
HOUSE BILL 2886

State of Washington

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By Representatives Campbell, Johanson, Finkbeiner, Chappell, Tate, Eide, Padden, Conway, Dorn, Long, Morris, Forner, Wineberry and Ballasiotes

Read first time 01/28/94. Referred to Committee on Judiciary.

1 AN ACT Relating to records checks; adding a new chapter to Title 9
2 RCW; and prescribing penalties.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** Unless the context clearly requires
5 otherwise, the definitions in this section apply throughout this
6 chapter.

7 (1) "Department" means the department of licensing.

8 (2) "Engaged in business" means as applied to a firearms dealer a
9 person, firm, partnership, or corporation that devotes time, attention,
10 and labor to dealing in firearms as a regular course of trade or
11 business with the principal objective of livelihood and profit through
12 repetitive purchase or resale of firearms, but "engaged in business"
13 does not involve a person who makes occasional sales, exchanges, or
14 purchases of firearms for the enhancement of a personal collection or
15 for a hobby, or who sells all or part of his or her personal collection
16 of firearms.

17 (3) "Firearms dealer" means:

18 (a) A person, firm, partnership, or corporation engaged in the
19 business of selling firearms at retail;

1 (b) A person, firm, partnership, or corporation engaged in the
2 business of making or fitting special barrels, stocks, or trigger
3 mechanisms to firearms; or

4 (c) A person, firm, partnership, or corporation that is a
5 pawnbroker.

6 (4) "Handgun" means a firearm that has a short stock and is
7 designed to be held and fired by the use of a single hand.

8 (5) "License" means a license or permit to operate a motor vehicle
9 on the roads and highways of the state, and an identification document
10 issued by the department solely for purposes of identification.

11 NEW SECTION. **Sec. 2.** (1) Before the issuance, reissuance, or
12 reinstatement of a license issued by the department, the department
13 shall conduct a criminal records check of the applicant and shall
14 determine, from records furnished to the department under subsections
15 (2) and (3) of this section, whether the applicant has previously been
16 convicted of a felony or adjudicated mentally incompetent, without
17 having waited five years from the date of the applicant's restoration
18 to capacity by court order. If it is determined that the applicant has
19 been convicted of a felony under the laws of this state, the United
20 States, or another state of the United States or has previously been
21 adjudicated mentally incompetent, without having waited five years from
22 the date of the applicant's restoration to capacity by court order, the
23 license issued by the department must have on its magnetic reader strip
24 indication of the conviction or adjudication. The indication may only
25 be determined through the use of the special magnetic code reader, and
26 may not appear different to the unaided eye from that of a
27 nonprohibited person. The magnetic code reader must be a device that
28 is read only and that does not have storage or communication
29 capabilities. The magnetic code reader must provide a red or a green
30 light signal. The red light must indicate the buyer is a prohibited
31 purchaser under this subsection and the green light must indicate the
32 buyer is not a prohibited person under this subsection. The department
33 shall provide a magnetic code reader to ensure the license reads
34 correctly.

35 (2) The state patrol shall create a computerized list of felons
36 under Title I, Sec. 103(a) of the Brady Handgun Control Act that the
37 department may contact for information. The state patrol shall
38 achieve, by the end of two years after the effective date of this act,

1 at least eighty percent currency of case dispositions in computerized
2 criminal history files for all cases in which there has been an entry
3 of activity within the last five years and continue to maintain the
4 system.

5 (3) The state patrol shall create a computerized list of persons
6 who have been adjudicated mentally incompetent and have not waited five
7 years from the date of their restoration to capacity by court order.
8 This list of names must be made available for the department to contact
9 for information.

10 (4) If records established under this section identify a person as
11 a prohibited person under subsection (1) of this section, the person,
12 if the person believes the identification to be erroneous, may request
13 the state patrol to supply the person with the reasons for the
14 identification. Within five days after receipt of the request, the
15 state patrol shall comply with the request. The person may submit to
16 the state patrol information that might correct, clarify, or supplement
17 the records with respect to the person. Within five days after receipt
18 of the information, the state patrol shall consider the information,
19 investigate the matter further, correct all erroneous records relating
20 to the person, and notify any agency that was the source of the
21 erroneous records of the errors.

22 (5) A person erroneously identified as a prohibited person, whose
23 records have not been corrected, under subsection (1) of this section
24 may bring an action in a court of original jurisdiction against this
25 state or a political subdivision of this state that is the source of
26 the erroneous information, for damages, including consequential
27 damages, injunctive relief, and such other relief as the court deems
28 appropriate. If the person prevails in the action, the court shall
29 allow the person reasonable attorneys' fees as part of the costs.

30 (6) In performing his or her duties at a traffic stop, a police
31 officer may utilize a magnetic code reader described in subsection (1)
32 of this section to determine the status of a driver for the officer's
33 own safety. A police agency is not required to purchase or utilize the
34 designated magnetic code reader.

35 NEW SECTION. **Sec. 3.** (1) It is unlawful for a federally licensed
36 firearms dealer to knowingly and intentionally:

37 (a) Sell a handgun to a person not licensed under 18 U.S.C. Sec.
38 923 unless the firearms dealer has used a magnetic code reader

1 described in section 2(1) of this act to read the magnetic strip
2 affixed to a license issued to the person by the department; or

3 (b) Refuse to notify local law enforcement authorities, within
4 eighteen hours, of a person attempting to purchase a handgun who is
5 identified as a prohibited person through the use of a magnetic code
6 reader.

7 (2) A firearms dealer who violates subsection (1) of this section
8 must be imprisoned not more than one year, fined not more than one
9 thousand dollars, or both.

10 (3) Subsections (1) and (2) of this section do not apply until the
11 department is in full compliance with the background check and magnetic
12 strip and reader system under section 2 of this act. A person in
13 possession of a license issued before the full compliance of the
14 department is exempt from this subsection until such time as the
15 license and identification cards reach their expiration date.

16 (4) A "license" that is issued by the department and that does not
17 identify a person as a prohibited purchaser is considered a "permit"
18 under Title I, Sec. 102(C) of the Brady Handgun Control Act.

19 (5) It is unlawful for a prohibited person under section 2(1) of
20 this act to knowingly and intentionally alter, change, modify, or
21 counterfeit a license issued under this chapter. A prohibited person
22 violating this subsection is guilty of a felony and, upon conviction,
23 must be punished by imprisonment for not less than one year nor more
24 than ten years or by a fine not to exceed twenty-five thousand dollars,
25 or both.

26 (6) Upon becoming a prohibited person under section 2(1) of this
27 act, a person's license is void and must be seized by the trial court.
28 The department shall issue a new license, if desired by the prohibited
29 person, with the new prohibition encoded on the magnetic strip.

30 (7) A prohibited person, under section 2(1) of this act, shall pay
31 additional court costs upon being adjudicated as prohibited persons and
32 shall pay additional fees to the department when obtaining a license,
33 sufficient to cover the expenses of the criminal records checks
34 conducted under section 2(1) of this act.

35 (8) Two years after the effective date of this act, the system of
36 identifying prohibited persons before the purchase of a handgun as
37 described in this chapter may be the only system used in this state for
38 identifying prohibited persons before the purchase of a firearm.

1 NEW SECTION. **Sec. 4.** This chapter may be known and cited as the
2 "felon identification and police safety act."

3 NEW SECTION. **Sec. 5.** Sections 1 through 4 of this act shall
4 constitute a new chapter in Title 9 RCW.

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