
Judiciary Committee

HB 1731

Title: An act relating to background checks for firearms sales or transfers, but only with respect to clarifying that the term firearm does not include flare guns and construction tools, clarifying that the term transfer does not include transfers between an employer and employee for lawful purposes in the ordinary course of business, expanding the family member exemption to include loans and parents-in-law and siblings-in-law, providing an exemption for temporary transfers for the purpose of preventing suicide or self-inflicted great bodily harm, and providing an exemption for temporary transfers where the transferee and the firearm are in the presence of the transferor.

Brief Description: Concerning firearms sales and transfers.

Sponsors: Representatives Jinkins, Rodne, Senn, Stokesbary and Tharinger.

<p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">• Makes changes with respect to background check requirements for firearms sales or transfers.
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Hearing Date: 2/7/17

Staff: Edie Adams (786-7180).

Background:

Both federal and state law regulate the possession and transfer of firearms. Firearms dealers (dealers) are required to have licenses in order to sell firearms and must comply with both federal and state background check requirements before transferring firearms to persons who do not have a federal firearms license.

Federal Background Check Requirements. Under the federal Brady Handgun Violence Prevention Act, a dealer must, with few exceptions, conduct a background check for all firearm sales or transfers to private persons to determine whether the purchaser is prohibited from

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possessing a firearm. This background check is conducted through the National Instant Criminal Background Check System (NICS).

State Background Check Requirements. All firearms sales or transfers are subject to background checks unless specifically exempted by federal or state law, including sales and transfers through a dealer, at gun shows, online, and between private persons. "Transfer" means the intended delivery of a firearm to another person without consideration of payment or promise of payment, including gifts and loans. "Firearm" means a weapon or device from which a projectile or projectiles may be fired by an explosive, such as gunpowder.

A pistol purchaser must undergo a state background check in addition to the federal NICS check. A state background check includes a check of the Washington State Patrol databases, the Department of Licensing firearms database, and state and local mental health agencies.

Under Initiative 594, adopted by the voters in 2014, any sale or transfer of a firearm where neither party is a dealer must be completed through a dealer. The purchaser or transferee must complete and sign all federal, state, and local forms needed for processing the background check. The dealer must process the transaction by complying with all federal and state laws that would apply if the dealer were selling or transferring the firearm from the dealer's inventory, including conducting required background checks of purchasers or transferees.

There are a number of exemptions from the background check requirement under Initiative 594. One exemption applies to bona fide gifts between immediate family members, which are limited to spouses, domestic partners, parents, children, siblings, grandparents, grandchildren, nieces, nephews, first cousins, aunts, and uncles. Another exemption authorizes a temporary transfer where: the transfer is necessary to prevent imminent death or great bodily harm to the transferee; the transfer lasts only as long as immediately necessary; and the transferee is not prohibited from possessing firearms.

Summary of Bill:

Definitions.

Definitions for the terms "firearm" and "transfer" are revised in the chapter of law regulating firearms. The term "firearm" does not include a flare gun or other pyrotechnic visual distress signaling system or a powder-actuated tool or other device designed solely to be used for construction purposes. The term "transfer" does not include the delivery of a firearm owned or leased by an employer to, or return of that firearm by, any of the employer's employees for lawful purposes in the ordinary course of business.

Exemptions from Background Check Requirements.

The exemption for bona gifts between immediate family members is revised to include loans between immediate family members. For the purposes of this exemption, the term "immediate family member" is revised to include parents-in-law and siblings-in-law.

Two additional exemptions from required background checks are established. A temporary transfer of a firearm is exempt under circumstances in which the transferee and the firearm remain in the presence of the transferor.

In addition, a temporary transfer of a firearm is exempt if:

- the transfer is intended to prevent suicide or self-inflicted great bodily harm;
- the transfer lasts only as long as reasonably necessary to prevent imminent death or great bodily harm; and
- the person to whom the firearm is transferred is not prohibited from possessing firearms under state or federal law.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.