

# SENATE BILL REPORT

## SB 5343

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As of January 25, 2006

**Title:** An act relating to the sale of firearms at gun shows and events.

**Brief Description:** Regulating the sale of firearms at gun shows and events.

**Sponsors:** Senators Kohl-Welles, Fairley, Regala, Kline and Thibaudeau.

**Brief History:**

**Committee Activity:** Judiciary: 1/25/05; 1/24/06.

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### SENATE COMMITTEE ON JUDICIARY

**Staff:** Aldo Melchiori (786-7439)

**Background:** A firearms "dealer" is a person engaged in the business of selling firearms at wholesale or retail who is required to have a federal firearms license. A person is not a dealer if that person makes only occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or sells all or part of his or her personal collection.

A dealer may not deliver a pistol to the purchaser until: (1) the dealer is notified, in writing, by the chief of police or the sheriff of the jurisdiction in which the purchaser resides, that the purchaser is eligible to possess a pistol and that the application to purchase is approved by the chief or sheriff, or (2) five business days have elapsed from the time the chief of police or sheriff received the application for purchase. The National Instant Background Check System (NICS), generally, provides quick background check information. If the purchaser does not have a valid permanent Washington State driver's license, or state identification card, or has not been a resident of the state for the previous consecutive 90 days, the waiting period to deliver the firearm is up to 60 days.

At the time of applying for the purchase of a pistol, the purchaser signs an application containing: (1) his or her full name, residential address, date and place of birth, race, and gender; (2) the date and hour of the application; (3) the applicant's driver's license number or state identification card number; and (4) a description of the pistol including the make, model, caliber, and manufacturer's number if available at the time. A person who knowingly makes a false statement regarding identity or eligibility requirements on the application to purchase a pistol is guilty of false swearing, a gross misdemeanor.

**Summary of Bill:** A person is a firearms dealer if that person makes sales, exchanges, or purchases of firearms at a gun show or event. A "gun show or event" is: (1) a place or event, gun trade show, gun collector's show, flea market, or auction at which three or more individuals assemble to display, sell, lease, or transfer new or used firearms or firearm components to the public and that is not exempt from collecting sales tax; (2) a place or event where ten or more firearms are offered for transfer or are transferred; or (3) an area near the

gun show or event that the sponsor knows or should reasonably know will be used for parking for a gun show or event.

A person who offers to sell or transfer a firearm to another person, while at a gun show or event, must be licensed as a dealer. The dealer must: (1) perform a background check of the prospective transferee, and (2) obtain approval of a transfer from the local law enforcement agency for a handgun or the Federal Bureau of Investigation, national crime information center, for a long gun. The dealer who performs the background check on a prospective transferee must record the transfer and must retain the records in the same manner as when conducting a sale, rental, or exchange at retail. The Washington State Patrol establishes a reasonable fee to cover costs for each background check conducted at a gun show or event.

A person who organizes, promotes, or otherwise sponsors a gun show or event must: (1) ensure that any person who, while at the gun show or event, offers to sell or transfer a firearm to another person is a licensed firearms dealer, or (2) provide the services of a person licensed as a dealer to conduct the transactions. A notice setting forth the requirements for a background check must be prominently posted.

A person other than a dealer may only offer for sale or transfer a firearm while at a gun show or event if any resulting sale or transfer of the firearm is conducted through a person licensed as a dealer and that dealer performs a background check.

A violation of these provisions is a gross misdemeanor.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

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

**Testimony For:** (2005) This bill merely imposes the same background check requirements for gun show sales as are presently applicable to firearms sales in places of business. There are approximately 70 gun shows per year in Washington and one-half of the sales at these shows are conducted without background checks. This bill will help keep firearms out of the hands of criminals and children. (2006) Washington is the only west coast state that has not closed this loophole. The loophole gives an unfair competitive advantage to unlicensed firearm sellers at gun shows. There is a small percentage of purchasers at gun shows that are criminals, but these sales must be stopped. Statistics show that 1-2 percent of weapons used in crimes were purchased at gun shows. The membership of Washington Association of Sheriffs and Police Chiefs (WASPC) unanimously supports this bill. Terrorists may be coming to the USA to purchase high calibre weapons. National polling has consistently shown strong support for measures to close the gun show loophole

**Testimony Against:** (2005) Firearms purchased at gun shows account for less than one percent of those used by felons. Over one-half of the sellers at gun shows are either dealers or have valid concealed pistol licenses. There is no fee for background checks at stores, so why is one being imposed at gun shows? This bill would have a major impact on gun show business with minimal impact on crime. The bill diverts scarce law enforcement resources and

targets law-abiding citizens. (2006) All current federal and state laws prohibit gun sales to felons. This measure is punitive and impossible to enforce. The measure is really about creating a database of people who possess firearms. Transfers at gun shows will become more expensive. The State Constitution requires the protection of the individual rights of citizens and, in Washington, there is an individual right to bear arms. This will not keep criminals from getting guns; they don't obey the law.

**Who Testified:** (2005) PRO: Senator Kohl-Welles, prime sponsor; DeAnna Martin, WA Ceasefire; Jon Scholes, WA Ceasefire. (2006) Senator Kohl-Welles, prime sponsor; DeAnna Martin, WA Ceasefire; Natalie Reber, WA Ceasefire; Ralph Fascitelli, WA Ceasefire; Bob Berg, WASPC; Don Pierce, WASPC; Scott Smith, WASPC; Diana Madarieta, Brady Campaign to prevent Gun Violence.

(2005) CON: Joe Waldron, CCRKBA, WAC, WSR&PA, GOAL; Ed Larish. (2006) Joe Waldron, CCRKBA, WAC, WSR&PA, GOAL; Brian Judy, NRA; David Reynard, citizen; Merton Cooper, citizen.

Signed in, Unable to Testify & Submitted Written Testimony: (2005) Brian Judy, NRA.