

SENATE BILL REPORT

SB 6584

As Reported by Senate Committee On:
Law & Justice, February 6, 2020

Title: An act relating to the unlawful purchase of a firearm.

Brief Description: Concerning the unlawful purchase of a firearm.

Sponsors: Senators Zeiger, Pedersen, O'Ban and Padden.

Brief History:

Committee Activity: Law & Justice: 2/03/20, 2/06/20 [DP, w/oRec].

Brief Summary of Bill

- Creates a new crime of unlawful purchase of a firearm and classifies the crime as a class C felony with a seriousness level of II.
- Requires an element of knowledge that a person is prohibited by state law from owning or possessing a firearm.
- Commits the crime upon purchase or attempted purchase of a firearm.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Pedersen, Chair; Dhingra, Vice Chair; Kuderer and Salomon.

Minority Report: That it be referred without recommendation.

Signed by Senators Padden, Ranking Member; Holy and Wilson, L..

Staff: Tim Ford (786-7423)

Background: Unless the person's rights have been restored, a person is guilty of unlawful possession of a firearm in the first degree if they possess a firearm and also if the person has been convicted or found not guilty by reason of insanity of any serious offense. A serious offense is defined as:

- any crime of violence;

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- any felony violation of the uniform controlled substance act classified as a class B felony or has a maximum term of imprisonment of at least ten years;
- child molestation in the second degree, incest, or indecent liberties;
- leading organized crime;
- promoting prostitution in the first degree;
- rape in the third degree;
- drive-by shooting;
- sexual exploitation;
- vehicular assault when caused by driving under the influence or in a reckless manner;
- vehicular homicide, when proximately caused by driving under the influence or in a reckless manner;
- any other class B felony with a finding of sexual motivation;
- any other felony with a deadly weapon verdict;
- other federal or out of state convictions that are comparable serious offenses; and
- felony convictions for transfer of a firearm without complying with a background check.

Unlawful possession of a firearm in the first degree is a class B felony, and is ranked with a seriousness level of VII.

Unlawful possession of a firearm in the second degree is if a person possesses a firearm and:

- has been convicted of any felony;
- has been convicted of any one of several misdemeanor domestic violence offenses;
- is subject to any protection order, no-contact order, or restraining order and which finds the person represents a credible threat to the physical safety of the protected person or child;
- has been involuntarily committed for mental health treatment;
- has had dismissal of criminal charges based on incompetence to stand trial when the court has made a finding the defendant has a history of violent acts;
- if the person is under 18 years of age; and/or
- if the person is free on bond or personal recognizance pending trial, appeal, or sentencing for a serious offense.

Unlawful possession of a firearm in the second degree is a class C felony, and is ranked with a seriousness level of III.

Summary of Bill: A person, 18 years of age or older, is guilty of the crime of unlawful purchase of a firearm if the person, knowing that the person is prohibited by state law from owning or possessing the firearm or having the firearm under the person's custody or control, purchases or attempts to purchase the firearm.

Unlawful purchase of a firearm is a class C felony and is ranked with a seriousness level of II.

Appropriation: None.

Fiscal Note: Available.

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: PRO: Convicted felons should not be able to apply for purchasing a firearm without any consequence. The denied firearms transactions program is managed by the Washington Association of Sheriffs and Police Chiefs. It alerts local law enforcement of a subject who attempts but is ineligible to purchase. There are about 3500 incidents each year where a person is ineligible but attempts to purchase a firearm. Prosecutors are hesitant to press charges. The current offense that could be charged is false swearing which is a gross misdemeanor.

CON: Current Washington laws requires the court to warn a convicted person about the firearm disqualification. However, this was not the case prior to 1994 for juveniles. Many of those individuals may not know that they are disqualified. If a person applies for a firearm and on the application states that they are a convicted felon, then the licensed dealer would just deny the application on the spot without running the application through law enforcement. Law enforcement would never know of the attempt. This law will do no good.

Persons Testifying: PRO: Senator Hans Zeiger, Prime Sponsor; Ryan Portmann, Puyallup Police Department; James McMahan, Washington Association of Sheriffs and Police Chiefs.

CON: Sharyn Hinchcliffe, Pink Pistols Seattle—Tacoma; Vitaliy Kerchen, Washington Defenders Association and Washington Association of Criminal Defense Lawyers.

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