

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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FISCAL IMPACT STATEMENT

LS 6984

BILL NUMBER: HB 1163

NOTE PREPARED: Dec 29, 2020

BILL AMENDED:

SUBJECT: Background Checks at Gun Shows.

FIRST AUTHOR: Rep. Olthoff

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: The bill requires a person wishing to sell, trade, or transfer a firearm at a gun show to transact the sale, trade, or transfer through a firearms dealer (dealer). The bill specifies certain exemptions. The bill requires a dealer to complete the sale, trade, or transfer of a firearm if the following conditions are met: (1) The dealer agrees to transact the sale, trade, or transfer of the firearm. (2) The dealer is able to successfully contact the National Instant Criminal Background Check System (NICS). (3) The dealer receives authorization from NICS to complete the sale, trade, or transfer of the firearm. (4) The recipient of the firearm being sold, traded, or transferred: (A) is not otherwise prohibited from possessing a firearm under federal or state law; and (B) is in compliance with all federal and state laws pertaining to the possession and transfer of certain firearms as defined under the National Firearms Act (NFA firearm), if applicable.

The bill allows a dealer to refuse to transact the sale, trade, or transfer of a firearm for any reason. It requires a dealer to abort the sale, trade, or transfer of a firearm when: (1) the seller of the firearm; (2) the intended recipient of the firearm; or (3) both; are not eligible to possess a firearm or an NFA firearm, as applicable. The bill requires a dealer to abort the sale, trade, or transfer of a firearm if the firearm to be sold, traded, or transferred is: (1) reported lost; (2) reported stolen; or (3) used in the commission of a crime. It provides that a dealer is not required to return payment issued to the dealer for the dealer's role in transacting the sale, trade, or transfer of a firearm in certain instances. The bill also provides a dealer with immunity from civil liability and damages in certain instances.

It provides that a person who knowingly or intentionally makes a materially false statement to a dealer for the purpose of completing a sale, trade, or transfer of a firearm commits firearm transfer fraud, a Level 6 felony. The bill enhances the offense to a Level 5 felony if the person has a prior unrelated conviction for

the offense. The bill provides that a dealer or person who transacts a sale, trade, or transfer of a firearm in violation of certain requirements commits unlawful transfer of a firearm, a Level 6 felony. The bill provides that the offense is a Level 5 felony if the dealer or person has a prior unrelated conviction for the offense.

The bill requires gun show organizers and operators to provide signage and written notice concerning required National Instant Criminal Background Checks. The bill specifies certain defenses. The bill defines certain terms. The bill makes conforming amendments.

Effective Date: July 1, 2021.

Explanation of State Expenditures: *Penalty Provision:* A Level 5 felony is punishable by a prison term ranging from 1 to 6 years, with an advisory sentence of 3 years. A Level 6 felony is punishable by a prison term ranging from 6 to 30 months, with an advisory sentence of 1 year. The sentence depends on mitigating and aggravating circumstances. Assuming offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$3,524 annually, or \$9.66 daily, per prisoner. However, any additional expenditures are likely to be small.

Explanation of State Revenues: *Penalty Provision:* If additional court cases occur and fines are collected, revenue to both the Common School Fund (from criminal fines) and the state General Fund (from court fees) would increase. The maximum fine for a Level 6 and a Level 5 felony is \$10,000. However, any additional revenues would likely be small.

Immunity from Civil Liability for Dealers– The provision would allow dealers to receive civil liability immunity under certain circumstances where a dealer were to terminate a firearms transaction under the bill. This provision may slightly reduce civil actions filed in courts of record. Court filing fees may be reduced slightly, which includes primarily the civil costs fee of \$100. This fee is assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court. Additional court fees assessed for a civil action would be reduced as well.

Explanation of Local Expenditures: *Penalty Provision:* If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. However, any additional expenditures would likely be small.

Explanation of Local Revenues: *Immunity from Civil Liability for Dealers–* Similarly, local share of court fees assessed for a civil action may be slightly reduced, in future years, by the immunity provision for firearm dealers in the bill.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement.

Information Sources:

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