

**Fiscal:** Fiscal impact issued

**Revenue:** No Revenue Impact

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**Action Date:** 04/23/15

**Action:** Do Pass.

**Meeting Dates:** 04/22, 04/23

**Vote:**

Yeas: 5 - Barnhart, Hoyle, Nosse, Rayfield, Smith Warner

Nays: 4 - Gilliam, Kennemer, McLane, Wilson

**Prepared By:** Erin Seiler, Committee Administrator

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**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. Specifies exceptions for family members, law enforcement, inherited firearms and certain temporary transfers. Violation of background check law constitutes Class A misdemeanor for first offense and Class B felony for second and subsequent offenses. Provides that if transferor and transferee live over 40 miles from each other, transferor may ship or deliver firearm to gun dealer located near transferee. Allows 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:**

- History of background check legislation in Oregon
- Implementation and enforcement of private firearm transfer legislation
- Internet sales of firearms
- Situational examples of private transfers between individuals
- Constitutionality of universal background checks
- Cost of implementation
- Oregon State Police background check system
- Exceptions to private transfer background check requirement
- Cost and ability to ship or deliver firearm to gun dealer
- Recent cases of gun violence
- Gun dealers responsibilities when individuals do not pass background check
- Emergency clause
- Amendments

**EFFECT OF COMMITTEE AMENDMENT:**

No amendment.

**BACKGROUND:**

Senate Bill 941-A, also named the "Oregon Firearms Safety Act," requires universal background checks for firearm transfers in the state of Oregon. Eight jurisdictions currently 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 states are California, Colorado, Connecticut, Delaware, New York, Rhode Island, Washington, D.C. and Washington State. 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 most recent addition to the list, with Initiative 594 taking

effect on December 4, 2014. Oregon currently mandates that all firearm transfers at both gun shows and gun dealers be completed with a criminal background check. Such checks for private individuals, however, are permissive. ORS 166.436 provides 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. Should a transferor elect to utilize this procedure, he or she is 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.