
HOUSE BILL 2164

State of Washington**64th Legislature****2015 Regular Session**

By Representatives Shea, Blake, Rodne, Takko, Young, Scott, Manweller, Dent, Muri, Klippert, Haler, Holy, G. Hunt, Wilson, Fagan, McCaslin, Johnson, Griffey, Buys, Wilcox, Hargrove, Schmick, Parker, Stokesbary, Kristiansen, Nealey, MacEwen, Kretz, Smith, Harmsworth, DeBolt, Magendanz, Vick, Walsh, Kochmar, McCabe, Van Werven, Chandler, Condotta, Harris, Orcutt, Caldier, Hayes, and Pike

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1 AN ACT Relating to revising background check requirements for
2 sales and transfers of firearms, including exempting from the
3 background check provisions of RCW 9.41.113 transfers of firearms
4 involving persons who are not otherwise disqualified from legally
5 possessing a firearm and that are: Between and among owners of a
6 firearm and persons who have obtained a temporary restraining order,
7 protection order, or no-contact order involving domestic violence,
8 sexual assault, stalking, or harassment; between and among persons
9 who are active members of the armed forces of the United States or
10 the national guard or veterans who have been honorably discharged
11 from military service; between and among persons who are active
12 members of the armed forces of the United States or the national
13 guard and family members or friends for the purpose of maintaining
14 the members' firearms while the members are under orders for
15 deployment; between and among persons participating in an honor guard
16 for a funeral or flag ceremony who are associated with an
17 organization such as the American legion, American veterans, veterans
18 of foreign wars, wounded warrior project, and boy scouts of America,
19 or other such organizations; between and among law enforcement
20 officers who are otherwise not on duty acting within the course and
21 scope of their employment or official duties; between and among
22 corrections officers who are otherwise not on duty acting within the
23 course and scope of their employment or official duties; between and

1 among first responders, including public safety, fire, and emergency
2 medical staff who are designated or trained to respond immediately to
3 the scene of an emergency, accident, or incident in order to provide
4 assistance, save lives, or protect property; between and among
5 persons who are licensed private security guards, armed private
6 security guards, bail bond agents, bail bond recovery agents, or
7 registered process servers; between and among owners, executives,
8 employees, and customers of businesses engaged in the manufacture,
9 repair, renovation, modification, alteration, or engraving of
10 firearms or firearm parts, or firearm-related accessories; between
11 and among certified, licensed, or recognized firearm training or
12 safety instructors and students participating in the firearm training
13 or safety class; between and among certified, licensed, or recognized
14 hunter education training course instructors and students
15 participating in the hunter education training course; between and
16 among persons who hold a valid hunting license during a recognized
17 hunting season or while legally hunting; between and among persons at
18 a recognized or otherwise legal military, law enforcement,
19 commercial, or other public or private shooting range facility;
20 between and among persons loaning, giving, or receiving firearms that
21 are curios, relics, or antiques, or have otherwise been made
22 completely inoperable; between and among persons who own firearms and
23 persons who represent historical societies or museums; between and
24 among representatives of a firearm or hunter organization while
25 preparing for an organization event that includes a raffle or auction
26 and between and among representatives of the organization and persons
27 who are attending the event; between and among the owner of a firearm
28 and other persons who remain in the immediate presence of the firearm
29 owner and the firearm is retained by the owner once the other persons
30 have departed from the immediate presence of the firearm owner;
31 between and among immediate family members; and between and among
32 persons who possess a valid concealed pistol license; exempting the
33 transfer of a firearm that is gifted from a deceased person to a
34 beneficiary including a widow, child, or other immediate family
35 member, friend, or other beneficiary and who are not otherwise
36 disqualified from possessing a firearm; prohibiting a state or local
37 registry or database of information provided by persons involved in
38 the transfer of a firearm between two persons who are not federal
39 firearms licensees; clarifying that Initiative Measure No. 594 sales
40 or transfers between two persons who are not federal firearms

1 licensees are exempt from the use tax as well as the sales tax; and
2 clarifying that the term transfer means the conveyance of a firearm
3 from a person to another person with the intent of both parties to
4 the conveyance that the transferee assumes all rights of possession,
5 ownership, and control of the firearm and the transferor loses all
6 rights of possession, ownership, and control of the firearm; amending
7 RCW 9.41.113; creating a new section; and declaring an emergency.

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

9 NEW SECTION. **Sec. 1.** LEGISLATIVE FINDINGS AND INTENT. (1) The
10 legislature finds that reasonable restrictions imposed on the
11 possession and use of firearms are essential to maintaining public
12 safety. The legislature further finds that most people in Washington
13 state strive in good faith to comply with the law, but when laws
14 become so overreaching, so intrusive, and so intransigent in the
15 normal affairs of law-abiding citizens, when persons with criminal
16 intent feel no duty to obey such laws but simply ignore them, then
17 government has a duty to provide relief from the heavy burdens such
18 laws impose on people of good will.

19 (2) The legislature intends that the transfers of firearms
20 protected by this act involve only those persons who are not
21 disqualified from legally possessing a firearm, otherwise the
22 protections of this act do not apply.

23 (3) The legislature recognizes that (a) the United States
24 Constitution, amendment II (bill of rights), guarantees that "...the
25 right of the people to keep and bear arms, shall not be infringed"
26 and (b) the Washington state Constitution, Article I (declaration of
27 rights), section 24 (right to bear arms), guarantees that "The right
28 of the individual citizen to bear arms in defense of himself, or the
29 state, shall not be impaired..."

30 (4) The legislature finds that the federal and state
31 Constitutions expressly recognize and protect the fundamental right
32 to bear arms by law-abiding citizens and that certain regulations
33 imposed by governments can place an undue burden on that right.

34 (5) The legislature finds that when an explicit fundamental
35 constitutional right, such as the right to bear arms, is infringed
36 the only burdens imposed by government that can pass constitutional
37 muster are those that are narrowly tailored and the least restrictive
38 means in effectively achieving a compelling government interest. The

1 legislature further finds that certain restrictions imposed under RCW
2 9.41.113 do not pass strict scrutiny and that the burdens imposed on
3 persons who otherwise are not prohibited from possessing a firearm
4 are unsustainable.

5 **Sec. 2.** RCW 9.41.113 and 2015 c 1 s 3 (Initiative Measure No.
6 594) are each amended to read as follows:

7 (1) All firearm sales or transfers, in whole or part in this
8 state including without limitation a sale or transfer where either
9 the purchaser or seller or transferee or transferor is in Washington,
10 shall be subject to background checks unless specifically exempted by
11 state or federal law. The background check requirement applies to all
12 sales or transfers including, but not limited to, sales and transfers
13 through a licensed dealer, at gun shows, online, and between
14 unlicensed persons.

15 (2) No person shall sell or transfer a firearm unless:

16 (a) The person is a licensed dealer;

17 (b) The purchaser or transferee is a licensed dealer; or

18 (c) The requirements of subsection (3) of this section are met.

19 (3) Where neither party to a prospective firearms transaction is
20 a licensed dealer, the parties to the transaction shall complete the
21 sale or transfer through a licensed dealer as follows:

22 (a) The seller or transferor shall deliver the firearm to a
23 licensed dealer to process the sale or transfer as if it is selling
24 or transferring the firearm from its inventory to the purchaser or
25 transferee, except that the unlicensed seller or transferor may
26 remove the firearm from the business premises of the licensed dealer
27 while the background check is being conducted. If the seller or
28 transferor removes the firearm from the business premises of the
29 licensed dealer while the background check is being conducted, the
30 purchaser or transferee and the seller or transferor shall return to
31 the business premises of the licensed dealer and the seller or
32 transferor shall again deliver the firearm to the licensed dealer
33 prior to completing the sale or transfer.

34 (b) Except as provided in (a) of this subsection, the licensed
35 dealer shall comply with all requirements of federal and state law
36 that would apply if the licensed dealer were selling or transferring
37 the firearm from its inventory to the purchaser or transferee,
38 including but not limited to conducting a background check on the
39 prospective purchaser or transferee in accordance with federal and

1 state law requirements and fulfilling all federal and state
2 recordkeeping requirements, except as provided in subsection (7) of
3 this section.

4 (c) The purchaser or transferee must complete, sign, and submit
5 all federal, state, and local forms necessary to process the required
6 background check to the licensed dealer conducting the background
7 check.

8 (d) If the results of the background check indicate that the
9 purchaser or transferee is ineligible to possess a firearm, then the
10 licensed dealer shall return the firearm to the seller or transferor.

11 (e) The licensed dealer may charge a fee that reflects the fair
12 market value of the administrative costs and efforts incurred by the
13 licensed dealer for facilitating the sale or transfer of the firearm.

14 (4) This section does not apply to:

15 (a) ~~((A transfer between immediate family members, which for this~~
16 ~~subsection shall be limited to spouses, domestic partners, parents,~~
17 ~~children, siblings, grandparents, grandchildren, nieces, nephews,~~
18 ~~first cousins, aunts, and uncles, that is a bona fide gift;~~

19 ~~(b) The sale or transfer of an antique firearm;~~

20 ~~(e))~~ A temporary transfer of possession of a firearm if such
21 transfer is necessary to prevent imminent death or great bodily harm
22 to the person to whom the firearm is transferred if:

23 (i) The temporary transfer only lasts as long as immediately
24 necessary to prevent such imminent death or great bodily harm; and

25 (ii) The person to whom the firearm is transferred is not
26 prohibited from possessing firearms under state or federal law;

27 ~~((d))~~ (b) Any law enforcement or corrections agency and, to the
28 extent the person is acting within the course and scope of his or her
29 employment or official duties, any law enforcement or corrections
30 officer, United States marshal, member of the armed forces of the
31 United States or the national guard, or federal official;

32 ~~((e))~~ (c) A federally licensed gunsmith who receives a firearm
33 solely for the purposes of service or repair, or the return of the
34 firearm to its owner by the federally licensed gunsmith; or

35 ~~((f))~~ (d) The temporary transfer of a firearm (i) between
36 spouses or domestic partners; (ii) if the temporary transfer occurs,
37 and the firearm is kept at all times, at an established shooting
38 range authorized by the governing body of the jurisdiction in which
39 such range is located; (iii) if the temporary transfer occurs and the
40 transferee's possession of the firearm is exclusively at a lawful

1 organized competition involving the use of a firearm, or while
2 participating in or practicing for a performance by an organized
3 group that uses firearms as a part of the performance; (iv) to a
4 person who is under eighteen years of age for lawful hunting,
5 sporting, or educational purposes while under the direct supervision
6 and control of a responsible adult who is not prohibited from
7 possessing firearms; or (v) while hunting if the hunting is legal in
8 all places where the person to whom the firearm is transferred
9 possesses the firearm and the person to whom the firearm is
10 transferred has completed all training and holds all licenses or
11 permits required for such hunting, provided that any temporary
12 transfer allowed by this subsection is permitted only if the person
13 to whom the firearm is transferred is not prohibited from possessing
14 firearms under state or federal law(~~or~~

15 ~~(g) A person who (i) acquired a firearm other than a pistol by~~
16 ~~operation of law upon the death of the former owner of the firearm or~~
17 ~~(ii) acquired a pistol by operation of law upon the death of the~~
18 ~~former owner of the pistol within the preceding sixty days. At the~~
19 ~~end of the sixty day period, the person must either have lawfully~~
20 ~~transferred the pistol or must have contacted the department of~~
21 ~~licensing to notify the department that he or she has possession of~~
22 ~~the pistol and intends to retain possession of the pistol, in~~
23 ~~compliance with all federal and state laws)).~~

24 (5) This section does not apply to transfers of firearms between
25 and among the following persons who are not otherwise disqualified
26 from legally possessing a firearm:

27 (a) Owners of a firearm and persons who have obtained a temporary
28 restraining order, protection order, or no-contact order involving
29 domestic violence, sexual assault, stalking, or harassment;

30 (b) Persons who are active members of the armed forces of the
31 United States or the national guard or veterans who have been
32 honorably discharged from military service;

33 (c) Persons who are active members of the armed forces of the
34 United States or the national guard and family members or friends for
35 the purpose of maintaining the members' firearms while the members
36 are under orders for deployment;

37 (d) Persons participating in an honor guard for a funeral or flag
38 ceremony who are associated with an organization such as the American
39 legion, American veterans, veterans of foreign wars, wounded warrior
40 project, and boy scouts of America, or other such organizations;

1 (e) Law enforcement officers who are otherwise not on duty acting
2 within the course and scope of their employment or official duties;

3 (f) Corrections officers who are otherwise not on duty acting
4 within the course and scope of their employment or official duties;

5 (g) First responders, including public safety, fire, and
6 emergency medical staff who are designated or trained to respond
7 immediately to the scene of an emergency, accident, or incident in
8 order to provide assistance, save lives, or protect property;

9 (h) Persons who are licensed private security guards, armed
10 private security guards, bail bond agents, bail bond recovery agents,
11 or registered process servers;

12 (i) Owners, executives, employees, and customers of businesses
13 engaged in the manufacture, repair, renovation, modification,
14 alteration, or engraving of firearms or firearm parts, or firearm-
15 related accessories;

16 (j) Certified, licensed, or recognized firearm training or safety
17 instructors and students participating in the firearm training or
18 safety class;

19 (k) Certified, licensed, or recognized hunter education training
20 course instructors and students participating in the hunter education
21 training course;

22 (l) Persons who hold a valid hunting license during a recognized
23 hunting season or while legally hunting;

24 (m) Persons at a recognized or otherwise legal military, law
25 enforcement, commercial, or other public or private shooting range
26 facility;

27 (n) Persons loaning, giving, or receiving firearms that are
28 curios, relics, or antiques, or have otherwise been made completely
29 inoperable;

30 (o) Persons who own firearms and persons who represent historical
31 societies or museums;

32 (p) Representatives of a firearm or hunter organization while
33 preparing for an organization event that includes a raffle or auction
34 and between and among representatives of the organization and persons
35 who are attending the event;

36 (q) The owner of a firearm and other persons who remain in the
37 immediate presence of the firearm owner and the firearm is retained
38 by the owner once the other persons have departed from the immediate
39 presence of the firearm owner;

40 (r) Immediate family members; and

1 (s) Persons who possess a valid concealed pistol license.

2 (6) This section does not apply to the transfer of a firearm that
3 is gifted from a deceased person to a beneficiary including a widow,
4 child, or other immediate family member, friend, or other beneficiary
5 and who is not otherwise disqualified from possessing a firearm.

6 (7) No state or local government entity may maintain a registry
7 or database of information provided by persons involved in the
8 transfer of a firearm between two persons who are not federal
9 firearms licensees. Notwithstanding the provisions of RCW
10 9.41.110(9)(b), a dealer shall not transfer a record of a pistol
11 transfer application or a pistol transfer to the department of
12 licensing. Notwithstanding the provisions of RCW 9.41.129, the
13 department of licensing is prohibited from maintaining records of
14 pistol transfers and pistol transfer applications for pistol sales or
15 transfers conducted under subsection (3) of this section.

16 (8) Chapter 1, Laws of 2015 (Initiative Measure No. 594) sales or
17 transfers between two persons who are not federal firearms licensees
18 are exempt from the use tax as well as the sales tax. The use tax
19 imposed under the provisions of chapter 82.12 RCW shall not apply in
20 respect to the use of a firearm sold or transferred between two
21 persons who are not federal firearms licensees if they have complied
22 with all background check requirements of this chapter.

23 (9) For the purposes of this section, the term "transfer" means
24 the conveyance of a firearm from a person to another person with the
25 intent of both parties to the conveyance that the transferee assumes
26 all rights of possession, ownership, and control of the firearm and
27 the transferor loses all rights of possession, ownership, and control
28 of the firearm.

29 NEW SECTION. Sec. 3. SEVERABILITY. If any provision of this act
30 or its application to any person or circumstance is held invalid, the
31 remainder of the act or the application of the provision to other
32 persons or circumstances is not affected.

33 NEW SECTION. Sec. 4. EMERGENCY. This act is necessary for the
34 immediate preservation of the public peace, health, or safety, or
35 support of the state government and its existing public institutions,
36 and takes effect immediately.

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