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**SUBSTITUTE HOUSE BILL 1588**

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**State of Washington**

**63rd Legislature**

**2013 Regular Session**

**By** House Judiciary (originally sponsored by Representatives Pedersen, Hope, Jinkins, Hansen, Freeman, Kagi, Walsh, Carlyle, Hunter, Clibborn, Ormsby, Cody, Green, Stanford, Orwall, Maxwell, Lias, Pettigrew, Tharinger, Springer, Hudgins, Wylie, Moeller, Fitzgibbon, Ryu, Roberts, Goodman, Riccelli, Farrell, Fey, Appleton, Pollet, Habib, Bergquist, Moscoso, Hunt, Santos, and Reykdal)

READ FIRST TIME 02/22/13.

1       AN ACT Relating to requiring universal background checks for  
2 firearms transfers; amending RCW 9.41.080; creating a new section; and  
3 prescribing penalties.

4       BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5       NEW SECTION.   **Sec. 1.** The legislature finds that there is broad  
6 consensus that certain people, such as felons, minors, and  
7 involuntarily committed persons, should not be eligible to possess  
8 firearms for public safety reasons. Background checks are an effective  
9 and easy mechanism to ensure that firearms are not sold to those who  
10 are prohibited from possessing them. However, because background check  
11 requirements apply only to transfers by licensed firearms dealers, many  
12 firearms are currently sold without a background check, allowing felons  
13 and other ineligible persons to gain access to them. The legislature  
14 intends by this act to strengthen our background check system by  
15 broadening the requirement for a background check to apply to all  
16 firearms sales in the state.

17       **Sec. 2.** RCW 9.41.080 and 1994 sp.s. c 7 s 409 are each amended to  
18 read as follows:

1       (1) No person may deliver a firearm to any person whom he or she  
2 has reasonable cause to believe is ineligible under ((RCW 9.41.040))  
3 state or federal law to possess a firearm. Any person violating this  
4 ((section)) subsection is guilty of a class C felony, punishable under  
5 chapter 9A.20 RCW.

6       (2)(a) No unlicensed person may sell a firearm to another  
7 unlicensed person unless: (i) The purchaser has undergone a background  
8 check in accordance with the provisions of this subsection (2) and the  
9 background check indicates that the purchaser is eligible to possess a  
10 firearm under state and federal law; or (ii) the purchaser produces a  
11 valid concealed pistol license issued under RCW 9.41.070.

12       (b)(i) A seller of a firearm to a purchaser who does not produce a  
13 valid concealed pistol license issued under RCW 9.41.070 shall request  
14 a background check of the purchaser from a dealer or from the chief of  
15 police or the sheriff of the jurisdiction in which the seller or the  
16 purchaser resides. The background check shall consist of a check of  
17 the national instant criminal background check system.

18       (ii) The purchaser must complete and sign a firearms transaction  
19 record (ATF form 4473), which must be provided to the dealer or the  
20 chief of police or sheriff conducting the background check.

21       (iii) A dealer or a chief of police or sheriff who conducts a  
22 background check for an unlicensed person under this subsection (2)  
23 must indicate on the firearms transaction record (ATF form 4473)  
24 whether the purchaser is eligible or ineligible to possess a firearm  
25 under state and federal law based on the results of the background  
26 check, and shall record the national instant criminal background check  
27 system transaction number on the firearms transaction record (ATF form  
28 4473).

29       (iv) If the national instant criminal background check system does  
30 not return a proceed or deny response within three business days after  
31 the background check is initiated, the dealer or chief of police or  
32 sheriff shall indicate on the firearm transaction record (ATF form  
33 4473) that no resolution was received from the system within three  
34 business days and return the firearms transaction record (ATF form  
35 4473) to the seller. The seller may then transfer the firearm to the  
36 purchaser.

37       (v) The dealer or chief of police or sheriff conducting the  
38 background check may not retain a copy of the firearms transaction

1 record (ATF form 4473), which shall be returned to the seller after the  
2 completion of the background check. The seller may retain a copy of  
3 the firearms transaction record (ATF form 4473) as proof of compliance  
4 with the requirements of this section.

5 (vi) A dealer or a chief of police or sheriff may charge a fee for  
6 conducting the background check under this subsection (2) in an amount  
7 not to exceed twenty dollars.

8 (c) If the purchaser produces a valid concealed pistol license  
9 issued under RCW 9.41.070, the seller may make a copy of the concealed  
10 pistol license, or otherwise record the license number and other  
11 information contained on the concealed pistol license, and retain this  
12 information as proof of compliance with the requirements of this  
13 section.

14 (d) An unlicensed person who sells a firearm to another unlicensed  
15 person in violation of this subsection (2) is guilty of a gross  
16 misdemeanor punishable under chapter 9A.20 RCW.

17 (e) For the purposes of this subsection (2):

18 (i) "Firearms transaction record" means the bureau of alcohol,  
19 tobacco, firearms, and explosives firearms transaction record (ATF form  
20 4473);

21 (ii) "Unlicensed person" means any person who is not licensed as a  
22 dealer under this chapter or federally licensed as a collector under 18  
23 U.S.C. Sec. 923(b).

24 (f) This subsection (2) does not apply to the sale of an antique  
25 firearm, or the sale of curios or relics as defined in 27 C.F.R. Sec.  
26 478.11.

27 (g) This subsection (2) does not apply to, and is not intended to  
28 alter the requirements of this chapter that apply to, the sale of a  
29 firearm by a dealer licensed under this chapter.

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