

SENATE BILL REPORT

SB 5232

As of February 8, 2023

Title: An act relating to enhancing requirements for the purchase or transfer of firearms by establishing a 10-day waiting period, requiring firearms safety training, prohibiting firearms transfers prior to completion of a background check, and updating and creating consistency in firearms transfer and background check procedures.

Brief Description: Enhancing requirements for the purchase or transfer of firearms.

Sponsors: Senators Salomon, Liias, Dhingra, Hunt, Pedersen, Stanford and Valdez.

Brief History:

Committee Activity: Law & Justice: 2/09/23.

Brief Summary of Bill

- Prohibits a firearms dealer from transferring any firearm to a purchaser or transferee until the results of a background check indicate the person is eligible to possess firearms, and ten days have elapsed since the dealer requested the background check.
- Prohibits firearm dealers from transferring a firearm to a purchaser or transferee unless the person provides proof of completion of a certified firearms safety training program or proof of exemption.
- Requires a firearms application and record of transfer for all firearm transfers. Updates the firearm transfer and background check process to conform with the implementation of a state firearms background check program.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Joe McKittrick (786-7287)

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Background: Sales and Transfers of Firearms. In Washington, only licensed firearm dealers may engage in the retail sale of firearms. Dealers must comply with both state and federal background check requirements before transferring firearms to anyone who is not also a dealer. Under federal law, a dealer cannot sell a firearm or ammunition to anyone the dealer knows, or has reasonable cause to know, is federally prohibited from possessing firearms. The consequence of a willful violation of the federal background check requirement is revocation of the dealer's federal firearm license, and imposition of a civil fine. A knowing violation of the federal background check requirement can subject the dealer to criminal prosecution, and up to ten years imprisonment.

Under state law it is a class C felony for a person to transfer a firearm to another person whom the transferor has reasonable cause to believe is ineligible to possess firearms. A first-time knowing violation of this requirement is a gross misdemeanor punishable by up to one year in jail, and up to a \$5,000 fine.

When neither party to a firearm transfer is a licensed dealer, the parties to the transaction must complete the sale or transfer through a licensed dealer. The seller or transferor must deliver the firearm to a licensed dealer who will then process the transaction as if the dealer was selling or transferring the firearm from its own inventory or stock, including compliance with all requirements of state and federal law for processing the sale or transfer of a firearm.

The requirement that a sale or transfer of a firearm where neither party is a licensed dealer does not apply in certain circumstances, including:

- a transfer between immediate family members;
- the sale or transfer of an antique firearm; and
- a temporary transfer of possession of a firearm if the transfer is intended to prevent self-harm, where the transfer lasts only so long as reasonably necessary to prevent the harm, and the firearm is not used by the transferee for any other purpose for the duration of the transfer.

Firearm Background Checks. The firearm background check system consists of two parts. The national instant criminal background check system (NICS) maintained by the FBI, and a state background check, which consists of local law enforcement conducting an individualized check of the databases of the Washington State Patrol (WPS), Department of Social and Health Services, and local mental health agencies.

For pistol and semiautomatic rifles sales or transfers, a purchaser first must complete a purchase application with the dealer. The dealer then forwards the application to the relevant local law enforcement agency to conduct the NICS check, and a state background check.

In 2020, the Legislature passed ESHB 2467 which, in part, created a centralized point-of-contact firearms background check program within WSP. With this change, all background

checks for firearm transfers within the state must be processed by WSP. This program is expected to be fully operational by 2024.

Time and Waiting Periods. Washington has not historically had a waiting or cooling-off period before a firearm can be delivered to the purchaser. Currently, except for semiautomatic rifles, a licensed dealer may not deliver any firearm to a purchaser or transferee until the earlier of:

- the results of all required background checks are known, and the purchaser or transferee is not prohibited from owning a firearm under federal or state law, and does not have a voluntary waiver of firearm rights currently in effect; or
- ten business days have elapsed from the date the dealer requested the background check.

For the sale or transfer of a pistol, if the purchaser or transferee does not have a valid permanent Washington driver's license or state identification card, or has not been a resident of the state for the previous consecutive 90 days, the time period is increased to 60 days.

A dealer may not deliver a semiautomatic rifle to a purchaser or transferee until ten business days have elapsed from the date of purchase application, or, in the case of a transfer, ten business days have elapsed from the date a background check is initiated.

Firearm Training and Safety. To purchase a semiautomatic rifle, the purchaser must provide proof to the dealer that they completed a recognized firearm training program within the last five years. At a minimum the training program must include instruction on:

- basic firearm safety rules;
- firearms and children, including secure gun storage and talking to children about gun safety;
- firearm and suicide prevention;
- secure gun storage;
- safe handling of firearms; and
- state and federal firearm laws, including prohibited firearm transfers.

The training must be sponsored by a federal, state, county, or municipal law enforcement agency, college or university, firearms training school with certified instructors, or other national recognized organizations that typically offer firearm training. The proof of training must be in the form of a certification that states under penalty of perjury that the training meets the minimum requirements.

Summary of Bill: A firearms dealer may not transfer any firearm to a purchaser or transferee until the completion of a background check indicating the person is eligible to possess firearms, and ten days have elapsed since the dealer requested the background check. Provisions governing investigative holds on the delivery of a firearm based on outstanding warrants, or open or pending criminal charges are eliminated.

A dealer may not transfer any firearm to a purchaser or transferee unless the purchaser produces a certificate of completion of a certified firearms safety training program within the last five years. The training program requirement does not apply to certified peace officers, or members of the military who have completed firearms training within the last five years as part of service that included training on the safe handling of, and shooting proficiency with, firearms.

The firearm safety training program must be certified by WSP, and at a minimum include instruction on:

- basic firearm safety rules;
- firearms and children, including secure gun storage and talking to children about gun safety;
- firearms and suicide prevention;
- secure gun storage;
- safe handling of firearms;
- state and federal firearms laws, including prohibited firearms and locations where firearms are prohibited;
- state laws pertaining to the use of deadly force for self-defense;
- techniques for avoiding a criminal attack, and how to manage a violent confrontation, including conflict resolution; and
- live-fire shooting exercises on a firing range that include a demonstration by the applicant of the safe handling of, and shooting proficiency with firearms.

Transfer application requirements and the requirement that a dealer must make a record for pistol and semiautomatic assault rifle transfers are made applicable to all firearm transfers.

Effective January 1, 2024, a state background check must be conducted for all firearm transfers. Firearm transfers and background check processes are revised to conform to procedures that will apply upon implementation of the State Firearm Background Check Program, including requiring background checks through the WSP Firearm Background Check Program (program) rather than local law enforcement agencies. A dealer must transmit the information from a firearms purchase application through secure automated firearms e-check (SAFE) to the WSP program. The WSP program must transmit the application information to the Department of Licensing daily. The fee applicable to the purchase or transfer of semiautomatic assault rifles is eliminated.

Beginning January 1, 2024, firearm dealers must use the WSP program to effectuate the necessary background checks prior to delivering any firearm to a purchaser, and may not deliver any firearm after this date unless the dealer is notified in writing by WSP that the purchaser is eligible to possess firearms, and ten business days have elapsed from the date the dealer requested the background check.

At the time of applying for the purchase of any firearm, the purchaser must sign in triplicate and deliver to the dealer an application containing the purchaser's full name, address, place

of birth, race, and gender. The application must contain the date and hour of the application, the applicant's driver's license number or identification card number, a description of the firearm including the make, model, caliber, and manufacturer's number, a statement that the purchaser is eligible to purchase the firearm under state and federal law, and a statement that the purchaser has completed a recognized firearm safety training program within the last five years.

Appropriation: None.

Fiscal Note: Requested on January, 26, 2021.

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

Effective Date: The bill contains several effective dates. Please refer to the bill.