

HOUSE BILL REPORT

EHB 2519

As Amended by the Senate

Title: An act relating to concealed pistol license eligibility requirements.

Brief Description: Concerning concealed pistol license eligibility requirements.

Sponsors: Representatives Lovick, Hayes, Goodman, Klippert, Appleton, Sells and Robinson.

Brief History:

Committee Activity:

Judiciary: 1/25/18, 2/1/18 [DP].

Floor Activity:

Passed House: 2/14/18, 94-4.

Senate Amended.

Passed Senate: 3/2/18, 44-4.

Brief Summary of Engrossed Bill

- Provides that a law enforcement agency may not return a concealed pistol license (CPL) that has been surrendered to or impounded by the agency until the agency determines the licensee meets CPL eligibility requirements.
- Provides that certain military members and veterans who are at least 18 years of age are not prohibited, on the basis of age, from possessing a pistol or obtaining a concealed pistol license: active duty members of the armed forces; members of the National Guard or reserves of the armed forces; and honorably discharged veterans.
- Adds extreme risk protection orders, sexual assault protection orders, and stalking protection orders to the current provision making an applicant ineligible for a CPL if the applicant is subject to a court order or injunction regarding firearms under various protection, restraining, and no-contact orders.

HOUSE COMMITTEE ON JUDICIARY

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.

Majority Report: Do pass. Signed by 10 members: Representatives Jinkins, Chair; Graves, Assistant Ranking Minority Member; Goodman, Haler, Hansen, Kirby, Klippert, Muri, Orwall and Valdez.

Minority Report: Do not pass. Signed by 1 member: Representative Shea.

Staff: Edie Adams (786-7180).

Background:

Concealed Pistols.

Persons under the age of 21 years are generally prohibited from possessing a pistols except in the person's abode or fixed place of business, or on property under the person's control.

It is generally unlawful for a person to carry a pistol concealed on his or her person unless the person has a valid concealed pistol license (CPL), except in the person's abode or fixed place of business, or on property under the person's control. Carrying a concealed pistol without having been issued a CPL is a misdemeanor offense. Failure to carry a CPL in one's immediate possession while carrying a concealed pistol is a civil infraction.

In order to obtain a CPL, a person must apply with the local law enforcement agency, undergo a fingerprint-based background check, and meet the following eligibility requirements:

- be eligible to possess a firearm under state and federal law;
- be 21 years of age or older;
- not be subject to a court injunction regarding firearms under a number of listed protection, restraining, and no-contact orders;
- not be pending trial, appeal, or sentencing for a felony offense;
- not be subject to an outstanding arrest warrant for any crime; and
- not have been, within the past year, ordered to forfeit a firearm for possessing a concealed firearm while intoxicated in a place where a CPL is required.

A CPL is valid for a period of five years and may be renewed for successive five-year periods.

Protection, Restraining, and No-Contact Orders.

Numerous Washington statutes allow a court to enter a protection order, restraining order, or no-contact order that restrains a person from having contact with or threatening another person, or that excludes the person from certain locations or from coming within a specified distance of certain locations. A person who is subject to a protection order, restraining order, or no-contact order may be required by the court to surrender his or her firearms, dangerous weapons, and CPL while the order is in place under some circumstances. The court may require the person to surrender his or her firearm or dangerous weapon to the local law enforcement agency, the persons' counsel, or another person designated by the court. Law enforcement agencies are required to have policies and procedures regarding the acceptance, storage, and return of surrendered firearms and weapons.

Protection orders include those relating to domestic violence, harassment, vulnerable adult abuse, stalking, and sexual assault. In addition, extreme risk protection orders allow a court to prohibit a person from possessing, purchasing, or receiving a firearm if the court finds that the person poses a significant danger of causing personal injury to self or others by purchasing, possessing, or receiving a firearm.

Extreme risk protection orders, stalking protection orders, and sexual assault protection orders are not specifically listed in the provision of law that makes a person ineligible for a CPL if the person is subject to a court injunction relating to firearms under listed protection, no-contact, and restraining orders.

Firearms Return by Law Enforcement Agencies.

Under a statute enacted in 2015, a law enforcement agency must take a number of steps before returning a privately owned firearm that is in the agency's custody. The law enforcement agency must: confirm that the firearm is being returned to the person from whom it was obtained, or the person's authorized representative; confirm that the person is eligible to possess a firearm; ensure that the firearm is not otherwise required to be held in custody or otherwise prohibited from being released; and ensure that 24 hours have elapsed from the time the firearm was obtained. If a firearm must be held in custody or is otherwise prohibited from being released, the law enforcement agency must provide written notice to the person requesting return of the firearm stating the reason for the hold within five business days of the request.

These requirements relating to the return of a firearm do not apply in cases where a law enforcement officer has momentarily obtained a firearm from an individual and would otherwise immediately return the firearm to the individual during the same interaction.

Summary of Engrossed Bill:

A law enforcement agency may not return a concealed pistol license (CPL) that has been surrendered to or impounded by the law enforcement agency until the agency determines that the licensee is eligible to possess firearms and meets other CPL eligibility requirements. The agency must return the CPL without unnecessary delay, and in no case longer than five days, after the agency determines the licensee meets CPL eligibility requirements. These requirements do not apply in cases where a law enforcement officer has momentarily obtained a CPL from an individual and would otherwise immediately return the CPL to the individual during the same interaction.

The following persons who are at least 18 years of age are not prohibited, on the basis of age, from possessing a pistol or obtaining a concealed pistol license: active duty members of the armed forces; members of the National Guard or reserves of the armed forces; and honorably discharged veterans.

Extreme risk protection orders, sexual assault protection orders, and stalking protection orders are added to the current provision making an applicant ineligible for a CPL if the applicant is subject to a court order or injunction regarding firearms under various protection, restraining, and no-contact orders.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment makes the following changes:

- provides that a law enforcement agency must return a concealed pistol license (CPL) no later than five business days (rather than 5 days) after determining the licensee meets eligibility requirements;
- requires law enforcement agencies to review available records to determine whether a person is an unlawful user of or addicted to any controlled substance when determining eligibility to possess a firearm before returning a firearm or CPL to the owner or licensee. (Under federal law, a person who is an unlawful user of or addicted to a controlled substance is prohibited from possessing a firearm.);
- removes the provision that allows active duty members of the United States armed forces, members of the reserves or National Guard, and honorably discharged veterans, who are at least 18 years of age to possess pistols and obtain a concealed pistol license; and
- allows a law enforcement agency to take the photo of a CPL applicant and print the licensee's photo on the face of the CPL.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) The bill is designed to bring consistency to the law relating to surrender and return of firearms. An unintended consequence when that law was adopted is that it did not address concealed pistol licenses (CPLs). There are certain court orders that require surrender of firearms or CPLs. There are standards for law enforcement agencies when returning firearms, including conducting a background check and providing victim notification. There is currently no authority to delay the return of a CPL to determine the licensee's eligibility to possess firearms, and with a CPL a person can go purchase a firearm. This undermines the legislative intent of the firearms return law. The bill will allow law enforcement to delay the release of a CPL in order to conduct a background check to determine the licensee's eligibility to possess firearms.

(Opposed) There is potential for abuse with the protection order process. A false report of domestic violence, sexual assault, or harassment can be used as a means of getting revenge on a partner. A person should not lose firearm rights based on false accusations. It is a difficult process to go through the legal system to fight those accusations and get firearms rights back. If there is concern that a person is going to hurt someone else, that person should be handled by the police and put in jail. Taking away gun rights only chips away at our Second Amendment rights.

Persons Testifying: (In support) Doug Levy, City of Everett; and Greg Lineberry, Everett Police Department.

(Opposed) Schuyler Barbeau; and Trevor Quinn.

Persons Signed In To Testify But Not Testifying: Malorie Toman; Dylan O'Connor; Margaret Goette; Marjorie Whitmore; Molly Mattingly; Paula Barnes; Frederic Webster; Virginia Appel; Lauren Owen; Jane Folinsbee; Jeannie Shu; Sis Polin; Linda Gaines; Deborah Viertel; Linda Parrish; Stacy Andersen; Michael Bell; Wim Houppermans; Laurel Nelson-King; Julia Hurd; Larry King; Laurie Fairman, Safe and Sane Skagit; Elizabeth Hjelmseth; Jane Grafton; Daniel Johnson; Ian Taylor; Sue Whitcomb; David O'Connor; Pat Griffith, League of Women Voters of Washington; Bharat Shyam; Jessica Goldman, North Seattle Progressives; Tom Duhamel; Courtney Weaver; Randall Alvord; Zoe Grover; Alyssa Dayley; Juliet Scarpa; Claire Noriega; Kveta Morgan; Jim Morgan; Julie Emerson; Ron Petrie; Eleanor Van Noppen; Marcia Bennison; Catherine Person; Tana Axtelle; Ann Williams; Annamarie Oommen; Grey Wunderley; Bryan Zielinski; Ira Moser; Mike Silvers; Clardon Gustafson; Leslie Regier; Donald R. Aman, Jr.; Zachary Robak; and Phil Watson, Firearms Policy Coalition.