
Judiciary Committee

HB 1052

Title: An act relating to firearm licenses for persons from different countries.

Brief Description: Concerning firearm licenses for persons from other countries.

Sponsors: Representatives Moeller, Williams, Blake, Chase and Kretz.

<p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">• Repeals the current alien firearm license statute and establishes new requirements and procedures governing possession of firearms by non-citizens.

Hearing Date: 1/15/09

Staff: Edie Adams (786-7180)

Background:

Alien Firearm Licenses

It is a class C felony for a person who is not a citizen of the United States to possess a firearm in Washington unless the person has obtained an alien firearms license from the Department of Licensing (DOL). Based on the language in the alien firearm license statute and the requirements of federal law, the DOL has interpreted the alien firearms license statute to allow only those non-citizens who are residents of Washington to obtain an alien firearms license.

To obtain an alien firearms license, the applicant must meet the following requirements:

- Provide proof that he or she is lawfully present in the United States;
- Provide from the applicant's consulate domiciled in this state: (a) a certified copy of the applicant's criminal history in the applicant's home country; and (b) an attestation that the applicant is a responsible person; and
- Undergo a background and fingerprint check conducted by the local law enforcement agency where the applicant resides to determine his or her eligibility to possess a firearm.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The criminal history and attestation of responsibility from the applicant's consulate is not required if the applicant has resided within Washington for at least two years and either the applicant is from a country that does not have a consulate domiciled in this state or the consulate has failed to provide the required criminal history and attestation of responsibility within 90 days of the request.

An alien firearm license is valid for a period of five years. An applicant for an alien firearm license must pay a fee of \$55 to the DOL plus additional charges imposed by the Federal Bureau of Investigation that are passed on to the applicant. The DOL must distribute the fee as follows: \$15 to the DOL; \$25 to the Washington State Patrol; and \$15 to the local law enforcement agency conducting the background check.

A Canadian citizen is exempt from the requirements of the alien firearm license statute if the Canadian citizen possesses the firearm for the purpose of hunting or competing in a bona fide trap or skeet shoot or other organized event where firearms are used and if the Canadian citizen lives in a province that provides similar privileges to Washington residents.

The statute governing requirements for obtaining a concealed pistol license provides that a concealed pistol license may be issued to a person who is not a citizen of the United States only if the applicant meets the requirements of the alien firearm license statute.

DOL Issuance of Alien Firearm Licenses

The DOL is responsible for issuing the alien firearm license after verifying that the applicant meets the requirements of the statute, including the required background check conducted by local law enforcement. In 2006, the Federal Bureau of Investigation determined that the secondhand dissemination of federal background check data to the DOL violates federal law because the DOL is not a criminal justice agency. As a consequence, the DOL has not been issuing alien firearm licenses due to the inability to comply with the statute's background check requirements.

Federal Law

The federal Gun Control Act generally prohibits aliens admitted to the United States under nonimmigrant visas from importing firearms into or possessing firearms within the United States. There is an exception for those nonimmigrant aliens who are either admitted to the United States for lawful hunting or sporting purposes or in possession of a hunting license lawfully issued in the United States.

The definition of "nonimmigrant alien" under federal law is quite lengthy; however, it generally encompasses persons who have been granted the right to travel or temporarily reside in the United States (e.g., foreign students and foreign workers). Permanent resident aliens and persons in the United States under asylum or refugee status are not nonimmigrant aliens.

A nonimmigrant alien who wishes to import a firearm or ammunition into the United States for the purpose of lawful hunting or sporting events must fill out and have approved the Application and Permit for Temporary Importation of Firearms and Ammunition for Nonimmigrant Aliens

(ATF Form 6NIA). In order to obtain approval for an ATF Form 6NIA permit, the nonimmigrant alien must possess either: a valid hunting license issued by a state; or an invitation or registration to attend a "competitive target shooting event or sports or hunting trade show sponsored by a national, state, or local organization devoted to the collection, competitive use, or other sporting use of firearms."

Summary of Bill:

The alien firearm statute is repealed and new requirements for the possession of firearms by non-citizens are established.

The prohibition on a non-citizen's possession of a firearm without an alien firearm license only applies to nonimmigrant aliens. A non-citizen who is not a nonimmigrant alien (e.g., a permanent resident alien) is no longer subject to a criminal penalty for possessing a firearm without having obtained an alien firearm license.

Nonimmigrants Residing in Washington

It is a class C felony for a nonimmigrant alien residing in Washington to carry or possess any firearm without having an alien firearm license. An applicant for an alien firearm license may apply to the county sheriff where he or she resides, and the sheriff has 60 days to issue the license. The license allows the applicant to carry or possess a firearm for the purpose of hunting and sport shooting, and it expires two years after issuance or when the person permanently leaves the state. An applicant for an alien firearm license must submit a copy of a passport and visa showing that the applicant is in the country legally and a valid Washington hunting license or documentation that the applicant is a member of a sport shooting club.

The county sheriff must conduct a fingerprint-based background check through the National Crime Information Center, the Washington State Patrol (WSP), the Department of Social and Health Services databases, and other appropriate agencies, to determine whether the applicant is ineligible to possess a firearm under state law.

The license must be in a form established by the Department of Licensing (DOL). One copy of the license must be sent to the DOL and the county sheriff issuing the license must retain a copy for six years. The fee for the license is \$55, plus additional charges imposed by the Federal Bureau of Investigation that are passed on to the applicant. The fee is split between the DOL, the WSP, and the county sheriff issuing the license.

Nonimmigrants Who Do Not Reside in Washington

It is a class C felony for a nonimmigrant alien who is not a resident of Washington to carry or possess a firearm in Washington unless he or she possesses: a valid passport and visa, or in the case of a Canadian citizen, valid documentation for entry into the United States; an approved U.S. Department of Treasury ATF-6 NIA application and permit; and a valid hunting license or an invitation to participate in a trade show or sport shooting event.

Concealed Pistol Licenses

The concealed pistol license statute is amended to reference alien firearm licenses created by the act. A person who is not a citizen of the United States has to comply with the requirements of the alien firearm statute in order to obtain a concealed pistol license.

Appropriation: None.

Fiscal Note: Requested on January 6, 2009.

Effective Date: The bill contains an emergency clause and takes effect immediately.