

Testimony – HB2543 (2021)

TO: House Judiciary Committee

Submitted: 02-09-2021

HB2543 Summary: “Prohibits transfer of firearm by gun dealer or private party if Department of State Police is unable to determine whether recipient is qualified to receive firearm.”

HB 2543 would amend ORS 166.412, 166.435 and 166.436 in the following ways:

Removed from current statutes; “[c] If the department fails to provide a unique approval number to a gun dealer or to notify the gun dealer that the purchaser is disqualified under paragraph (a) of this subsection before the close of the gun dealer’s next business day following the request by the gun dealer for a criminal history record check, the gun dealer may deliver the firearm to the purchaser..]”

NEW and Added:

Page 2(b): “...The dealer may NOT transfer the firearm unless the dealer receives a unique approval number from the department.”

Page 5(B): “...or that the department is unable to determine if the transferee is qualified or disqualified from completing the transfer...”.

Page 6(b): “The transferor may NOT transfer the firearm unless the transferor receives a unique approval number from the department.”

The current system is flawed but not in the way that this Bill proposes to correct. The system is flawed as when an actual denial DOES occur, only in a small percentage of the cases is an investigation ever initiated and in even fewer to almost non-existent is an arrest made for felons attempting to purchase a firearm. If you want to make the public safer, start there. Mandatory investigations by State Police for felons attempting to illegally purchase a firearm! Proposed changes in HB2543 will do nothing but harm the innocent and honest gun purchaser. Whether it be the parent trying to buy a shotgun for their child’s first hunting trip, the target shooting enthusiast attempting to purchase a new competition rifle, the collector attempting to purchase a limited edition piece (gun) or the domestic violence victim or stalking victim in need of immediate personal protection; this Bill could cause indefinite and lengthy delays that would not allow these honest citizens to purchase a firearm.

The current system works and has worked for over a decade. You fill out the required paperwork, provide identification and a finger print, State Police does a background check that also includes a Federal data base and the release or non-release authority goes to the Gun Dealer. The release permits the purchaser to finalize their purchase and exercise their Constitutional Right (discussed later). If the check comes back to not release the firearm to the purchaser, it is not. If the check is delayed for whatever reason, in the majority of the cases, most Dealers are not releasing the firearm anyway, typically, out of potential liability concerns. This has been an accepted and workable process for all involved and to my knowledge has NOT placed a gun in the hands of a person not authorized to have one when purchasing through an FFL Dealer or anyone using the Background Check System. It should be pointed out that all legal firearm sales and transfers in Oregon must go through this background check system (in family transfers excepted). This Bill is a solution looking for a problem where there is none.

The means by which the State Police has chosen to conduct background checks during the COVID-19 pandemic has caused further delays but this is by their choosing. Having fewer employees to conduct such checks, working at home on lower speed networks, etc., is no reason by which firearm purchasers should have their rights to purchase a firearm denied simply because the State Police cannot fulfill their responsibilities. This is also a temporary issue. Fix the Administrative issues within the State Police Background Check Unit! That does not require a change in the law but a responsibility of State staff.

Gun Ownership in Oregon and the United States is a RIGHT it is not a mere privilege. The Second Amendment of the US Constitution and Article 1 Section 27 of the Oregon Constitution are very clear:

Second Amendment, "A well regulated Militia, being necessary to the security of a free State, the right of the PEOPLE to keep and bear arms, SHALL NOT BE INFRINGED."

Article 1, Section 27 of the Oregon Constitution states: "The people shall have the right to bear arms for the defence [sic] of themselves, and the State, but the Military shall be kept in strict subordination to the civil power[.]"

ANY unnecessary or potentially lengthy delay of an individual's right to purchase and possess a firearm is a clear infringement of both the US and Oregon Constitutions. As Legislators you also swore an oath to uphold these Constitutions. To pass this Bill into Law or the other clearly Un-Constitutional anti-gun measures that are being considered in this Legislative Session into law would be a violation of your Oath of Office. This Bill should NOT be moved forward on Constitutional grounds alone.

This Bill is designed to harm the innocent and honest gun owner. Criminals do NOT obtain their guns through legal means. They obtain guns for their criminal conduct through illegal means; the underground market, 3rd party street sales and by theft. If any laws are to be considered, it should be laws that place the burden upon criminals such as; enhanced and lengthy sentences when a gun is used, mandatory sentencing when a gun is used in a crime and actual enforcement of current gun laws (especially when a felon attempts to purchase a firearm). Imagine that collector car you wanted to purchase but due to your bank or insurance company dragging their feet...you lost out on the sale. It is no different for the firearm collector wanting to buy a limited model for his/her collection to only lose out on the purchase from a lengthy-delayed background check. Or the crime victim, the stalking victim attempting to purchase a firearm for personal protection...only to be kept waiting by a ridiculous law, government red tape and State Police internal delays...all while they continue to be harassed, stalked and their safety threatened.

To summarize; This Bill will do nothing for public safety. It does not keep guns out of the hands of criminals. The current process works. This is a solution for a problem that does not exist. This Bill will only delay (indefinite period of time) an individual's RIGHT to possess firearms under the Constitution and therefore it is Un-Constitutional on it's face. I urge you to NOT MOVE THIS BILL OUT OF COMMITTEE and if it does go for a floor vote, Vote NO for this Bill's passage.

Respectfully,

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