

SENATE BILL REPORT

SB 5197

As Reported By Senate Committee On:
Labor, Commerce, Research & Development, February 27, 2007

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 Tom, Kohl-Welles, Kline, Fairley, Murray, Weinstein, Regala and Jacobsen.

Brief History:

Committee Activity: Labor, Commerce, Research & Development: 2/08/07, 2/27/07 [DPS, DNP].

SENATE COMMITTEE ON LABOR, COMMERCE, RESEARCH & DEVELOPMENT

Majority Report: That Substitute Senate Bill No. 5197 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin, Murray and Prentice.

Minority Report: Do not pass.

Signed by Senators Clements, Ranking Minority Member; Hewitt and Holmquist.

Staff: Jennifer Strus (786-7316)

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 the 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 90 days, the waiting period to deliver the firearm is up to 60 days.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

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, other than a permanent retail store, at which three or more persons assemble to display, sell, lease, or transfer new or used firearms or firearm components to the public, and which 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 reasonably should know will be used for parking for the gun show or event.

A person who offers to sell or transfer a firearm to another person at a gun show or event, must be licensed as a dealer. The dealer must comply with the following requirements: (1) perform a background check of the prospective buyer or transferee; and (2) obtain approval of the transfer or sale from local law enforcement for a handgun or from the Federal Bureau of Investigation (FBI) for a long gun. The dealer who performs the background check on a prospective transferee or buyer must record the transfer or sale and must retain the records in the same manner as when conducting a retail sale, rental or exchange.

A person who organizes, promotes, or otherwise sponsors a gun show or event must: (1) ensure that any person who, while at a gun show or event, offers to sell or transfer a firearm 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.

EFFECT OF CHANGES MADE BY RECOMMENDED SUBSTITUTE AS PASSED COMMITTEE (Labor, Commerce, Research & Development): The provisions of the bill would not apply to a dinner, banquet, raffles, or auction held by a non-profit organization where the sale or transfer of firearms to raise money for charity is not the primary reason the dinner, banquet, raffle, or auction is held.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: This bill is not an expansion of the gun laws, all it does is provide a mechanism to enforce the current gun laws in this state. The fact that there are no background checks at gun shows is important because people convicted of felonies, those with mental illness, etc., can easily obtain guns without any kind of scrutiny. This is a string anti-crime bill because it is preventative. This bill does not impede anyone's ability to legally buy a gun and it is not adding any additional restrictions; it is just using those that already exist to better enforce the laws. This bill will help keep guns out of the wrong hands. No one knows how many guns are sold at gun shows because there are no sales records kept. With this bill the denials will be recorded. The bill also relieves the competitive disadvantage for licensed dealers. The National Rifle Association (NRA) has supported laws like this in other states. Federal studies have shown that between 25 and 50 percent of vendors at gun shows are unlicensed and that gun shows are a major trafficking outlet. Nearly one-third of trafficked guns are gotten through gun shows.

CON: This bill represents the first step to restricting private arms sales in this state. This bill stands for a registration database of Washington gun owners. Federal law provides the FBI up to three business days to complete an NICS check before allowing a firearms transaction to occur and Washington law requires dealers to wait five business days before delivering handguns to the buyer. If this bill became effective, private firearm transactions brokered at gun shows could not be completed until several days after the event ends. This bill would also take valuable police resources off the street to enforce a law that will primarily target firearms sales between law-abiding citizens. There is no conclusive evidence that there are problems in gun shows. This bill would force individuals to complete their purchases through a licensed dealer. This bill also applies to the fundraising banquets many of the conservation organizations in the state participate in and having to complete a background check, etc., would take away from the charitable donations these groups receive.

Persons Testifying: PRO: Senator Tom, prime sponsor; Senator Kline; Senator Burdick, Oregon State Senator; Bob Richer, American Hunters & Shooters Association; Garen Wintemute, University of California, Davis; Dr. Warren Appleton, physician; Chief Kerlikoswke, Seattle Police Department; Officer Mike Burris, Auburn Police Department.

CON: Brian Judy, NRA; Ed Owens, Hunters Heritage Council; Dr. Mike Brown, Doctors for Sensible Gun Laws; Dave Workman, former NRA Director; Joe Waldron, Washington Arms Collectors; Raymond Carter, citizen; Joe Horn, Los Angeles Sheriffs Office, retired; Mike McKinney, retired forensics consultant, Los Angeles Police Department.