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STATE & LOCAL AFFAIRS DIVISION
DANIEL REID, OREGON STATE LIAISON

February 6, 2014

The Honorable Floyd Prozanski
Chair, Senate Judiciary

Re: Senate Bill 1551– OPPOSE

Dear Chairman Prozanski:

On behalf of the members of The National Rifle Association, I strongly oppose Senate Bill 1551. Background checks are ineffective, unenforceable and have a disproportionate impact on law abiding citizens.

Ineffective

Background checks have not proven to be effective. Persons who are denied purchasing a firearm based on a check are rarely, if ever prosecuted. It's worth noting that submitting false information on a federal firearms form is a felony.

Oregon's background check denials are consistent with those run on the Federal Level, just over 1%. In 2010 the FBI denied 72,659 of the total 14,409,616 checks run. Of those denials only 62 of these cases were prosecuted and only 13 resulted in a conviction. The reason, according to Vice President Biden, is that "we simply don't have the time or the manpower to prosecute everybody who lies on a form, checks a wrong box, that answers a question inaccurately." Unfortunately that means that persons who are caught through a background check are turned away to obtain a firearm somewhere else rather than being prosecuted to the fullest extent of the law.

According to a January 2013 report from the U.S. Department of Justice's National Institute of Justice, the effectiveness of "universal background checks" depends on requiring gun registration. In other words, the only way that the government could fully enforce such a requirement would be to mandate the registration of all firearms in private possession – a requirement that has been prohibited by federal law since 1986.

Even if accompanied by a change in federal law to require gun registration, most criminal possession of firearms would remain outside the system. The concept of expanding background checks therefore, would only incur massive cost and bureaucracy; would not work without a change in a long standing federal law to require gun registration and would unduly burden law-abiding citizens from exercising their fundamental Right to Keep and Bear Arms.

Clearly, the system is not working as intended. Yet rather than focusing on ways to improve the current system the solution being called for is to expand it.

Enforcement

How is law enforcement to enforce this bill? The likely scenario would be after a firearm has been obtained or confiscated. If law enforcement has already confiscated the firearm the chance that the action sought to be prevented has already occurred.

If law enforcement is to confiscate a firearm that has been transferred “illegally” is prosecution likely? ORS 131.125 (6) provides that prosecution for a misdemeanor must be commenced within two years after the commission. Does this mean so long as the private party transfer is not discovered for two years it becomes a legal transfer? Further, what is to stop someone who made an “illegal” transfer from stating the transfer was a loan or that the transaction occurred years prior to avoid prosecution?

Impact on Law Abiding Citizens

This bill has a disproportionate impact on law abiding citizens. The denial rate is close to 1%, meaning that almost 99% of people who go through checks are law-abiding citizens. So whatever requirements the system includes disproportionately impacts good, honest people who are simply trying to exercise a constitutional right.

Outreach

This bill does not have any provisions or funding that provides for outreach to Oregonians of the new change in law. This is important so average citizens are not turned into criminals overnight for something that has long been legal. Imagine the neighbors who have sold and traded firearms with each other could now be engaging in an illegal activity unbeknownst to them.

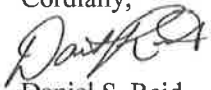
Further outreach should include providing additional clarification for when a check is required. Under this bill “transfer” means “the sale, gift or lease of a firearm.” An example of necessary clarification is the distinction between a loan and a gift. Under the bill a gift requires a check as opposed to a loan which does not. This could unintentionally capture the boyfriend who lends a firearm to his girlfriend for an indefinite period of time for self protection. Does the indefinite period of the boyfriend loaning the firearm constitute a gift subjecting him to criminal penalties for not having a check performed?

Conclusion

I understand that many proponents of the bills are motivated by events that have happened both nationally and locally, however the solution offered today would not have had any impact. Infringing on the rights of law abiding citizens is not the answer.

Thank you for your attention and I ask that you oppose these bills.

Cordially,



Daniel S. Reid
State Liaison