

SENATE BILL REPORT

SHB 2555

As Reported by Senate Committee On:
Law & Justice, February 27, 2020

Title: An act relating to background check requirements for firearms classified as other under federal firearms laws.

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

Sponsors: House Committee on Civil Rights & Judiciary (originally sponsored by Representative Goodman).

Brief History: Passed House: 2/18/20, 56-42.

Committee Activity: Law & Justice: 2/24/20, 2/27/20 [DP-WM, DNP].

Brief Summary of Bill

- Requires a licensed firearm dealer to conduct a background check on applicants for the purchase or transfer of a firearm frame or receiver once a state firearms background check system is established within the Washington State Patrol.
- Establishes procedures and recordkeeping requirements for the sale or transfer of a firearm frame or receiver similar to those required for the sale or transfer of a pistol.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass and be referred to Committee on Ways & Means.

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

Minority Report: Do not pass.

Signed by Senators Padden, Ranking Member; Holy and Wilson, L..

Staff: Shani Bauer (786-7468)

Background: Federal Law. Under the federal Brady Handgun Violence Prevention Act (Brady Act), a licensed dealer must, with few exceptions, conduct a background check on all

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firearm 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.

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. However, frames and receivers do not meet the federal definitions of either handguns or long guns and so are categorized as "other" firearms. Guidance from the Bureau of Alcohol, Tobacco, Firearms and Explosives specifies that "other" firearms must be processed in the same manner as handguns for the purposes of the required background check under the Brady Act.

In 2018, the FBI conducted a review of Washington's background check processing and notified the state that it was not appropriately processing firearms categorized as "other" under federal law. Per Washington's agreement as a partial point of contact state, a background check for the transfer of a firearm categorized as "other" must be processed by local law enforcement. Current background checks for these firearms are processed by the dealer through a NICS check. The FBI indicated that the NICS section will stop processing NICS background checks for these transfers, but has delayed this change to give the state time to revise its laws governing these transfers.

Purchase of a Pistol Under State Law. A pistol is defined as any firearm with a barrel less than 16 inches in length, or is designed to be held and fired by the use of a single hand.

A person wishing to purchase a pistol in Washington State, must complete an application including the person's identifying information, the person's driver's license or state identification card number, a description of the pistol being purchased, and a statement that the person is eligible to purchase and possess a firearm under state and federal law. A signed application constitutes a waiver of confidentiality and a written request that the Health Care Authority, mental health institutions, and other health care facilities release information relevant to the applicant's eligibility to purchase a pistol.

The dealer must forward the application to the appropriate local law enforcement agency for completion of a background check. The local law enforcement agency must conduct a NICS check and check state databases, including the Washington State Patrol (WSP) 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.

The dealer may not deliver a pistol to a prospective purchaser until:

- 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.

The pistol application must be completed in triplicate. One copy is forwarded to law enforcement, one copy is forwarded to DOL, and the final copy must be retained by the dealer for a period of six years.

Summary of Bill: Beginning 30 days after WSP issues a notification to dealers that a state firearms background check system is established, a dealer may not deliver a firearm frame or receiver to a purchaser or transferee unless the dealer first conducts a background check of the applicant through the state firearms background check system. The requirements that apply to the sale or transfer of a pistol apply to the sale or transfer of a frame or receiver, including the application, recordkeeping, and other requirements provided in law.

A signed application for the purchase or transfer of a frame or receiver 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. DOL must keep records of applications for the purchase or transfer of a firearm frame or receiver in the same manner as records for the transfer of pistols and semiautomatic assault rifles.

These provisions do not apply to the sale or transfer of firearm frames or receivers to licensed dealers.

A firearm frame or receiver is defined to mean the federally regulated part of a firearm that provides housing for the hammer, bolt or breechblock, and the firing mechanism, and which is usually threaded at its forward portion to receive the barrel.

Appropriation: None.

Fiscal Note: Available.

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

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: Background checks are the best way to minimize needless violence from firearms. This year we are trying to get the new background check system up and running. NICS will not continue to do background checks for "other" firearms. It is important that we have an alternative in place to continue these background checks.

Every person should be subject to a background check when purchasing a firearm or the parts of a firearm from which a firearm can be assembled. This change will simply maintain the status quo.

46,000 checks last year were for "other" firearms, so this is not an inconsequential number. This is not a change in the law as to whether background checks must be done, but rather who does them.

CON: This bill will require the purchase of a firearm frame or receiver to pay a fee in order to complete the purchase. This bill defines flaw, but the definition of "other firearm" is left undefined. Recordkeeping is required, yet federal law requires these records be purged. Requiring these checks will overwhelm the system. This repetitive check adds yet another layer of bureaucracy and delay.

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

CON: Curtis Bingham, Adventure Protection; Sharyn Hinchcliffe, Pink Pistols Seattle–Tacoma; Ira Moser, citizen.

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