

FORMATTING NOTE:

In initiatives, legislative bills and other proposed measures, language that is to be deleted from current statutes is represented by a "strikethrough" character and language that is to be added is underlined. Because these special characters cannot be formatted in all Internet browsers, a different set of symbols is used for presenting these proposals on-line. The symbols are as follows:

- Text that is surrounded by (({- text here -})) is text that will be DELETED FROM the existing statute if the proposed measure is approved.
- Text that is surrounded by {+ text here +} is text that will be ADDED TO the existing statute if the proposed measure is approved.
- {+ NEW SECTION+} (found at the beginning of a section or paragraph) indicates that ALL of the text in that section will become law if the proposed measure is approved.

* * *

INITIATIVE 211

AN ACT Relating to individual self-defense and the recognition of concealed pistol licenses issued by jurisdictions outside Washington; amending RCW 9.41.050, 9.41.070, 9.41.090, and 9.41.124; creating new sections; and declaring an emergency.

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

{+ NEW SECTION. +} Sec. 1. FINDINGS. The sovereign people of the state of Washington find that:

(1) Violent crime impacts all segments of our society and all areas of our state;

(2) Repeated annual surveys by the National Institute of Justice show that those who defend themselves with firearms are less likely to be injured or killed as the result of a criminal attack than those who do nothing or who resist by other means;

(3) Numerous studies by federal agencies, universities, and private organizations have concluded that firearms are used to protect citizens' lives and property across the United States as many as two million four hundred thousand (2,400,000) times annually--more than six thousand five hundred (6,500) people a day. Of the two million four hundred thousand (2,400,000) self-defense cases, more than one hundred ninety-two thousand (192,000) are by women defending themselves against sexual abuse. In the overwhelming majority of these incidents, no shots are fired and criminal actions are halted merely by the demonstrated resolve of the armed citizen in deterring criminal attack;

(4) In the most exhaustive study of its kind to date, University of Chicago Law School Professor John Lott has determined that states that mandate the issue of concealed pistol licenses to citizens based on clear and objective criteria achieve an overall reduction in violent crime as a result;

(5) An extensive survey of felons revealed that fifty-seven percent (57%) agreed that most criminals feared encountering an armed victim more than encountering the police. Eighty-one percent (81%) agreed that a smart criminal always tries to find out if his or her potential victim is armed;

(6) Police cannot always protect, and are not legally liable for failing to protect, individual citizens, as evidenced by the following:

(a) The courts have consistently ruled that the police do not have an obligation to protect individuals, only the public in general. For example, in *Warren v. District of Columbia Metropolitan Police Department*, 444 A.2d 1 (D.C. App. 1981), the court stated: "[C]ourts have without exception concluded that when a municipality or other governmental entity undertakes to furnish police services, it assumes a duty only to the public at large and not to individual members of the community;"

(b) The United States Department of Justice found that, in 1989, there were one hundred sixty-eight thousand eight hundred eighty-one (168,881) crimes of violence for which police had not responded within one hour;

(c) The *Seattle Post-Intelligencer* reported that, in 1996, the Seattle Police Department's average response time to a verified emergency was nine and two-tenths (9.2) minutes-9.2 minutes in which the citizen had to rely on the means at hand for protection.

{+ NEW SECTION. +} Sec. 2. INTENT. The sovereign people of the state of Washington declare that:

(1) Self-defense is a natural right that is reaffirmed in Amendment II to the Constitution of the United States, Article I, section 24 of the Constitution of the state of Washington, and RCW 9.41.070(1);

(2) The right of self-defense should not arbitrarily stop at a state border;

(3) The lives and well-being of visitors to the state of Washington should be subject to the same protections provided the citizens of this state;

(4) At this time more than twenty-four (24) other states offer some form of recognition to concealed pistol licenses issued by other states;

(5) Enactment of this act would extend Washington licensees' right to self-defense in several other states and would further encourage additional states to pass similar legislation;

(6) Article IV, section 1 of the Constitution of the United States reads, "Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State." It is the intent of the people that concealed pistol licenses issued by other states, territories, and political subdivisions within the United States be recognized as valid in the state of Washington.

Sec. 3. RCW 9.41.050 and 1997 c 200 s 1 are each amended to read as follows:

RECIPROCITY. (1)(a) Except in the person's place of abode or fixed place of business, a person shall not carry a pistol concealed on his or her person without a (({- license to carry a -})) concealed pistol {+ license:

(i) Issued under the provisions of RCW 9.41.070; or

(ii) Issued in accordance with the provisions of the law of a state or territory of the United States, or any other political subdivision within the United States but also outside the state of Washington, provided:

(A) The bearer of the out-of-state concealed pistol license is age twenty-one years or over; and

(B) The out-of-state concealed pistol license shall only have been issued following a criminal history and mental health records check and the bearer is found to be fully qualified under federal law and that state's, territory's, or political subdivision's law to own, possess,

or control a firearm; and

(C) The bearer of the out-of-state concealed pistol license is not a resident of the state of Washington; and

(D) The bearer of the out-of-state concealed pistol license has the license in his or her immediate possession while carrying a concealed pistol.

In the absence of the immediate possession of an out-of-state concealed pistol license, it shall be an affirmative defense to the charge of carrying a concealed pistol without a license under this subsection (1)(a) if the person can produce evidence of an out-of-state concealed pistol license issued in his or her name. +}

{+ It is not necessary for the state to negate the existence of an out-of-state concealed pistol license in any complaint, information, indictment, or other pleading or in any trial, hearing, or other proceeding under this subsection (1)(a). The burden of proof of the existence of such concealed pistol license is upon the person claiming it +}.

(b) Every licensee shall have his or her concealed pistol license{+ , as issued under the provisions of RCW 9.41.070 or an out-of-state concealed pistol license in compliance with (a)(ii) of this subsection, +} in his or her immediate possession at all times that he or she is required by this section to have a concealed pistol license and shall display the same upon demand to any police officer or to any other person when and if required by law to do so. Any violation of this subsection (1)(b) shall be a class 1 civil infraction under chapter 7.80 RCW and shall be punished accordingly pursuant to chapter 7.80 RCW and the infraction rules for courts of limited jurisdiction.

(2) A person shall not carry or place a loaded pistol in any vehicle unless the person has a license to carry a concealed pistol and: (a) The pistol is on the licensee's person, (b) the licensee is within the vehicle at all times that the pistol is there, or (c) the licensee is away from the vehicle and the pistol is locked within the vehicle and concealed from view from outside the vehicle.

(3) A person at least eighteen years of age who is in possession of an unloaded pistol shall not leave the unloaded pistol in a vehicle unless the unloaded pistol is locked within the vehicle and concealed from view from outside the vehicle.

(4) Violation of any of the prohibitions of subsections (2) and (3) of this section is a misdemeanor.

(5) Nothing in this section permits the possession of firearms illegal to possess under state or federal law.

{+ (6) "Concealed pistol license" as used in this section means a license issued under the provisions of RCW 9.41.070 or an out-of-state license, permit, or other document authorizing an individual to carry a concealed firearm issued in accordance with the provisions of the law of a state or territory of the United States, or any other political subdivision within the United States but also outside the state of Washington. +}

Sec. 4. RCW 9.41.070 and 1996 c 295 s 6 are each amended to read as follows:

CONCEALED PISTOL LICENSES. (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 {+ or renewal +} to such person to carry a pistol concealed on his or her person within this state for five years from date of issue, for the purposes 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 {+ or renewal +}. The issuing authority shall not{+ , during regular business hours, +} refuse to accept completed applications for concealed pistol licenses (({- during regular business hours -})) {+ or renewals or deliver completed licenses or renewals to applicants. Upon request of the applicant, the issuing agency shall mail the completed concealed pistol license or renewal to the applicant at no additional cost +}.

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) He or she is under twenty-one years of age;

(d) He or she 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 felony 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)(e) 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 or his or her privilege to carry a concealed pistol 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 national instant criminal background check system (NICIS) (once the system is established), +} 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 the option of the applicant, date and place of birth, race, gender, description, not more than two complete sets of 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 {+ mental +} 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 and 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, and whether the applicant is a United States citizen. 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 produce proof of compliance with RCW 9.41.170 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 to the director of licensing and the triplicate shall be preserved for six years, by the authority issuing the license. {+ In the event the applicant does not reside within the jurisdiction of the issuing agency, a photocopy of the license shall, within seven days, be sent to the law enforcement agency with jurisdiction over the residence of the applicant. +}

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 or unit of government may impose any additional charges on the applicant for the issuance of the license.

The fee shall be distributed as follows:

- (a) Fifteen dollars shall be paid to the state general fund;
- (b) Four dollars shall be paid to the agency taking the fingerprints of the person licensed;
- (c) Fourteen dollars shall be paid to the issuing authority for the purpose of enforcing this chapter; and
- (d) Three dollars to the firearms range account in the general fund.

(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.

The renewal fee shall be distributed as follows:

(a) Fifteen dollars shall be paid to the state general fund;
(b) Fourteen dollars shall be paid to the issuing authority for the purpose of enforcing this chapter; and
(c) Three dollars to the firearms range account in the general fund.

(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 applies for 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. The fee shall be distributed as follows:

(a) Three dollars shall be deposited in the state wildlife fund and used exclusively for the printing and distribution of a pamphlet on the legal limits of the use of firearms, firearms safety, and the preemptive nature of state law. The pamphlet shall be given to each applicant for a license; and

(b) Seven dollars shall be paid to the issuing authority for the purpose of enforcing this chapter.

(10) Notwithstanding the requirements of subsections (1) through (9) of this section, the chief of police of (({- the -})) {+ a +} municipality or the sheriff of (({- the -})) {+ a +} 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 identity 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 for 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) -})) {+ to any municipality or county a +}nywhere in the state (({- if the applicant is a nonresident -})) {+ , provided: If a Washington resident applies to a county or city outside of the jurisdiction of his or her residence, the issuing agency shall check records with the law enforcement agency with jurisdiction over the residence of the applicant for potential disqualifying information +}.

Sec. 5. RCW 9.41.090 and 1996 c 295 s 8 are each amended to read

as follows:

DELIVERY OF PISTOLS. (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 {+ Washington state +} concealed pistol license {+ and evidence that the purchaser is a Washington state resident or is eligible under federal law 18 U.S.C. Sec. 922(b), as amended, +} 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 {+ Washington state +} 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 application 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 for 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 appropriate 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 a 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; 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.

Sec. 6. RCW 9.41.124 and 1970 ex.s. c 74 s 2 are each amended to read as follows:

SALES OF PISTOLS TO NONRESIDENTS PROHIBITED. {+ (1) +} Residents of a state other than Washington may purchase rifles and shotguns in Washington {+ if +}: (({- PROVIDED, That -})) {+ (a) S +}uch residents conform to the applicable provisions of the federal (({- Gun Control -})) {+ Omnibus Crime Control and Safe Streets +} Act of 1968, Title IV, Pub. L. 90-351{+ , as amended, +} as administered by the United States secretary of the treasury(({- : AND PROVIDED FURTHER, That -})) {+ ; and (b) +} such residents are eligible to purchase or possess such weapons in Washington and in the state in which such persons reside.

{+ (2) Residents of a state other than Washington are prohibited from purchasing pistols in this state unless: (a) Such sales are authorized under federal law 18 U.S.C. Sec. 922(b), as amended; and (b) such residents are eligible to purchase or possess such weapons in Washington and in the state in which such persons reside. +}

{+ NEW SECTION. +} Sec. 7. LAW ENFORCEMENT POWERS RETAINED. Nothing in this act shall preclude law enforcement officers from exercising their legitimate performance of duties in verifying the validity of a concealed pistol license displayed by a citizen incident to a traffic stop or other legitimate police/citizen contact.

{+ NEW SECTION. +} Sec. 8. SHORT TITLE. This act may be known and cited as the Citizens' Self-Defense Act.

{+ NEW SECTION. +} Sec. 9. SEVERABILITY. 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. 10. EMERGENCY DECLARATION. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

{+ NEW SECTION. +} Sec. 11. CAPTIONS. Captions as used in this act do not constitute any part of the law.

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