

HOUSE RESEARCH

Bill Summary

FILE NUMBER: H.F. 237
Version: As introduced

DATE: February 5, 2013

Authors: Paymar

Subject: Public Safety; Firearms

Analyst: Jim Cleary

This publication can be made available in alternative formats upon request. Please call 651-296-6753 (voice); or the Minnesota State Relay Service at 1-800-627-3529 (TTY) for assistance. Summaries are also available on our website at: www.house.mn/hrd/hrd.htm.

Overview

This bill modifies several provisions of firearms law relating to the transfer of pistols and semiautomatic military-style assault weapons, and to eligibility criteria for possessing a firearm, as follows:

- broadens the mental health criterion for prohibiting a person from firearms possession, from being committed by judicial order, to include being voluntarily hospitalized, confined in any manner, and a 72-hour hold;
- creates a new \$25 fee for the Chief's background check;
- continues to allow a Permit-to-Carry to substitute for a Permit-to-Purchase, but only for 12 months following issuance;
- lengthens the five-business-day waiting period for issuance of a Permit-to-Purchase to a seven-business-day period, which can be extended to 30-days if there is a difficulty identifying the applicant;
- adds two new felony penalties for: (1) knowingly transferring a pistol or semi-automatic military-style assault weapon in violation of this section to a prohibited person who uses the firearm in a crime of violence within one year; and (2) for a repeat violation;
- regulates private sales by mandating that any transfer of a pistol or semi-automatic assault weapon between two private citizens, neither of whom is a federally licensed firearms dealer, must be routed through a dealer. The dealer may charge a fee of up to \$25. The dealer must take the pistol or weapon into possession, and then follow federal requirements for transferring it to the intended buyer, including performance of an FBI background check through the National Instant Check System (NICS); and

Section

- if unable to deliver it to the buyer, the dealer must run a background check on the seller, before returning it to the seller. If neither person is eligible to possess the pistol or weapon, the dealer must not transfer it to either the buyer or seller, and instead must transfer the firearm to the Chief of Police or Sheriff within 24 hours, and report identifying information on the buyer and seller as directed.

Section

1 Firearms-ineligible persons; mental health commitment criterion broadened.

Among the categories of persons who are prohibited by Minnesota and federal law from possessing firearms are *persons who have ever been committed* to a treatment facility in Minnesota or elsewhere *by a judicial determination* that the person is mentally ill, developmentally disabled, or mentally ill and dangerous to the public, or who has ever been found to be incompetent to stand trial or not guilty by reason of mental illness, unless the person's ability to possess a firearm has been restored according to a certain judicial procedure.

This firearms disability criterion requires that the commitment be court-ordered. The bill would broaden that criterion for firearms disability to include *voluntary confinement or hospitalization* and any other means of entry into a treatment facility for treatment of any mental illness, in addition to being court-ordered.

A similar change is made in the bill for chemical dependency treatment, such that a person would no longer have had to be *judicially committed* for the person's firearms eligibility to have been revoked. Instead, it would suffice that the person was *confined or hospitalized voluntarily or by court-order* for drug treatment at any time.

2 Restoration of firearms rights for a civilly committed person. Conforming amendment recognizing the modified eligibility criteria relating to mental health reasons described in section 1.

3 to 8 Permit to purchase a pistol or semi-automatic military-style assault weapon.

Sections 3 to 8 of this bill propose changes to Minnesota's permit to purchase law (Minn. Stat. § 624.7131).

Background: This permit, briefly referred to as a permit to purchase, is required of any person who is not a federally-licensed firearms dealer (i.e., for a "Non-FFL") who wishes to purchase a pistol or semi-automatic military-style assault weapon from a federally licensed dealer (i.e., from an "FFL"). (It is not required for dealer to dealer firearms transfers, nor for non-dealer to non-dealer transfers.) This permit to purchase should not be confused with a permit to carry a firearm.

The permit to purchase may be obtained by an adult over 21 years of age from the person's local chief of police, without fee, following submission of a completed application form, a seven-day waiting period, and passing the chief's criminal history and mental health commitment background check. The law stipulates that the only permissible reason for the chief to deny a resident's completed application is that the person is a firearms-prohibited

Section

person under any Minnesota or federal law.

Once issued, a permit to purchase is valid statewide for a period of one year, during which time the holder may purchase any number of pistols and semi-automatic military-style assault weapons from any number of Minnesota-based FFLs. (For each purchase, the person must also submit to a federal background check through the FBI's National Instant Check System (NICS).) A permit to purchase may be renewed an unlimited number of times in the same manner as initially obtained.

A permit to purchase is not required of a person possessing a valid permit to carry a pistol, which entails essentially the same background check of the applicant, except as made by the sheriff instead of by the police chief.

3 Permit to purchase: photo ID required; fingerprint. Requires that an applicant must submit a government issued photo ID. Also changes the current reference to the firearms eligibility statute (Minn. Stat. § 624.713) to *any state of federal law*.

4 Permit to purchase: reference. Changes the current reference to the firearms eligibility statute (Minn. Stat. § 624.713) to *any state of federal law*.

5 Permit to purchase: fee authorized. Authorizes a new \$25 fee for the permit.

Changes the current reference to the firearms eligibility statute (Minn. Stat. § 624.713) to *any state of federal law*. Also provides that if a chief or sheriff is unable to verify the identification of any applicant, they may require the applicant to appear in-person to present a government-issued photo ID, in which case the seven-day waiting period is extended to 30 days.

6 Permit to purchase: reference. Changes the current reference to the firearms eligibility statute (Minn. Stat. § 624.713) to *any state of federal law*.

7 & 8 Permit to purchase: substitution period shortened. A permit to carry a pistol may be substituted for a permit to purchase a pistol, since they involve essentially identical background checks. The carry permit is valid for a period of five years, while the purchase permit is valid for a period of one year.

The bill would continue to allow such substitution, but only if the permit to carry a pistol has been issued to the holder during the immediately preceding 12 month period.

9 to 18 Permit-to-Purchase: Report of the Transfer. Sections 9 to 18 modify other statutory provisions governing the permit to purchase a pistol or semi-automatic military-style assault weapon, which are codified in an adjacent section of law and provide an alternative (and perhaps no longer used) method for obtaining a permit to purchase, when the buyer approaches the dealer *before having first* applied through the chief of police for the permit. In this situation, the seller is must collect the buyer's information and make application for the buyer, which has shown to be a cumbersome process for sellers. (Minn. Stat. § 624.7132)

Section

- 9 Report of the permit to purchase: photo ID required.** Changes the current reference to the firearms eligibility statute (Minn. Stat. § 624.713) to *any state of federal law*. Also requires that the applicant show a government-issued photo ID.
- 10 Report of the permit to purchase: reference.** Changes the current reference to the firearms eligibility statute (Minn. Stat. § 624.713) to *any state of federal law*.
- 11 Report of the permit to purchase: waiting period.** Lengthens the five business day waiting period for issuance of a permit to purchase to a seven business day period.
- 12 Report of the permit to purchase: photo ID required, fingerprint.** Changes the current reference to the firearms eligibility statute (Minn. Stat. § 624.713) to *any state of federal law*. Also provides that if a chief or sheriff is unable to verify the identification of any applicant, they may require the applicant to appear in-person to present a government-issued photo ID, in which case the seven-day waiting period is extended to 30 days.
- 13 Report of the permit to purchase: reference.** Changes the current reference to the firearms eligibility statute (Minn. Stat. § 624.713) to *any state of federal law*.
- 14 Report of the permit to purchase: private sales through dealer only.** Mandates that any transfer of a pistol or semi-automatic assault weapon between two private citizens, neither of whom is a federally licensed firearms dealer, must be routed through a dealer. The dealer may charge a fee of up to \$25. The dealer must take the pistol or weapon into possession, and then follow federal requirements for transferring it to the intended buyer, including performance of an FBI background check through the NICS.
- If unable to deliver it to the buyer, the dealer must run a background check on the seller, before returning it to the seller. If neither person is eligible to possess the pistol or weapon, the dealer must not transfer it to either the buyer or seller, and instead must transfer the firearm to the chief of police or sheriff within 24 hours, and report identifying information on the buyer and seller as directed.
- 15 Report of the permit to purchase: substitution period shortened.** A permit to carry a pistol may be substituted for a permit to purchase a pistol, since they involve essentially identical background checks. The former permit is valid for a period of five years, while the latter is valid for a period of one year.
- The bill would continue to allow such substitution, but only if the permit to carry a pistol has been issued to the holder during the immediately preceding 12 month period.
- 16 Report of the permit to purchase: exceptions tightened.** Current law provides a number of exceptions to the requirements of the permit to purchase laws. The bill tightens some of those exceptions. Most notably, the exception for transfers without a permit to purchase between *private parties* would be restricted to those between *relatives*, as defined in the bill.
- 17 Report of the permit to purchase: reference.** Changes the current reference to the firearms eligibility statute (Minn. Stat. § 624.713) to *any state of federal law*.

Section

18 **Report of the permit to purchase: penalties.** Current law provides that a number of possible violations of the permit to purchase laws are gross misdemeanor crimes, and that a few are felony crimes.

The bill would add two new felony penalties for:

(1) knowingly transferring a pistol or semi-automatic military-style assault weapon in violation of this section to a prohibited person who uses the firearm in a crime of violence within one year; and

(2) for a repeat violation.

Repealer: Repeals section 609.66, subd. 1f, that provides a number of current-law exceptions for carrying a pistol onto school property, including for persons with a permit to carry, whether to store the pistol within the vehicle, or to step outside the vehicle to store the pistol in the trunk.

Repealer: Repeals section 614.7132, subd. 14, currently allowing transfers between private citizens, neither of whom are federally licensed firearms dealers.