



Published on *Washington State* (<http://www.atg.wa.gov>)

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Initiative 1639

Initiative 1639: Frequently Asked Questions

In November 2018, Washingtonians overwhelmingly adopted Initiative 1639, which made a number of changes to Washington's firearms laws. The FAQs provided here answer questions that have come to our attention regarding this important public safety measure.

For more specific answers and clarification about how the provisions of Initiative 1639 might apply to you and your specific situation, you are encouraged to consult the law itself and/or legal counsel. The text of Initiative 1639 can be found [here](#). The language of the initiative has been codified in Washington law in several sections of [Chapter 9.41 RCW](#). If you do not know an attorney in your area, you may be able to find help through the Washington State Bar Association [here](#).

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When do the provisions of Initiative 1639 take effect?

Effective January 1, 2019 the new law

- Makes it illegal for a person under 21 years of age to buy a semiautomatic assault rifle.
- Makes it illegal for any person to sell or transfer a semiautomatic assault rifle to a person under age 21.
- Allows a person between the ages of 18 and 21 to possess a semiautomatic assault rifle:
 1. In the person's residence or fixed place of business;
 2. On real property under his or her control;
 3. When engaging in, or travel to or from, a lawful outdoor recreational activity;
 4. When engaging in target shooting at an established, authorized range; or
 5. If the semiautomatic assault rifle is unloaded and either in secure gun storage or secured with a trigger lock for the specific purpose of (i) moving to a new residence; (ii) traveling between the person's residence and real property under his or her control; or (iii) legally selling or transferring the firearm.

All of the other provisions in the law take effect on July 1, 2019 including:

- Enhanced background check and waiting period requirements for the purchase or transfer of semiautomatic assault rifles. [Click here](#) for more information on background checks.
- Training requirements to purchase a semiautomatic assault rifle. [Click here](#) for more information on training requirements.
- Criminal liability for failure to safely secure a firearm under certain conditions. [Click here](#) for more information on storage requirements.
- Safety warning and safe storage requirements for dealers. [Click here](#) for more information on storage requirements for dealers.

Do I still need to comply with the requirements of Initiative 1639 even though there's a lawsuit challenging the law?

Yes. Initiative 1639 was adopted by nearly 60% of Washington voters in November 2018. This law, like any other, is presumed constitutional and in force unless a court rules otherwise. No court has held any part of Initiative 1639 unconstitutional. Although there is a lawsuit challenging certain provisions of the law, the court has not yet ruled on any issues in the case. A ruling is not expected for some time. Consequently, a failure to comply with the law could result in criminal and/or civil liability.

Can my police chief or county sheriff refuse to administer enhanced background checks under Initiative 1639?

Effective July 1, 2019, when a person is attempting to purchase a semiautomatic assault rifle the chief of police or sheriff where the purchaser lives is required by law to perform an enhanced background check. The purpose of the enhanced background check is to determine whether the person is legally eligible to possess a firearm.

State law provides immunity to local law enforcement officers who run these checks in good faith. In the event a police chief or sheriff refuses to perform the enhanced background check required by Initiative 1639, they could be held liable if there is a sale or transfer of a firearm to a dangerous individual prohibited from possessing a firearm and that individual uses that firearm to do harm. In that case, the taxpayers of the city or county would assume the financial risk from the official's decision.

Do sheriffs and police chiefs have discretion on how to prioritize their resources?

Generally speaking, law enforcement officials have broad discretion to set their own priorities and target their staff and resources where investigation and enforcement is most needed. Often those decisions are based on common sense and the specific circumstances of a given case. The background checks required by Initiative 1639 are not discretionary -- the law requires that law enforcement agencies perform these checks. It is their duty.

What are the new requirements for background checks for the purchase or transfer of semiautomatic assault rifles?

Firearm sales by federally licensed firearm dealers have long been subject to background checks. In 2014, the people of the state of Washington overwhelmingly voted to extend this background check requirement to private gun sales and transfers. The legal challenge to that initiative failed.

In addition, enhanced background checks of state records have long been required for pistol sales or transfers. Local law enforcement officials perform these enhanced background checks. These enhanced background checks include searches for outstanding warrants in the Washington State Patrol electronic database. They also include mental health checks with the Washington State Health Care Authority, such as records of individuals found Not Guilty by Reason of Insanity. According to the Health Care Authority, these mental health checks result in approximately 400 denials per year.

Beginning July 1, 2019, Initiative 1639 requires enhanced background checks for sales or transfers of semiautomatic assault rifles as well. The chief of police or sheriff must provide written notice to the dealer whether the purchaser is eligible to possess a semiautomatic assault rifle and whether the application to purchase is approved.

Does Initiative 1639 require that I keep my firearm in secure storage?

No. The new law doesn't directly require that a firearm be stored in a particular place or in a particular way.

But if your firearm is not in secure storage, and you knew or reasonably should have known that the firearm could be accessed by someone who is prohibited from possessing a firearm, such as a child, under some circumstances you may be charged with a crime.

Effective July 1, 2019, a person who fails to securely store a firearm could be charged with a felony if a person who is legally ineligible to possess a firearm uses it to injure or kill themselves or someone else.

Effective July 1, 2019, a person who fails to securely store a firearm could be charged with a gross misdemeanor if a prohibited person discharges it and uses the firearm:

1. In a way that shows intent to intimidate someone or that warrants alarm for the safety of others, or
2. In the commission of a crime.

The new safe storage requirements are not violated:

1. If the firearm was in secure gun storage or was secured with a trigger lock or similar device; or
2. If the person is ineligible to possess because of age but the access is with parental permission and under adult supervision; or
3. In cases of self-defense; or
4. If the person who is ineligible to possess the firearm:
 - Obtains it through unlawful entry, and
 - The unauthorized access or theft is reported to law enforcement within five days of the time the owner knew or should have known that the firearm had been taken.

Does Initiative 1639 require law enforcement to come to my house to make sure I'm storing my firearm properly?

No. The new law doesn't require that a firearm be stored in a particular place or in a particular way.

There are strict constitutional limits on when law enforcement can enter your home.

Does Initiative 1639 make me liable if my firearm is stolen and used in a crime?

No, not if you report it as stolen. The new law specifically provides an exemption from the storage requirement for a firearms owner if their firearm is taken from them:

1. Through unlawful entry, and
2. The unauthorized access or theft is reported to law enforcement within five days of the time the owner knew or should have known that the firearm had been taken.

What is secure storage?

Effective July 1, 2019, Washington law defines "secure gun storage" as

1. A locked box, gun safe, or other secure locked storage space that is designed to prevent unauthorized use or discharge of a firearm; and

2. The act of keeping an unloaded firearm stored by such means.

Does Initiative 1639 require firearms safety training?

Yes, but the training requirement only applies to purchases of semiautomatic assault rifles after July 1, 2019.

Owners of semiautomatic assault rifles who obtained their firearm before July 1, 2019 are not required to have training.

The training requirement does not apply to other types of firearms.

After June 30, 2019, before delivering a semiautomatic assault rifle to a purchaser, a dealer must be provided proof that the purchaser has completed a recognized firearm safety training program within the past five years.

The proof of training must be in the form of a certification that declares under the penalty of perjury that the training included minimum requirements prescribed in the law.

The training must be sponsored by a federal, state, county or municipal law enforcement agency, a college or university, a nationally recognized organization that customarily offers firearms training, or a firearms training school with certified instructors.

The training must include instruction on:

1. Basic firearms safety rules;
2. Firearms and children, including secure gun storage and talking to children about gun safety;
3. Firearms and suicide prevention;
4. Secure gun storage to prevent unauthorized access and use;
5. Safe handling of firearms; and
6. State and federal firearms laws, including prohibited firearms transfers.

Does Initiative 1639 require firearms dealers to offer patrons secure gun storage?

Effective July 1, 2019, every registered firearms dealer is required to offer to sell or give the purchaser or transferee of any firearm a secure gun storage device or trigger lock or similar device that is designed to prevent the unauthorized use or discharge of the firearm. A failure to do so could result in the dealer being subject to a civil infraction.

What safe storage warnings does Initiative 1639 require firearms dealers give to patrons?

Effective July 1, 2019, every registered firearms dealer is required to:

1. Post a warning sign in block letters at least one inch in height; and
2. Deliver a written warning to any firearms purchaser or transferee in block letters no less than ¼ inch in height.

The warning sign and written warning must say:

WARNING: YOU MAY FACE CRIMINAL PROSECUTION IF YOU STORE OR LEAVE AN UNSECURED FIREARM WHERE A PERSON WHO IS PROHIBITED FROM POSSESSING FIREARMS CAN AND DOES OBTAIN POSSESSION

A failure to give the warnings could result in the dealer being subject to a civil infraction.

What are the new requirements for purchasing, selling or transferring a semiautomatic assault rifle?

Certain existing laws that applied only to pistols were expanded by Initiative 1639 to also apply to semiautomatic assault rifles. This includes the enhanced background check requirement. [Click here](#) for more information on enhanced background checks.

After July 1, 2019, before delivering a semiautomatic assault rifle to a purchaser:

1. The dealer must receive a complete application from the potential purchaser. ([Click here](#) for more information on application requirements); and
2. The dealer must be provided proof that the purchaser has completed a recognized firearms safety training program within the past five years. ([Click here](#) for more information on training requirements); and
3. The dealer must initiate an enhanced background check with the police chief or sheriff where the purchaser resides. ([Click here](#) for more information on enhanced background checks); and
4. Ten days must have elapsed from the date of the purchase application or, in the case of a transfer, ten business days from the date a background check is initiated.

Unless an exception applies, a firearms dealer can be criminally charged for selling or transferring a firearm to a purchaser without first complying with the law regarding background checks, or for delivering a firearm to a person whom he or she has reasonable cause to believe is ineligible to possess a firearm. [RCW 9.41.080](#).

After July 1, 2019, state [law](#) prohibits anyone who is not a resident of Washington from buying a semiautomatic assault rifle in Washington.

What information must be provided to the dealer by a potential purchaser in the application for purchasing or transferring a semiautomatic assault rifle?

Initiative 1639 changed certain existing laws that applied only to pistols and expanded those requirements to semiautomatic assault rifles. Effective July 1, 2019, at the time of applying for the purchase of a pistol or semiautomatic assault rifle, the purchaser must fill out and sign an application containing:

1. The applicant's name, residential address, date and place of birth, race, gender, and driver's license or state identification card number;
2. The date and hour of the application;
3. A description of the firearm including the make, model, caliber and manufacturer's number;
4. A statement that the purchaser is eligible to purchase and possess a firearm under state and federal law; and
5. If a semiautomatic assault rifle is being purchased, a certified statement that the applicant has completed an eligible training program within the last five years. [Click here](#) for more

information on training requirements.

If a manufacturer's number is not available at the time of the application, the application can still be processed but delivery of the pistol or semiautomatic assault rifle cannot occur until a number is recorded and transmitted to the chief of police or sheriff in the jurisdiction where the purchaser resides.

The application must contain certain required warnings about ineligibility to possess firearms and risks associated with firearms in the home.

Do Washington's background check requirements violate privacy protections for firearms purchasers' medical information such as HIPAA?

No. Under Washington law, a signed application to purchase a pistol constitutes a waiver of confidentiality and written request that the Health Care Authority, mental health institutions, and other health care facilities release, to an inquiring court or law enforcement agency, information relevant to the applicant's eligibility to purchase a pistol. Effective July 1, 2019, that waiver of confidentiality provision is expanded to include applications to purchase a semiautomatic assault rifle.

What is the role of the Attorney General's Office with regard to Initiative 1639?

It is our practice to provide members of the public with information of a general nature whenever possible, but we cannot provide legal advice to private individuals or business owners.

When an initiative is placed on the ballot, the Attorney General is required by law to prepare an Explanatory Statement. The Attorney General's Statement that was included in the Voter's Pamphlet with Initiative 1639 may provide you with some useful information.

Once voters pass an initiative, the Attorney General's Office has three primary roles:

1. Provide legal advice to our state agency clients that have a new or expanded role under the initiative or whose operations are affected by the initiative;
2. Uphold the will of the voters and defend the initiative against lawsuits; and
3. Provide answers in response to a request for an Attorney General opinion. An opinion represents the Attorney General's official interpretation on a point of law. **Opinions are not issued at the request of private individuals.** Only the following people can request an opinion:
 - Members of the Washington State Legislature;
 - Statewide elected officials;
 - Appointed heads of state agencies, boards, or commissions; or
 - County prosecuting attorneys.

The Washington Attorney General's Office issues official opinions on questions of law when requested to do so by these designated public officials on issues that arise in the course of their duties. The opinions are not binding but can be given "great weight" by courts. Opinions are not issued on every topic, but the office has issued opinions related to firearms.

To date, our office has not received any opinion requests regarding Initiative 1639

