

SENATE BILL REPORT

SB 5615

As Reported by Senate Committee On:
Law & Justice, February 12, 2015

Title: An act relating to exempting certain firearms transfers involving military members, law enforcement officers, and corrections officers from background check requirements.

Brief Description: Exempting certain firearms transfers involving military members, law enforcement officers, and corrections officers from background check requirements.

Sponsors: Senators Benton, Sheldon, Bailey, Padden, Rivers, Angel, Schoesler, Warnick, Roach, Honeyford and Pearson.

Brief History:

Committee Activity: Law & Justice: 2/09/15, 2/12/15 [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: All firearm sales or transfers, in whole or part in this state including a sale or transfer where either the purchaser or seller or transferee or transferor is in Washington, are subject to background checks unless specifically exempt by state or federal law. The background check requirement applies to all sales or transfers including, but not limited to, sales and transfers through a licensed dealer, at gun shows, online, and between unlicensed persons.

No person may sell or transfer a firearm unless:

- the person is a licensed dealer;
- the purchaser or transferee is a licensed dealer; or
- the parties to the transaction complete the sale or transfer through a licensed dealer.

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.

If neither the transferor nor the transferee are licensed dealers, the transferor must deliver the firearm to a licensed dealer to process the sale or transfer as if the licensed dealer is selling or transferring the firearm from its inventory to the purchaser or transferee, except that the unlicensed seller or transferor may remove the firearm from the business premises of the licensed dealer while the background check is being conducted. If the seller or transferor removes the firearm from the business premises of the licensed dealer while the background check is being conducted, the purchaser or transferee and the seller or transferor must return to the business premises of the licensed dealer and the seller or transferor must again deliver the firearm to the licensed dealer prior to completing the sale or transfer.

The licensed dealer must comply with all requirements of federal and state law that would apply if the licensed dealer were selling or transferring the firearm from its inventory to the purchaser or transferee, including conducting a background check on the prospective purchaser or transferee in accordance with federal and state law requirements and fulfilling all federal and state recordkeeping requirements.

The purchaser or transferee must complete, sign, and submit all federal, state, and local forms necessary to process the required background check to the licensed dealer conducting the background check. If the results of the background check indicate that the purchaser or transferee is ineligible to possess a firearm, then the licensed dealer must return the firearm to the seller or transferor.

The licensed dealer may charge a fee that reflects the fair market value of the administrative costs and efforts incurred by the licensed dealer for facilitating the sale or transfer of the firearm.

The background check requirements for transfers between unlicensed transferors and transferees do not apply to the following:

- a transfer between immediate family members, limited to spouses, domestic partners, parents, children, siblings, grandparents, grandchildren, nieces, nephews, first cousins, aunts, and uncles, that is a bona fide gift;
- the sale or transfer of an antique firearm;
- a temporary transfer of possession of a firearm if the transfer is necessary to prevent imminent death or great bodily harm to the person to whom the firearm is transferred if: (1) the temporary transfer only lasts as long as immediately necessary to prevent such imminent death or great bodily harm; and (2) the person to whom the firearm is transferred is not prohibited from possessing firearms under state or federal law;
- any law enforcement or corrections agency and, to the extent the person is acting within the course and scope of the person's employment or official duties, any law enforcement or corrections officer, United States Marshal, member of the armed forces of the United States or the National Guard, or federal official;
- a federally licensed gunsmith who receives a firearm solely for the purposes of service or repair, or the return of the firearm to its owner by the federally licensed gunsmith;
- the temporary transfer of a firearm (1) between spouses or domestic partners; (2) if the temporary transfer occurs, and the firearm is kept at all times, at an established shooting range authorized by the governing body of the jurisdiction in which such range is located; (3) if the temporary transfer occurs and the transferee's possession of

- the firearm is exclusively at a lawful organized competition involving the use of a firearm, or while participating in or practicing for a performance by an organized group that uses firearms as a part of the performance; (4) to a person who is under 18 years of age for lawful hunting, sporting, or educational purposes while under the direct supervision and control of a responsible adult who is not prohibited from possessing firearms; or (5) while hunting if the hunting is legal in all places where the person to whom the firearm is transferred possesses the firearm and the person to whom the firearm is transferred has completed all training and holds all licenses or permits required for such hunting, provided that any temporary transfer is permitted only if the person to whom the firearm is transferred is not prohibited from possessing firearms under state or federal law; or
- a person who (1) acquired a firearm other than a pistol by operation of law upon the death of the former owner of the firearm, or (2) acquired a pistol by operation of law upon the death of the former owner of the pistol within the preceding 60 days. At the end of the 60-day period, the person must either have lawfully transferred the pistol or must have contacted the Department of Licensing to notify the department that the person has possession of the pistol and intends to retain possession of the pistol, in compliance with all federal and state laws.

Summary of Bill: In addition to the other circumstances in which a transfer is permitted without a background check, a background check is not required for the transfer of a firearm between:

- members of the armed forces of the United States, members of the National Guard, or a member of the armed forces of the United States and a member of the National Guard;
- a member of the armed forces of the United States or the National Guard and a family member;
- a member of the armed forces of the United States or the National Guard and a close personal acquaintance for the purpose of maintaining the firearm while the member is under orders of deployment; and
- law enforcement officers, corrections officers, or a law enforcement officer and a corrections officer.

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: These are common-sense exemptions from the firearm background check requirements. Why should background checks be required when these individuals already had them done? It is not unusual for initiatives to need some adjustment after they pass. These are people who have served their country. Leaving a firearm behind when deployed is not a choice. We are currently making criminals out of people who are serving their country. This is an obviously needed change. These individuals have already been cleared to carry firearms. The initiative was drafted extremely broadly so

that virtually every transfer of a firearm requires a background check. The background checks already required on newly hired officers are extensive. Under the language of the initiative, law enforcement officers are required to do more than CPL holders when they go to purchase a pistol.

CON: There is no evidence that a change is needed at this time. The initiative keeps firearms out of dangerous hands.

OTHER: The scope of the bill should be changed to also include retired military and retired law enforcement. If the federal government trusts these people to carry firearms, why can't the state?

Persons Testifying: PRO: Senator Benton, prime sponsor; Mark Pidgeon, Hunters Heritage Council; Brian Judy, National Rifle Assn.; Phil Shave, WA Arms Collectors; Renee Maher, Council of Metropolitan Police and Sheriffs; Bill Burns, Gun Owner Action League; Kerry Hooks, citizen.

CON: Rebecca Johnson, WA Alliance for Gun Responsibility.

OTHER: Jerry Gibbs, citizen.