



NATIONAL SHOOTING SPORTS FOUNDATION, INC.

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April 17, 2017

Testimony in Opposition to SB 797

Chair Prozanski and Members of the Senate Judiciary Committee,

The National Shooting Sports Foundation, representing 12,000 manufacturers, distributors, firearms retailers, shooting ranges, sportsmen's organizations and publishers, **strongly opposes SB 797**, a bill that would deny the constitutional rights of law-abiding citizens and impose an undue burden on our members in the course of their legitimate business activities.

SB 797 could **permanently prohibit** the transfer or sale of a firearm if the Department of State Police is unable to determine whether the recipient is or is not prohibited from possessing firearms. **This denial would not be for someone being affirmatively denied, but simply for the government being unable to make the determination.** While the law currently allows a three-day delay, this law would extend that delay **indefinitely**.

Before transferring a firearm, FFLs must conduct a background check through the State Police to determine if a person is qualified to possess firearms. The check will produce one of three results: the purchase is approved, the purchase is denied or the purchase is delayed. In 2014, 91 percent of checks resulted in an immediate determination—either approval or denial; nine percent were delayed.

Under the 1993 Brady Act, a federally licensed firearm retailer (FFL) may, but is not required to, complete a transfer if the transaction is not resolved within three business days. The three-day count does not include the day the check was initiated, Saturdays, Sundays or state holidays. This delay allows authorities to obtain any missing information needed to make the determination.

Now, here are some statistics about those delays, which represent only nine percent of total checks:

If an FFL lawfully transfers a firearm after three business days and the proper authorities later determine the transaction should have been denied, state police would notify the FFL and contact the federal Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) to handle the case as a firearm retrieval referral. In 2014, this happened 2,500 times nationwide, which is one tenth of one percent of all checks that year.



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This is key: of those delays that go beyond three business days, only 12 percent are eventually denied. If you pass SB 797, you are **delaying for an indefinite period the second-amendment rights** of the 88 percent of law-abiding citizens whose checks end up being approved.

Now compare this 12 percent to the 54 percent denial rate for delays that are resolved within the three-day period. In other words, people whose background checks go beyond the three-day period are **less** likely to be denied than people whose checks are denied within the three-day period. **These facts should refute the notion that somehow a person is more suspicious or more likely to be prohibited simply because their check takes longer than three-days to complete.**

Another interesting statistic from the U.S. Department of Justice (DOJ): in cases where firearms are transferred legally after the three-day period with no resolution from background check data, data from firearm traces conducted by law enforcement fail to show that these are more likely to end up in the hands of criminals than any other firearm. **This is not surprising since DOJ data show criminals rarely obtain their firearms from licensed retailers.**

In closing, it's important to note that a right delayed is a right denied. The three-day waiting period is a **reasonable delay period to allow competent regulators to research** any potential information gaps in a person's background check. An indefinite waiting period would have the effect of denying a constitutional right without due process for someone who, given the aforementioned statistics, is more likely to be qualified to possess a firearm than not.

A three-day delay period gives the government a reasonable deadline for completing the background check requirement. Understanding that governments often move slowly, a delayed background check with an undefined deadline could lead to longer and longer delays for responsible gun buyers, even becoming a tool to deny law-abiding citizens the ability to purchase a firearm by delaying this process indefinitely.

Sincerely,

Trevor W. Santos