

**54.1-4202. Penalties for violation of the provisions of this chapter** Any person convicted of a first offense for willfully violating the provisions of this chapter shall be guilty of a Class 2 misdemeanor. Any person convicted of a second or subsequent offense under the provisions of this chapter shall be guilty of a Class 1 misdemeanor.

## Title 59.1. Trade and Commerce

### Chapter 10. Explosives

### 59.1-139. Persons possessing explosives to give notice of theft

Any person having in his possession any explosives covered by this chapter shall immediately notify the sheriff of the county or the police officials of the city in which any such explosives are being stored or used in the event that any such explosives are stolen.

## Chapter 11.1. Firearms

### 59.1-148.4. Sale of firearms by law-enforcement agencies prohibited; exception A law-

enforcement agency of this Commonwealth shall not sell or trade any firearm owned and used or otherwise lawfully in its possession except (i) to another law-enforcement agency of the Commonwealth, (ii) to a licensed firearms dealer, (iii) to the persons as provided in § 59.1-148.3 or (iv) as authorized by a court in accordance with § 19.2-386.29.

[Current through the 2008 Regular Session, Acts 2008, cc. 1 to 884, 2008 Special Session I, cc. 1 and 2, 2008 Special Session II, cc. 1 to 11]

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# VIRGIN ISLANDS

## V.I. CODE

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## Title 14. Crimes

### Chapter 113. Weapons

#### 2253. Carrying of firearms; openly or concealed; evidence of intent to commit crime of violence; definitions

(a) Whoever, unless otherwise authorized by law, has, possesses, bears, transports or carries either, actually or constructively, openly or concealed any firearm, as defined in Title 23, section 451(d) of this code, loaded or unloaded, may be arrested without a warrant, and shall be sentenced to imprisonment of not less than one year nor more than five years and shall be fined not less than \$5,000 nor more than \$ 15,000 or both the fine and imprisonment, except that if such person shall have been convicted of a felony in any state, territory, or federal court of the United States, or if such firearm or an imitation thereof was had, possessed, borne, transported or carried by or under the proximate control of such person during the commission or attempted commission of a crime of violence, as defined in subsection (d) hereof, then such person shall be fined \$25,000 and imprisoned not less than fifteen (15) years nor more than twenty (20) years. The foregoing applicable penalties provided for violation of this section shall be in addition to the penalty provided for the commission of, or attempt to commit, the felony or crime of violence.

(b) Whoever, unless otherwise authorized by law, has, possesses, bears, transports or carries either, actually or constructively, openly or concealed any machine gun or sawed-off shotgun, as defined in subsection (d)(2) and (3) of this section, loaded or unloaded, may be arrested without a warrant, and shall be sentenced to imprisonment of not less than two years nor more than seven years and shall be fined \$25,000, except that if such person shall have been convicted of a felony in any state, territory or federal court of the United States, or if such machine gun or sawed-off shotgun or an imitation thereof was held, possessed, borne, transported by or under the proximate control of such person during the commission or attempted commission of a crime of violence, as herein defined, then such person shall be fined \$ 50,000 and imprisoned not less than fifteen (15) years nor more than twenty (20) years. The foregoing applicable penalties provided for violation of this section shall be in addition to the penalty provided for the commission of, or attempt to commit, the crime of violence.

(c) In the trial of a person for committing or attempting to commit a crime of violence, as here-in defined, the fact that he was armed with a firearm, used or attempted to be used, and had no license to carry the same, as required in Title 23, chapter 5 of the Code, shall be evidence of his intention to commit said crime of violence.

(d) As used in this chapter –

(1) "Crime of violence" shall have the same definition as that contained in Title 23, section 451(e) of this Code.

(2) "Machine gun" means any firearm, as defined in Title 23, section 451(d) of this Code, which shoots automatically more than 12 shots without reloading.

(3) "Sawed-off shotgun" means any firearm, as defined in Title 23, section 451(d) of this Code, designed to fire through a smooth bore either a number of ball shot or a single projectile, the barrel of which is less than 20 inches in length.

(4) The term "possession" as used in this section means both actual and constructive possession.

(5) "Constructive possession" means having the power and the intention at any given time to exercise dominion or actual control over the firearm either directly or through another person.

## Title 23. Internal Security and Public Order

### Chapter 5. Control of Firearms and Ammunition

**451. Definitions** As used in this chapter, unless the context clearly requires otherwise–

(a) "Ammunition" means any bullet, cartridge, projectile, buckshot, or any load placed or which may be placed in a firearm to be discharged.

(b) "Commissioner" means the Police Commissioner of the Virgin Islands.

(c) "Department" means the U.S. Virgin Islands Police Department (V.I.P.D.).

(d) "Firearm" means any device by whatever name known, capable of discharging ammunition by means of gas generated from an explosive composition, including any air, gas, or spring gun or any "B.B." pistols or "B.B." guns that have been adapted or modified to discharge projectiles as a firearm.

(e) "Crime of Violence" means the crime of, or the attempt to commit, murder in any degree, voluntary manslaughter, rape, arson, discharging or aiming firearms, mayhem, kidnapping, assault in the first degree, assault in the second degree, assault in the third degree, robbery, burglary, unlawful entry or larceny.

(f) "Dealer in firearms and/or ammunition" means any person engaged in the business of selling firearms and/or ammunition, for a profit or gain.

(g) "Gunsmith" means any person who engages in the business of repairing, altering, cleaning, polishing, engraving, bluing, or performing any mechanical operation on any firearm on an individual order basis.

**452. Applicability of chapter** No person shall have, possess, bear, transport or carry a firearm within the Virgin Islands, or engage in the business of dealer in firearms and/or ammunition or the business of gunsmith, except in compliance with the provisions of this chapter.

#### 453. Persons who may lawfully carry firearms

(a) The following persons, in the discharge of their official duties, and in accordance with and subject to the conditions and restrictions imposed by the laws and regulations applicable to their conduct, may lawfully have, possess, bear, transport and carry firearms in the Virgin Islands:

(1) Members of the Armed Forces of the United States or of the organized reserves.

(2) Officers and employees of the United States duly authorized by Federal law to carry firearms.

(3) Persons employed in fulfilling defense contracts with the United States Government or agencies thereof where possession or use of firearms is necessary under the provisions of such contracts.

(4) Members of the police force of the Virgin Islands, marshals, or other duly authorized peace officers.

(5) Penitentiary and jail wardens and guards.

(b) The persons authorized by subsection (a) of this section lawfully to have, possess, bear, transport and carry firearms shall obtain such weapons and ammunition therefor only through the duly authorized officers or heads of their respective services or departments.

**454. Persons who may be licensed to carry firearms.** A firearm may be lawfully had, possessed, borne, transported or carried in the Virgin Islands by the following persons, provided a license for such purpose has been issued by the Commissioner in accordance with the provisions of this chapter:

(1) An officer or employee of the Government of the Virgin Islands in cases where such license, in the judgment of the Commissioner, should be issued to such officer or employee by reason of the duties of his position;

(2) An agent, messenger or other employee of a common carrier, bank or business firm, whose

duties require him to protect money, valuables or other property in the discharge of his duties; And provided, That the employer of such person shall have justified to the satisfaction of the Commissioner the need for the issuance of the license;

(3) A person having a bona fide residence or place of business within the Virgin Islands, who established to the satisfaction of the Commissioner that he has good reason to fear death or great injury to his person or property, or who establishes any other proper reason for carrying a firearm, and the circumstances of the case, established by affidavit of the applicant and of at least two credible persons, demonstrate the need for such license;

(4) A person licensed to and actively engaged in the business of manufacturing, repairing or dealing in firearms in the Virgin Islands, or the agents or representatives of any such person, having necessity to handle or use firearms in the usual or ordinary course of business;

(5) With respect to a rifle or a shotgun a person possessing a valid and current Virgin Islands hunting license.

#### **455. Application for license; form, oath; fees**

(a) Every application for a license to have and possess a firearm shall be made under oath and on forms which the Commissioner shall prepare for such purpose. For the purposes of the enforcement of the provisions of this chapter, the applicant shall furnish all information as may be required of him by the Commissioner.

(b) The initial fee for a license under section 454 of this chapter shall be \$75.00. The license may be renewed every three years for a fee of \$150.00.

(c) Upon renewal of a license to have and possess a firearm, the receipt from the U.S. Virgin Islands Police Department (V.I.P.D.) for the renewal fee will serve as a temporary license until the official license can be provided to the licensee by the Commissioner.

(d) The Commissioner shall ensure that the renewal license is presented to the licensee within forty-five (45) days of receipt of payment for the renewal fee.

(e) Notwithstanding the provisions of this section, no person shall be charged with possession of an unlicensed firearm if the subject weapon had been previously licensed and said license has expired not more than ninety (90) days prior to arrest; Provided, however, that this subsection shall not apply to persons who possess, bear, transport, carry or have under their control in any vehicle, any firearm during the commission or attempted commission of a crime of violence, as defined in subsection (d) of section 2253, Title 14, Virgin Islands Code.

#### **456. Qualifications of applicant**

(a) The Commissioner shall not issue a license for firearms under section 454 of this chapter until all the circumstances and facts set forth in the application have been investigated, and the records of the Department and other available records have been examined, and unless such investigation establishes to the satisfaction of the Commission:

(1) the truth of such circumstances and facts;

(2) that the applicant is a resident of the Virgin Islands, including with respect to shotguns or rifles a minor not under 16 years of age, or a nonresident who holds a current and valid license to hunt in the Virgin Islands, or an alien bonded under applicable Federal and Virgin Islands statutes for employment with a person, firm, corporation or other business entity duly li-

censed in the Virgin Islands to carry on the business of providing security, guard, patrol and private detective services; Provided, however, That in the case of any such bonded alien the license shall be issued to the business entity by which he is employed;

(3) that the applicant is a person of good moral character;

(4) that the applicant's fingerprints have been duly taken and/or checked with the records of the Department or other appropriate sources; and

(5) that no proper reason exists to deny such application.

#### **456a. Persons ineligible to possess or carry firearms or ammunition**

(a) The following persons are ineligible for a license to possess or carry a firearm or ammunition as provided in this chapter:

(1) a person who has been convicted in any court for a crime punishable by imprisonment for a term exceeding one year;

(2) a person who is a fugitive from justice;

(3) a person who is an unlawful user of or addicted to any controlled substance as defined in title 19, section 593(6) of the Virgin Islands Code;

(4) a person who has been adjudicated as a mental defective or who has been committed to a mental institution:

(A) For the purpose of this section the phrase "committed to a mental institution" includes commitment to a mental institution involuntarily, but does not include a person held in a mental institution for observation.

(B) For the purpose of this section, the phrase "mental institution" includes mental health facilities, mental hospitals, sanitariums, psychiatric facilities and other facilities that provide diagnoses by licensed professionals for mental retardation or mental illness, including a psychiatric ward in a public or private hospital.

(5) a person who, being an alien, is illegally or unlawfully in the United States;

(6) a person who has been discharged from the United States Armed Forces under dishonorable conditions;

(7) a person who, having been a citizen of the United States, has renounced his citizenship;

(8) a person who is subject to a court order that-

(A) was issued after a hearing of which the person received actual notice, and at which the person had an opportunity to participate;

(B) restrains the person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

(C)(i) includes a finding that the person represents a credible threat to the physical safety of such intimate partner or child; or

(ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or

(9) a person who has been convicted in any court of a misdemeanor crime of domestic violence.

#### **458. Grounds for refusing to issue license**

(a) The Commissioner shall not issue a license to have and possess a firearm to any person convicted in or outside the Virgin Islands of any crime of violence; or of any violation of a narcotic or "harmful drug" law; nor to any person who is mentally incompetent, or a habitual

drunkard or narcotic or drug addict; nor to any person convicted for the violation of the provisions of this chapter; nor to any person who for justifiable reasons is deemed to be an improper person by the Commissioner.

**460. Reciprocal recognition of out-of-state licenses** Unless otherwise prohibited by any state or federal law, a license to possess or to carry firearms, issued by any competent authority of any state or territory of the United States and in accordance with the same or similar requirements as set forth in the preceding sections pertaining to the applicant's eligibility, and the establishment of his reputation through fingerprints, shall be recognized as valid within the Virgin Islands and shall allow the holder thereof to exercise all of the privileges in connection therewith, while said licensee is a visitor or transient resident herein.

Any marshal, sheriff, constable, police or other peace officer, of any state or territory of the United States, whose duty it is to serve process and make arrests, may, while travelling through or in the Virgin Islands on official business, carry such weapons or equipment as has been authorized by his appointing authority.

#### **461. License to sell firearms and/or ammunition; gunsmiths; report of transactions; private transfer sales to minors or aliens**

(a) No person may engage in the business of dealer in firearms and/or ammunition or as a gunsmith without holding a license therefor issued by the Commissioner of Licensing and Consumer Affairs upon favorable report of the Police Commissioner.

(b) Each transaction referring to the importation, or to the sale of firearms and ammunition between dealers, shall be reported to the Commissioner on forms which he shall provide, and the name, domicile, place of business, and the number of the license of the vendor and vendee, as well as the quantities and descriptions of the firearms or ammunition which are the subject of each transaction, shall be set forth therein, as required by the Commissioner.

(c) Any person, not otherwise engaged in the business of a dealer in firearms and/or ammunition, may transfer a firearm to another by sale, gift, exchange or otherwise only upon prior reporting to the Commissioner of the details of the proposed transaction. The Commissioner shall thereupon determine the eligibility of the proposed transferee for a license to possess firearms, and shall make such further determination as may be necessary in the circumstances.

(d) No person licensed or otherwise, may sell or furnish firearms or ammunition to a minor, except that a shotgun or rifle of such type or caliber as the Commissioner may prescribe or ammunition therefor, may be sold or furnished by a licensed dealer to a minor who displays a hunting or sporting license issued him in accordance with the laws of the Virgin Islands, and who further displays the written consent of his parent, guardian, or other responsible person acting in their absence and interest, in which such sale or delivery has been authorized.

#### **462. Application for dealer's or gunsmith's license; form and content; term; fee; renewals**

(a) Any person wishing to obtain a license to engage in the business of dealer in firearms and/or ammunition or the business of gunsmith, or both, shall file with the Commissioner of Licensing and Consumer Affairs a sworn application in the manner provided by the said Commissioner of Licensing and Consumer Affairs in consultation with the Police Commissioner which

application shall contain all the information necessary so that the license may be issued in accordance with the provisions of this chapter. Such application shall be transmitted to the Police Commissioner and no license shall be issued under this section without the latter Commissioner first making an investigation of all the statements set forth in the application and without the records of the Department first being examined for the purpose of determining any prior convictions of the applicant, and only when such an investigation establishes that the statements of the applicant are true, and that the applicant has not been convicted of any crime of violence and the Commissioner so certifies, recommending that the license be issued. Where the applicant is a corporation or partnership, no license shall be issued if any officer of the corporation, or partner of the partnership, has been convicted of any crime of violence.

(b) Licenses hereunder shall be issued for a term of one year, expiring in any event on the 15<sup>th</sup> day of January succeeding the date of issuance.

(c) The annual fee for a license as a dealer of firearms and/or ammunition shall be \$100, for a license as gunsmith, \$100, and for a license as both, \$150.

**463. Qualifications of dealer or gunsmith** No license to engage in the business of gunsmith or of dealer in firearms and/or ammunition shall be issued to a person not over 21 years of age, and not a resident of the Virgin Islands and a citizen of the United States.

When the applicant is a corporation, it shall be organized under the laws of the Virgin Islands, and if a partnership, all partners shall be residents of the Virgin Islands and citizens of the United States.

**464. Corporation or partnership application for license** Where the applicant is a corporation or a partnership, the application shall be signed and sworn to by the president, the secretary and the treasurer of the corporation or by all the managing partners of the partnership; and it shall set forth the name of the corporation or of the partnership, place and date of the incorporation or organization thereof, and the principal place of business. The requirements of subparagraphs (3) and (4) of section 456 of this chapter shall be applied to the president, the secretary, and the treasurer of the corporation and, in the proper case, to all partners of the partnership. A license issued under the provisions of this section shall be valid only for the business establishments named and described in the license. Said license may not be transferred to any other business establishment or to any other person and shall be automatically cancelled upon the dissolution of the corporation or partnership, or the replacement of any of the officers of the corporation signing the application, or upon the admission of any new partner in the case of a partnership, even though such license may be renewed as soon as the provisions of subparagraphs (3) and (4) of section 456 of this chapter in connection with the new officer or the new partner are complied with. In these cases the Commissioner may issue a provisional issue for a term of not more than thirty days while the renewal is being processed.

**465. Conditions for dealers' operations; Records of transactions** Any person, to whom a license has been issued under section 461 of this chapter may engage in the business of gunsmith or of dealer in firearms and/or ammunition under the following conditions:

(1) The business shall be operated only on the premises specified in the license.

(2) The license, or a copy thereof, certified by the authority issuing the same, shall be posted in the establishment so that it may be easily read.

(3) Under no circumstances shall a weapon or shall ammunition be sold unless the vendor is personally acquainted with the buyer or the latter clearly establishes his identity.

(4) A record in triplicate shall be kept of each firearm sold and of each sale of ammunition, on books devoted to this purpose which shall be printed in the manner prescribed by the Commissioner and the record of each sale shall be personally signed by the buyer and by the person making the sale, each in the presence of the other; and such record shall set forth the day and hour of the sale, caliber, manufacture, model and factory number of the weapon, caliber mark, and quantity of ammunition, the name, birthplace, address and occupation of the buyer. Said record shall also contain a thumbprint of the buyer and shall also set forth whether the buyer is personally known to the vendor, and in case he should not be the manner in which the buyer established his identity. The vendor shall transmit a copy of such record by registered mail, within 24 hours following the sale, to the Commissioner; he shall send the duplicate within 48 hours following the sale to the Attorney General and shall keep the triplicate for six years.

(5) A licensee, if limited to the business of a gunsmith, shall not be required to forward reports of the work performed under said license, but shall maintain at his place of business an accurate and legible accounting of the nature and type of the jobs or work performed, together with the name and address of the customers, a description of the firearm, including the serial number which accounting shall be available as required by the Commissioner.

**466. Sales of weapons and ammunition without licenses prohibited; Sales slips** No dealer in firearms or ammunition shall deliver a firearm to a purchaser without the latter's handing over to him a license to have and possess a firearm, duly issued in accordance with the provisions of this chapter, and unless said license contains an authorization for the purchase of such firearm, and said dealer shall not sell to such purchaser any other weapon than the one described on the said license. The dealer in firearms and ammunition shall separate from such license and keeps the dealer's coupon, and shall return the license to the purchaser. No weapon shall be sold to the holder of a license from which the coupon has been removed, and in no case shall a pistol, revolver, or other firearm be delivered to the purchaser thereof until after forty-eight (48) hours have elapsed from the time he applies for his purchase and the same shall be delivered to him unloaded and securely wrapped.

No dealer in firearms or ammunition shall sell any quantity of ammunition to any person failing to present a firearm license.

**467. Selling firearms and ammunition without a license** Whoever, without being licensed in accordance with the provisions of this chapter, sells, has in his possession with the intent to sell, exposes for sale, or advertises for sale, any firearm or ammunition, or without being so licensed engages in the business of a gunsmith, shall be fined a minimum of \$5,000 or five (5) years imprisonment or both; and a maximum of

not more than \$10,000 or ten (10) years imprisonment or both.

**467a. Importation of firearms without a license** Except as provided in section 476 of this chapter, whoever, without being licensed in accordance with this chapter, imports, carries, or brings any firearm or ammunition into the Virgin Islands and fails to report to the Commissioner as required by section 470 of this chapter shall be punished by a fine of not less than \$ 50,000 or imprisonment for a minimum of 25 years or both fine.

**470. Report of firearms purchased outside or brought into the Virgin Islands; fees; penalty**

(a) Any person other than a licensed dealer, who purchases or otherwise obtains any firearm or ammunition from any source within or outside the Virgin Islands shall report such fact in writing or in person to the Commissioner immediately after receipt of the firearm or ammunition, furnishing a complete description of the firearm or ammunition purchased or otherwise obtained. He shall also furnish his own name, address, date of birth and occupation.

(b) Any person upon entering the Virgin Islands bringing with him any firearm or ammunition shall report in writing or in person to the Commissioner immediately of his arrival, furnishing a complete description of the firearm or ammunition brought into the Virgin Islands. He shall also furnish his own name, address, date of birth and occupation.

(c) In the event the person reporting under subsections (a) or (b), above, is qualified for a license to carry firearms in the Virgin Islands, the Commissioner shall issue the same, upon payment of the proper fee, and the firearm shall be registered in the Weapons Register provided for in section 469 of this chapter. If the person is not qualified for a license then the Commissioner shall retain the firearms or ammunition for disposition in accordance with the provisions of section 475 of this chapter, but no prosecution shall lie against the person for unlawful possession of the firearm or ammunition.

(d) Any person who fails to comply with this section shall be punished as provided in section 484 of this chapter.

**471. Report of loss of firearm** Every person possessing or having under his control a firearm, and who loses the same or finds that it has disappeared, shall report the same to the Commissioner within 10 days, following discovery of such loss or disappearance, and in the event of his failing to do [so] such person shall be fined no more than \$100.

**473. Firearms Register**

(a) The Commissioner shall establish a Firearms Register within the Department and maintain the same in a systematic and orderly manner, so that the names of the persons licensed as dealers in firearms, gunsmiths or to carry firearms in the Virgin Islands as well as the essential details concerning the firearms registered, may be easily found.

(b) Every firearm authorized to be licensed under section 454 which is duly licensed after this chapter takes effect, shall be registered in the Firearms Register provided for in the preceding subsection. If such firearm does not bear a serial number, or if the same is illegible, a non-governmental licensee shall have his full name engraved on the butt or the stock of the weapon, and shall so set forth in his declaration. The Commissioner shall deliver to the declarant a record of such registration.

(c) The firearms authorized to be had, possessed, or carried under paragraphs (4) and (5) of subsection (a) of section 453 and under subparagraph (1) of section 454 of this chapter, shall also be registered in the Firearms Register above provided for.

**474. Death of licensee** Upon the death of a person leaving in his estate a firearm it shall be the duty of his administrator, executor or any other person legally authorized to represent the estate to report to the Commissioner the brand, caliber and serial number if any, of the firearm in question. Upon such report, or upon information otherwise verified, the Commissioner shall make the necessary provisions for the custody of said firearm by an interested party or by its deposit with the Department, pending the settlement of the estate. If the firearm is assigned to an heir or distributee who is eligible to obtain a license for a firearm, and such license is issued, said firearm shall be delivered to such heir or distributee. If the heir or distributee is not eligible for a firearms license, then the firearm shall be disposed of as part of the estate through public or private sale as the District Court of the Virgin Islands may direct; provided that the firearm may be acquired only by a duly licensed dealer, a person eligible for a license to possess or carry firearms in the Virgin Islands, or a nonresident of the Virgin Islands in compliance with the laws of the buyer's state.

**475. Deposit of firearms in Department of Public Safety, disposition**

(a) All firearms surrendered, seized or confiscated under the provisions of this chapter, shall be disposed of as provided in this section.

(b) Any firearm unlawfully borne, possessed, transported or carried, is hereby declared a public nuisance and when any such weapon or instrument is seized by the police the same shall be delivered to the Commissioner. In the cases where criminal actions are filed, the judgment convicting the defendant shall, in addition to the penalties herein prescribed, carry with it the forfeiture in favor of the Government of the Virgin Islands of the firearm seized, and it shall be the duty of the court or judge to deliver the firearm so forfeited to the Commissioner who shall direct the disposition thereof.

(c) Those firearms which are in good condition may be preserved by the Commissioner for governmental uses.

(d) The Commissioner shall, whenever he may deem it advisable, and at least once a year, destroy and render completely unserviceable the firearms delivered to him under the provisions of this section, except when a certification is presented to him from a court, or the United States Attorney or the Attorney General to the effect that the preservation thereof, or of any of them, is necessary or indispensable for the ends of justice, and except when the Commissioner himself directs that they, or any of them, be retained in any police or detective laboratory to the end that they may be examined, compared, identified, or be the object of any other experiment tending to discover or prevent crime.

(e) Before disposing of a firearm, as provided in this section, the Commissioner shall direct that the class, make, number and caliber of such firearms be carefully recorded and filed.

**476. Collections of antique firearms; Certificates of uselessness** No provision hereof shall prevent that private collections of antique firearms, which may not be used as weapons, be preserved and maintained and that their owners possess them as ornaments or as matters of curiosity, nor the collections of firearms kept as

relics, but for the preservation of any weapon of those included in this section the prior inspection thereof and approval therefor by the Commissioner shall be necessary and he shall render such firearms useless, so that the same may not be used as such. The Commissioner shall issue a certificate of uselessness of all the weapons possessed under the provisions of this section, and the possession of any firearm not included in said certificate shall be subject to all the provisions hereof.

**479. Discharging or aiming firearms** Any person who, otherwise than in self-defense or in the discharge of official duty:

(b) intentionally although without malice aims a revolver, pistol or other firearm toward any person; or

(d) causes physical injury to any person by the discharge of a firearm while aiming intentionally, although without malice, at any person, shall be guilty of a felony.

**481. Alteration of identifying marks of weapons prohibited**

(a) No person shall within the Virgin Islands change, alter, remove or obliterate the name of the maker, model, manufacturer's number, or other mark or identification on any pistol, machinegun, or sawed-off shotgun. Possession of any pistol, machinegun, or sawed-off shotgun upon which any such mark shall have been changed, altered, removed, or obliterated shall be prima facie evidence that the possessor has changed, altered, removed or obliterated the same within the Virgin Islands: Provided, however, that nothing contained in this section shall apply to any officer or agent of the United States or the Government of the Virgin Islands engaged in experimental work.

(b) Whoever, unless otherwise authorized by law, has, possesses, bears, transports or carries either, actually or constructively, openly or concealed, any firearm, as defined in section 451(d) of this title, loaded or unloaded, with altered or obliterated identification marks, in a public place, a residential area, a vehicle or any place where persons are gathered shall be imprisoned for not less than fifteen (15) years without parole.

**482. Illegal use of license; penalty** Whoever knowingly allows the use of his license, issued under this chapter or any prior law of the Virgin Islands, by another person for the purpose of obtaining or transporting firearms shall be punished as provided in section 484 of this chapter.

**484. General penalty section** Any person who violates the provisions of this chapter shall, except when otherwise specifically provided herein, be fined not more than \$5,000 or imprisoned not more than three years or both; provided that if the violation occurs after such person has been convicted in the Virgin Islands of a violation of this chapter, or of a crime of violence, either in the Virgin Islands or in another jurisdiction, such person shall be fined not more than \$10,000 or imprisoned not more than ten years or both.

**487. Seizure and forfeiture**

(a) The following items of property shall be subject to seizure and forfeiture, and, upon forfeiture, no property right shall exist in them:

1. Any firearm being worn, borne, or transported by any person not authorized pursuant to section 454 of this title, and, therefore, in violation of section 484 of this title.

2. All ammunition or other parts of or appurtenances to any such firearm worn, carried, or transported by such person or found in the immediate vicinity of such firearm.

(b) Any property subject to seizure under subsection (a) of this section may be seized by any duly authorized officer, as an incident to an arrest or search and seizure. Any such officer seizing such property under this section shall either place the property under seal or remove the same to a location designated by the Police Commissioner. Such officer shall, at the time of seizure or as soon as possible thereafter, execute and deliver to the possessor a signed and dated receipt for the item seized.

(c) Upon the seizure of property pursuant to this section, the Attorney General shall be notified thereof by the U.S. Virgin Islands Police Department (V.I.P.D.), which Department shall also furnish the name and address of the owner thereof, if known. The Attorney General shall notify the owner by certified mail of the seizure, if the registered owner is not the person from whom the item was seized, and the Attorney General's determination of whether the owner knew or should have known that the property was worn, borne, transported or used without lawful authority under section 454 of this title.

1. If the Attorney General determines that the owner neither knew nor should have known of the unauthorized use or intended unauthorized use of the property, he shall surrender the property upon request to the owner unless he determines that the property is needed as evidence in a pending criminal case, in which event he shall return the property upon the final conclusion of the case or cases in which the property is needed as evidence.

2. If the Attorney General determines that the property should be forfeited to the Government, he shall petition the Territorial Court in the name of the Government of the Virgin Islands against the property as designated by make, model, year and serial number or other identifying characteristic. The petition shall allege the seizure and set forth in general terms the causes or grounds of forfeiture. It shall also pray that the property be condemned as forfeited to the Government and disposed of according to law.

3. If the owner or owners of the property are unknown or cannot be found, notice of the seizure and intended forfeiture proceedings shall be made by publication in one or more newspapers published in the District in which the action is brought. The notice shall state the substance and object of the original petition and give notice of the intended forfeiture proceedings.

4. Within 30 days after service of the notice of seizure and intended forfeiture proceedings or within 30 days after the date of publication, the owner of the property seized may file an answer under oath to the petition.

5. The court shall retain custody of the seized property pending prosecution of the person accused of violating section 454 of this title and in case such person be found guilty, the property shall remain in the custody of the court until the hearing on the forfeiture is held. The hearing shall be scheduled no more than 30 days after conviction of the defendant, and reasonable notice shall be given to those parties filing an answer to the petition.

6. If no timely answer is filed, the Court shall hear evidence upon the unauthorized use of the property and shall upon satisfactory proof thereof, order the property forfeited to the Government of the Virgin Islands.

7. At the scheduled hearing, any owner who filed a timely answer may show by competent evidence that the property was not in fact used in violation of section 454 of this title or that he neither knew nor should have known that the

property was being, or was to be so used. Upon the determination that the property was not so used, the Court shall order that the property be released to the owner.

8. If after a full hearing the Court decides that the property was used in violation of section 454 of this title or that the owner knew or should have known that the property was being, or was to be so used, the Court shall order that the property be forfeited to the Government of the Virgin Islands.

(d) Whenever property is forfeited under this section, it shall be turned over to the Police Commissioner for immediate destruction in the manner he deems appropriate.

(e) Before disposing of a firearm, as provided in this chapter, the Commissioner shall direct that the class, make, number and caliber of such firearm, as well as the time of receipt of such firearm by the Commissioner and the date of destruction, if any, of same, shall be carefully recorded and filed.

#### **489. Registration of firearms upon purchase from dealer; registration of firearms transferred from non-dealer**

(a) At the time that any firearm is purchased from a licensed firearms dealer, the dealer and the purchaser shall complete such registration documents as required by the Commissioner of Police before the firearm may be removed from

the premises. The firearms dealer shall forward said documents to the Firearms Division of the Police Department by the end of the next business day.

(b) Any person other than a firearms dealer wishing to transfer a firearm to another person shall effect the transfer at the Firearms Division of the Virgin Islands Police Department or at the place of business of a licensed firearms dealer within the Virgin Islands. Both individuals involved in the transfer must present the appropriate firearm licenses to the Firearms Division or the firearms dealer before such transfer may be effected. A record of transfer, as provided by the Virgin Islands Police Department, shall be completed at the time of transfer, and no transfer of a firearm shall be valid absent the completion of registration and transfer documents as required by this section. The firearms dealer shall forward said documents to the Firearms Division of the Police Department by the end of the next business day.

(c) The completion of registration and transfer documents as required by this section shall constitute compliance with the requirements of Section 470, subsection (a) of this chapter

#### **489a. Safe storage of firearms; penalties**

(a) Every person who owns, possesses, purchases, or acquires a firearm, as that word is defined at Section 451(d) of this chapter, shall

be responsible for the safe storage of the firearm.

(b) Any person who owns, possesses, purchases, or acquires a firearm, as that word is defined in section 451(d) of this chapter, whose failure to lock or safely store the firearm directly results in a person not licensed to own or possess the firearm to gain access thereto, and said unlicensed person injures or kills himself or another person with said firearm, may be, upon conviction, punished by a fine not to exceed \$2,500, imprisonment not to exceed two years, or both, and be subject to forfeiture of his license and firearm. This section shall not be construed as precluding the charge or conviction of any other appropriate violation of law.

(c) For purposes of this section, "safe storage" means the storage of a firearm in a locked manner so as to prevent discharge or storage of a firearm in a safe location that is inaccessible to all except the licensed owner of the firearm. For purposes of this section a firearm is locked when the device installed on it or incorporated into its design is activated or set to prevent the firearm from being discharged.

**[Current through Act 7023 of the 2008 Regular Session]**

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## WASHINGTON WASH. REV. CODE

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### **Title 9. Crimes and Punishments**

#### **Chapter 9.41. Firearms and Dangerous Weapons**

**9.41.010. Terms defined** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

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

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

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

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

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

(6) "Short-barreled shotgun" means a shotgun having one or more barrels less than eighteen inches in length and any weapon made from a shotgun by any means of modification if

such modified weapon has an overall length of less than twenty-six inches.

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

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

(9) "Loaded" means:

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

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

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

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

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

(10) "Dealer" means a person engaged in the business of selling firearms at wholesale or retail who has, or is required to have, a federal firearms license under 18 U.S.C. Sec. 923(a). A person who does not have, and is not required

to have, a federal firearms license under 18 U.S.C. Sec. 923(a), is not a dealer if that person makes only occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or sells all or part of his or her personal collection of firearms.

(11) "Crime of violence" means:

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

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

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

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

(a) Any crime of violence;

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

(c) Child molestation in the second degree;

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