

SENATE BILL REPORT

SHB 1923

As of March 21, 2011

Title: An act relating to requiring the denial of a concealed pistol license application when the applicant is ineligible to possess a firearm under federal law.

Brief Description: Requiring the denial of a concealed pistol license application when the applicant is ineligible to possess a firearm under federal law.

Sponsors: House Committee on Judiciary (originally sponsored by Representatives Goodman, Reykdal, Hunt, Pedersen, Roberts and Hunter).

Brief History: Passed House: 3/02/11, 95-0.

Committee Activity: Judiciary: 3/18/11.

SENATE COMMITTEE ON JUDICIARY

Staff: Lidia Mori (786-7755)

Background: Both state and federal law prohibit certain categories of persons from possessing firearms. There is substantial overlap in the categories of prohibited persons but there are also a number of differences. Examples of persons who are prohibited from possessing firearms under federal law, but not state law, include a person who:

- is subject to a qualified domestic violence order restraining the person from harassing, stalking, or threatening an intimate partner or child of an intimate partner;
- was dishonorably discharged from the armed forces;
- has renounced citizenship; or
- is an unlawful user of controlled substances.

Federal law also prohibits a non-immigrant alien from possessing firearms unless the person meets one of several exceptions. Exceptions include non-immigrants who possess a valid state-issued hunting license; enter the United States for a competitive target shooting event or sports or hunting trade show; are certain diplomats or foreign officials, if the firearms are for official duties; or have received a waiver from the U.S. Attorney General.

In Washington, it is generally unlawful for a person to carry a concealed pistol unless the person has a valid concealed pistol license (CPL). Carrying a concealed pistol without a license is a misdemeanor. Failure to carry a CPL in one's immediate possession while carrying a concealed pistol is a civil infraction.

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.

In order to obtain a CPL, a person must apply with the local law enforcement agency and undergo a fingerprint-based background check to determine eligibility. A person who applies for a CPL must be eligible to possess a firearm under state law and meet other requirements. The local law enforcement agency must issue the CPL if the person meets these requirements, even if the person is prohibited under federal law from possessing a firearm. As a result, a CPL must contain a warning indicating that federal and state laws on the possession of firearms differ and the state license is not a defense to federal prosecution for possession of a firearm in violation of federal law. Prior to issuing the license, the law enforcement agency must conduct a background check through the National Crime Information Center, the Washington State Patrol electronic database, the Department of Social and Health Services database, and other agencies or resources as appropriate. Law enforcement agencies are not required to conduct a check through the National Instant Criminal Background Check System (NICS) although in practice many law enforcement agencies do conduct a NICS check.

Summary of Bill: A law enforcement agency must deny an application for a CPL if the applicant is prohibited from possessing a firearm under federal law. Law enforcement agencies must conduct a NICS background check of the applicant to determine the applicant's eligibility for a CPL.

An applicant for a CPL who is not a United States citizen must provide the following additional information on the application: country of citizenship; United States issued alien number or admission number; and claimed basis for being exempt from federal restrictions on firearms possession by aliens.

Appropriation: None.

Fiscal Note: Requested on March 17, 2011.

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 does not enlarge or diminish firearm rights. Currently, the federal law and Washington law conflict. A law enforcement agency must give a CPL to a person who may be prohibited by federal law from having one. This bill would have the NICS check done at the sheriff's office and the person getting the CPL will not have to go through it again when he or she buys a firearm. This bill will make the process easier for a legitimate gun purchaser.

Persons Testifying: PRO: Representative Goodman, prime sponsor; Don Pierce, WA Assn. of Sheriffs and Police Chiefs.