PSHB 1588 (H-1417.1)
Requiring universal background checks for firearms transfers
By Rep. Pedersen

Summary of PSHB 1588

An unlicensed person is prohibited from selling a firearm to another unlicensed person unless:

- The purchaser has undergone a background check and the background check indicates the person is eligible to possess a firearm under state and federal law; or
- The purchaser produces a valid Washington concealed pistol license (CPL).

A violation of this provision is a gross misdemeanor offense. "Unlicensed person" means a person who is not licensed as a dealer under state law, or federally licensed as a collector.

The seller must request a background check of the purchaser from a dealer or from the chief of police or sheriff of the jurisdiction where the seller or purchaser resides. The background check consists of a check of the National Instant Criminal Background Check System (NICS). The dealer or law enforcement agency may charge a fee of up to $20 for conducting the NICS check.

The purchaser must complete and sign the federal firearms transaction record (ATF Form 4473), which must be provided to the dealer or the local law enforcement agency conducting the background check. The dealer or law enforcement agency must indicate on the ATF Form 4473 whether the person is eligible or ineligible to possess a firearm based on the results of the NICS check, and must record the NICS transaction number on the form. If the NICS system returns a delay response that is not resolved within three business days, the dealer or law enforcement agency must indicate that fact on the ATF Form 4473, and the seller may then transfer the firearm to the purchaser.

The seller may retain a copy of the ATF Form 4473 as proof of compliance with the background check requirement. If the purchaser produces a valid Washington CPL, the seller may retain a copy of the CPL, or the license number and other information on the CPL, as proof of compliance with the law. A dealer or local law enforcement agency conducting the background check may not retain a copy of the ATF Form 4473.

The act does not apply to the sale of antique firearms, or curios or relics as defined in federal law. The act also does not apply to, nor alter any state law requirements that apply to, the sale of a firearm by a dealer.

Prepared by Edie Adams, Office of Program Research, February 12, 2013

AN ACT Relating to requiring universal background checks for firearms transfers; amending RCW 9.41.080; creating a new section; and prescribing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec. 1.** The legislature finds that there is broad consensus that certain people, such as felons, minors, and involuntarily committed persons, should not be eligible to possess firearms for public safety reasons. Background checks are an effective and easy mechanism to ensure that firearms are not sold to those who are prohibited from possessing them. However, because background check requirements apply only to transfers by licensed firearms dealers, many firearms are currently sold without a background check, allowing felons and other ineligible persons to gain access to them. The legislature intends by this act to strengthen our background check system by broadening the requirement for a background check to apply to all firearms sales in the state.

Sec. 2. RCW 9.41.080 and 1994 sp.s. c 7 s 409 are each amended to read as follows:

(1) No person may deliver a firearm to any person whom he or she has reasonable cause to believe is ineligible under ((~~RCW 9.41.040~~)) state or federal law to possess a firearm. Any person violating this ((~~section~~)) subsection is guilty of a class C felony, punishable under chapter 9A.20 RCW.

(2)(a) No unlicensed person may sell a firearm to another unlicensed person unless: (i) The purchaser has undergone a background check in accordance with the provisions of this subsection (2) and the background check indicates that the purchaser is eligible to possess a firearm under state and federal law; or (ii) the purchaser produces a valid concealed pistol license issued under RCW 9.41.070.

(b)(i) A seller of a firearm to a purchaser who does not produce a valid concealed pistol license issued under RCW 9.41.070 shall request a background check of the purchaser from a dealer or from the chief of police or the sheriff of the jurisdiction in which the seller or the purchaser resides. The background check shall consist of a check of the national instant criminal background check system.

(ii) The purchaser must complete and sign a firearms transaction record (ATF form 4473), which must be provided to the dealer or the chief of police or sheriff conducting the background check.

(iii) A dealer or a chief of police or sheriff who conducts a background check for an unlicensed person under this subsection (2) must indicate on the firearms transaction record (ATF form 4473) whether the purchaser is eligible or ineligible to possess a firearm under state and federal law based on the results of the background check, and shall record the national instant criminal background check system transaction number on the firearms transaction record (ATF form 4473).

(iv) If the national instant criminal background check system does not return a proceed or deny response within three business days after the background check is initiated, the dealer or chief of police or sheriff shall indicate on the firearm transaction record (ATF form 4473) that no resolution was received from the system within three business days and return the firearms transaction record (ATF form 4473) to the seller. The seller may then transfer the firearm to the purchaser.

(v) The dealer or chief of police or sheriff conducting the background check may not retain a copy of the firearms transaction

record (ATF form 4473), which shall be returned to the seller after the completion of the background check. The seller may retain a copy of the firearms transaction record (ATF form 4473) as proof of compliance with the requirements of this section.

(vi) A dealer or a chief of police or sheriff may charge a fee for conducting the background check under this subsection (2) in an amount not to exceed twenty dollars.

(c) If the purchaser produces a valid concealed pistol license issued under RCW 9.41.070, the seller may make a copy of the concealed pistol license, or otherwise record the license number and other information contained on the concealed pistol license, and retain this information as proof of compliance with the requirements of this section.

(d) An unlicensed person who sells a firearm to another unlicensed person in violation of this subsection (2) is guilty of a gross misdemeanor punishable under chapter 9A.20 RCW.

(e) For the purposes of this subsection (2):

(i) "Firearms transaction record" means the bureau of alcohol, tobacco, firearms, and explosives firearms transaction record (ATF form 4473);

(ii) "Unlicensed person" means any person who is not licensed as a dealer under this chapter or federally licensed as a collector under 18 U.S.C. Sec. 923(b).

(f) This subsection (2) does not apply to the sale of an antique firearm, or the sale of curios or relics as defined in 27 C.F.R. Sec. 478.11.

(g) This subsection (2) does not apply to, and is not intended to alter the requirements of this chapter that apply to, the sale of a firearm by a dealer licensed under this chapter.

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