
Judiciary Committee

HB 1387

Title: An act relating to enhanced background checks and licensure for assault weapons and large capacity magazines.

Brief Description: Concerning enhanced background checks and licensure for assault weapons and large capacity magazines.

Sponsors: Representatives Jenkins, Peterson, Doglio, Farrell, Robinson, Lytton, Senn, Pollet, Tharinger, Chapman, Kagi, Pettigrew, Cody, Fitzgibbon, Appleton, Gregerson, Ormsby, Frame, Bergquist and Stanford; by request of Attorney General.

Brief Summary of Bill

- Establishes licensing requirements applicable to the possession, manufacture, transport, purchase, acquisition, transfer, delivery, import, sale, or offer of sale of an assault weapon or large capacity magazine and establishes criminal penalties for violations.
- Establishes additional background check and recordkeeping requirements for sales or transfers of assault weapons or large capacity magazines.

Hearing Date: 2/2/17

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. Under state law, a dealer includes anyone engaged in the business of selling firearms who has, or is required to have, a federal dealer's license. A person is not required to have a dealer's license if the person makes only occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or sells all or part of his or her personal collection of firearms. Dealers

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must comply with both federal and state background check requirements before transferring firearms to persons who do not have a federal firearms license (private persons).

Firearms Licensure.

State law does not require firearms licensure for private persons except in the case of concealed pistols. It is generally unlawful for a person to carry a pistol concealed on his or her person, except in the person's abode or fixed place of business, unless the person has a valid concealed pistol license (CPL). Carrying a concealed pistol without having been issued a CPL is a misdemeanor offense. Failure to carry a CPL in one's immediate possession while carrying a concealed pistol is a civil infraction.

In order to obtain a CPL, a person must apply with the local law enforcement agency and undergo a fingerprint-based background check. A CPL must be issued if the applicant is not ineligible to possess a firearm and if the applicant meets other eligibility requirements. A CPL is valid for five years and may be renewed for successive 5-year periods.

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

A dealer may not deliver a firearm to a purchaser or transferee until the earlier of: the completion of all required background checks if the purchaser or transferee is not ineligible to possess a firearm; or 10 business days have passed since the dealer requested the background check, although a longer period may apply with respect to certain pistol transfers.

Pistol Transfers by Dealers: Specific requirements apply to pistol transfers by a dealer. A dealer may not deliver a pistol to a 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, or up to 60 days if the person does not have a Washington driver's license or identification card or has not resided in the state for the previous 90 days.

The dealer must hold delivery of a pistol beyond these time periods if the applicant has an outstanding arrest warrant or the law enforcement agency has notified the dealer of an investigative hold.

An application for a pistol purchase must include identifying information of the applicant and a description of the pistol, including the make, model, and manufacturer's number. A signed application constitutes a waiver of confidentiality for purposes of release of information by mental health facilities and providers upon request of a law enforcement agency to determine the applicant's eligibility to possess firearms. A record of the pistol transfer must be retained by the dealer for six years, a copy of which must be submitted to the DOL, which maintains this information in its firearms database.

Transfers Between Private Persons: 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.

Transfers of Rifles and Shotguns: Under federal law, a dealer must conduct a NICS check for any transfer of a rifle or shotgun to a private person. There is no requirement for a state background check by local law enforcement for these transfers. Non-residents may purchase rifles and shotguns in Washington, and Washington residents may purchase rifles and shotguns in another state, as long as the transaction complies with federal law and the purchaser is eligible to purchase or possess the firearm under the laws of Washington and the other state.

Summary of Bill:

Licensing and background check requirements are established for assault weapons and large capacity magazines. "Assault weapon" is defined to mean a:

- semiautomatic rifle that has the capacity to accept a detachable magazine and has one or more listed features;
- semiautomatic pistol that has the capacity to accept a detachable magazine and has one or more listed features;
- semiautomatic pistol, or a semiautomatic, centerfire, or rimfire rifle with a fixed magazine, that has the capacity to accept more than 10 rounds of ammunition;
- semiautomatic, centerfire, or rimfire rifle with an overall length of less than 30 inches;
- semiautomatic shotgun that has specified features, or a shotgun with a revolving cylinder; and
- conversion kit or parts from which an assault weapon can be assembled if in possession of the same person.

"Assault weapon" does not include antique firearms, a firearm that has been made permanently inoperable, or a firearm that is manually operated by bolt, pump, lever, or slide action.

"Large capacity magazine" means an ammunition feeding device with the capacity to accept more than 10 rounds of ammunition, or a conversion kit or parts from which the device may be assembled if in the possession of the same person. "Large capacity magazine" does not include: an ammunition feeding device that has been permanently altered so that it cannot accept more than 10 rounds of ammunition; a .22 caliber tube ammunition feeding device; or a tubular magazine contained in a lever-action firearm.

Licensing Requirements.

Subject to a variety of exceptions, it is unlawful for a person to possess, manufacture, transport, purchase, acquire, transfer, deliver, import, sell, or offer to sell an assault weapon or large capacity magazine unless the person has a valid assault weapons license. Multiple individuals may seek a separate license for the same assault weapon or large capacity magazine. Specific information about each assault weapon or large capacity magazine in the license holder's possession must be listed on the assault weapon license.

A license holder must exercise great care in the possession and transport of a licensed assault weapon or large capacity magazine. Great care includes storing any assault weapon unloaded within secure gun storage when it is not in the immediate possession of the license holder or using an external locking mechanism designed to make a firearm inoperable.

To obtain a license, a person must apply with the local law enforcement agency, be a resident of the state, meet certain eligibility requirements, and undergo a fingerprint-based background check. An assault weapon license is valid for a period of one year from the date of issuance.

Eligibility Requirements: An applicant must provide proof of completion of a recognized firearm safety training program within the previous three years that includes minimum course content requirements. The proof of training must be a certification under penalty of perjury that the training included the minimum requirements.

In addition, the applicant must state under penalty of perjury that the applicant will use the assault weapon or large capacity magazine for a lawful purpose and will use secure gun storage when it is not in the applicant's immediate possession. A lawful purpose includes: possession on the person's property; lawful sale or transfer; use while at a lawfully operated firing range or organized competition, performance, or sport shooting event; and use while lawfully hunting. An assault weapon or large capacity magazine must be unloaded and locked in secure gun storage and within the vehicle at all times during its transportation.

An applicant is ineligible for an assault weapons license if the applicant is ineligible to possess a firearm under federal or state law or is under 21 years of age. Other factors making a person ineligible for a license include if the applicant: (a) is subject to a court order or injunction regarding firearms; (b) is currently free on bond or personal recognizance pending proceedings relating to a felony offense; (c) has an outstanding arrest warrant for a felony or misdemeanor; or (d) has been ordered to forfeit a firearm within the previous year when the person was under the influence of drugs or alcohol while in a place where a concealed pistol license is required.

Contents of Application: An assault weapon license must be made under penalty of perjury and contain specified information, including the applicant's identifying information, the assault weapons or large capacity magazines the applicant wishes to acquire or possess, the lawful purpose for which the license is sought, the secure gun storage that will be used, two complete sets of fingerprints, and the applicant's citizenship status and eligibility to possess firearms.

License Amendment and Renewal: A license holder must obtain an amended assault weapon license within 14 days of any change in the assault weapons or large capacity magazines in the license holder's possession by bringing proof of lawful purchase, sale, or transfer to the issuing authority. The issuing authority shall amend the license and include the initials and badge

number of the officer approving the amendment. The amended information must be sent to the Department of Licensing (DOL) within three days.

A license holder may renew the license by applying for renewal within 45 days before or after expiration of the license, and the renewal takes effect on the expiration date of the previous license. Alternative amendment and renewal time frames and requirements are established for military members who are unable to amend or renew an assault weapons license on time due to the person's assignment, reassignment, or deployment for out-of-state military service.

Fees: The fee for an original assault weapon license is \$50, plus additional charges imposed by the Federal Bureau of Investigation that are passed on to the applicant. The renewal fee is \$30, and if the license holder renews after the expiration date, an additional \$25 late renewal penalty applies. The fee for obtaining a replacement of a lost or damaged license is \$20. The Office of Financial Management may adjust these fees each biennium based on the percentage increase of the consumer price index for all urban consumers for Seattle.

Revocation: A license-issuing authority must revoke a person's assault weapon license under specified circumstances including if the license holder was ineligible when applying for the license or has since been committed for involuntary treatment, or convicted of an offense, that makes the person ineligible to possess a firearm. The license holder must transfer possession of all assault weapons or large capacity magazines in his or her possession within 14 days of license revocation. The issuing authority must report the revocation to the DOL.

Exemptions: Until July 1, 2020, a person in possession of an assault weapon or large capacity magazine that is legally possessed on the effective date of the act is exempt from the licensing requirement. However, the assault weapon or large capacity magazine may not be sold or transferred to any other person in the state except to a licensed dealer, federally licensed gunsmith for service or repair, or law enforcement agency for permanent relinquishment.

The possession of an unloaded assault weapon or large capacity magazine on a person's property is exempt from licensing if it was legally owned, purchased, or acquired with a valid assault weapon license that is now expired, as long as the assault weapon or large capacity magazine is in secure gun storage. The person must obtain a valid assault weapon license for any possession of the assault weapon or large capacity magazine beyond the person's property, or for any transfer, distribution, sale, or offer of sale of the assault weapon or large capacity magazine.

An exemption is provided for the possession, transport, sale, or transfer of an assault weapon or large capacity magazine for the purpose of permanently relinquishing it to a law enforcement agency. Relinquished assault weapons or large capacity magazines must be destroyed.

Various other exemptions are provided affecting: federally licensed dealers, manufacturers, and gunsmiths; marshals, sheriffs, prison or jail wardens or their deputies, or other law enforcement officers while acting within the scope of their duties; members of the armed forces of the United States or of the National Guard or organized services, when on duty; officers or employees of the United States duly authorized to possess assault weapons or large capacity magazines; retired law enforcement officers when the assault weapon or large capacity magazine was acquired as part of the officer's separation from service; and common carriers or airline baggage handlers.

Criminal Penalties: A person who knowingly violates the requirement of having an assault weapon license or the requirement to exercise great care in the possession and transport of an assault weapon or large capacity magazine is guilty of an unranked class C felony.

A person who knowingly violates the requirement to keep an assault weapon license on his or her person and display the license upon demand to any law enforcement officer is guilty of a gross misdemeanor for a first offense and an unranked class C felony for any subsequent violation.

A person who knowingly makes a false statement on an application for an assault weapon license is guilty of false swearing, a gross misdemeanor offense.

A person who, after license revocation, fails to lawfully transfer or provide proof of lawful transfer of any assault weapons or large capacity magazines in the person's possession is guilty of a gross misdemeanor.

Background Check Requirements.

A dealer may not deliver an assault weapon or large capacity magazine to a purchaser until the purchaser produces a valid assault weapon license and either the dealer has been notified by the local law enforcement agency that the purchaser is eligible to possess a firearm and that the application is approved, or 10 business days have elapsed since the dealer requested the background check. Other provisions and requirements that apply to dealer deliveries of pistols apply to dealer deliveries of assault weapons or large capacity magazines, including provisions governing state background checks by local law enforcement, investigative holds, application requirements, mental health confidentiality waivers, and recordkeeping requirements.

A person who is not a resident of the state of Washington is prohibited from purchasing an assault weapon or large capacity magazine in Washington.

Other Provisions.

Dealers must be licensed in order to sell or transfer, or possess with intent to sell or transfer, any assault weapon or large capacity magazine. A dealer must make a record in triplicate of every assault weapon or large capacity magazine sold that contains specified information, including the make, model and manufacturer's number of any assault weapon sold, and the make, caliber, and capacity of any large capacity magazine sold.

The DOL may keep copies or records of assault weapons licenses and assault weapon and large capacity magazine purchase applications and transfers.

Governmental entities and public or private agencies, and their employees, acting in good faith are immune from liability for acts or omissions with respect to the issuance, revocation, or failure to issue or revoke an assault weapons license.

Appropriation: None.

Fiscal Note: Requested on 1/26/17.

Effective Date: The bill contains an emergency clause and takes effect on July 1, 2017.