

Firearms

Constitutional Right to Firearms

Article 1, section 24 of the Washington State Constitution provides that, "The right of the individual citizen to bear arms in defense of himself, or the state, shall not be impaired..." The Second Amendment to the United States Constitution provides that, "A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed."

Overview

In spite of this clear and seemingly unambiguous constitutional language, the area of firearms is highly regulated by both federal and state governments. Washington courts have held that a citizen's right to own, possess and use firearms is subject to reasonable regulation by the state under its police power. To meet the test of reasonableness, the regulation must be reasonably necessary to protect the public safety, health, morals and general welfare, and be substantially related to the legitimate ends sought. Thus Washington has comprehensive laws regarding the manufacture, sale and purchase, possession, and use of firearms.

A person who deals in firearms is required to have a federal firearms license. Individuals are not dealers if they make only occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or sell from their personal collection of firearms. Dealers must use the state system and the national instant criminal (or "Brady Bill") background check system to make background checks of persons wishing to purchase firearms.

Persons are generally prohibited from carrying a concealed pistol in Washington without a license to do so. Except for in a person's home or place of business, a concealed pistol license (CPL) is required before a person may legally carry a concealed pistol. Carrying a concealed pistol without having been issued a CPL is a misdemeanor. Minors may possess firearms in certain circumstances, such as when hunting or trapping under a valid license, attending a firearms safety course, shooting at an established shooting range, or acting with parental permission at home or on other property controlled by the parent. Persons 18 and older may possess firearms, but persons under 21 are prohibited from obtaining a CPL. Individuals are not eligible to possess a firearm, and therefore are not eligible for a CPL, if they have been convicted of any felony or certain domestic violence misdemeanors, or if they have been involuntarily committed for mental health reasons. Restoration of rights is available for some of these disqualifying conditions.

Legislative History

There has been a long and contentious history of firearms legislation over the years. Many gun bills have been introduced but few move very far through the process. Several pieces of gun-related legislation, however, have been enacted during the past few years.

SHB 1687 from 2005 provided that a verdict of not guilty by reason of insanity is to be considered the same as a verdict of guilty for purposes of a person's right to possess a firearm or to obtain a concealed pistol permit. For restoration of these rights, a person must meet the eligibility requirements that would have applied had he or she been convicted of the crime.

SHB 1934 from 2005 added the specific crime of assault of a peace officer with a stun gun to third degree assault, and defined a projectile stun gun as an electronic device that projects wired probes attached to the device that emit an electrical charge and that is designed and primarily employed to incapacitate a person or animal.

ESHB 2951 from 2006 created a process for issuing firearms certificates to retired law enforcement officers who are Washington residents. The retired officer must be qualified or otherwise found to meet the standards established by the Criminal Justice Training Commission for firearms qualifications for active law enforcement officers in the state. In addition, the retired officer must undergo a background check to ensure that he or she is eligible to possess a firearm.

SSB 6322 from 2008 revised the definition of weapons that cannot be brought into areas of any building used in connection with court proceedings to expressly prohibit any firearm, certain explosives, any weapons known as slung shot, sand club, or metal knuckles, any knife, dagger, or similar weapon capable of causing death or bodily injury and commonly used with the intent to cause death or bodily injury.

Legislation that has not made it through the process but may return in 2009-10 include:

From 2005-06:

- HB 1473 - Requiring safe storage of firearms;
- HB 1489 - Prohibiting weapons in the state legislative building;
- HB 1490 - Prohibiting firearms in parks;
- HB 1627 - Imposing a ban on assault weapons;
- HB 1804 - Requiring the Department of Licensing to mail a renewal notice to the licensee approximately 90 days before the license expiration date, showing the due date;
- HB 2275 - Eliminating dangerous weapons in schools;
- HB 2622 - Allowing concealed pistol license reciprocity for a person who is at least 21; years old and has a license from an otherwise qualifying;
- HB 2824 - making it a felony to make threats with a firearm against persons involved in school activities;
- HB 2826 - Prohibiting the possession of dangerous weapons on school facilities;
- HB 2861 - Regulating the sale of firearms at gun shows and events;
- HB 3092 - Exempting persons serving in the armed forces outside of this state at the time their concealed pistol license expires from paying any late renewal penalties;
- HJM 4002 - Asking Congress to end the abuse of tort laws against the firearms industry.

From 2007-08:

- HB 1764 - Addressing possession of electronic weapons on school property;
- HB 2036 - Protecting sport shooting ranges;
- HB 2329 - Increasing hunting opportunities during legal holidays;
- HB 2956 - Regarding firearm possession while hunting;
- HB 3095 - Concerning provisions governing firearms possession by persons who have been involuntarily committed;
- HB 3148 - Concerning firearm licenses for persons from other countries;
- HB 3225 - Regulating the use of a firearm on land managed by the Department of Fish and Wildlife;

- HB 3229 - Prohibiting the possession of deadly weapons in certain places;
- HB 3359 - Concerning pistol ammunition;
- SB 5197 - Regulating the sale of firearms at gun shows and events;
- SB 6686 - Including active duty members of the United States Armed Forces in concealed pistol licensing requirements;
- SB 6841 - Restricting possession of weapons at institutions of higher education;
- SB 6859 - Regulating the use of firearms on land managed by the Department of Fish and Wildlife;
- SB 6860 - Prohibiting institutions of higher education from adopting rules concerning the possession of firearms;

Issues and Outlook

It is certain that future legislation will be introduced concerning firearms and persons with mental illness who may or may not have sought treatment nor been voluntarily or involuntarily committed as a result of their disability. House Republicans should continue to promote reasonable legislation that protects the right to bear arms and oppose legislation that unreasonably imposes on that right. Potential gun legislation will likely include bills similar to some of those noted above and other bills regarding new issues concerning firearms. It is possible to reach a reasonable consensus on many of these issues while ensuring, as always, the integrity of the law, individual responsibility and the public interest.