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## Civil Rights & Judiciary Committee

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### HB 1143

**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 Summary of 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 record of transfer for all firearm transfers.
- Updates firearm transfer and background check processes, including 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.

**Hearing Date:** 1/17/23

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

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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.*

## **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 firearm 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 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.

#### **Summary of 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.

Transfer application requirements and the requirement that a dealer must make a record for 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 permanent Washington driver's license or Washington 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 develop procedures to 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 meets 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: peace officers certified by the Criminal Justice Training Commission; 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 of the disqualification 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 concealed pistol license.

**Appropriation:** None.

**Fiscal Note:** Requested on January 11, 2023.

**Effective Date:** The bill takes effect on July 1, 2024.