

PRELIMINARY STAFF MEASURE SUMMARY

CARRIER:

Senate Committee on Judiciary

REVENUE: No revenue impact

FISCAL: May have fiscal impact, statement not yet issued

SUBSEQUENT REFERRAL TO:

Action:

Vote:

Yeas:

Nays:

Exc.:

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Meeting Dates: 4/1

WHAT THE MEASURE DOES: Requires all private transferors of firearms to appear at gun dealer in person with both transferee and firearm and request criminal background check before transfer. Enumerates exceptions for family members, law enforcement, inherited firearms and certain temporary transfers. States that violation of background check law constitutes Class A misdemeanor for first offense and Class C felony for second and subsequent offense. Requires Department of State Police to notify local law enforcement when background check demonstrates transferee is prohibited from possession of firearm. Allows court to prohibit person participating in outpatient treatment from possession of firearm during period of treatment upon certain findings. Declares emergency, effective on passage.

ISSUES DISCUSSED:

EFFECT OF COMMITTEE AMENDMENT: Proposed -2 amendment creates exemption specific to “transfer of firearm to a law enforcement officer.”

Proposed -3 amendment creates exemption for transfer of firearm to person with valid concealed carry permit.

Proposed -4 creates exemption for person who as an active duty service member in the Armed Forces of the United States.

Proposed -7 provides that, if transferor and transferee live over 40 miles from each other, that transferor may ship or deliver firearm to gun dealer located near transferee. Makes Department of State Police reporting of failed attempted transfer to sheriff permissive.

Proposed -8 directs Department of Transportation to create license which notes person is a convicted felon.

Proposed -11 removes all substantive portions of the bill. States that transferor who completes criminal background check is immune from criminal liability for selling a firearm to a prohibited person. Enumerates persons prohibited from possession of firearm.

BACKGROUND: Senate Bill 971, also named the “Oregon Firearms Safety Act” is an effort to mandate universal background checks in the state of Oregon. Eight jurisdictions require a background check to be conducted prior to any firearms transfer, including those between private citizens and at gun shows. This is known colloquially as a “universal background check.” These are California, Colorado, Connecticut, Delaware, New York, Rhode Island, Washington State and Washington D.C. Of these states, some have additional restrictions such as handgun purchase permits, waiting periods, assault weapons bans and magazine capacity restrictions. Washington State is the newest addition to the list, with Initiative 594 taking effect on December 4, 2014.

Oregon currently mandates that all firearms transfers at gun shows and at gun dealers be completed with a criminal background check. Such checks for private individuals, however, are permissive. ORS 166.436 currently provides

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This summary has not been adopted or officially endorsed by action of the committee.

that, prior to transferring a firearm, a transferor *may* request by telephone that the Department of State Police conduct a criminal background check on the recipient (emphasis added). Should a transferor elect to utilize this procedure, they are then immune from civil liability for any use of the firearm from the time of the transfer unless the transferor knows, or reasonably should have known, that the recipient is likely to commit an unlawful act with the firearm.

The Oregon Firearms Safety Act makes such a background check between private individuals mandatory. There are certain exceptions enumerated in the Act. These include: 1) law enforcement; 2) firearms turn in or buy back events; 3) transfers to certain family members; or 4) transfers as a result of the death of the owner. Violation of these provisions is classified as a Class A misdemeanor for a first offense, and a Class C felony for a second and subsequent offense. The Act lays out the procedure for the Department of State Police in the event that a background check reveals a transferee's ineligibility to possess a firearm. Lastly, the Act allows judges to prohibit those undergoing assisted outpatient treatment from owning a firearm if, in the opinion of the court, there is a reasonable likelihood the person would constitute a danger to themselves or others as the result of the person's mental or psychological state.