

Refunds ordered under this chapter with respect to county (~~and~~), state, and taxing district taxes shall be paid by checks drawn upon the appropriate fund by the county treasurer: PROVIDED, That in making refunds (~~on a county or district wide basis~~), the county treasurer may make an adjustment on the next property tax payment due for the amount of the refund unless the taxpayer requests immediate refund.

Sec. 33. Section 84.69.140, chapter 15, Laws of 1961 and RCW 84.69.140 are each amended to read as follows:

In any action in which recovery of taxes is allowed by the court, the plaintiff is entitled to interest on the taxes for which recovery is allowed at a rate (~~of five percent per annum~~) as determined under RCW 84.69.100 from the date of collection of the tax to the date of entry of judgment, and such accrued interest shall be included in the judgment. (~~This section shall not apply to taxes paid before June 12, 1957.~~)

NEW SECTION. Sec. 34. The following acts or parts of acts are each repealed:

- (1) Section 84.52.090, chapter 15, Laws of 1961 and RCW 84.52.090;
- (2) Section 84.56.390, chapter 15, Laws of 1961, section 1, chapter 93, Laws of 1965 and RCW 84.56.390; and
- (3) Section 84.56.400, chapter 15, Laws of 1961, section 2, chapter 93, Laws of 1965, section 13, chapter 55, Laws of 1970 ex. sess., section 1, chapter 160, Laws of 1975 1st ex. sess. and RCW 84.56.400.

NEW SECTION. Sec. 35. Sections 15, 17, 19, 20, 21, 28, and 30 of this act shall take effect January 1, 1989.

Passed the House February 16, 1988.

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Approved by the Governor March 23, 1988.

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CHAPTER 223

[Substitute House Bill No. 1845]

FIREARMS—FORFEITURE—CONCEALED PISTOL LICENSES

AN ACT Relating to the forfeiture of handguns and concealed pistol licenses; amending RCW 9.41.070, 63.32.010, and 63.40.010; reenacting and amending RCW 9.41.098; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 7, chapter 172, Laws of 1935 as last amended by section 3, chapter 428, Laws of 1985 and RCW 9.41.070 are each amended to read as follows:

(1) The judge of a court of record, 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 person within this state for four 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. Such citizen's constitutional right to bear arms shall not be denied to him, unless he:

- (a) Is ineligible to own a pistol under the provisions of RCW 9.41.040; or
- or
- (b) Is under twenty-one years of age; or
- (c) Is subject to a court order or injunction regarding firearms pursuant to RCW 10.99.040, 10.99.045, or 26.09.060; or
- (d) Is free on bond or personal recognizance pending trial, appeal, or sentencing for a crime of violence; or
- (e) Has an outstanding warrant for his or her arrest from any court of competent jurisdiction for a felony or misdemeanor; or
- (f) 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 person.

The license shall be revoked immediately upon conviction of a crime which makes such a person ineligible to own a pistol or upon the third conviction for a violation of this chapter within five calendar years.

(2) Upon an order to forfeit a firearm under RCW 9.41.098(1)(d) the license shall:

- (a) On the first forfeiture, be revoked by the department of licensing for one year;
- (b) On the second forfeiture, be revoked by the department of licensing for two years;
- (c) On the third or subsequent forfeiture, be revoked by the department of licensing for five years.

Any person whose license is revoked as a result of a forfeiture of a firearm under RCW 9.41.098(1)(d) may not reapply for a new license until the end of the revocation period.

The license shall be in triplicate, in form to be prescribed by the department of licensing, and shall bear the name, address, and 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. 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 permit is not a defense to a federal prosecution.

The license application 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 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 said license.

~~((2))~~ (3) The fee for the original issuance of a four-year license shall be twenty dollars: PROVIDED, That no other additional charges by any branch or unit of government shall be borne by the applicant for the issuance of the license: PROVIDED FURTHER, That the fee shall be distributed as follows:

- (a) Four 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; and
- (c) Twelve dollars shall be paid to the issuing authority for the purpose of enforcing this chapter.

~~((3))~~ (4) The fee for the renewal of such license shall be twelve dollars: PROVIDED, That no other additional charges by any branch or unit of government shall be borne by the applicant for the renewal of the license: PROVIDED FURTHER, That the fee shall be distributed as follows:

- (a) Four dollars shall be paid to the state general fund; and
- (b) Eight dollars shall be paid to the issuing authority for the purpose of enforcing this chapter.

~~((4))~~ (5) 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 ~~((3))~~ (4) of this section. The fee shall be distributed as follows:

- (a) Three dollars shall be deposited in the state ~~((game))~~ 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.

~~((5))~~ (6) Notwithstanding the requirements of subsections (1) through ~~((4))~~ (5) 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.

~~((6))~~ (7) 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. A civil suit may be brought to enjoin a wrongful refusal to issue a license or a wrongful modification of the requirements of this section or chapter. The civil suit may be brought in the county in which the application was made or in Thurston county at the discretion of the petitioner. Any person who prevails against a public agency in any action in the courts for a violation of this chapter shall be awarded costs, including reasonable attorneys' fees, incurred in connection with such legal action.

Sec. 2. Section 6, chapter 232, Laws of 1983 as last amended by section 7, chapter 373, Laws of 1987 and by section 91, chapter 506, Laws of 1987 and RCW 9.41.098 are each reenacted and amended to read as follows:

(1) The superior courts and the courts of limited jurisdiction of the state may order forfeiture of a firearm which is proven to be:

(a) Found concealed on a person not authorized by RCW 9.41.060 or 9.41.070 to carry a concealed pistol: PROVIDED, That it is an absolute defense to forfeiture if the person possessed a valid Washington concealed pistol license within the preceding two years and has not become ineligible for a concealed pistol license in the interim. Before the firearm may be returned, the person must pay the past due renewal fee and the current renewal fee;

(b) Commercially sold to any person without an application as required by RCW 9.41.090;

(c) Found in the possession or under the control of a person at the time the person committed or was arrested for committing a crime of violence or a crime in which a firearm was used or displayed or a felony violation of the uniform controlled substances act, chapter 69.50 RCW;

(d) Found concealed on a person who is in any place in which a concealed pistol license is required, and who is under the influence of any drug or under the influence of intoxicating liquor, having 0.10 grams or more of alcohol per two hundred ten liters of breath or 0.10 percent or more by weight of alcohol in the person's blood, as shown by analysis of the person's breath, blood, or other bodily substance;

(e) Found in the possession of a person prohibited from possessing the firearm under RCW 9.41.040;

(f) Found in the possession of a person free on bail or personal recognizance pending trial, appeal, or sentencing for a crime of violence or a

crime in which a firearm was used or displayed, except that violations of Title 77 RCW shall not result in forfeiture under this section;

(g) Found in the possession of a person found to have been mentally incompetent while in possession of a firearm when apprehended or who is thereafter committed pursuant to chapter 10.77 or 71.05 RCW;

(h) Known to have been used or displayed by a person in the violation of a proper written order of a court of general jurisdiction; or

(i) Known to have been used in the commission of a crime of violence or a crime in which a firearm was used or displayed or a felony violation of the uniformed controlled substances act, chapter 69.50 RCW.

(2) Upon order of forfeiture, the court in its discretion shall order destruction of any firearm that is illegal for any person to possess(~~(, retention of the firearm as evidence, appropriate use by a law enforcement agency in the state, donation to a historical museum, or sale at a public auction to a commercial seller)~~). All firearms legal for citizen possession that are judicially forfeited or forfeited due to failure to make a claim under RCW 63.32.010 or 63.40.010 shall be submitted for auction to commercial sellers. A maximum of ten percent of such firearms may be retained for use by local law enforcement agencies. Before submission for auction, a court may temporarily retain forfeited firearms if needed for evidence. The proceeds from any sale shall be divided as follows: The local jurisdiction shall retain its costs, including actual costs of storage and sale, and shall forward the remainder to the state department of wildlife for use in its firearms training program pursuant to RCW 77.32.155. If ((the court orders delivery)) a firearm is delivered to a law enforcement agency and the agency no longer requires use of the firearm, the agency shall dispose of the firearm ((in a manner which is consistent with)) by auction as provided by this subsection. The public auctioning agency shall, as a minimum, maintain a record of all forfeited firearms by manufacturer, model, caliber, serial number, date and circumstances of forfeiture, and final disposition. The records shall be open to public inspection and copying.

(3) The court shall order the firearm returned to the owner upon a showing that there is no probable cause to believe a violation of subsection (1) of this section existed or the firearm was stolen from the owner or the owner neither had knowledge of nor consented to the act or omission involving the firearm which resulted in its forfeiture.

(4) A law enforcement officer of the state or of any county or municipality may confiscate a firearm found to be in the possession of a person under circumstances specified in subsection (1) of this section. After confiscation, the firearm shall not be surrendered except: (a) To the prosecuting attorney for use in subsequent legal proceedings; (b) for disposition according to an order of a court having jurisdiction as provided in subsection (1) of this section; or (c) to the owner if the proceedings are dismissed or as directed in subsection (3) of this section.

Sec. 3. Section 1, chapter 100, Laws of 1925 ex. sess. as last amended by section 2, chapter 154, Laws of 1981 and RCW 63.32.010 are each amended to read as follows:

Whenever any personal property shall come into the possession of the police authorities of any city in connection with the official performance of their duties and said personal property shall remain unclaimed or not taken away for a period of sixty days from date of written notice to the owner thereof, if known, and in all other cases for a period of sixty days from the time said property came into the possession of the police department, unless said property has been held as evidence in any court, then, in that event, after sixty days from date when said case has been finally disposed of and said property released as evidence by order of the court, said city may:

(1) At any time thereafter sell said personal property at public auction to the highest and best bidder for cash in the manner hereinafter provided;

(2) Retain the property for the use of the police department subject to giving notice in the manner prescribed in RCW 63.32.020 and the right of the owner, or the owner's legal representative, to reclaim the property within one year after receipt of notice, without compensation for ordinary wear and tear if, in the opinion of the chief of police, the property consists of firearms or other items specifically usable in law enforcement work: **PROVIDED**, That at the end of each calendar year during which there has been such a retention, the police department shall provide the city's mayor or council and retain for public inspection a list of such retained items and an estimation of each item's replacement value. At the end of the one-year period any unclaimed firearm shall be disposed of pursuant to RCW 9.41.098(2);

(3) Destroy an item of personal property at the discretion of the chief of police if the following circumstances have occurred:

(a) The item has been in the possession of the police department for a period of at least one year from the time of first possession by the department;

(b) The item has been unclaimed by any person after notice procedures have been met, as prescribed in RCW 63.32.020; and

(c) The chief of police has determined that the item is unsafe and unable to be made safe for use by any member of the general public; or

(4) If the item is not unsafe or illegal to possess or sell, such item, after satisfying the notice requirements as prescribed in RCW 63.32.020, may be offered by the chief of police to bona fide dealers, in trade for law enforcement equipment, which equipment shall be treated as retained property for purpose of annual listing requirements of subsection (2) of this section.

Sec. 4. Section 1, chapter 104, Laws of 1961 as last amended by section 3, chapter 154, Laws of 1981 and RCW 63.40.010 are each amended to read as follows:

Whenever any personal property, other than vehicles governed by chapter 46.52 RCW, shall come into the possession of the sheriff of any county in connection with the official performance of his duties and said personal property shall remain unclaimed or not taken away for a period of sixty days from date of written notice to the owner thereof, if known, and in all other cases for a period of sixty days from the time said property came into the possession of the sheriff's office, unless said property has been held as evidence in any court, then, in that event, after sixty days from date when said case has been finally disposed of and said property released as evidence by order of the court, said county sheriff may:

(1) At any time thereafter sell said personal property at public auction to the highest and best bidder for cash in the manner hereinafter provided;

(2) Retain the property for the use of the sheriff's office subject to giving notice in the manner prescribed in RCW 63.40.020 and the right of the owner, or his or her legal representative, to reclaim the property within one year after the receipt of notice, without compensation for ordinary wear and tear if, in the opinion of the county sheriff, the property consists of firearms or other items specifically usable in law enforcement work: **PROVIDED**, That at the end of each calendar year during which there has been such a retention, the sheriff shall provide the county's executive or legislative authority and retain for public inspection a list of such retained items and an estimation of each item's replacement value. At the end of the one-year period any unclaimed firearm shall be disposed of pursuant to RCW 9.41.098(2);

(3) Destroy an item of personal property at the discretion of the county sheriff if the following circumstances have occurred:

(a) The item has been in the possession of the sheriff's office for a period of at least one year from the time of first possession by the office;

(b) The item has been unclaimed by any person after notice procedures have been met, as prescribed in RCW 63.40.020; and

(c) The county sheriff has determined that the item is unsafe and unable to be made safe for use by any member of the general public; or

(4) If the item is not unsafe or illegal to possess or sell, such item, after satisfying the notice requirements as prescribed in RCW 63.40.020, may be offered by the county sheriff to bona fide dealers, in trade for law enforcement equipment, which equipment shall be treated as retained property for purpose of annual listing requirements of subsection (2) of this section.

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