
SUBSTITUTE HOUSE BILL 1501

State of Washington

65th Legislature

2017 Regular Session

By House Judiciary (originally sponsored by Representatives Hansen, Hayes, Kagi, Smith, Tharinger, Clibborn, and Muri)

READ FIRST TIME 02/17/17.

1 AN ACT Relating to protecting law enforcement and the public from
2 persons who illegally attempt to obtain firearms; amending RCW
3 43.10.232; adding a new section to chapter 9.41 RCW; adding new
4 sections to chapter 43.43 RCW; adding a new section to chapter 36.28A
5 RCW; and creating a new section.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 9.41 RCW
8 to read as follows:

9 (1) A dealer shall report to the Washington state patrol
10 information on each case where the dealer denies an application for
11 the purchase or transfer of a firearm, whether under RCW 9.41.090 or
12 9.41.113, or the requirements of federal law, as the result of a
13 background check that indicates the applicant is ineligible to
14 possess a firearm under state or federal law. The dealer shall report
15 the denied application information to the Washington state patrol
16 within two days of the denial in a format as prescribed by the
17 Washington state patrol. The reported information must include the
18 identifying information of the applicant, the date of the application
19 and denial of the application, and other information as prescribed by
20 the Washington state patrol. In any case where the purchase or
21 transfer of a firearm is initially denied by the dealer as the result

1 of a background check that indicates the applicant is ineligible to
2 possess a firearm, but the purchase or transfer is subsequently
3 approved, the dealer shall report the subsequent approval to the
4 Washington state patrol within one day of the approval.

5 (2) Upon denying an application for the purchase or transfer of a
6 firearm as a result of a background check that indicates the
7 applicant is ineligible to possess a firearm, the dealer shall
8 provide the applicant with a copy of a notice form generated and
9 distributed by the Washington state patrol under section 2(6) of this
10 act, informing denied applicants of their right to appeal the denial.

11 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.43
12 RCW to read as follows:

13 (1)(a) Upon implementation of this act, the Washington state
14 patrol shall maintain a database that consists of information
15 received under section 1 of this act pertaining to persons who have
16 applied for the purchase or transfer of a firearm and were denied as
17 the result of a background check that indicates the applicant is
18 ineligible to possess a firearm under state or federal law. The
19 database shall be accessible to law enforcement agencies and
20 officers, including federally recognized Indian tribes, that have a
21 connection to the Washington state patrol electronic database.

22 (b) Upon receipt of information from a dealer under section 1 of
23 this act that a person originally denied the purchase or transfer of
24 a firearm as the result of a background check that indicates the
25 applicant is ineligible to possess a firearm has subsequently been
26 approved for the purchase or transfer, the Washington state patrol
27 shall remove the record of the person's original denial from the
28 database.

29 (2) Upon receipt of documentation that a person has appealed a
30 background check denial, the Washington state patrol shall
31 immediately remove the record of the person initially reported under
32 section 1 of this act from the database, and keep a separate record
33 of the person's information for a period of one year or until such
34 time as the appeal has been resolved. After a period of one year, the
35 Washington state patrol shall notify the person that the person must
36 provide documentation that his or her appeal is still pending or the
37 record of the person's background check denial will be put back in
38 the database. At any time, upon receipt of documentation that a

1 person's appeal has been granted, the Washington state patrol shall
2 remove any record of the person from the database.

3 (3) The Washington state patrol shall establish a process for a
4 person to petition to have his or her name removed from the database
5 upon submission of satisfactory proof that the person is no longer
6 ineligible to possess a firearm under state or federal law.

7 (4) Subject to amounts appropriated for this specific purpose,
8 the Washington state patrol shall investigate denied firearm purchase
9 or transfer applications reported under section 1 of this act to
10 determine whether the applicant knowingly attempted to acquire a
11 firearm in violation of federal or state law or knowingly provided
12 false information on the application for a firearm purchase or
13 transfer. If, after investigation, the Washington state patrol
14 believes the applicant has violated state law, the Washington state
15 patrol shall refer the case to the local prosecuting authority or
16 tribal prosecuting authority, if appropriate. If the local or tribal
17 prosecuting authority declines to file the case, the Washington state
18 patrol shall refer the case to the office of the attorney general for
19 prosecution.

20 (5) The database shall be used only for law enforcement purposes
21 and for the purposes of section 5 of this act and is not subject to
22 public disclosure under chapter 42.56 RCW.

23 (6) The Washington state patrol shall generate and distribute a
24 notice form to all firearm dealers, to be provided by the dealers to
25 applicants denied the purchase or transfer of a firearm as a result
26 of a background check that indicates the applicant is ineligible to
27 possess a firearm. The notice form must contain the following
28 statements:

29 State law requires that I transmit the following information
30 to the Washington state patrol as a result of your firearm
31 purchase or transfer denial within two days of the denial:

32 (a) Identifying information of the applicant;

33 (b) The date of the application and denial of the
34 application;

35 (c) Other information as prescribed by the Washington state
36 patrol.

37 If you believe this denial is in error, and you do not
38 exercise your right to appeal, you may be subject to criminal

1 investigation by the Washington state patrol and/or a local
2 law enforcement agency.

3 The notice form shall also contain information directing the
4 applicant to a web site describing the process of appealing a
5 national criminal background check denial through the federal bureau
6 of investigation and refer the applicant to local law enforcement for
7 information on a denial based on a state background check. The notice
8 form shall also contain a phone number for a contact at the
9 Washington state patrol to direct the person to resources regarding
10 an individual's right to appeal a background check denial.

11 (7) The Washington state patrol shall adopt rules as are
12 necessary to carry out the purposes of this act.

13 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.43
14 RCW to read as follows:

15 The Washington state patrol shall prepare an annual report on the
16 number of denied firearms sales or transfers reported under section 1
17 of this act. The report shall indicate the number of cases in which a
18 person was denied a firearms sale or transfer, the number of cases
19 where the denied sale or transfer was investigated for potential
20 criminal prosecution, and the number of cases where an arrest was
21 made, the case was referred for prosecution, and a conviction was
22 obtained. The Washington state patrol shall submit the report to the
23 attorney general and the appropriate committees of the legislature on
24 or before December 31st of each year.

25 **Sec. 4.** RCW 43.10.232 and 1986 c 257 s 16 are each amended to
26 read as follows:

27 (1) The attorney general shall have concurrent authority and
28 power with the prosecuting attorneys to investigate crimes and
29 initiate and conduct prosecutions upon the request of or with the
30 concurrence of any of the following:

31 (a) The county prosecuting attorney of the jurisdiction in which
32 the offense has occurred;

33 (b) The governor of the state of Washington; (~~(e)~~)

34 (c) A majority of the committee charged with the oversight of the
35 organized crime intelligence unit; or

1 (d) The Washington state patrol when referring cases under
2 section 2 of this act if case referral was declined by the local
3 prosecuting authority or tribal prosecuting authority.

4 (2) Such request or concurrence shall be communicated in writing
5 to the attorney general.

6 (3) Prior to any prosecution by the attorney general under this
7 section, the attorney general and the county in which the offense
8 occurred shall reach an agreement regarding the payment of all costs,
9 including expert witness fees, and defense attorneys' fees associated
10 with any such prosecution.

11 NEW SECTION. Sec. 5. A new section is added to chapter 36.28A
12 RCW to read as follows:

13 (1)(a) When funded, the Washington association of sheriffs and
14 police chiefs shall create and operate a statewide automated
15 protected person notification system to automatically notify a
16 registered person via the registered person's choice of telephone or
17 email when a respondent subject to a court order specified in (b) of
18 this subsection has attempted to purchase or acquire a firearm and
19 been denied based on a background check that indicates the respondent
20 is ineligible to possess a firearm under state or federal law. The
21 system must permit a person to register for notification, or a
22 registered person to update the person's registration information,
23 for the statewide automated protected person notification system by
24 calling a toll-free telephone number or by accessing a public web
25 site.

26 (b) The notification requirements of this section apply to any
27 court order issued under chapter 7.92 RCW and RCW 7.90.090,
28 9A.46.080, 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060,
29 26.10.040, 26.10.115, 26.26.130, 26.26.590, 26.50.060, or 26.50.070,
30 and any foreign protection order filed with a Washington court
31 pursuant to chapter 26.52 RCW, where the order prohibits the
32 respondent from possessing firearms or where by operation of law the
33 respondent is ineligible to possess firearms during the term of the
34 order.

35 (2) The Washington state patrol shall ensure that the Washington
36 association of sheriffs and police chiefs is provided access to the
37 data necessary for the purposes of implementation of the notification
38 requirements of this section.

1 (3) An appointed or elected official, public employee, or public
2 agency as defined in RCW 4.24.470, or combination of units of
3 government and its employees, as provided in RCW 36.28A.010, are
4 immune from civil liability for damages for any release of
5 information or the failure to release information related to the
6 statewide automated protected person notification system in this
7 section, so long as the release or failure to release was without
8 gross negligence. The immunity provided under this subsection applies
9 to the release of relevant and necessary information to other public
10 officials, public employees, or public agencies, and to the general
11 public.

12 (4) Information and records received by the Washington
13 association of sheriffs and police chiefs under this section,
14 including information a person submits to register and participate in
15 the statewide automated protected person notification system, may be
16 used only for the purposes of this section and are exempt from public
17 inspection and copying under chapter 42.56 RCW.

18 NEW SECTION. **Sec. 6.** If specific funding for the purposes of
19 this act, referencing this act by bill or chapter number, is not
20 provided by June 30, 2017, in the omnibus appropriations act, this
21 act is null and void.

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