

SENATE BILL REPORT

SB 5539

As Reported by Senate Committee On:
Law & Justice, February 18, 2015

Title: An act relating to delivery of a pistol to a current law enforcement officer.

Brief Description: Concerning delivery of a pistol to a current law enforcement officer.

Sponsors: Senators Roach, Sheldon, Angel and Warnick.

Brief History:

Committee Activity: Law & Justice: 2/09/15, 2/18/15 [DP, DNP].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Padden, Chair; O'Ban, Vice Chair; Pearson and Roach.

Minority Report: Do not pass.

Signed by Senators Pedersen, Ranking Minority Member; Darneille and Kohl-Welles.

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.

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.

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 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 the purchaser if the purchaser produces a current, valid identification as a general law enforcement officer and the dealer has recorded the purchaser's name, identification number, and the issuing agency. The record must be made in triplicate. A general law enforcement officer is defined as a person who is commissioned and employed by an employer on a full-time, fully compensated basis to enforce the criminal laws of the state of Washington generally.

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 have more stringent background checks than CPL holders and we trust them to provide for our safety. This is an insult to the integrity of law enforcement officers. This was an issue even before the initiative. It makes sense to exempt law enforcement officers who are trained and who enforce our laws. These officers are required to report arrests as well as convictions so they can not hide from their wrongdoing. Prior to 2012, law enforcement officers could use their identification to purchase pistols using the same process as CPL holders, but the law was reinterpreted. Law enforcement officers are often required to carry their weapons even while they are off duty.

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

Persons Testifying: PRO: Senator Roach, prime sponsor; Tim Wegner, Blade-Tech Industries Inc.; Phil Shave, WA Arms Collectors; Brian Judy, National Rifle Assn.; Bill Burris, Gun Owners Action League.

CON: Rebecca Johnson, WA Alliance for Gun Responsibility.