

# SENATE BILL REPORT

## SB 5476

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As of February 10, 2015

**Title:** An act relating to dealer deliveries to active duty law enforcement officers.

**Brief Description:** Concerning dealer deliveries to active law enforcement officers.

**Sponsors:** Senators Dammeier, Angel, Honeyford and Warnick.

**Brief History:**

**Committee Activity:** Law & Justice: 2/09/15.

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### SENATE COMMITTEE ON LAW & JUSTICE

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

**Background:** State and federal law require dealers to conduct background checks for transfers of firearms to unlicensed persons. Since the passage of I-594 in 2014, state law requires background checks for all transfers of all firearms, subject to specified exemptions. Any sale or transfer of a firearm where neither party is a dealer must be completed through a dealer.

Federal Background Check Requirements. Under the federal Brady Act, a dealer must, with few exceptions, conduct a background check on all firearm sales or transfers to unlicensed persons to determine whether the purchaser is prohibited from possessing a firearm. This background check is conducted through the National Instant Criminal Background Check System (NICS).

A NICS check typically returns an immediate response. However, if the NICS system response is delayed, the dealer may deliver the firearm to the purchaser three business 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. All firearm sales or transfers, in whole or in part in Washington, are subject to a background check conducted through a licensed dealer unless specifically exempt.

For transfers of pistols, the dealer contacts the local sheriff or police department to conduct the NICS check and a state background check for all transfers where the purchaser does not

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have a valid concealed pistol license (CPL). If the purchaser has a valid CPL, local law enforcement conducts a state background check, and the dealer conducts the NICS check, if required. A dealer may not deliver a pistol to a prospective purchaser until one of the following occurs:

- the purchaser produces a valid CPL and the dealer records the purchaser's name, license number, and the issuing agency;
- the dealer is notified by the chief of police or sheriff that the purchaser is eligible to possess the pistol and the application is approved; or
- ten business days have elapsed since the application was received by the law enforcement agency – up to 60 days if the person does not have a Washington driver's license or identification 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. A record of the pistol transfer must be retained by the dealer for six years, a copy of which must be submitted to the Department of Licensing, which maintains this information in its firearms database.

**Summary of Bill:** A dealer may deliver a pistol to a prospective purchaser if the purchaser produces a valid CPL or a valid commission card issued by a Washington State law enforcement agency that shows the purchaser is a full-time commissioned law enforcement officer of the agency and the dealer has recorded the purchaser's name, the CPL number or the driver's license number of the commissioned law enforcement officer, and the agency that issued the CPL or the commission card.

It is clarified that, in determining whether the purchaser who does not possess a valid CPL or valid commission card issued by a Washington State law enforcement agency, the chief of police or sheriff must check with the National Crime Information Center or NICS system, the Washington State Patrol electronic database, the Department of Social and Health Services database, and other agencies or resources as appropriate to determine whether the applicant is eligible to possess a firearm.

**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.

**Staff Summary of Public Testimony:** PRO: Law enforcement officers are often required to carry their weapons even while they are off duty. They have more stringent background checks than CPL holders. This was an issue even before the initiative. It makes imminent sense to exempt law enforcement officers. These officers are required to report arrests as well as convictions. Law enforcement officers can not hide from their wrongdoing. This is an insult to the integrity of law enforcement officers. Prior to 2012, law enforcement officers could use their identification to purchase pistols, but the law was reinterpreted.

CON: It is premature to amend the initiative. The initiative expresses the will of the people.

**Persons Testifying:** PRO: Senator Dammeier, prime sponsor; Renee Maher, Council of Metropolitan Police and Sheriffs; Brian Judy, National Rifle Assn.; Bill Burris, Gun Owner Action League; James Daniels, WA Council of Police and Sheriffs.

CON: Rebecca Johnson, WA Alliance for Gun Responsibility.