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## Judiciary Committee

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### HB 1588

**Title:** An act relating to requiring universal background checks for firearms transfers.

**Brief Description:** Requiring universal background checks for firearms transfers.

**Sponsors:** Representatives Pedersen, Hope, Jinkins, Hansen, Freeman, Kagi, Walsh, Carlyle, Hunter, Clibborn, Ormsby, Cody, Green, Stanford, Orwall, Maxwell, Liias, Pettigrew, Tharinger, Springer, Hudgins, Wylie, Moeller, Fitzgibbon, Ryu, Roberts, Goodman, Riccelli, Farrell, Fey, Appleton, Pollet, Habib, Bergquist, Moscoso, Hunt, Santos and Reykdal.

#### Brief Summary of Bill

- Requires a background check on the sale of any firearm, other than an antique firearm, when both the seller and the purchaser are not licensed as dealers under state law.
- Provides that the background check must be conducted by a dealer or a local law enforcement agency and include a check of the National Instant Criminal Background Check System.

**Hearing Date:** 2/13/13

**Staff:** Edie Adams (786-7180).

#### Background:

Both state and federal law regulate the possession, purchase, and transfer of pistols. Federal and state law prohibit certain persons from possessing firearms, including persons convicted of felonies and some misdemeanor domestic violence offenses, minors, and persons who have been involuntarily committed for mental health treatment.

Under state and federal laws, "dealers" are required to have licenses in order to sell firearms. Under state law, a dealer includes anyone engaged in the business of selling firearms who has or is required to have a federal dealer's license. A person is not required to have a dealer's license in

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order to sell firearms if the 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 of firearms.

#### Federal Background Check Requirements.

Under the federal Brady Act, a dealer must, with few exceptions, conduct a background check 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).

The NICS check includes a check of three major databases: the Interstate Identification Index (III) which maintains criminal history records; the National Crime Information Center (NCIC), which includes data on persons subject to domestic violence protection orders, active criminal warrants, immigration violators, and others; and the NICS Index, which contains information contributed by state, local, tribal and federal agencies relating to persons federally prohibited from possessing firearms. If the purchaser is not a United States citizen, the NICS check will include a check of the Bureau of Immigration and Customs Enforcement records.

A NICS check typically returns an immediate response. However, under federal law, if the NICS system response is delayed, the dealer may deliver the firearm to the purchaser three days after initiating the NICS check if the dealer has not received a notification from NICS in that time that the purchaser is ineligible to possess a firearm.

#### State Background Check Requirements.

State law regulates the transfer of pistols by dealers, but does not regulate the transfer of long guns. The dealer contacts the local sheriff or police department to conduct the NICS check and a state background check for all pistol transfers where the purchaser does not have a valid concealed pistol license (CPL). If the purchaser has a valid CPL, local law enforcement will conduct a state background check, but no NICS check is required.

A dealer may not deliver a pistol to a prospective purchaser until one of the following occurs:

- the purchaser produces a valid concealed pistol license;
- the dealer is notified by the chief of police or sheriff that the purchaser is eligible to possess the firearm and the application is approved; or
- five business days have elapsed since the application was received by the law enforcement agency (or up to 60 days if the person does not have a Washington driver's license or has not resided in the state for the previous 90 days).

A dealer must deliver the pistol to the purchaser following the specified time periods unless the law enforcement agency has notified the dealer of an investigative hold.

Neither federal nor state law requires background checks for firearms transfers by persons who are not dealers. However, it is a class C felony offense for a person to transfer a firearm to another person whom he or she has reasonable cause to believe is ineligible to possess a firearm.

#### **Summary of Bill:**

An unlicensed person may not sell a firearm to another unlicensed person unless the purchaser has undergone a NICS background check and the purchaser is not ineligible to possess the firearm under state or federal law. "Unlicensed person" means a person who is not licensed as a dealer under state law. A violation of this provision is a gross misdemeanor offense.

The seller must request a background check of the purchaser from a dealer or from the chief of police or sheriff of jurisdiction where the seller or the purchaser resides. The purchaser must complete an application to transfer a firearm, which is to be developed by the Department of Licensing, and which must include the same information required in the application to purchase a pistol from a dealer.

The dealer or law enforcement agency conducting the background check must indicate on the application whether the person is eligible or ineligible to possess a firearm based on the results of the NICS check, and may charge a fee of up to \$20 for conducting the NICS check.

The act does not apply to the sale of antique firearms, or to the sale of a firearm by a dealer.

**Appropriation:** None.

**Fiscal Note:** Requested on February 7, 2013.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.