

To The Attorney General's Office  
Attn: Opinions Editor  
PO Box 40100  
Olympia, Washington 98504-0100

May 28,2024

Dear Opinions Editor,

I am requesting a formal Attorney General Opinion on the interplay of the following two provisions of state law:

**RCW 9.41.092**

**Licensed dealer deliveries—Background checks. (*Effective January 1, 2024.*)**

Except as otherwise provided in this chapter, a licensed dealer may not deliver any firearm to a purchaser or transferee until:

- (1) The results of all required background checks are known and the purchaser or transferee (a) is not prohibited from owning or possessing a firearm under federal or state law and (b) does not have a voluntary waiver of firearm rights currently in effect; and
- (2) Ten business days have elapsed from the date the licensed dealer requested the background check.

**RCW 9.41.113**

**Firearm sales or transfers—Background checks—Requirements—Exceptions.**

(1) All firearm sales or transfers, in whole or part in this state including without limitation a sale or transfer where either the purchaser or seller or transferee or transferor is in Washington, shall be subject to background checks unless specifically exempted by state or federal law...

(4) This section does not apply to:...

(e) Any law enforcement or corrections agency and, to the extent the person is acting within the course and scope of his or her employment or official duties, any law enforcement or corrections officer, United States marshal, member of the armed forces of the United States or the national guard, or federal official;...

I have received inquiries from constituent firearms dealers about how to comply with the background check and waiting period requirements of RCW 9.41.092 upon sales to individual law enforcement officers. In seeking to provide appropriate guidance, my office has reviewed materials published by the Washington State Patrol and your office.

Frequently Asked Questions (“FAQs”) published online by your office address one aspect of the exception in RCW 9.41.113(4)(e), pertaining to sales to law enforcement *agencies*:

Are there situations when [RCW 9.41.390](#) would not apply?

RCW [9.41.390](#) does not apply to any of the following:

- The manufacture, importation, distribution, offer for sale, or sale of an assault weapon by a licensed firearms manufacturer for the purposes of sale to any branch of the armed forces of the United States or the State of Washington, or to any law enforcement agency for use by that agency or its employees for law enforcement purposes, or to a person who does not reside in this state;...

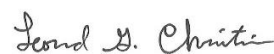
However, your FAQ does not appear to address sales to individual law enforcement agents.

Again, the statute exempts “and, to the extent the person is acting within the course and scope of his or her employment or official duties, any law enforcement or corrections officer...” It is this provision that is prompting inquiries from my impacted constituents, and which does not appear to be addressed in your FAQs, excerpted above.

Since I do not believe a law enforcement agency *and* an individual law enforcement officer may both own the same firearm, it appears that the language “and, to the extent *the person* is acting within the course and scope of *his or her* employment or official duties, *any law enforcement or correction officer*” (emphasis added) means an exemption also exists for sales to an *individual law enforcement officer* who uses the firearm within the scope of his or her employment, not merely to agencies who employ such individuals.

Of course, my office is unable to provide legal opinions to constituents and so I am seeking a formal AGO Opinion for two purposes: First, to supplement your office’s existing FAQs on firearms, to address the question of sales to an individual law enforcement officer who uses the firearm within the scope of their official duties; and second and alternatively, to the extent that this provision in the statute is unclear or ambiguous, to evaluate for my own planning purposes whether to sponsor legislation in future legislative sessions to provide additional clarity in the law.

Thank you in advance for your time and consideration. Please do not hesitate to contact me if you have questions or require additional information.



Leonard G Christian  
4<sup>th</sup> District Representative