



# SEATTLE CITY COUNCIL

## Legislative Summary

CB 119267

Record No.: CB 119267

Type: Ordinance (Ord)

Status: Passed

Version: 2

Ord. no: Ord 125621

In Control: City Clerk

File Created: 05/23/2018

Final Action: 07/20/2018

**Title:** AN ORDINANCE relating to the reporting of lost or stolen firearms; increasing the maximum penalty for failure to report a lost or stolen firearm; adding legal presumptions and defenses regarding compliance or failure to comply with Section 10.78.010 of the Seattle Municipal Code; amending Section 10.78.010 of the Seattle Municipal Code; and adding new Sections 10.78.020, 10.78.030, and 10.78.040 to the Seattle Municipal Code.

Date

Notes:

Filed with City Clerk:

Mayor's Signature:

Sponsors: González

Vetoed by Mayor:

Veto Overridden:

Veto Sustained:

Attachments:

Drafter: adam.schaefer@seattle.gov

Filing Requirements/Dept Action:

### History of Legislative File

Legal Notice Published:

Yes

No

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Mayor	05/24/2018	Mayor's leg transmitted to Council	City Clerk			
1	City Clerk	05/24/2018	sent for review	Council President's Office			
Action Text: The Council Bill (CB) was sent for review. to the Council President's Office							
Notes:							
1	Council President's Office	05/30/2018	sent for review	Gender Equity, Safe Communities, New Americans, and Education Committee			

**Action Text:** The Council Bill (CB) was sent for review. to the Gender Equity, Safe Communities, New Americans, and Education Committee

**Notes:**

1 City Council 06/04/2018 referred Gender Equity, Safe Communities, New Americans, and Education Committee

1 Gender Equity, Safe Communities, New Americans, and Education Committee 06/13/2018 discussed

**Action Text:** The Council Bill (CB) was discussed in Committee.

**Notes:**

1 Gender Equity, Safe Communities, New Americans, and Education Committee 06/27/2018 pass as amended Pass

**Action Text:** The Committee recommends that City Council pass as amended the Council Bill (CB).

In Favor: 2 Chair González , Member Johnson

Opposed: 0

2 City Council 07/09/2018 passed Pass

**Action Text:** The Council Bill (CB) was passed by the following vote, and the President signed the Bill:

In Favor: 9 Councilmember Bagshaw, Councilmember González , Council President Harrell, Councilmember Herbold, Councilmember Johnson, Councilmember Juarez, Councilmember Mosqueda, Councilmember O'Brien, Councilmember Sawant

Opposed: 0

2 City Clerk 07/12/2018 submitted for Mayor's signature Mayor

2 Mayor 07/18/2018 Signed

**Action Text:** The Council Bill (CB) was Signed.

**Notes:**

2 Mayor 07/20/2018 returned City Clerk

2 City Clerk 07/20/2018 attested by City Clerk

**Action Text:** The Ordinance (Ord) was attested by City Clerk.

**Notes:**

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**CITY OF SEATTLE**

**ORDINANCE** 125621

**COUNCIL BILL** 119267

AN ORDINANCE relating to the reporting of lost or stolen firearms; increasing the maximum penalty for failure to report a lost or stolen firearm; adding legal presumptions and defenses regarding compliance or failure to comply with Section 10.78.010 of the Seattle Municipal Code; amending Section 10.78.010 of the Seattle Municipal Code; and adding new Sections 10.78.020, 10.78.030, and 10.78.040 to the Seattle Municipal Code.

**BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

Section 1. Section 10.78.010 of the Seattle Municipal Code, enacted by Ordinance 124834, is amended as follows:

**10.78.010 Reporting theft or loss of firearm required**

A. If a firearm is lost or stolen, the person who owned or was in possession of the firearm shall report the theft or loss to the Seattle Police Department. The report shall be made within 24 hours after the theft or loss is first discovered, and shall include to the extent known:

1. The firearm's caliber, make, model, manufacturer, and serial number;
2. Any other distinguishing number or identification mark on the firearm; and
3. The circumstances of the loss or theft, including the date, place, and manner.

B. On receipt of a report of a stolen or lost firearm under this section, the Seattle Police Department shall enter into the National Crime Information Center Database the following information, to the extent known:

1. The firearm's caliber, make, model, manufacturer, and serial number; and
2. Any other distinguishing number or identification mark on the firearm.

C. The failure to comply with subsection 10.78.010.A shall constitute a civil infraction subject to a civil fine or forfeiture not to exceed \$1,000.

1 D. If a lost or stolen firearm is used by a third party to injure or kill another:

2 1. The failure to comply with subsection 10.78.010.A is prima facie evidence of  
3 negligence per se; and

4 2. The proper use of measures to safely store or keep a firearm by securing it in a  
5 locked container, properly engaged so as to render such weapon inaccessible or unusable to any  
6 person other than the owner or other lawfully authorized user, when coupled with timely  
7 compliance with subsection 10.78.010.A, is an affirmative defense to a claim of negligence. For  
8 purposes of this subsection 10.78.010.D.2, "lawfully authorized user" means any person who:

9 a. Is not in the unlawful possession of a firearm under RCW 9.41.040; and

10 b. Is not prohibited from possessing a firearm under any other state or  
11 federal law; and

12 c. Has the express permission of the owner to possess and use the firearm.

13 Section 2. A new Section 10.78.020 is added to the Seattle Municipal Code as follows:

14 **10.78.020 Notice of infraction—Issuance**

15 A. A peace officer has the authority to issue a notice of infraction:

16 1. When an infraction under this Chapter 10.78 is committed in the officer's  
17 presence;

18 2. If an officer has reasonable cause to believe that a person has committed an  
19 infraction under this Chapter 10.78.

20 B. The City Attorney's Office may issue a notice of infraction upon receipt of a written  
21 statement of the officer that there is reasonable cause to believe that an infraction was  
22 committed.

23 Section 3. A new Section 10.78.030 is added to the Seattle Municipal Code as follows:

1 **10.78.030 Response to notice of infraction—Contesting determination—Hearing—Failure**  
2 **to appear**

3 A. Any person who receives a notice of infraction shall respond to such notice as  
4 provided in this section within 15 days of the date the notice is personally served or, if the notice  
5 is served by mail, within 18 days of the date the notice is mailed.

6 B. If the person determined to have committed the infraction does not contest the  
7 determination the person shall respond by completing the appropriate portion of the notice of  
8 infraction and submitting it, either by mail or in person, or by responding via the internet or  
9 phone to the Seattle Municipal Court. A check or money order in the amount of the penalty  
10 prescribed for the infraction must be submitted with the response, if responding by mail, or if  
11 responding online or phone, payment may be made using a credit card. When a response that  
12 does not contest the determination is received, an appropriate order shall be entered in the court's  
13 records.

14 C. If the person determined to have committed the infraction wishes to contest the  
15 determination the person shall respond by completing the portion of the notice of infraction  
16 requesting a hearing and submitting it, either by mail or in person, to the Seattle Municipal  
17 Court. The court shall notify the person in writing of the time, place, and date of the hearing, and  
18 that date shall not be sooner than seven days from the date of the notice, except by agreement.

19 D. If the person determined to have committed the infraction does not contest the  
20 determination but wishes to explain mitigating circumstances surrounding the infraction, the  
21 person shall respond by completing the portion of the notice of infraction requesting a hearing  
22 for that purpose and submitting it, either by mail or in person, to the Seattle Municipal Court.  
23 The court shall notify the person in writing of the time, place, and date of the hearing.

1 E. In any hearing conducted pursuant to subsections 10.78.030.C or 10.78.030.D, the  
2 court may defer findings, or in a hearing to explain mitigating circumstances may defer entry of  
3 its order for up to one year and impose conditions upon the defendant the court deems  
4 appropriate. Upon deferring findings, the court may assess costs as the court deems appropriate  
5 for administrative processing. If at the end of the deferral period the defendant has met all  
6 conditions and has not been determined to have committed another infraction under this Chapter  
7 10.78, the court may dismiss the infraction. A person may not receive more than one deferral  
8 within a seven-year period.

9 F. If any person issued a notice of infraction:

10 1. Fails to respond to the notice of infraction as provided in subsection 10.78.030.B;

11 or

12 2. Fails to appear at a hearing requested pursuant to subsections 10.78.030.C or  
13 10.78.030.D;

14 the court shall enter an appropriate order assessing the monetary penalty prescribed for  
15 the infraction and any other penalty authorized by this Chapter 10.78.

16 Section 4. A new Section 10.78.040 is added to the Seattle Municipal Code as follows:

17 **10.78.040 Hearing—Contesting determination that infraction committed—Appeal**

18 A. A hearing held for the purpose of contesting the determination that an infraction has  
19 been committed shall be without a jury.

20 B. The court may consider the notice of infraction and any other written report made  
21 under oath submitted by the officer who issued the notice or whose written statement was the  
22 basis for the issuance of the notice in lieu of the officer's personal appearance at the hearing. The

1 person named in the notice may subpoena witnesses, including the officer, and has the right to  
2 present evidence and examine witnesses present in court.

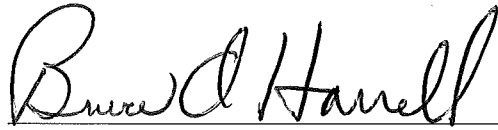
3 C. The burden of proof is upon the City to establish the commission of the infraction  
4 by a preponderance of the evidence.

5 D. After consideration of the evidence and argument, the court shall determine whether  
6 the infraction was committed. Where it has not been established that the infraction was  
7 committed, an order dismissing the notice shall be entered in the court's records. Where it has  
8 been established that the infraction was committed, an appropriate order shall be entered in the  
9 court's records.

10 E. An appeal from the court's determination or order shall be to the Superior Court.  
11 The decision of the Superior Court is subject only to discretionary review pursuant to Rule 2.3 of  
12 the Rules of Appellate Procedure.

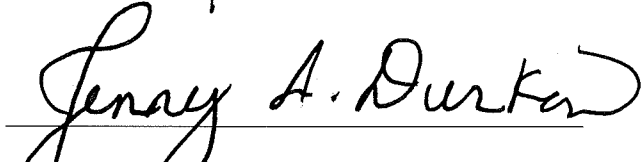
1 Section 5. This ordinance shall take effect and be in force 30 days after its approval by  
2 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it  
3 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

4 Passed by the City Council the 9<sup>th</sup> day of July, 2018,  
5 and signed by me in open session in authentication of its passage this 9<sup>th</sup> day of  
6 July, 2018.

7 

8 President \_\_\_\_\_ of the City Council

9 Approved by me this 10<sup>th</sup> day of July, 2018.

10 

11 Jenny A. Durkan, Mayor

12 Filed by me this 20<sup>th</sup> day of July, 2018.

13 

14 Monica Martinez Simmons, City Clerk

15 (Seal)