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SENATE BILL 6310

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State of Washington

64th Legislature

2016 Regular Session

By Senators Jayapal, Pedersen, Carlyle, Frockt, Ranker, Cleveland,  
and Fraser

Read first time 01/14/16. Referred to Committee on Law & Justice.

1 AN ACT Relating to promoting the safety of children and  
2 communities through responsible storage of firearms; amending RCW  
3 9.41.010; adding new sections to chapter 9.41 RCW; creating a new  
4 section; and prescribing penalties.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that responsible  
7 firearm ownership includes the responsibility to safely store  
8 firearms so that children do not inappropriately get access to them.  
9 Unsafe storage of firearms can have devastating consequences for  
10 children in and out of the home and in the community. The legislature  
11 intends by this act to promote the responsible storage of firearms to  
12 reduce the accidental gun injury and death of young children gaining  
13 access to unsafely stored guns, to reduce adolescent suicide, and to  
14 prevent youth from inappropriately accessing firearms to cause harm  
15 in the community.

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 9.41 RCW  
17 to read as follows:

18 (1) A person who stores or leaves a firearm in a location where  
19 the person knows, or reasonably should know, that a child is likely  
20 to gain access:

1 (a) Is guilty of child endangerment due to unsafe storage of a  
2 firearm in the first degree if a child obtains access and possession  
3 of the firearm and the child causes personal injury or death with the  
4 firearm; or

5 (b) Is guilty of child endangerment due to unsafe storage of a  
6 firearm in the second degree if a child obtains access and possession  
7 of the firearm and the child:

8 (i) Causes the firearm to discharge;

9 (ii) Exhibits the firearm in a public place or in an angry,  
10 threatening, or careless manner; or

11 (iii) Uses the firearm in the commission of a crime.

12 (2)(a) Child endangerment due to unsafe storage of a firearm in  
13 the first degree is a class C felony punishable according to chapter  
14 9A.20 RCW.

15 (b) Child endangerment due to unsafe storage of a firearm in the  
16 second degree is a misdemeanor punishable according to chapter 9A.20  
17 RCW.

18 (3) Subsection (1) of this section does not apply if:

19 (a) The firearm is secured in a locked box, gun safe, other  
20 secure locked storage space, or secured with a lock or any device  
21 that prevents the firearm from discharging;

22 (b) The child's access to the firearm is with the lawful  
23 permission of the child's parent or guardian and supervised by an  
24 adult;

25 (c) The child's access to the firearm was obtained as a result of  
26 an unlawful entry;

27 (d) The child obtains, or obtains and discharges, the firearm in  
28 a lawful act of self-defense;

29 (e) The firearm is kept on any premises under the custody or  
30 control of a person who has no reasonable expectation, based on  
31 objective facts and circumstances, that a child is likely to be  
32 present on the premises; or

33 (f) The child's access to the firearm was in accordance with RCW  
34 9.41.042.

35 (4) If a death or serious injury occurs as a result of an alleged  
36 violation of subsection (1)(a) of this section, the prosecuting  
37 attorney may decline to prosecute, even though technically sufficient  
38 evidence to prosecute exists, in situations where prosecution would  
39 serve no public purpose, would defeat the purpose of the law in  
40 question, or would result in decreased respect for the law.

1 (5) For the purposes of this section, "child" means a person  
2 under the age of eighteen years.

3 (6) Nothing in this section mandates how or where a firearm must  
4 be stored.

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

7 (1) When selling any firearm, every dealer shall offer to sell or  
8 give the purchaser a locked box, a lock, or a device that prevents  
9 the firearm from discharging.

10 (2) Every store, shop, or sales outlet where firearms are sold,  
11 that is registered as a dealer in firearms with the department of  
12 licensing, shall conspicuously post, in a prominent location so that  
13 all patrons may take notice, the following warning sign, to be  
14 provided by the department of licensing, in block letters at least  
15 one inch in height:

16 "YOU MAY FACE CRIMINAL PROSECUTION IF YOU STORE OR LEAVE AN  
17 UNSECURED FIREARM WHERE A CHILD CAN AND DOES OBTAIN POSSESSION."

18 (3) Every store, shop, or sales outlet where firearms are sold,  
19 that is registered as a dealer in firearms with the department of  
20 licensing, upon the sale or transfer of a firearm, shall deliver a  
21 written warning to the purchaser or transferee that states, in block  
22 letters not less than one-fourth inch in height:

23 "YOU MAY FACE CRIMINAL PROSECUTION IF YOU STORE OR LEAVE AN  
24 UNSECURED FIREARM WHERE A CHILD CAN AND DOES OBTAIN POSSESSION."

25 (4) Every person who violates this section is guilty of a class 3  
26 civil infraction under chapter 7.80 RCW and may be fined up to fifty  
27 dollars. However, no such fines may be levied until thirty days have  
28 expired from the time warning signs required under subsection (2) of  
29 this section are distributed by the department of licensing.

30 (5) Nothing in this section mandates how or where a firearm must  
31 be stored.

32 **Sec. 4.** RCW 9.41.010 and 2015 c 1 s 2 (Initiative Measure No.  
33 594) are each amended to read as follows:

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

36 (1) "Antique firearm" means a firearm or replica of a firearm not  
37 designed or redesigned for using rim fire or conventional center fire  
38 ignition with fixed ammunition and manufactured in or before 1898,

1 including any matchlock, flintlock, percussion cap, or similar type  
2 of ignition system and also any firearm using fixed ammunition  
3 manufactured in or before 1898, for which ammunition is no longer  
4 manufactured in the United States and is not readily available in the  
5 ordinary channels of commercial trade.

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

10 (3) "Crime of violence" means:

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

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

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

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

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

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

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

9 (8) "Felony firearm offense" means:

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

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

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

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

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

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

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

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

26 (12) "Lawful permanent resident" has the same meaning afforded a  
27 person "lawfully admitted for permanent residence" in 8 U.S.C. Sec.  
28 1101(a)(20).

29 (13) "Licensed dealer" means a person who is federally licensed  
30 under 18 U.S.C. Sec. 923(a).

31 (14) "Loaded" means:

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

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

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

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

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

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

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

10 (17) "Person" means any individual, corporation, company,  
11 association, firm, partnership, club, organization, society, joint  
12 stock company, or other legal entity.

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

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

21 (20) "Sale" and "sell" mean the actual approval of the delivery  
22 of a firearm in consideration of payment or promise of payment.

23 (21) "Serious offense" means any of the following felonies or a  
24 felony attempt to commit any of the following felonies, as now  
25 existing or hereafter amended:

26 (a) Any crime of violence;

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

30 (c) Child molestation in the second degree;

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

32 (e) Indecent liberties;

33 (f) Leading organized crime;

34 (g) Promoting prostitution in the first degree;

35 (h) Rape in the third degree;

36 (i) Drive-by shooting;

37 (j) Sexual exploitation;

38 (k) Vehicular assault, when caused by the operation or driving of  
39 a vehicle by a person while under the influence of intoxicating

1 liquor or any drug or by the operation or driving of a vehicle in a  
2 reckless manner;

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

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

9 (n) Any other felony with a deadly weapon verdict under RCW  
10 9.94A.825;

11 (o) Any felony offense in effect at any time prior to June 6,  
12 1996, that is comparable to a serious offense, or any federal or out-  
13 of-state conviction for an offense that under the laws of this state  
14 would be a felony classified as a serious offense; ((~~or~~))

15 (p) Any felony conviction under RCW 9.41.115; or

16 (q) Child endangerment due to unsafe storage of a firearm in the  
17 first degree (section 2(2)(a) of this act).

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

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

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

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

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

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