

# HOUSE BILL REPORT

## HB 1143

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### As Reported by House Committee On:

Civil Rights & Judiciary

Appropriations

**Title:** An act relating to enhancing requirements for the purchase or transfer of firearms by requiring a permit to purchase firearms, firearms safety training, and a 10-day waiting period, prohibiting firearms transfers prior to completion of a background check, and updating and creating consistency in firearms transfer and background check procedures.

**Brief Description:** Concerning requirements for the purchase or transfer of firearms.

**Sponsors:** Representatives Berry, Walen, Reed, Peterson, Street, Bateman, Ramel, Senn, Callan, Doglio, Macri, Lekanoff, Duerr, Pollet, Davis, Kloba, Fosse and Ormsby; by request of Office of the Governor.

### Brief History:

#### Committee Activity:

Civil Rights & Judiciary: 1/17/23, 1/27/23 [DPS];

Appropriations: 2/8/23, 2/23/23 [DP2S(w/o sub CRJ)].

#### Brief Summary of Second Substitute Bill

- Prohibits a dealer from transferring a firearm to a purchaser or transferee unless the person has a valid permit to purchase firearms, and establishes requirements for the application, issuance, and revocation of permits to purchase firearms.
- Provides that a dealer may not transfer any firearm to a purchaser or transferee until: completion of a background check indicating the person is eligible to possess firearms; and 10 days have elapsed since the dealer requested the background check.
- Requires a firearms transfer application and recordkeeping requirements for all firearm transfers.
- Updates firearm transfer and background check processes, including

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

updates to conform to the implementation of a state firearms background check program.

- Amends numerous other provisions of law to incorporate permits to purchase firearms consistent with requirements relating to concealed pistol licenses.

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## HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Hansen, Chair; Farivar, Vice Chair; Entenman, Goodman, Peterson and Walen.

**Minority Report:** Do not pass. Signed by 4 members: Representatives Walsh, Ranking Minority Member; Graham, Assistant Ranking Minority Member; Cheney and Rude.

**Staff:** Edie Adams (786-7180).

### **Background:**

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

#### Federal Law.

Under federal law, a 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). Washington acts as a partial point of contact state (POC) for the federal check, which means that the NICS check for pistol transfers is conducted by the state and the NICS check for long gun transfers is conducted by the firearms dealer. Local law enforcement agencies have the responsibility of serving as the partial POC for licensed dealers in conducting the NICS checks for pistol transfers.

#### State Law.

Under state law, a state background check in addition to the federal NICS background check is required for the purchase or transfer of a pistol or semiautomatic assault rifle. The state background check must be conducted by the local law enforcement agency, or the state if a state background check system is established.

A firearms dealer may not deliver a pistol to a purchaser or transferee until one of the following occurs:

- the purchaser produces a valid concealed pistol license (CPL);
- the results of required background checks are known and the purchaser or transferee is not ineligible to possess a firearm; or
- 10 business days have elapsed since the application was received by the law enforcement agency (with exceptions extending this time period).

A dealer may not deliver a semiautomatic assault rifle to a purchaser until:

- the purchaser provides proof of completion of a recognized firearm safety program within the last five years; and
- the results of required background checks are known and the purchaser or transferee is not ineligible to possess a firearm; or
- 10 business days have elapsed from the date of the purchase application, or for a transfer, from the date the dealer requested the background check (with exceptions extending this time period). A dealer may not transfer a semiautomatic assault rifle prior to the expiration of this 10-day period.

A dealer must hold delivery of a pistol or semiautomatic assault rifle if the applicant has an outstanding arrest warrant or the law enforcement agency has notified the dealer of an investigative hold based on open or pending charges or proceedings.

The recognized firearm safety training program required for semiautomatic assault rifle purchases must be provided by specified entities and must include certain minimum instructional components, including basic firearms safety rules, firearms and children, firearms and suicide prevention, secure gun storage to prevent unauthorized access and use, safe handling of firearms, and state and federal firearms laws.

An applicant for the purchase of a pistol or semiautomatic assault rifle must complete and sign an application that includes specified information concerning the applicant and information relating to the firearm being purchased. The dealer must deliver a copy of the application to the local law enforcement agency where the purchaser resides for a background check. The dealer must make a record of all pistols and semiautomatic assault rifles sold that includes information concerning the purchaser and firearm. The dealer must retain a copy of the transfer record for six years. A copy of the transfer record must be sent to the local law enforcement agency and the Department of Licensing (DOL). The DOL must retain records of applications to purchase pistols or semiautomatic assault rifles and records of pistol or semiautomatic assault rifle transfers.

A dealer must charge a fee set by the DOL for applications for the sale or transfer of semiautomatic assault rifles. Currently this fee is set at \$18.

#### State Firearms Background Check System.

Pursuant to legislation enacted in 2020, the Washington State Patrol (WSP) Firearms Background Check Program is in the process of establishing a centralized state firearms background check system, which is expected to be operational statewide beginning January

1, 2024. Once the state system is operational, firearms dealers must contact the WSP Firearms Background Check Program to conduct background checks for all firearms transfers.

Once the state firearms background check system is operational, the WSP will charge a fee of up to \$18 for all firearms transfers, and the intent of the Legislature is that this firearm transfer fee replaces the fee for semiautomatic assault rifles.

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### **Summary of Substitute Bill:**

#### Dealer Deliveries of Firearms.

A dealer may not transfer any firearm to a purchaser until:

- the purchaser produces a valid permit to purchase firearms;
- the dealer is notified by the WSP Firearms Background Check Program that the purchaser is eligible to possess a firearm; and
- 10 days have elapsed since the dealer requested the background check.

Application and recordkeeping requirements that currently apply to pistol and semiautomatic assault rifle transfers are made applicable to all firearms transfers.

Provisions governing investigative holds on the delivery of a firearm based on outstanding warrants or open or pending criminal charges are eliminated.

#### Permit to Purchase Firearms.

A person may apply for a permit to purchase firearms with the WSP Firearms Background Check Program. The applicant must submit with the application a complete set of fingerprints taken by the local law enforcement agency in the jurisdiction in which the applicant resides and a certificate of completion of a certified firearms safety training program within the last five years, or proof that the applicant is exempt from the training requirement. The application must include the applicant's: full name and place and date of birth; residential address and mailing address if different from the residential address; driver's license number or state identification card number; physical description; race and gender; telephone number and email address, at the option of the applicant; and signature.

The WSP Firearms Background Check Program must issue a permit to purchase firearms to an eligible applicant, or deny the application, within 30 days of the date the application was filed, or within 60 days if the applicant does not have a valid Washington driver's license or state identification card or has not been a resident of the state for the previous consecutive 90 days. An application must not be denied unless the applicant:

- is prohibited from purchasing or possessing a firearm under state or federal law;
- is subject to a court order or injunction regarding firearms under laws governing protection orders, no-contact orders, and restraining orders, or local law enforcement reasonably believes based on open cases or investigations that the applicant may soon be subject to a court order or injunction regarding firearms;

- is free on bond or personal recognizance pending trial, appeal, or sentencing for a felony offense;
- has an outstanding arrest warrant from any court of competent jurisdiction for a felony or misdemeanor; or
- has failed to produce a certificate of completion of a certified firearms safety training program within the last five years, or proof that the applicant is exempt from the training requirement.

A permit to purchase firearms is valid for a period of five years and may be renewed for a subsequent five-year period by applying for renewal within 90 days before or after the expiration date of the permit. The WSP Firearms Background Check Program must establish fees for applications for original and renewal permits to purchase firearms, and for late renewal. The fees must be set in an amount that will cover the costs of administering the permit to purchase firearms program, but must not exceed \$25. Beginning five years after the effective date of the act, permit fees may be adjusted on a biennial basis based on a biennial cost study. Revenue from the fees must be transmitted to the State Treasurer for deposit in the state Firearms Background Check System Account.

A signed application constitutes a waiver of confidentiality and written request that the Health Care Authority, mental health institutions, and other health care facilities release information relevant to the applicant's eligibility for a permit to purchase firearms to a court or the WSP Firearms Background Check Program.

The WSP Firearms Background Check Program must revoke a permit to purchase firearms upon the occurrence of any act or condition that would prevent the issuance of a permit to purchase firearms. A written notice of the revocation must be sent to the permit holder stating the specific grounds on which the permit is revoked and that the person must surrender his or her permit to purchase firearms to the WSP within 48 hours of receipt of the notification.

The WSP Firearms Background Check Program must annually verify that persons who have been issued a permit to purchase firearms remain eligible to possess firearms.

#### Firearms Safety Training.

An applicant for a permit to purchase firearms must provide a certificate of completion of a certified firearms safety training program. The program must include instruction on components currently required for firearms safety training for semiautomatic assault rifles and in addition must include instruction on: state laws pertaining to the use of deadly force for self-defense; techniques for avoiding a criminal attack and how to manage a violent confrontation, including conflict resolution; and live-fire shooting exercises on a firing range that include a demonstration by the applicant of the safe handling of, and shooting proficiency with, firearms. The WSP must certify training programs that meet these requirements and prescribe the form of documentation for use as proof of completion of a training program or proof of an exemption.

Exemptions from the training requirement are provided for:

- general authority Washington peace officers and the following peace officers who have arrest powers and carry a firearm: limited authority Washington peace officers; specially commissioned Washington peace officers; and federal peace officers; and
- military members who have completed firearms training within the last five years as part of service that included training on the safe handling of, and shooting proficiency with, firearms.

#### Other Provisions.

Firearm transfer and background check processes are revised to conform to procedures that will apply upon implementation of the state firearms background check program, including requiring background checks through the WSP Firearms Background Check Program rather than local law enforcement agencies. A dealer must transmit the information from a firearms purchase application through secure automated firearms e-check (SAFE) to the WSP Firearms Background Check Program. The WSP Firearms Background Check Program must transmit the application information to the DOL daily. The fee applicable to the purchase or transfer of semiautomatic assault rifles is eliminated.

Numerous amendments are made to other provisions of law to incorporate permits to purchase firearms, including:

- authorizing a writ of mandamus proceeding to direct an issuing agency to issue a permit to purchase firearms wrongfully refused and providing immunity from liability to governmental entities acting in good faith for issuing, failing to issue, or revoking a permit to purchase firearms;
- providing that a court may order the surrender of a permit to purchase firearms when the court orders surrender of firearms and any CPL in connection with a protection order, no-contact order, or restraining order, and adding permits to purchase firearms to procedures applicable to the surrender;
- providing that when a person becomes ineligible to possess firearms as a result of a criminal conviction, involuntary commitment, or other specified reason, the convicting or committing court or other appropriate person must notify the person that the person must immediately surrender a permit to purchase firearms; the court must also provide notice to the WSP Firearms Background Check Program, which must determine if the person has a permit to purchase firearms, and if so, either revoke or suspend the permit depending on the basis of the disqualification;
- providing that a law enforcement agency may not return a surrendered permit to purchase firearms until determining the person is eligible to possess a firearm and meets eligibility requirements for the permit; and
- requiring the surrender and revocation or suspension of a permit to purchase firearms based on certain criminal convictions that currently require surrender and revocation or suspension of a CPL.

#### **Substitute Bill Compared to Original Bill:**

The substitute bill:

- expands the exemption from firearms safety training for law enforcement officers to cover peace officers who, as a normal part of their duties, have arrest powers and carry a firearm;
- allows law enforcement agencies to charge a reasonable fee to recover the costs of taking and transmitting fingerprints;
- reinstates the authority for the Health Care Authority and health care entities to release to law enforcement information relevant to a person's eligibility to possess a firearm;
- requires the DOL to retain records of all firearm transfers; and
- delays the effective date of the bill until January 1, 2025.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect on January 1, 2025.

**Staff Summary of Public Testimony:**

(In support) Citizens have the right to own firearms, but this right comes with a tremendous weight and responsibility. Restricting dangerous access to firearms, mandating safety training, and strictly regulating civilian ownership of firearms are all approaches that will make schools and communities safer. These are evidence-based policies associated with reductions in multiple forms of gun violence.

Health care providers witness how gun violence impacts victims, their families, and the community, both physically and psychologically. Trauma loss has a ripple effect, and evidence shows that the loss of a loved one to traumatic death increases the risk for prolonged or complicated grief and posttraumatic stress, anxiety, depression, and suicide.

School shootings are an ever-present danger across our nation. Lockdown events have become so commonplace; children should not have to feel fear. There were 51 school shootings in 2022, including one in Seattle. Over 1,600 children were killed and over 4,000 injured by firearms in the country last year. These are preventable deaths.

The bill builds on the enhanced background check and safety training for semiautomatic rifles. Sixteen states have similar licensing or permitting laws. States with licensing laws that require an in-person application and fingerprinting experience fewer fatal mass shootings, fewer in-state guns being diverted for use in crime, lower rates of gun homicide, including mass shootings, and lower rates of firearm suicide. A permit to purchase requirement helps make sure that guns are only purchased by responsible individuals.

Many people are responsible and handle and store firearms appropriately, but many do not. A large percentage of hospitalizations for firearm injuries in King County are from unintentional shootings, which indicates owners are not getting the information they need to safely handle and store their firearms. A training requirement will reduce incidents of accidental discharges, irresponsible weapons handling, and inappropriate use of firearms.

There is evidence that waiting periods reduce impulsive suicides by firearm. This bill would create a buffer for those intending to use a firearm to commit suicide and would also address domestic violence incidents where a person is buying a gun to harm their partner. A 10-day waiting period ensures that there is sufficient time to complete a background check and may also help prevent someone in crisis from obtaining a gun. This time can save lives and gives a person a chance to seek help. If access to a gun can be restricted even briefly, it allows mental health providers to intervene and prevent a rash decision.

(Opposed) A new permitting requirement to purchase a firearm is an infringement on civil rights and will worsen an already crippled system. It is unlawful for a state to convert a secured liberty into a privilege and require a license and fee for the privilege. People do not have to get permits to go to church or express themselves because these are inalienable rights stated in the constitutions. The bill is unconstitutional and will be challenged, which will result in a waste of taxpayer money. The state lacks the infrastructure to implement this plan.

All firearms owners should have firearm safety training, but training should not be imposed as a blanket requirement that is not tailored to an individual's needs and skill. Training is expensive and many are unable to pay the cost.

The bill does not account for out-of-state residents or a time-sensitive need for a firearm. It will delay accessibility for citizens who wish to exercise their Second Amendment rights. There are law-abiding mothers and people in marginalized communities who will be unable to obtain a firearm for self defense due to the additional time, money, and travel this bill would impose. It is also a restriction on the right of women to defend themselves. The license requirement not only violates a woman's right to protect herself in a timely manner, but also the Fire Arm Owner's Protection Act, which regulates firearm registrations by state.

It would be more beneficial to ensure that violent criminals are being appropriately punished. Criminals do not take firearms classes; they buy guns on the black market or they steal them. Law enforcement is too restricted to effect arrests and to respond to shootings. Suspects are let out without bail, and judges won't convict wrongdoers. There should instead be serious penalties for gun theft, gun trafficking, and the use of a firearm in a crime. The bill tells law-abiding citizens that their rights and liberties are dependent not on their own conduct, but upon the conduct of the guilty and lawless.

The bill creates a state registry and database of gun owners. The government does not have



the right to an individual's personally identifiable information just because the individual is exercising a constitutionally given right.

This bill will add more workload to local law enforcement agencies that are already not able to consistently and accurately conduct background checks. Requiring law enforcement agencies to take fingerprints of all the people who will need the permit will impose a burden on every county sheriff in the state. It is an unfunded mandate that puts a burden on small communities that do not have the facilities nor the resources to do this.

**Persons Testifying:** (In support) Representative Amy Walen; Judy Wallace; Karyn Brownson; Jordan Waits; Barbara Serrano, Office of the Governor; Tahana Salvadalena; Cassandra Crifasi, Johns Hopkins School of Public Health; and Gwen Loosmore, Washington State Parent Teacher Association.

(Opposed) Julie Barrett, Conservative Ladies of Washington; Aoibheann Cline, National Rifle Association; Jane Milhans; Bea Christopherson; Danna Baxter, Safe Fire Range and Training; Dan Mitchell, Washington Civil Rights Association; and Mark Crider, Walla Walla County.

**Persons Signed In To Testify But Not Testifying:** More than 20 persons signed in. Please see committee staff for information.

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Civil Rights & Judiciary. Signed by 18 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg, Chopp, Davis, Fitzgibbon, Hansen, Lekanoff, Pollet, Riccelli, Ryu, Senn, Simmons, Slatter, Springer and Stonier.

**Minority Report:** Do not pass. Signed by 13 members: Representatives Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Chandler, Connors, Couture, Dye, Harris, Rude, Sandlin, Schmick, Steele and Tharinger.

**Staff:** Yvonne Walker (786-7841).

### **Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Civil Rights & Judiciary:**

The second substitute bill adds a null and void clause, making the act null and void if specific funding for the purpose of the act, referencing the act by bill or chapter number, is not provided by June 30, 2023, in the omnibus appropriations act.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Second Substitute Bill:** The bill takes effect on January 1, 2025. However, the bill is null and void unless funded in the budget.

**Staff Summary of Public Testimony:**

(In support) Gun violence affects the lives of Washingtonians every day. Gun violence rates are lower in states that have stronger gun laws.

House Bill 1143 is Governor request legislation that builds on the enhanced background check program that is already being put in place for semiautomatic rifles. The cost of gun violence totals over \$11 billion per year. In King County, 42 percent of hospitalizations of nonfatal injuries are due to unintentional shootings. The training provisions of the bill would ensure that everyone knows how to load, fire, and safely store a gun. This is important to people all over the spectrum and will have the potential to protect all firearm owners from harm. In addition, firearm permits will reduce the chance that guns are transferred illegally.

(Opposed) Washington State's crime index is at the highest it has been in the last 20 years. Homicides and violent crimes have increased 8 percent from last year. This is partially due to Washington's turnstile method for dealing with criminals. Gun control diminishes the freedom of the majority of the citizens in favor of not dealing with the criminals who are committing gun violence crimes. House Bill 1143 is an unfunded mandate and will cost the state and its citizens an exuberant amount. Oregon had a similar bill which is currently tied up in litigation.

House Bill 1143 is not a new bill; it is emotionally charged, poorly researched, ineffectively written, and cumbersome to execute. Back in June 2022, the United States Supreme Court handed down the *Bruen* decision and it seems as though this bill may be in conflict with that decision. This bill will make and treat law abiding citizens like criminals. The Legislature should focus more on criminal activity and stop victimizing legal gun owners.

The Constitution explicitly states that our Second Amendment gun rights shall not be infringed. This bill will delay accessibility for Washington citizens who wish to exercise their Second Amendment rights and in doing so, will disproportionately impact the groups of people this bill claims to support. Law-abiding mothers will be unable to obtain a firearm for self-defense purposes or to practice their Second Amendment rights due to the additional time, money, and travel this bill will create. No other constitutional right has a license, fee, tax, and training requirements. These barriers make such rights less accessible to those with limited financial means and time. As a result, this burden will fall upon taxpayers.

This bill disregards the defensive needs and rights of Washingtonians. Firearms are emergency lifesaving tools and delaying access to them can make vulnerable people who urgently need them for protection even more vulnerable to their abuser. Constitutionality must matter regardless how well intended the legislation is. This bill unambiguously violates Article 1, section 24 of the state Constitution. Furthermore, this bill also creates a registry that the state is ill-equipped to manage.

Strict gun control policies do not deter gun violence.

**Persons Testifying:** (In support) Barbara Serrano, Office of the Governor; Karyn Brownson, King County Public Health; Tahana Salvadalena, Moms Demand Action; and Robert Schentrup, Brady United Against Gun Violence.

(Opposed) Eric Pratt; Julie Barrett, Conservative Ladies of Washington; Sean Anderson; Frank Gorecki; Aoibheann Cline, National Rifle Association; Teo Morca; Mike Allen; and Dawn Appelberg.

**Persons Signed In To Testify But Not Testifying:** None.