

SENATE BILL REPORT

EHB 1465

As Reported by Senate Committee On:
Law & Justice, March 28, 2019

Title: An act relating to requirements for pistol sales or transfers.

Brief Description: Concerning requirements for pistol sales or transfers.

Sponsors: Representatives Goodman, Jinkins and Santos.

Brief History: Passed House: 3/12/19, 59-35.

Committee Activity: Law & Justice: 3/25/19, 3/28/19 [DP, DNP].

Brief Summary of Bill

- Removes the provision that allows a licensed firearms dealer to deliver possession of a pistol to a purchaser upon presentation of a valid concealed pistol license (CPL).
- Restores the provision allowing a licensed firearms dealer to deliver possession of a pistol to a purchaser who presents a valid CPL six months after the state establishes an operational single point of contact firearm background check system.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Pedersen, Chair; Dhingra, Vice Chair; Kuderer and Salomon.

Minority Report: Do not pass.

Signed by Senators Padden, Ranking Member; Holy.

Staff: Shani Bauer (786-7468)

Background: Firearms dealers must be licensed under both federal and state law and must comply with federal and state law when making firearms transfers. Licensed firearms dealers are required by federal law and state law to conduct background checks on prospective firearm purchasers to determine whether the purchaser is eligible 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.

Federal Law. Under the federal Brady Handgun Violence Prevention Act, a licensed dealer must, with few exceptions, conduct a background check on all firearms transfers to determine whether the purchaser is prohibited by state or federal law from possessing a firearm. This background check is conducted through the National Instant Criminal Background Check System (NICS). The NICS check includes a check of three major databases: the National Crime Information Center; the Interstate Identification Index; and the NICS index. If the purchaser is not a United States citizen, the NICS check will include a check of the Bureau of Immigration and Customs Enforcement records.

When the NICS became operational in 1998, the Federal Bureau of Investigation (FBI) requested each state to designate themselves as either a full point of contact (POC) state, a partial POC state, or a non POC state. Washington opted to act as a partial POC state, which means that the NICS check for handgun transfers is conducted by the state and the NICS check for long gun transfers is conducted by the firearms dealer. Local law enforcement agencies were given the responsibility of serving as the partial POC for licensed dealers in conducting the NICS checks for handgun transfers.

State Law. Under state law, a licensed firearms dealer may not deliver a pistol to a prospective purchaser until one of the following occurs:

- the purchaser produces a valid CPL;
- the dealer is notified by the chief of police or sheriff that the purchaser is eligible to possess the firearm and the application is approved; or
- ten business days have elapsed since the application was received by the law enforcement agency, except this time period may be extended for up to 30 days when the purchaser's record lacks certain disposition information, or up to 60 days if the purchaser has no Washington driver's license or identification card, or has not lived in the state for the previous 90 days.

The local law enforcement agency conducting the background check for a pistol transfer is required to conduct a NICS check and to check state databases, including the Washington State Patrol databases, the Department of Licensing (DOL) firearms database, and state and local mental health agencies in order to determine whether the purchaser is eligible to possess a firearm under state law.

In practice, the procedures for conducting background checks for pistols differ depending on whether or not the purchaser has a valid CPL. If the purchaser does not have a CPL, the dealer contacts the local sheriff or police department to conduct the NICS check and the state background check. If the purchaser has a valid CPL, the dealer will conduct a NICS check and the local law enforcement agency will conduct the required state background check.

The FBI recently conducted a review of states operating as a full POC or partial POC to determine whether states are processing background checks appropriately. In 2018, the FBI notified Washington that it is not serving as a partial POC on all required firearms transfers. The FBI indicated the NICS Section will stop processing NICS background checks for these transfers, but has delayed this change until the state revises its laws governing these transfers, or June 30, 2019, whichever occurs first.

Summary of Bill: A licensed firearms dealer may no longer deliver a pistol to a prospective purchaser if the purchaser produces a valid CPL. This provision expires and the prior language is restored six months after the date on which the Washington State Patrol (WSP) determines that a single point of contact firearm background check system is operational in the state. WSP must provide written notice of the expiration of the provision to the chief clerk of the House of Representatives, the secretary of the Senate, the Office of the Code Reviser, and others as deemed appropriate by WSP.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill contains an emergency clause and takes effect on July 1, 2019.

Staff Summary of Public Testimony: PRO: It is unfortunate that we have to bring this bill forward. The FBI is going to stop doing courtesy checks at the dealer. We have approximately 600,000 CPL holders in the state who are overwhelmingly law abiding citizens.

Notwithstanding, there are 99 instances of a person presenting a CPL to purchase a pistol last year when that CPL was no longer valid for some reason. Forty-nine of those were denied at the time of the courtesy check. Every person, no matter the profession or how many licenses or firearms are owned, must get a background check in order to purchase another firearm. The CPL is not highly secure document and there is no real time verification. Can be easily forged and no real time verification.

CON: There are 600,000 CPL holders in Washington who have already been through rigorous background check requirements. This bill places an additional burden on those persons and is an admission the state is not doing their job. The purchase problems have been with a very small percentage of CPL holders. We should be talking about a bill that requires law enforcement to immediately confiscate the CPL of a persons who is no longer eligible.

OTHER: Training should not be a prerequisite to purchase a firearm. Training is not provided in every area of the state and costs a minimum of \$115. This is a tax on a constitutional right. Many aspects of the training requirement are inappropriate. For example, a person should not be required to have rigorous training regarding children and firearms if there are no children in the house.

Persons Testifying: PRO: Representative Roger Goodman, Prime Sponsor; James McMahan, Washington Association of Sheriffs and Police Chiefs.

CON: Radona Devereaux, Founder and CEO, SilentNoMore; Tom Kwieciak, National Rifle Association.

OTHER: C Davis, citizen.

Persons Signed In To Testify But Not Testifying: No one.