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## Civil Rights & Judiciary Committee

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### HB 2118

**Brief Description:** Protecting the public from gun violence by establishing additional requirements for the business operations of licensed firearms dealers.

**Sponsors:** Representatives Walen, Berry, Senn, Reed, Ormsby, Ramel, Peterson, Macri, Farivar, Doglio, Wylie, Reeves, Hackney, Pollet, Kloba and Davis.

#### Brief Summary of Bill

- Requires firearm dealer employees to be 21 or older, and to undergo fingerprinting and a background check prior to selling or transferring any firearms and each year thereafter.
- Requires dealers to adopt specified security features, alarm systems, firearm storage practices, surveillance systems, and record keeping practices.
- Requires dealers to review and respond to trace requests within 24 hours; notify law enforcement of any loss, theft, or unlawful transfer within 24 hours; and provide an annual report to the Attorney General.
- Requires dealers to carry a general liability insurance policy providing at least \$1,000,000 in coverage per incident.
- Requires dealers to certify compliance with each licensing requirement in writing and under penalty of perjury.

**Hearing Date:** 1/16/24

**Staff:** John Burzynski (786-7133).

**Background:**

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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.*

### Dealer Licenses Generally.

Washington regulates the licensing and conduct of firearms dealers. A "dealer" is a person engaged in the business of selling firearms at wholesale or retail who has, or is required to have, a federal firearms license. Federal law provides that no person may engage in the business of importing, manufacturing, or dealing in firearms, or importing or manufacturing ammunition, until they file an application with and receive a license from the Attorney General of the United States. In Washington, a person who does not have, and is not required to have, a federal firearms license, is not a dealer if that 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 must be licensed and registered, and no dealer may sell or transfer any firearm or ammunition without being licensed. The licensing authorities of each city, town, and political subdivision of the state are required to provide a firearms dealer license that is effective for up to one year from the date of issue. Licensing authorities are required to grant or deny a firearm dealer license within 30 days after the filing of an application, unless the applicant does not have a valid permanent Washington driver's license or state identification card, or has not been a resident of the state for the previous 90 days, in which case the licensing authority has 60 days to grant or deny the license.

To obtain a state firearm dealer license, an applicant must first receive a federal firearms license and undergo fingerprinting and a background check. No person ineligible to possess a firearm or obtain a concealed pistol license under state law may qualify for a dealer's license.

The dealer license fee for pistols, other firearms, and ammunition is \$125. Once a dealer obtains one of these licenses, they may obtain the remaining licenses without payment of a fee. Dealer license fees are deposited in the State General Fund.

Dealer licenses are general licenses covering all sales by the licensee within the effective period of the license. The Washington State Department of Licensing is required to provide a single form for dealer license applications and licenses. Cities, towns, and political subdivisions of the state are generally prohibited from requiring a dealer to secure an individual permit for each sale.

State law establishes a number of conditions on dealer licenses. If a licensee breaches any of these conditions, the license is forfeit and the licensee subject to punishment.

### Dealer Employees.

Dealers must require each employee who may sell firearms to undergo fingerprinting and a background check. Employees must be eligible to possess a firearm, and must not have been convicted of a crime that would make the employee ineligible for a concealed pistol license. Each employee must comply with all requirements on purchase applications and restrictions on delivery of firearms that are applicable to dealers.

### Dealer Business Location.

Dealers must generally conduct business in the building designated in the dealer's license, except when conducting business at a temporary location within Washington that is also the location of a qualifying gun show. Dealers conducting business at a temporary location must nonetheless comply with all other dealer requirements. Dealers may not conduct business in a motorized or towed vehicle.

### Dealer License Display.

Each dealer must display their license or a copy of their license, certified by the issuing authority, on their business premises in the area where firearms are sold, or at the temporary location, where it can easily be read.

### Dealer Firearm Sales.

Firearms may not be sold in violation of any provision of the chapter of state law regulating firearms, and may not be sold to any person unless the purchaser is personally known to the dealer or presents clear evidence of their identity.

A dealer who sells or delivers a firearm to a person who is ineligible to possess a firearm under state law is guilty of a class C felony, and subject to mandatory permanent revocation of their dealer's license and permanent ineligibility for a dealer's license.

### Dealer Record Keeping.

Dealers must make a true record of every pistol or semiautomatic assault rifle sold in a book kept for record keeping purposes, which must be personally signed by the purchaser and person making the sale in the presence of each other. Each entry must note the date of sale; the caliber, make, model, and manufacturer's number of the weapon; the name, address, occupation, and place of birth of the purchaser; and a statement signed by the purchaser that they are not ineligible under state or federal law to possess a firearm. The dealer must retain the transfer record for six years.

Dealers must transmit the information from the firearm transfer application to the Washington State Patrol firearms background check program. The original application must be retained by the dealer for six years.

### Violations of State Firearms Laws.

Any violation of any provision of the chapter of state law regulating firearms constitutes a misdemeanor, except as otherwise provided.

### False Swearing.

A person is guilty of false swearing if he or she makes a false statement, which he or she knows to be false, under an oath required or authorized by law. False swearing is punishable as a gross misdemeanor.

For the purpose of the false swearing statute, an "oath" includes an affirmation and every other

mode authorized by law of attesting to the truth of that which is stated. Written statements are treated as if made under oath when, among other conditions, the statement was made on or pursuant to instructions on an official form bearing notice, authorized by law, to the effect that false statements made therein are punishable; or when a statement, declaration, verification, or certificate, is declared to be true under penalty of perjury as provided in the Uniform Unsworn Declarations Act.

## **Summary of Bill:**

### Dealer Employees.

Dealers must require each employee who may sell firearms to undergo fingerprinting and a background check prior to selling or transferring any firearms and annually thereafter. Dealer employees must be 21 years of age or older.

### Dealer Business Security.

Dealer business locations must be secured with the following features:

- bars or grates, security screens, or commercial grade metal doors, that are designed to prevent unauthorized entry, and which must be installed on each exterior door and window; and
- a security alarm system that is properly installed and maintained in good condition; monitored by a remote central station that can contact law enforcement; capable of real-time monitoring of exterior doors and windows, and firearm storage areas; and equipped with detectors that can perceive entry, motion, and sound.

It is not a violation if any security feature or system becomes temporarily inoperable through no fault of the dealer.

### Dealer Firearm Storage.

During business hours, dealers must secure each firearm in a manner that prevents a customer or other member of the public from accessing or using the firearm, except when the firearm is being shown to a customer, repaired, or worked on. Locked containers and display cases satisfy this requirement.

Outside business hours, firearms must be secured in a locked fireproof safe or vault on the business location or in a secured or locked area in the business location designated in the license. A locked display case does not satisfy this requirement.

### Dealer Business Surveillance.

Dealers must ensure their business location is monitored by a digital video surveillance system that:

- can clearly record images and, inside the premises, audio;
- has cameras permanently mounted in a fixed location that can clearly record activity in all areas where video monitoring is required and reasonably produce recordings that allow for

- the clear identification of any person;
- monitors interior views of all exterior doors, windows, and any other entries or exits; all areas where firearms are displayed; and all points of sale, sufficient to identify the parties involved in the transaction;
- records continuously 24 hours per day at a frame rate of no less than 15 frames per second;
- stores recordings in a manner to protect the recording from tampering, unauthorized access or use, or theft;
- maintains recordings for a minimum of six years;
- records images that clearly and accurately display the date and time; and
- provides notice to the licensee of any interruption or failure of the surveillance system or recording storage.

Dealers are prohibited from sharing, allowing access to, or otherwise releasing surveillance recordings, except to:

- agents of the Washington State Patrol conducting an inspection if a warrant or court order is not required for such access;
- any person pursuant to a search warrant or court order; and
- any person in response to an insurance claim or as part of the civil discovery process.

Dealers must post a sign at each entrance to the premises stating, "THESE PREMISES ARE UNDER VIDEO AND AUDIO SURVEILLANCE. YOUR IMAGE AND CONVERSATIONS MAY BE RECORDED."

Local authorities and governing bodies may adopt or enforce local laws or policies regarding video surveillance that do not contradict or conflict with these requirements.

It is not a violation if the surveillance system becomes temporarily inoperable through no fault of the dealer.

#### Dealers and Law Enforcement.

Dealers must:

- promptly review and respond to all requests from law enforcement agencies and officers, including trace requests and requests for documents and records, as soon as practicably possible and no later than 24 hours after learning of the request;
- promptly notify local law enforcement agencies and the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) of any loss, theft, or unlawful transfer of any firearm or ammunition as soon as practicably possible and no later than 24 hours after the dealer knows or should know of the reportable event; and
- provide an annual report to the Washington Attorney General regarding the total number of trace requests received; the make and model of the firearm at issue in each trace request; and whether the dealer was inspected by the ATF and copies of any reports of violations or letters received from the ATF.

#### Dealer Record Keeping.

Dealers must:

- establish and maintain a book, or electronic record, of purchase, sale, inventory, and other records, at the dealer's place of business, which must include at minimum the make, model, caliber or gauge, manufacturer's name, and serial number of all firearms acquired or disposed of not later than one business day after their acquisition or disposition, and dealers must make all such records available to law enforcement upon request;
- maintain monthly backups of the above records in a secure container designed to prevent loss by fire, theft, or flood, or, if electronic, they must be backed up on an external server or over the internet at the close of each business day;
- account for all firearms acquired but not yet disposed of through an inventory check prepared each month and maintained in a secure location;
- maintain and make available at any time to government law enforcement agencies and to the manufacturer of the weapon or its designee, firearm disposition information, including the serial numbers of firearms sold, dates of sale, and identity of purchasers;
- retain all ATF form 4473 transaction records on the premises in a secure container designed to prevent loss by fire, theft, or flood; and
- maintain for six years copies of trace requests received, including notations for trace requests received by phone.

Dealer Insurance.

Dealers must carry a general liability insurance policy providing at least \$1,000,000 of coverage per incident.

Dealer Certification.

As a condition of licensure, dealers must certify to their licensing authority, in writing and under penalty of perjury, that the dealer complies with each license requirement.

**Appropriation:** None.

**Fiscal Note:** Preliminary fiscal note available.

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