

SENATE BILL REPORT

E2SHB 1143

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

Committee Activity: Law & Justice: 3/23/23.

Brief Summary of 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 ten 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 firearm safety training program.
- Updates firearm transfer and background check processes, including updates to conform to implementation of a state firearms background check program.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Joe McKittrick (786-7287)

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 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 state and federal 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 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). Washington acts as a partial point of contact state (POC) for the federal check, which means 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 piston 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 firearm 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
- ten 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
- ten 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 ten-day period.

A dealer must hold delivery of a pistol or semiautomatic assault rifle if the application 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 firearm 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 pistol and semiautomatic assault rifles sold that includes information concerning the purchaser and firearm. The dealer must retain a copy of the transfer records for six years. A copy of the transfer record must be sent to the local law enforcement agency and the Department of Licensing (DOL). DOL must retain records of applications to purchase pistols of semiautomatic assault rifles and records of pistol or semiautomatic assault rifle transfers.

A dealer must charge a fee set by DOL for applications for the sale or transfer of semiautomatic assault rifles. Currently the 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 WSP Firearms Background Check Program to conduct background checks for all firearms transfers.

Once this system is operational, WSP will charge a fee of up to \$18 for all firearm transfers, and the intent of the Legislature is that this firearm transfer fee replaces the fee for semiautomatic assault rifles.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed Striking Amendment): 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 ten business days have elapsed since the dealer requested to background check.

A dealer may not transfer any firearm to a purchaser or transferee unless the person produces proof of completion of a recognized firearm safety training program within the last five years, or proof of an exemption from the training requirements. The training program must include instruction on components currently required for firearms safety training for semiautomatic assault rifle purchases and 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 officers who have arrest powers and who 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.

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 the procedures that will apply upon implementation of the state firearms background check program, including requiring background checks through 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 to WSP Firearms Background Check Program. The program must transmit the application information to DOL daily. The fee applicable to the purchaser or transfer of semiautomatic rifles is eliminated.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on March 17, 2023.

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

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 On Proposed Striking Amendment: PRO: Voting this bill through will save lives. The waiting periods in this bill will help prevent individuals from committing suicide. In Washington 60% of suicides involved a firearm. This is common sense legislation. This bill builds on the enhances training and background check requirements that are in current law. Requiring training and waiting periods for the purchase of any firearm will help reduce the number of gunshot victims in this state. Handling, using, and storing firearms safely is important to all Washingtonians. These safety measures have been tested in other states and will help insure those with firearms handle them safely. This is a matter of life and death for black and brown families throughout Washington. This will strengthen gun laws in Washington by closing dangerous gaps in the law. This is a smart and popular policy. Waiting periods created a buffer between temporary suicidal ideation and access to a firearm. This elevates safety and protects lives.

CON: This bill would restrict access to firearms by marginalized communities and will not

address the root causes of gun violence. The 10-day waiting period is arbitrary. To address this issue the Legislature should focus on mental health. The Legislature should be protecting the rights enshrined in the Constitution. This is an unnecessary delay on an individual's ability to exercise the constitutional right to bear arms. This delay will put lives in danger. This act infringes and impairs the rights of every citizen in Washington. This creates an unclear set of guidelines regarding what training is needed and who is qualified to give that training. Some cities do not even have training facilities. This creates a pay-to-play system. This will not stop illegal use of firearms. In emergency situations, this will prevent those who need guns for self-defense from accessing those tools.

Persons Testifying: PRO: Karyn Brownson, King County Public Health; Barbara Serrano, Office of the Governor; Carol Mitchell, Institute for Black Justice; Krystal Lopilato, Everytown; Erika Bartlett, Tacoma-Pierce County Health Department; Trudi Inslee.

CON: Scott Myers; Jacob Evans; Brian Colclough, Black Gun Owners of America; Aoibheann Cline, National Rifle Association; Aaron Lee; Cory Malon.

Persons Signed In To Testify But Not Testifying: PRO: Gwen Loosmore, Washington State PTA; Jeff Ketchel, Washington State Public Health Association; Shaquita Bell, on Behalf of Seattle Children's Hospital; Donnitta Sinclair; Ian Taylor; Paula Barnes; Jennifer Dolan Waldman, Grandmothers Against Gun Violence; Judy Wallace; Barbara Culp, Moms Demand Action; Diane Studley; Ashley Brooks, Yelm City Council; Dr. Gwen Loosmore, WA State PTA; Liz Hjelmseth; Leanne Kennedy; Judy McGinty; Henry Tanz; Linda Tanz; Julie Suter; Aslyn Diaz; Lisa Herbold, City of Seattle; Kathy Sakahara, Northwest Progressive Institute.

CON: Eric Pratt, I, America; C Davis, Washingtonians to Recall Inslee; Julie Barrett, Conservative Ladies of Washington; Laurie Layne; Teo Morca; Sean Erickson; Dale Johnson; Matt Page; Steven Larsen; Michael McKinley; Chris Chappell; Ronald Lorimer; Alex Dorr, The American Firearms, on behalf of our in-state affiliate, Washington Gun Rights; Shawn Smith; Marvin Bea; Kevin Bridges; Mike Coleman; BILL ELDRIDGE; Jodean Lombardi-Scott, Jody Scott Homes LLC/ RE/MAX Elite; Amanda McKinney, Yakima County; Thomas Grigsby; Hiedi Lee, Minuteman Ammunition; Tyler Budwey; Mike Orowitz; Gabriel Jacobs; Tun Aung; Kevin Fitzgerald; Chris James; Chad Towne; Nickalas Zylstra.