
Civil Rights & Judiciary Committee

HB 2555

Brief Description: Concerning background check requirements for firearms classified as other under federal firearms laws.

Sponsors: Representative Goodman.

Brief Summary of Bill

- Requires firearms dealers to conduct background checks through local law enforcement agencies for sales or transfers of firearms categorized as "other" under federal law, and establishes procedures and requirements applicable to these transfers.

Hearing Date: 1/22/20

Staff: Edie Adams (786-7180).

Background:

Under the federal Brady Handgun Violence Prevention Act (Brady 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

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responsibility of serving as the partial POC for licensed dealers in conducting the NICS checks for handgun transfers.

Federal law defines "firearm" in a manner that includes the frame or receiver of a firearm. Federal regulations define "firearm frame or receiver" as that part of a firearm that provides housing for the hammer, bolt or breechblock, and firing mechanism, and which is usually threaded at its forward portion to receive the barrel.

Under federal law it is unlawful for a dealer to transfer any firearm, other than a rifle or shotgun, to a non-resident of the dealer's state of residence. In addition, a dealer may not transfer a firearm to a person under age 18, and if the firearm is other than a rifle or shotgun, may not transfer the firearm to a person under age 21. Frames and receivers do not meet the federal definitions of either handguns or long guns and so are categorized as "other" firearms. The Bureau of Alcohol, Tobacco, Firearms and Explosives has provided guidance that "other" firearms may not be transferred to persons under the age of 21 or to persons residing in another state. As such, "other" firearms must be processed in the same manner as handguns for the purposes of the required background check under the Brady Act.

The FBI recently conducted a review of full POC and partial POC background check processing 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. This includes transfers of firearms categorized as "other" under federal law. The FBI indicated that the NICS Section will stop processing NICS background checks for these "other" transfers, but has delayed this change until July 1, 2020, to give the state time to revise its laws governing these transfers.

Summary of Bill:

Background checks are required for the sale or transfer of "other firearms." "Other firearm" means a federally regulated firearm frame or a federally regulated firearm receiver.

A dealer may not deliver an other firearm to a purchaser or transferee until:

- the results of all background checks are known and the purchaser or transferee (i) is not prohibited from owning or possessing a firearm under federal or state law and (ii) does not have a voluntary waiver of firearm rights currently in effect; or
- ten business days have elapsed from the date the licensed dealer requested the background check.

When processing an application for the purchase or transfer of an other firearm, a dealer shall comply with the application, recordkeeping, and other requirements of the law that apply to the sale or transfer of a pistol.

A signed application for the purchase or transfer of an other firearm 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 to possess a firearm. Any such mental health information received by a court, law enforcement agency, or the state may not be disclosed except to law enforcement or corrections agencies.

The Department of Licensing must keep copies or records of applications for the purchase or transfer of other firearms and copies or records of other firearm transfers in the same manner as pistol and semiautomatic assault rifle application and transfer records.

A person who knowingly makes a false statement regarding identity or eligibility requirements on the application to purchase an other firearm is guilty of false swearing.

The legislation expires six months after the date on which the Washington State Patrol determines that a single point of contact firearm background check system is operational in the state.

Appropriation: None.

Fiscal Note: Requested on January 20, 2020.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.