
SENATE BILL 5485

State of Washington

63rd Legislature

2013 Regular Session

By Senators Kline, Shin, Keiser, Ranker, Frockt, Schlicher, and Kohl-Welles

Read first time 01/31/13. Referred to Committee on Law & Justice.

1 AN ACT Relating to unauthorized access to firearms; reenacting and
2 amending RCW 9.41.010; adding a new section to chapter 9.41 RCW;
3 creating a new section; and prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** The legislature acknowledges the
6 constitutional right of individual citizens to bear arms in defense of
7 themselves or the state. The legislature finds, however, that the
8 exercise of that right carries with it many responsibilities, including
9 the responsibility to prevent the unauthorized access to loaded
10 firearms by children. For those who fail to prevent such unauthorized
11 access to firearms, the legislature intends to criminalize only those
12 deviations from the standard of care that constitute criminal
13 negligence.

14 **Sec. 2.** RCW 9.41.010 and 2009 c 216 s 1 are each reenacted and
15 amended to read as follows:

16 (~~Unless the context clearly requires otherwise,~~) The definitions
17 in this section apply throughout this chapter unless the context
18 clearly requires otherwise.

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

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

13 (3) "Crime of violence" means:

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

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

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

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

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

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

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

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

14 (9) "Lawful permanent resident" has the same meaning afforded a
15 person "lawfully admitted for permanent residence" in 8 U.S.C. Sec.
16 1101(a)(20).

17 (10) "Loaded" means:

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

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

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

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

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

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

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

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

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

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

9 (16) "Serious offense" means any of the following felonies or a
10 felony attempt to commit any of the following felonies, as now existing
11 or hereafter amended:

12 (a) Any crime of violence;

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

16 (c) Child molestation in the second degree;

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

18 (e) Indecent liberties;

19 (f) Leading organized crime;

20 (g) Promoting prostitution in the first degree;

21 (h) Rape in the third degree;

22 (i) Drive-by shooting;

23 (j) Sexual exploitation;

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

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

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

34 (n) Any other felony with a deadly weapon verdict under RCW
35 (~~9.94A.602~~) 9.94A.825; or

36 (o) Any felony offense in effect at any time prior to June 6, 1996,
37 that is comparable to a serious offense, or any federal or out-of-state

1 conviction for an offense that under the laws of this state would be a
2 felony classified as a serious offense.

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

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

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

17 (20) "Child" means any person under the age of fourteen.

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

20 (1) A person who, with criminal negligence, stores or leaves a
21 loaded firearm in or on a premise or vehicle under his or her control
22 in such a manner that permits a child to gain access to the loaded
23 firearm without the express permission of the child's parent or the
24 person having charge of the child or without the permission or
25 supervision required by RCW 9.41.042, is guilty of allowing
26 unauthorized firearm access to a child.

27 (2) It is an affirmative defense that:

28 (a) The person, with lawful possession of the firearm, was carrying
29 the firearm on his or her body;

30 (b) The child obtained access to the firearm as a result of
31 unlawful entry by any person; or

32 (c) Any injury resulted from a target, sport shooting, or hunting
33 accident.

34 (3) It is a misdemeanor if a person violates subsection (1) of this
35 section and a child gains access to the loaded firearm and possesses or
36 exhibits it without supervision:

37 (a) In a public place; or

1 (b) In a criminally negligent manner.

2 (4) It is a class C felony if a person violates subsection (1) of
3 this section and a child gains access to the loaded firearm and uses
4 the firearm to inflict injury or death upon himself or herself or any
5 other person.

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