

Second Regular Session

Sixty-second General Assembly

LLS NO. 00-0299.03 Beth Braby

HOUSE BILL 00-1242

STATE OF COLORADO

BY REPRESENTATIVES Gordon, Morrison

A BILL FOR AN ACT

101 CONCERNING A REQUIREMENT OF CRIMINAL HISTORY BACKGROUND
102 CHECKS IN CONNECTION WITH THE TRANSFER OF FIREARMS AT GUN
103 SHOWS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Makes it a class 1 misdemeanor for any person at a gun show to knowingly transfer a firearm to any person prohibited from possessing a firearm pursuant to state or federal law. Defines gun show.

Makes it a class 1 misdemeanor to transfer a firearm at a gun show without first receiving a transaction number from the Colorado bureau of investigation ("bureau"). Requires any transferor of a firearm at a gun show to contact the bureau for the purpose of requesting a criminal background check on a prospective transferee. Specifies that any transfer that occurs as a result of contacts made at a gun show shall be deemed to be a transfer made at a gun show. Requires the bureau to perform a state and federal, if possible, criminal background check upon request of a transferor of a firearm at a gun show. Instructs the bureau to deny a transfer of a firearm if the transfer would violate federal or state law. Adds the following provisions to the grounds for denial of a transfer of a firearm under state law:

- At the time of the check, the prospective transferee has been arrested or charged with a crime that, if convicted, would prohibit the prospective transferee from purchasing, possessing, or receiving a firearm under state or federal law and there has been no final disposition or the final disposition is not noted in the databases;

- At the time of the check, the prospective transferee is the subject of an indictment, an information, or a felony complaint for a crime punishable by a term exceeding one year and there has been no final disposition or the final disposition is not noted in the databases.

Specifies that a prospective transferee shall bear the cost of the criminal background check. Requires the bureau to purge the records created in conducting criminal background checks under the act; except that allows the bureau to maintain a list of the transaction numbers issued for approval of a firearm transfer and the records associated with a denial of a firearm transfer. Requires the director of the bureau to prescribe rules necessary to carry out the provisions of this act.

Makes it a class 1 misdemeanor for any person who attempts to acquire a firearm at a gun show from any transferor, pursuant to the provisions of this act, to knowingly make a false or fictitious oral or written statement or to knowingly present false, fictitious, or misrepresented identification that is intended or likely to deceive the transferor with respect to any fact material to the lawfulness of the transfer of the firearm under federal or state law.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** Article 12 of title 18, Colorado Revised Statutes,
3 is amended BY THE ADDITION OF A NEW SECTION to read:

4 **18-12-111. Unlawful sale of firearms.** (1) FOR PURPOSES OF
5 THIS SECTION:

6 (a) "BUREAU" MEANS THE COLORADO BUREAU OF INVESTIGATION.

7 (b) "FEDERAL CRIMINAL BACKGROUND CHECK" MEANS A CHECK OF
8 CRIMINAL HISTORY INFORMATION MAINTAINED BY THE FEDERAL BUREAU
9 OF INVESTIGATION AND INFORMATION MAINTAINED IN THE NATIONAL
10 INSTANT CRIMINAL BACKGROUND CHECK SYSTEM CREATED BY PUBLIC
11 LAW 103-159.

12 (c) (I) "GUN SHOW" MEANS AN EVENT OR A FUNCTION SPONSORED
13 BY:

1 (A) A NATIONAL, STATE, OR LOCAL ORGANIZATION OR PERSON
2 INVOLVED IN THE SALE, COLLECTION, COMPETITIVE USE, OR OTHER
3 SPORTING USE OF FIREARMS; OR

4 (B) AN ORGANIZATION, ASSOCIATION, OR PERSON THAT SPONSORS
5 FUNCTIONS INVOLVED IN THE SALE, COLLECTION, COMPETITIVE USE, OR
6 OTHER SPORTING USE OF FIREARMS IN THE COMMUNITY.

7 (II) "GUN SHOW" INCLUDES, BUT SHALL NOT BE LIMITED TO,
8 ACTIONS OCCURRING IN ANY AREA USED TO ACCOMMODATE PARKING FOR
9 AN EVENT OR FUNCTION SPONSORED BY ANY ENTITY IDENTIFIED IN
10 SUBPARAGRAPH (I) OF THIS PARAGRAPH (c).

11 (d) "TRANSFER" MEANS SALE OR DELIVERY BY A TRANSFEROR TO
12 A TRANSFEREE.

13 (e) "TRANSFEREE" MEANS ANY PERSON TO WHOM A TRANSFEROR
14 WISHES TO TRANSFER A FIREARM.

15 (f) "TRANSFEROR" MEANS ANY PERSON WHO WISHES TO TRANSFER
16 A FIREARM.

17 (2) IT SHALL BE UNLAWFUL FOR ANY PERSON AT A GUN SHOW TO
18 KNOWINGLY TRANSFER A FIREARM TO A PERSON WHO IS INELIGIBLE TO
19 POSSESS A FIREARM UNDER STATE OR FEDERAL LAW.

20 (3) (a) IT SHALL BE UNLAWFUL FOR ANY PERSON AT A GUN SHOW
21 TO TRANSFER A FIREARM WITHOUT FIRST OBTAINING A TRANSACTION
22 NUMBER FROM THE BUREAU PURSUANT TO THE PROVISIONS OF
23 PARAGRAPHS (b), (c), (d), AND (e) OF THIS SUBSECTION (3).

24 (b) IMMEDIATELY PRIOR TO THE TRANSFER OF A FIREARM AT A GUN
25 SHOW, THE TRANSFEROR SHALL CONTACT THE BUREAU FOR THE PURPOSE
26 OF OBTAINING A CRIMINAL BACKGROUND CHECK ON THE PROSPECTIVE

1 TRANSFEREE.

2 (c) UPON RECEIPT OF A REQUEST BY A TRANSFEROR, THE BUREAU
3 SHALL CONDUCT A STATE CRIMINAL BACKGROUND CHECK AND, TO THE
4 EXTENT ALLOWABLE BY FEDERAL LAW, A FEDERAL CRIMINAL
5 BACKGROUND CHECK. THE BUREAU SHALL DENY A TRANSFER OF A
6 FIREARM IF, AT THE TIME THE BUREAU TRANSMITS THE REQUEST OR
7 SEARCHES OTHER DATABASES, INFORMATION INDICATES THAT THE
8 PROSPECTIVE TRANSFEREE IS INELIGIBLE TO POSSESS A FIREARM UNDER
9 STATE OR FEDERAL LAW OR THAT THE PROSPECTIVE TRANSFEREE:

10 (I) HAS BEEN ARRESTED OR CHARGED WITH A CRIME FOR WHICH
11 THE PROSPECTIVE TRANSFEREE, IF CONVICTED, WOULD BE PROHIBITED
12 UNDER STATE OR FEDERAL LAW FROM PURCHASING, RECEIVING, OR
13 POSSESSING A FIREARM AND EITHER THERE HAS BEEN NO FINAL
14 DISPOSITION OF THE CASE OR THE FINAL DISPOSITION IS NOT FOUND IN THE
15 OTHER DATABASES; OR

16 (II) IS THE SUBJECT OF AN INDICTMENT, AN INFORMATION, OR A
17 FELONY COMPLAINT ALLEGING THAT THE PROSPECTIVE TRANSFEREE HAS
18 COMMITTED A CRIME PUNISHABLE BY IMPRISONMENT FOR A TERM
19 EXCEEDING ONE YEAR, AS DEFINED IN 18 U.S.C. SEC. 921 (a) (20), AS
20 AMENDED, AND EITHER THERE HAS BEEN NO FINAL DISPOSITION OF THE
21 CASE OR THE FINAL DISPOSITION IS NOT NOTED IN OTHER DATABASES.

22 (d) IF THE RESULTS OF THE STATE CRIMINAL BACKGROUND CHECK
23 AND THE FEDERAL CRIMINAL BACKGROUND CHECK, IF CONDUCTED, SHOW
24 THAT THE PROSPECTIVE TRANSFEREE:

25 (I) IS NOT INELIGIBLE TO POSSESS A FIREARM AND IS NOT
26 INELIGIBLE TO PARTICIPATE IN THE TRANSFER PURSUANT TO

1 SUBPARAGRAPH (I) OR (II) OF PARAGRAPH (c) OF THIS SUBSECTION (3), THE
2 BUREAU SHALL PROVIDE THE TRANSFEROR WITH A TRANSACTION NUMBER;

3 (II) IS INELIGIBLE TO POSSESS A FIREARM OR IS NOT ELIGIBLE TO
4 PARTICIPATE IN THE TRANSFER PURSUANT TO SUBPARAGRAPH (I) OR (II) OF
5 PARAGRAPH (c) OF THIS SUBSECTION (3), THE BUREAU SHALL INFORM THE
6 TRANSFEROR THAT AUTHORIZATION FOR THE TRANSFER IS DENIED.

7 (e) UPON DENIAL OF A FIREARM TRANSFER, THE TRANSFEROR
8 SHALL PROVIDE THE TRANSFEREE WITH WRITTEN INFORMATION PREPARED
9 BY THE BUREAU CONCERNING THE PROCEDURE BY WHICH THE TRANSFEREE
10 MAY REQUEST A REVIEW OF THE DENIAL AND OF THE RECORDS THAT
11 PROMPTED THE DENIAL. WHEN DISPOSITIONAL INFORMATION INDICATING
12 A TRANSFEREE IS NOT PROHIBITED FROM PURCHASING, RECEIVING, OR
13 POSSESSING A FIREARM IS NOT INCLUDED IN THE BUREAU'S RECORDS, IT IS
14 THE TRANSFEREE'S RESPONSIBILITY TO OBTAIN THE DISPOSITIONAL
15 INFORMATION AND PROVIDE SUCH INFORMATION TO THE BUREAU BEFORE
16 THE BUREAU MAY REVERSE THE DENIAL. THE BUREAU SHALL RENDER A
17 FINAL ADMINISTRATIVE DECISION REGARDING DENIAL WITHIN THIRTY
18 DAYS AFTER RECEIVING SUCH INFORMATION FROM THE TRANSFEREE. IF
19 THE BUREAU REVERSES A DENIAL, THE BUREAU SHALL IMMEDIATELY
20 REQUEST THAT THE AGENCY THAT PROVIDED THE RECORDS PROMPTING
21 THE DENIAL MAKE A PERMANENT CHANGE TO SUCH RECORDS TO REFLECT
22 THE ACCURATE DISPOSITIONAL INFORMATION.

23 (f) THE BUREAU, WITHIN FORTY-EIGHT HOURS AFTER CONDUCTING
24 A CRIMINAL BACKGROUND CHECK PURSUANT TO THIS SUBSECTION (3),
25 SHALL DESTROY ANY RECORDS CREATED AS A RESULT OF CONDUCTING THE
26 STATE OR FEDERAL CRIMINAL BACKGROUND CHECK; EXCEPT THAT THE

1 BUREAU SHALL MAINTAIN THE TRANSACTION NUMBER OF AN APPROVAL OF
2 A FIREARM TRANSFER AND ANY RECORD RELATED TO A DENIAL OF A
3 FIREARM TRANSFER.

4 (g) THE COST OF CONDUCTING THE CRIMINAL BACKGROUND
5 CHECKS AS REQUIRED IN THIS SUBSECTION (3) SHALL BE BORNE BY THE
6 PROSPECTIVE TRANSFEREE.

7 (h) THE DIRECTOR OF THE BUREAU OR HIS OR HER DESIGNEE SHALL
8 PRESCRIBE SUCH RULES AS ARE NECESSARY TO CARRY OUT THE
9 PROVISIONS OF THIS SUBSECTION (3).

10 (4) IT SHALL BE UNLAWFUL FOR ANY PERSON IN CONNECTION WITH
11 THE ACQUISITION OR ATTEMPTED ACQUISITION OF A FIREARM FROM ANY
12 TRANSFEROR, KNOWINGLY TO MAKE A FALSE OR FICTITIOUS ORAL OR
13 WRITTEN STATEMENT OR KNOWINGLY FURNISH OR EXHIBIT FALSE,
14 FICTITIOUS, OR MISREPRESENTED IDENTIFICATION THAT IS INTENDED OR
15 LIKELY TO DECEIVE THE TRANSFEROR WITH RESPECT TO ANY FACT
16 MATERIAL TO THE LAWFULNESS OF THE TRANSFER OF THE FIREARM UNDER
17 FEDERAL OR STATE LAW.

18 (5) ANY TRANSFER OF A FIREARM THAT OCCURS AS A RESULT OF
19 CONTACTS MADE AT A GUN SHOW SHALL BE DEEMED TO BE A TRANSFER AT
20 A GUN SHOW FOR PURPOSES OF THIS SECTION.

21 (6) ANY TRANSFEROR OR TRANSFEREE WHO VIOLATES ANY
22 PROVISION OF THIS SECTION COMMITS A CLASS 1 MISDEMEANOR; EXCEPT
23 THAT A VIOLATION OF SUBSECTION (2) OF THIS SECTION THAT INVOLVES
24 THE TRANSFER OF A HANDGUN TO A JUVENILE SHALL CONSTITUTE A CLASS
25 4 FELONY.

26 **SECTION 2.** 24-33.5-412 (1), Colorado Revised Statutes, is

1 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

2 **24-33.5-412. Functions of bureau - legislative review.** (1) The
3 bureau has the following authority:

4 (q) WHEN REQUESTED BY A TRANSFEROR OF A FIREARM, TO
5 CONDUCT A CRIMINAL BACKGROUND CHECK ON THE PROSPECTIVE
6 TRANSFEREE, AS PROVIDED IN SECTION 18-12-111, C.R.S.

7 **SECTION 3. Effective date-applicability.** (1) This act shall
8 take effect at 12:01 a.m. on the day following the expiration of the
9 ninety-day period after final adjournment of the general assembly that is
10 allowed for submitting a referendum petition pursuant to article V,
11 section 1 (3) of the state constitution; except that, if a referendum petition
12 is filed against this act or an item, section, or part of this act within such
13 period, then the act, item, section, or part, if approved by the people, shall
14 take effect on the date of the official declaration of the vote thereon by
15 proclamation of the governor.

16 (2) The provisions of this act shall apply to offenses committed
17 and transactions initiated on or after the applicable effective date of this
18 act.