

What You Need to Know About Felons and Firearms

- **Felons are prohibited by both Washington state and federal law from possessing firearms.
- **Federal law also prohibits felons from possessing ammunition.
- **Significant sentencing enhancements apply if the firearm is stolen, has an obliterated serial number, has a large capacity magazine, or is used in furtherance of a drug trafficking crime.
- **A felon with three or more drug trafficking and/or violent crime convictions may face a mandatory minimum 15 years in prison for possessing a firearm.
- **Individuals releasing from prison should talk with DOC release planners and community corrections officers, as well as their family and friends, to make plans to stay away from firearms and ammunition.

Frequently Asked Questions about Felons and Firearms

Q. What is the law about felons possessing firearms?

A. Both Washington state and federal law prohibit felons from possessing firearms. Under federal law, the maximum sentence for a felon in possession of a firearm is 10 years, but may be increased to a 15-year mandatory minimum sentence if the felon has three or more convictions for certain drug trafficking crimes and/or violent offenses. Federal sentences are typically served in prisons outside the state of Washington.

Felons

Q. Who is a felon?

A. A felon is a person who was convicted of a crime punishable by more than one year, even if the actual sentence imposed is less than one year. If the individual is being released from a Washington State Department of Corrections facility—a prison—then he or she was convicted of a felony.

Q. Does the prohibition still apply if the conviction is being appealed? What about after release from prison, or after supervision/community custody has ended?

A. Yes. A person who has been convicted of a felony cannot possess a firearm unless the conviction is vacated, overturned, or dismissed, or the felon is pardoned. The prohibition continues indefinitely, even after probation, supervision, or community custody has ended.

Q. Who else is prohibited from possessing a firearm?

A. There are many reasons a person may be prohibited from possessing a firearm. The most common are misdemeanor convictions for a domestic violence offense, being the subject of certain types of protection or no contact orders, or having pending charges for certain serious offenses.

Q. How can the right to possess a firearm be restored?

A. Only a court can restore a felon's right to possess a firearm. The process is complex and may require the assistance of an attorney. **IMPORTANT:** Restoring the right to possess a firearm under state law does not necessarily mean the right to possess a firearm has been restored under federal law. More information can be found at RCW 9.41.040(4).

Q. What if the felon moves to another state?

A. This is a complicated area of the law that depends on the law in the state the felon moves to as well as Washington law. Anyone considering a move should consult an attorney for assistance in answering this question.

Firearms

Q. What is a firearm?

A. In general, a firearm is any weapon that expels a projectile—fires a bullet—by the action of an explosive, or any weapon that is designed or may be readily converted to do so.

Q. What if the firearm doesn't work?

A. If the firearm can readily be made operable, it is still a firearm. Under federal law, not only are firearms that are designed to be operable prohibited, but so are firearm frames or receivers, mufflers/silencers, and ammunition.

Q. What about explosives and fireworks?

A. Under federal law, a felon is prohibited from possessing explosives, incendiaries, bombs, grenades, rockets, missiles, mines, and other similar devices. Class C fireworks (like bottle rockets and lady fingers), are not explosives; Class A fireworks (like those used in professional shows) are. A good rule of thumb is that fireworks that are "safe and sane," like those that can be bought at a grocery store for the Fourth of July, are not explosives and may be possessed. M-80 and other similar devices are prohibited.

Q. What about air guns and CO2 pellet guns?

A. These are not firearms.

Q. What about starter pistols?

A. Starter pistols are firearms and are prohibited under federal law.

Q. What about bullets/ammunition?

A. While bullets and ammunition are not firearms, federal law prohibits felons from possessing them too.

Possession

Q. What does “possession” mean?

A. A person may be in “actual possession” of a firearm if it is in his or her actual physical control (like in his or her hand or pocket). Alternatively, the person may have “constructive possession” of the firearm, which means that the person knows about the firearm and has the ability to exercise control over it or the area where the firearm is located. Thus, a felon may have constructive possession over a firearm in a car in which he or she is riding or in a house where he or she is staying. Possession is not the same as ownership.

Q. Can a felon use a firearm at a shooting range if it belongs to someone else?

A. No.

Q. Can a felon go hunting?

A. Yes—but not with a firearm. Bow hunting or hunting with the use of another weapon that does not involve the use of a firearm is permitted. Hunting with firearms, though—including with rifles and shotguns—is strictly prohibited, even with a hunting license.

Other Questions

Q. What can be done to avoid a charge of Felon in Possession of a Firearm?

A. Individuals still in custody should plan ahead about how to avoid firearms upon their release. They should discuss any questions and concerns with release planners and counselors inside their institution. Once released, felons should talk to their probation officers or community corrections officers about how to avoid being in possession of a firearm. They should also talk to family, friends, and other close associates about the prohibition, so that no one brings firearms to events or locations where the felon plans to be. Family or friends who have firearms may wish to transfer them to other people or keep them locked up in a place that the felon cannot access. Early and frequent communication with the felon’s probation or community corrections officer about any concerns can help avoid problems.

Q. Are there any other related laws of interest?

A. Yes. Federal law also prohibits individuals with certain violent convictions from possessing body armor. Individuals who transfer firearms to other individuals whom they know to be felons or juveniles may also face prosecution and significant time in custody. And, of course, the use of a firearm in furtherance of other state or federal crimes may result in much longer sentences for those new offenses.

Q. Where is there more information about firearms laws?

A. The state law governing firearm possession can be found here. [Link to RCW 9.41.040.] The state law defining firearms and related terms can be found here. [RCW 9.41.010.] Federal law on these topics can be found here and here. [18 U.S.C. § 922 and 924.]

State law regarding restoration of gun rights can be found here. [RCW 9.41.040(4).]

Some other websites may also be of interest, such as the local sheriff or police department (the Clallam County Sheriff's Office has some good information here [<http://www.clallam.net/sheriff/firearms.html>]); the National Rifle Association (NRA) [<https://www.nraila.org/gun-laws.aspx>]; and the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) [<https://www.atf.gov/>].

Disclaimer: The information contained herein is intended for general information only and is not intended to provide legal advice or opinion. The information may not reflect the most recent legal developments. This informational material is not intended, and should not be taken, as legal advice on any particular set of facts or circumstances. You should contact an attorney for advice on specific legal issues.