

SENATE BILL REPORT

ESSB 5552

As Amended by House, April 7, 2017

Title: An act relating to background checks for firearms sales or transfers, but only with respect to clarifying that the term firearm does not include flare guns and construction tools, clarifying that the term transfer does not include transfers between an entity and its employee or agents for lawful purposes in the ordinary course of business, defining licensed collector and curio or relic, expanding the family member exemption to include loans and parents-in-law and siblings-in-law, providing an exemption for temporary transfers for the purpose of preventing suicide or self-inflicted great bodily harm, providing an exemption for licensed collectors when the firearm is a curio or relic, and providing an exemption for temporary transfers where the transferee and the firearm are in the presence of the transferor.

Brief Description: Concerning firearms sales and transfers.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Pedersen, Zeiger, Frockt, Takko, O'Ban, Fain and Hobbs).

Brief History:

Committee Activity: Law & Justice: 1/31/17, 2/08/17, 2/09/17 [DPS].

Floor Activity:

Passed Senate: 2/23/17, 49-0.

Passed House: 4/07/17, 97-0.

Brief Summary of Engrossed First Substitute Bill

- Excludes flare guns, other visual distress signaling devices and powder activated construction devices from the definition of firearm.
- Modifies the definition of transfer to exclude the delivery of a firearm owned or leased by an entity licensed or qualified to do business in the state of Washington to, or return of the firearm by, any of that entity's employees or agents for lawful purposes in the ordinary course of business.
- Exempts transfers between parents-in-law and siblings-in-law from the background check requirements when the transfer is a bona fide gift or loan.
- Allows temporary transfers of firearms intended to prevent suicide or self-inflicted bodily harm without a background check.

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.

- Exempts transfers between spouses or domestic partners if the firearm remains in the presence of the transferor from background check requirements under circumstances in which the transferee and firearm remain in the presence of the transferor.
- Exempts sales or transfers when the seller or transferee is a federally licensed collector and the firearm being sold or transferred is a curio or relic.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5552 be substituted therefor, and the substitute bill do pass.

Signed by Senators Padden, Chair; O'Ban, Vice Chair; Pedersen, Ranking Minority Member; Angel, Darneille, Frockt and Wilson.

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. The current exemptions include:

1. A transfer as a bona fide gift between immediate family members, limited to spouses, domestic partners, parents, children, siblings, grandparents, grandchildren, nieces, nephews, first cousins, aunts, and uncles.
2. The sale or transfer of an antique firearm.
3. A temporary transfer of possession of a firearm if such transfer is necessary to prevent imminent death or great bodily harm to the person to whom the firearm is transferred if the temporary transfer only lasts as long as immediately necessary to prevent such imminent death or great bodily harm; and the person to whom the firearm is transferred is not prohibited from possessing firearms under state or federal law.
4. Any law enforcement or corrections agency and, to the extent the person is acting within the course and scope of his or her 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.
5. 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;
6. the temporary transfer of a firearm:
 - a. between spouses or domestic partners;
 - b. 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;
 - c. 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;
 - d. 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;
 - e. 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
7. A person who acquired a firearm other than a pistol by operation of law upon the death of the former owner of the firearm or 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 (DOL) to notify the DOL that they have possession of the pistol and intend to retain possession of the pistol, in compliance with all federal and state laws.

Summary of Engrossed First Substitute Bill: Flare guns, other pyrotechnic visual distress signaling devices, or powder actuated tools used for construction purposes are excluded from the definition of firearm. A transfer does not include the delivery of a firearm owned or leased by an entity licensed or qualified to do business in the state of Washington to, or return of the firearm by, any of that entity's employees or agents for lawful purposes in the ordinary course of business.

The mandatory background check provisions do not apply to:

- transfers between parents-in-law and siblings-in-law when the transfer is a bona fide gift or loan;
- temporary transfers intended to prevent suicide or self-inflicted great bodily harm as long as reasonably necessary and the transferee does not use the firearm during that time period;
- transfers between spouses or domestic partners if the firearm remains in the presence of the transferor from background check requirements under circumstances in which the transferee and firearm remain in the presence of the transferor; and
- sales or transfers when the seller or transferee is a federally licensed collector and the firearm being sold or transferred is a curio or relic.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Proposed Substitute: *The committee recommended a different version of the bill than what was heard.* PRO: This will help

clarify current law and practice for the public. The bills suicide provision is supported by the Safer Homes Task Force. Most suicides are by firearm and 60 percent of those are veterans. Firearms used by many security personnel are supplied by their employer and they check them out and turn them back in at the end of their shift.

OTHER: The suicide prevention provision is supported. There is a concern that this bill will be amended to include other exemptions.

Persons Testifying: PRO: Rebecca Johnson, Alliance for Gun Responsibility; Jennifer Stuber, Associate Professor, Forefront UW; Michael Transue, Pierce County Security Services.

OTHER: Keely Hopkins, State Liaison, National Rifle Association.

Persons Signed In To Testify But Not Testifying: No one.

EFFECT OF HOUSE AMENDMENT(S):

- Modifies the definition of a transfer requiring a background check to not include volunteers participating in an honor guard.