensee may renew a license if the licensee applied for a renewal within ninety days before or after the expiration date of the license. A license so renewed shall take effect on the expiration date of the prior license. A licensee renewing after the expiration date of the license must pay a late renewal penalty of ten dollars in addition to the renewal fee specified in subsection (6) of this section. \* \* \*

(10) Notwithstanding the requirements of subsections (1) through (8) of this section, the chief of police of the municipality or the sheriff of the county of the applicant's residence may issue a temporary emergency license for good cause pending review under subsection (1) of this section. However, a temporary emergency license issued under this subsection shall not exempt the holder of the license from any records check requirement. Temporary emergency licenses shall be easily distinguishable from regular licenses.

(11) A political subdivision of the state shall not modify the requirements of this section or chapter, nor may a political subdivision ask the applicant to voluntarily submit any information not required by this section.

(12) A person who knowingly makes a false statement regarding citizenship or identify on an application for a concealed pistol license is guilty of false swearing under RCW 9A.72.040. In addition to any other penalty provided by law, the concealed pistol license of a person who knowingly makes a false statement shall be revoked, and the person shall be permanently ineligible for a concealed pistol license.

(13) A person may apply for a concealed pistol license:

(a) To the municipality or to the county in which the applicant resides if the applicant resides in a municipality;

(b) To the county in which the applicant resides if the applicant resides in an unincorporated area; or

(c) Anywhere in the state if the applicant is a nonresident.

**9.41.080. Delivery forbidden.** No person deliver a firearm to any person whom he or she has reasonable cause to believe is ineligible under RCW 9.41.040 to possess a firearm. Any person violating this section is guilty of a Class C felony, punishable under chapter 9A.20 RCW.

**9.41.090. Commercial sales regulated - Requirements for delivery - Hold on delivery.**

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

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

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

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

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

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

(3) In any case under subsection (1)(c) of this section where the applicant has an outstanding warrant for his or her arrest from any court of competent jurisdiction for a felony or misdemeanor, the dealer shall hold the delivery of the pistol until the warrant for arrest is served and satisfied by appro-

priate court appearance. The local jurisdiction for purposes of the sale shall confirm the existence of outstanding warrants within seventy-two hours after notification of the application to purchase a pistol is received. The local jurisdiction shall also immediately confirm the satisfaction of the warrant on request of the dealer so that the hold may be released if the warrant was for an offense other than an offense making the person ineligible under RCW 9.41.040 to possess a pistol.

(4) In any case where the chief or sheriff of the local jurisdiction has reasonable grounds based on the following circumstances: (a) Open criminal charges, (b) pending criminal proceedings, (c) pending commitment proceedings, (d) an outstanding warrant for an offense making a person ineligible under RCW 9.41.040 to possess a pistol, or (e) an arrest for an offense making a person ineligible under RCW 9.41.040 to possess a pistol, if the records of disposition have not yet been reported or entered sufficiently to determine eligibility to purchase a pistol, the local jurisdiction may hold the sale and delivery of the pistol beyond five days up to thirty days in order to confirm existing records in this state or elsewhere. After thirty days, the hold will be lifted unless an extension of the thirty days is approved by a local district court or municipal court for good cause shown. A dealer shall be notified of each hold placed on the sale by local law enforcement and of any application to the court for additional hold period to confirm records or confirm the identity of the applicant.

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

The application shall contain a warning substantially as follows:

**CAUTION: Although state and local laws do not differ, federal law and state law on the possession of firearms differ. If you are prohibited by federal law from possessing a firearm, you may be prosecuted in federal court. State permission to purchase a firearm is not a defense to a federal prosecution. The purchaser shall be given a copy of the department of fish and wildlife pamphlet on the legal limits of the use of firearms, firearms safety, and the fact that local laws and ordinances on firearms are preempted by state law and must be consistent with state law.**

The dealer shall, by the end of the business day, sign and attach his or her address and deliver a copy of the application and such other documentation as required under subsection (1) of this section to the chief of police of the municipality or the sheriff of the county of which the purchaser is a resident. The triplicate shall be retained by the dealer for six years. The dealer shall deliver the pistol to the purchaser following the period of time specified in this section unless the dealer is notified of an investigative

hold under subsection (4) of this section in writing by the chief of police of the municipality or the sheriff of the county, whichever is applicable, denying the purchaser's application to purchase and the grounds thereof. The application shall not be denied unless the purchaser is not eligible to possess a pistol under RCW 9.41.040 or 9.41.045, or federal law.

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

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

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

**9.41.094. Waiver of confidentiality.** A signed application to purchase a pistol shall constitute a waiver of confidentiality and written request that the department of social and health services, mental health institutions, and other health care facilities release, to an inquiring court or law enforcement agency.

**9.41.097.**

(1) The department of social and health services, mental health institutions, and other health care facilities shall, upon request of a court or law enforcement agency, supply such relevant information as is necessary to determine the eligibility of a person to possess a pistol or to be issued a concealed pistol license under RCW 9.41.070 or to purchase a pistol under RCW 9.41.090.

(2) Mental health information received by:

(a) The department of licensing pursuant to RCW 9.41.047 or RCW 9.41.170;

(b) An issuing authority pursuant to RCW 9.41.047 or RCW 9.41.070;

(c) A chief of police or sheriff pursuant to RCW 9.41.090 or 9.41.170;

(d) A court or law enforcement agency pursuant to subsection;

(1) Of this section, shall not be disclosed except as provided in RCW 42.17.318.

**9.41.0975. Officials and agencies - Immunity, writ of mandamus.**

(1) The state, local governmental entities, any public or private agency, and the employees of any state or local governmental entity or public or private agency, acting in good faith, are immune from liability:

(a) For failure to prevent the sale or transfer of a firearm to a person whose receipt or possession of the firearm is unlawful;

(b) For failure to prevent the sale or transfer of a firearm to a person who may lawfully receive or possess a firearm;

(c) For issuing a concealed pistol license to a person ineligible for such a license;

(d) For failing to issue a concealed pistol license to a person eligible for such a license;

(e) For revoking or failing to revoke and issued concealed pistol license;

(f) For errors in preparing or transmitting information as part of determining a person's eligibility to receive or possess a firearm, or eligibility for a concealed pistol license;

(g) For issuing a dealer's license to a person ineligible for such a license; or

(h) For failing to issue a dealer's license to a person eligible for such a license.

(2) An application may be made to a court of competent jurisdiction for a writ of mandamus:

(a) Directing an issuing agency to issue a concealed pistol license wrongfully refused;

(b) Directing a law enforcement agency to approve an application to purchase wrongfully denied;

(c) Directing that erroneous information resulting either in the wrongful refusal to issue a concealed pistol license or in the wrongful denial of a purchase application be corrected; or

(d) Directing a law enforcement agency to approve a dealer's license wrongfully denied.

The application for the writ may be made in the county in which the application for a concealed pistol license or to purchase a pistol was made, or in Thurston county, at the discretion of the petitioner. A court shall provide an expedited hearing for an application brought under this subsection (2) for a writ of mandamus. A person granted a writ of mandamus under this subsection (2) shall be awarded reasonable attorneys' fees and costs.

**9.41.100. Dealer Licensing and Registration required.** Every dealer shall be licensed as provided in RCW 9.41.110 and shall register with the department of revenue as provided in chapters 82.04 and 82.32 RCW.

**9.41.110. Dealer's licenses, by whom granted and conditions thereof - Wholesale sales excepted - Permits prohibited.**

(1) No dealer may sell or otherwise transfer, or expose for sale or transfer, or have in his or her possession with intent to sell, otherwise transfer, any pistol without being licensed as provided in this section.

(2) No dealer may sell or otherwise transfer, or expose for sale or transfer, or have in his or her possession with intent to sell, or otherwise transfer, any firearm other than a pistol without being licensed as provided in this section.

(3) No dealer may sell or otherwise transfer, or expose for sale or transfer, or have in his or her possession with intent to sell, or otherwise transfer, any ammunition without being licensed as provided in this section.

(4) The duly constituted licensing authorities of any city, town, or political subdivision of this state shall grant licenses in forms prescribed by the director of licensing effective for not more than one year from the date of issue permitting the licensee to sell firearms within this state subject to the following conditions, for breach of any of which the license shall be forfeited and the licensee subject to punishment as provided in RCW 9.41.010 through 9.41.810. A licensing authority shall forward a copy of each license granted to the department of licensing. The department of licensing shall notify the department of revenue of the name and address of each dealer licensed under this section.

(5)(a) A licensing authority shall, within thirty days after the filing of an application of any person for a dealer's license, determine whether to grant the license. However, if the applicant does not have a valid permanent

Washington driver's license or Washington state identification card, or has not been a resident of the state for the previous consecutive ninety days, the licensing authority shall have up to sixty days to determine whether to issue a license. No person shall qualify for a license under this section without first receiving a federal firearms license and undergoing fingerprinting and a background check. In addition, no person ineligible to possess a firearm under RCW 9.41.040 or ineligible for a concealed pistol license under RCW 9.41.070 shall qualify for a dealer's license.

**(b)** A dealer shall require every employee who may sell a firearm in the course of his or her employment to undergo fingerprinting and a background check. An employee must be eligible to possess a firearm, and must not have been convicted of a crime that would make the person ineligible for a concealed pistol license, before being permitted to sell a firearm. Every employee shall comply with requirements concerning purchase applications and restrictions on delivery of pistols that are applicable to dealers.

**(6)(a)** Except as otherwise provided in (b) of this subsection, the business shall be carried on only in the building designated in the license. For the purpose of this section, advertising firearms for sale shall not be considered the carrying of business.

**(b)** A dealer may conduct business temporarily at a location other than the building designated in the license, if the temporary location is within Washington state and is the location of a gun show sponsored by a national, state, or local organization, or an affiliate of any such organization, devoted to the collection, competitive use, or other sporting use of firearms in the community. Nothing in this subsection (6)(b) authorizes a dealer to conduct business in or from a motorized or towed vehicle.

In conducting business temporarily at a location other than the building designated in the license, the dealer shall comply with all other requirements imposed on dealers by RCW 9.41.090, 9.41.100, and 9.41.110. The license of a dealer who fails to comply with the requirements of RCW 9.41.080 and 9.41.090 and subsection (8) of this section while conducting business at a temporary location shall be revoked, and the dealer shall be permanently ineligible for a dealer's license.

**(7)** The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises in the area where firearms are sold, or at the temporary location, where it can easily be read.

**(8)(a)** No pistol may be sold:

**(i)** In violation of any provisions of RCW 9.41.010 through 9.41.180; nor

**(ii)** May a pistol be sold under any circumstances unless the purchaser is personally known to the dealer or shall present clear evidence of his or her identity.

**(b)** A dealer who sells or delivers any firearm in violation of RCW 9.41.080 is guilty of a Class C felony. In addition to any other penalty provided for by law, the dealer is subject to mandatory permanent revocation of his or her dealer's license and permanent ineligibility for a dealer's license.

**(9)(a)** A true record in triplicate shall be made of every pistol sold, in a book kept for the purpose, the form of which may be prescribed by the director of licensing and shall be personally signed by the purchaser and by the person effecting the sale, each in the presence of the other, and shall contain the date of sale, the caliber, make, model and manufacturer's number of the weapon, the name, address, occupation, and place of birth of the pur-

chaser and a statement signed by the purchaser that he or she is not ineligible under RCW 9.41.040 to possess a firearm.

**(9)(b)** One copy shall within six hours be sent by certified mail to the chief of police of the municipality or the sheriff of the county of which the purchaser is a resident;

**(10)** Subsections (2) through (9) of this section shall not apply to sales at wholesale

**9.41.120. Certain transfers forbidden.** No person other than a duly licensed dealer shall make any loan secured by a mortgage, deposit or pledge of a pistol. Any licensed dealer receiving a pistol as a deposit or pledge for a loan shall keep such records and make such reports as are provided by law for pawnbrokers and secondhand dealers in cities of the first class. A duly licensed dealer may mortgage any pistol or stock of pistols but shall not deposit or pledge the same with any other person.

**9.41.122. Out-of-state purchasing.** Residents of Washington may purchase rifles and shotguns in a state other than Washington: *Provided*, That such residents conform to the applicable provisions of the Federal Gun Control Act of 1968, Title IV, Pub.L. 90-351 as administered by the United States secretary of the treasury: *And provided further*, That such residents are eligible to purchase or possess such weapons in Washington and in the state in which the purchase is made.

**9.41.124. Purchasing by nonresidents.** Residents of a state other than Washington may purchase rifles and shotguns in Washington: *Provided*, That such residents conform to the applicable provisions of the Federal Gun Control Act of 1968, Title IV, Pub.L. 90-351 as administered by the United States secretary of the treasury: *And provided further*, That such residents are eligible to purchase or possess such weapons in Washington and in the state in which such persons reside.

**9.41.129. Recordkeeping requirements.** The department of licensing may keep copies or records of applications for concealed pistol licenses provided for in RCW 9.41.070, copies or records of applications for alien firearm licenses, copies or records of applications to purchase pistols provided for in RCW 9.41.090, and copies or records of pistol transfers provided for in RCW 9.41.110. The copies and records shall not be disclosed except as provided in RCW 42.17.318.

**9.41.135. Verification of license and registration - Notice to federal government.**

**(1)** At least once every twelve months, the department of licensing shall obtain a list of dealers licensed under 18 U.S.C. Sec. 923(a) with business premises in the state of Washington from the United States, bureau of alcohol, tobacco, and firearms. The department of licensing shall verify that all dealers on the list provided by the bureau of alcohol, tobacco, and firearms are licensed and registered as required by RCW 9.41.100.

**(2)** At least once every twelve months, the department of licensing shall obtain from the department of revenue and the department of revenue shall transmit to the department of licensing a list of dealers registered with the

department of revenue a list of dealers whose names and addresses were forwarded to the department of revenue by the department of licensing under RCW 9.41.110, who failed to register with the department of revenue as required by RCW 9.41.100.

(3) At least once every twelve months, the department of licensing shall notify the bureau of alcohol, tobacco and firearms of all dealers licensed under 18 U.S.C. Sec 923(a) with business premises in the state of Washington who have not complied with the licensing or registration requirements of RCW 9.41.100. In notifying the bureau of alcohol, tobacco and firearms, the department of licensing shall not specify whether a particular dealer has failed to comply with licensing requirements or has failed to comply with registration requirements.

**9.41.140. Alteration of identifying marks - Exceptions.** No person change, alter, remove, or obliterate the name of the maker, model, manufacturer's number, or other mark of identification on any firearm. Possession of any firearm upon which any such mark shall have been changed, altered, removed, or obliterated, shall be prima facie evidence that the possessor has changed, altered, removed, or obliterated the same. This section not apply to replacement barrels in old firearms, which barrels are produced by current manufacturers and therefor do not have the markings on the barrels of the original manufacturers who are no longer in business. This section also shall not apply if the changes do not make the firearm illegal for the person to possess under state or federal law.

**9.41.170. Alien's license to carry firearms - Exception.**

(1) It is a Class C felony for any person who is not a citizen of the United States to carry or possess any firearm, without first having obtained an alien firearm license from the director of licensing. In order to be eligible of a license, an alien must provide proof that he or she is lawfully present in the United States, which the director of licensing shall verify through the appropriate authorities. Except as provided in subsection (2)(a) of this section, and subject to the additional requirements of subsection (2)(b) of this section, the director of licensing may issue an alien firearm license only upon receiving from the consul domiciled in this state representing the country of the alien, a certified copy of the alien's criminal history in the alien's country indicating the alien is not ineligible under RCW 9.41.040 to own, possess, or control a firearm, and the consul's attestation that the alien is a responsible person.

(2)(a) Subject to the additional requirements of (b) of this subsection, the director of licensing may issue an alien firearm license without a certified copy of the alien's criminal history or the consul's attestation required by subsection (1) of this section, if the alien has been a resident of this state for at least two years and:

(i) The alien is from a country without a consul domiciled within this state, or

(ii) the consul has failed to provide, within ninety days after a request by the alien, the criminal history or attestation required by subsection (1) of this section.

(b) Before issuing an alien firearm license under subsection (1) of this section or this subsection (2), the director of licensing shall ask the local

law enforcement agency of the jurisdiction in which the alien resides to complete a background and fingerprint check to determine the alien's eligibility under RCW 9.41.040 to own, possess, or control a firearm. The law enforcement agency shall complete a background check within thirty days after the request, unless the alien does not have a valid Washington driver's license or Washington state identification card. In the later case, the law enforcement agency shall complete the background check within sixty days after the request.

A signed application for an alien firearm license shall constitute a waiver of confidentiality and written request that the department of social and health services, mental health institutions, and other health care facilities release information relevant to the applicant's eligibility for an alien firearm license to an inquiring law enforcement agency.

(3) The alien firearm license shall be valid for five years from the date of issue so long as the alien is lawfully present in the United States. The nonrefundable fee, paid upon application, for the five-year license shall be fifty-five dollars plus additional charges imposed by the Federal Bureau of Investigation that are passed on to the applicant. The fee shall be distributed as follows:

- (a) Fifteen dollars shall be paid to the department of licensing;
- (b) Twenty-five dollars shall be paid to the Washington state patrol; and
- (c) Fifteen dollars shall be paid to the local law enforcement agency conducting the background check.

(4) This section shall not apply to Canadian citizens resident in a province which has an enactment or public policy providing substantially similar privilege to residents of the state of Washington and who are carrying or possessing weapons for the purpose of using them in the hunting of game while such persons are in the act of hunting, or while on a hunting trip, or while completing in a bona fide trap or skeet shoot or any other organized contest where rifles, pistols, or shotguns are used. Nothing in this section shall be construed to allow aliens to hunt or fish in this state without first having obtained a regular hunting or fishing license.

**9.41.185. Coyote getters.** The use of "coyote getters" or similar spring-triggered shell devices shall not constitute a violation of any of the laws of the state of Washington when the use of such "coyote getters" is authorized by the state department of wildlife in cooperative programs with the United States Fish and Wildlife Service, for the purpose of controlling or eliminating coyotes harmful to livestock and game animals on range land or forest areas.

**9.41.190. Unlawful firearms - Exceptions.**

(1) It is unlawful for any person to manufacture, own, buy, sell, loan, furnish, transport, or have in possession or under control, any machinegun, short-barreled shotgun, or short-barreled rifle; or any part designed and intended solely and exclusively for use in a machinegun, short-barreled shotgun, or short-barreled rifle, or in converting a weapon into a machinegun, short-barreled shotgun, or short-barreled rifle; or to assemble or repair any machinegun, short-barreled shotgun, or short-barreled rifle.

(2) 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 machineguns, 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.

(3) It shall be an affirmative defense to a prosecution brought under this section that the machinegun, short-barreled shotgun, or short-barreled rifle was acquired prior to the effective date of this sections and is possessed in compliance with federal law.

(4) Any person violating this section is guilty of a Class C felony.

**9.41.220. Unlawful firearms and parts contraband.** All machineguns, short-barreled shotguns, or short-barreled rifles, or any part designed and intended solely any exclusively for use in a machinegun, short-barreled shotgun, or short-barreled rifle, or in converting a weapon into a machinegun, short-barreled rifle, or in converting a weapon into a machinegun, short-barreled shotgun, or short-barreled rifle, illegally held or illegally possessed are hereby declared to be contraband, and it shall be the duty of all peace officers, and/or any officer or member of the armed forces of the United States or the state of Washington, to seize said machinegun, short-barreled shotgun, , or short-barreled rifle, or parts thereof, wherever and whenever found. \* \* \* \*

**9.41.240. Use of firearms by minor.** Unless an exception under RCW 9.41.042, RCW 9.41.050 or 9.41.060 applies, a person at least eighteen years of age, but less than twenty-one years of age, may possess a pistol only:

(1) In the person's place of abode;

(2) At the person's fixed place of business; or

(3) On real property under his or her control.

**9.41.290. State preemption.** The state of Washington hereby fully occupies and preempts the entire field of firearms regulation within the boundaries of the state, including the registration, licensing, possession, purchase, sale, acquisition, transfer, discharge, and transportation of firearms, or any other element relating to firearms or parts thereof, including ammunition and reloader components. Cities, towns, and counties or other municipalities may enact only those laws and ordinances relating to firearms that are specifically authorized by state law, as in RCW 9.41.300, and are consistent with this chapter. Such local ordinances shall have the same penalty as provided for by state law. Local laws and ordinances that are inconsistent with, more restrictive than, or exceed the requirements of state law shall not be enacted and are preempted and repealed, regardless of the nature of the code, charter, or home rule status of such city, town, county, or municipality.

**9A.56.300. Theft of a firearm.**

- (1) A person is guilty of theft of a firearm he or she commits a theft of any firearm if the person:
- (2) This section applies regardless of the stolen firearm's value,
- (3) Each firearm taken in the theft under this section is a separate offense.
- (4) The definition of "theft" and the defense allowed against the prosecution for theft under RCW 9A.56.020 shall apply to the crime of theft of a firearm.
- (5) As used in this section, "firearm" means any firearm as defined in RCW 9.41.010.
- (4) Theft of a firearm is a Class B felony.

**9A.56.310. Possessing a stolen firearm.**

- (1) A person is guilty of possessing a stolen firearm if he or she possesses, carries, delivers, sells, or is in control of a stolen firearm.
- (2) This section applies regardless of the stolen firearm's value.
- (3) Each stolen firearm possessed under this section is a separate offense.
- (4) The definition of "possessing stolen property" and the defense allowed against the prosecution for possessing stolen property under RCW 9A.56.140 shall apply to the crime of possessing a stolen firearm.
- (5) As used in this section, "firearm" means any firearm as defined in 9.41.010.
- (6) Possessing a stolen firearm is a Class B felony.

**Title 26. Domestic Relations**

**Chapter 26.28. Infants**

**26.28.010. Age of majority.** Except as otherwise specifically provided by law, all persons shall be deemed and taken to be of full age for all purposes at the age of eighteen years.

**26.28.020. Married persons - When deemed of full age.** All minor persons married to a person of full age shall be deemed and taken to be of full age.

**26.28.080. Certain acts prohibited - Belief minor in representative capacity, no defense - Penalty.** Every person who: \* \* \* \*

(5) Shall sell, or give, or permit to be sold or given to any person under the age of eighteen years, any revolver or pistol;

Shall be guilty of a gross misdemeanor.

It shall be no defense to a prosecution for a violation of this section that the person acted, or was believed by the defendant to act, as agent or representative of another.