

# HOUSE BILL REPORT

## E2SHB 1143

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**As Passed House:**

March 7, 2023

**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:** House Committee on Appropriations (originally sponsored by 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)].

**Floor Activity:**

Passed House: 3/7/23, 52-44.

**Brief Summary of Engrossed Second Substitute Bill**

- 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 business days have elapsed since the dealer requested the background check.
- Prohibits a dealer from transferring a firearm to a purchaser or transferee unless the person provides the dealer with proof of completion of a recognized firearms safety training program.
- Requires a firearms transfer application and recordkeeping requirements for all firearm transfers.

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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 firearm transfer and background check processes, including updates to conform to the implementation of a state firearms background check program.

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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).

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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).

### **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.

#### **Summary of Engrossed Second Substitute Bill:**

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 a firearm; and 10 business days have elapsed since the dealer requested the background check.

In addition, a dealer may not transfer any firearm to a purchaser or transferee unless the person produces proof of completion of a recognized firearms safety training program within the last five years, or proof of an exemption from the training requirement. The training program must include instruction on components currently required for firearms safety training for semiautomatic assault rifle purchases and in addition must include instruction on: state laws pertaining to the use of deadly force for self-defense; and techniques for avoiding a criminal attack and how to manage a violent confrontation. Proof of training must be in the form of a certification stating under penalty of perjury that the training included the minimum requirements.

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.

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.

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.

**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on March 8, 2023.

**Effective Date:** 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 (Civil Rights & Judiciary):**

(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.

### **Staff Summary of Public Testimony (Appropriations):**

(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 (Civil Rights & Judiciary):** (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 Testifying (Appropriations):** (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 (Civil Rights & Judiciary):** More than 20 persons signed in. Please see committee staff for information.

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