

## Initiative Measure No. 594

Ballot Title

[Full Text](#)

Initiative Measure No. 594 concerns background checks for firearm sales and transfers.

This measure would apply currently used criminal and public safety background checks by licensed dealers to all firearm sales and transfers, including gun show and online sales, with specific exceptions.

Should this measure be enacted into law?

Yes

No

The Secretary of State is not responsible for the content of statements or arguments ([WAC 434-381-180](#)).

### Explanatory Statement

Written by the Office of the Attorney General

#### **The Law As It Presently Exists**

Both state and federal laws require that certain sellers of firearms conduct background checks of buyers before selling firearms to determine whether the buyer can legally possess a firearm. Washington law makes it illegal for convicted felons to possess firearms. It also makes it illegal for certain others to possess firearms, including people who: (1) have been convicted of certain misdemeanors; (2) have been issued certain types of restraining orders; (3) have been found not guilty of a crime by reason of insanity; (4) have been found mentally incompetent; or (5) have certain criminal charges pending. It is a felony to deliver any firearm to any person reasonably believed to be prohibited from owning or possessing a firearm.

State laws governing background checks vary from state to state. In Washington, a background check is only required to buy a pistol, and only if the seller is a firearms dealer. Washington law also provides an exception to the background check requirement for certain sales of pistols from dealers. If the buyer has already been issued a concealed pistol license, then no further background check is required. Also, a firearms dealer can complete a sale if the sheriff or police chief fails to provide the results of a background check within five business days. That five day period can be extended if the buyer does not have a valid permanent Washington driver's license or identification card, or has lived in Washington for less than ninety days.

Washington law allows Washington residents to buy rifles and shotguns in other states. And it allows residents of other states to buy rifles and shotguns in Washington. In both cases, the sale must comply with federal law. The sale must also be legal under the laws of both Washington and the other state.

Federal law also requires background checks on potential buyers of firearms. This federal requirement applies only when the seller is a firearms dealer. Unlike Washington law, the federal requirement applies to all types of firearms, not just pistols. Federal law does not require a background check if the buyer holds a concealed pistol license. Also, federal law allows a firearms dealer to complete a sale if the results of a background check are not returned within three business days.

Washington's sales tax and use tax generally apply to sales of firearms. Sales tax does not apply to casual and isolated sales by sellers who are not engaged in business. This means, for example, that a sale of a firearm by a private individual who is not engaged in business is not subject to sales tax. Sales by firearms dealers or other businesses are subject to tax.

#### **The Effect Of The Proposed Measure If Approved**

This measure would apply the background check requirements currently used for firearm sales by licensed dealers to all firearm sales and transfers where at least one party is in Washington. Background checks would thus be required not only for sales and transfers of firearms through firearms dealers, but also at gun shows, online, and between unlicensed private individuals. Background checks would be required for any sale or transfer of a firearm, whether for money or as a gift or loan, with specific exceptions described below. Background checks would be required whether

the firearm involved is a pistol or another type of firearm. Violations of these requirements would be crimes.

The measure would establish a number of exceptions to the background check requirement. A background check would not be required to transfer a firearm by gift between family members. The background check requirement also would not apply to the sale or transfer of antique firearms. It also would not apply to certain temporary transfers of a firearm when needed to prevent imminent death or great bodily harm. Background checks would not be required for certain public agencies or officers acting in their official capacity, including law enforcement or corrections agencies or officers, members of the military, and federal officials. Federally licensed gunsmiths who receive firearms solely to service or repair them would not be required to undergo background checks.

Certain other temporary transfers of a firearm would also not require a background check. These include temporary transfers between spouses, and temporary transfers for use at a shooting range, in a competition, or for performances. A temporary transfer to a person under age eighteen for hunting, sporting, or education would not require a background check. Other temporary transfers for lawful hunting also would not require a background check.

A person who inherited a firearm other than a pistol upon the death of its former owner would not be required to undergo a background check. A person who inherited a pistol would either have to lawfully transfer the pistol within 60 days or inform the department of licensing that he or she intended to keep the pistol.

Firearms could only be sold or transferred through licensed firearms dealers. If neither party to the sale or transfer of a firearm was a firearms dealer, then a firearms dealer would have to assist in the sale or transfer. Before a sale or transfer could be completed, a firearms dealer would perform the background check on the buyer or recipient of the firearm. If the background check determined that the buyer or recipient of the firearm was ineligible to possess a firearm, the firearms dealer would return the firearm to the seller or transferor. The firearms dealer could charge a fee for these services.

Firearms dealers could not deliver any firearm to a buyer or recipient until receiving background check results showing that the buyer or recipient can legally possess the firearm. But a firearms dealer could deliver a firearm if background check results were not received within ten business days (as opposed to the five business days currently allowed to conduct the check). If the buyer or recipient did not have a valid permanent Washington driver's license or identification card, or had been a Washington resident for less than 90 days, then the time period for delivery of a pistol would be extended from ten days to 60 days, the same as under current law.

If a firearms dealer violates this measure, his or her license could be revoked. The violation would also be reported to federal authorities.

Sales tax would not apply to the sale or transfer of firearms between people who are not licensed firearms dealers, so long as they comply with all background check requirements. Using a licensed firearms dealer to assist with such sales or transfers would not result in sales or use tax.

## Fiscal Impact Statement

Written by the [Office of Financial Management](#)

Initiative 594 is expected to have minimal impact on state and local revenues. The net change cannot be estimated because the impact depends upon optional fees that may be charged by licensed firearms dealers. State expenditures for the Department of Licensing may total an estimated \$921,000 over the next five years, which includes one-time implementation costs, ongoing expenses related to complying with current state pistol transfer laws and new license oversight requirements. State expenditures for enforcing the measure are estimated to be less than \$50,000 per year. Local government expenditures are estimated to be less than \$50,000 per year.

### General Assumptions

- The effective date of the initiative is December 4, 2014.
- Estimates are described using the state's fiscal year (FY) of July 1 through June 30. FY 2015 is July 1, 2014, to June 30, 2015.

### State Revenue Assumptions

- Licensed firearms dealers may charge a fee for the administrative costs of facilitating the background check and private sale or transfer of a firearm.
- Licensed firearms dealers would be required to pay the state business and occupation tax on any fees charged.
- Licensed firearms dealers would not be required to collect sales or use tax when facilitating a private sale or transfer of a firearm.
- Consistent with current law, a person would continue to be required to pay state use tax when purchasing or transferring a firearm in a private transaction.

### **State Revenues**

Current law requires licensed firearms dealers to collect use tax from the Washington buyer in an interstate firearm sale or transfer. Under Initiative 594 (I-594) licensed dealers would no longer be required to collect use taxes on interstate sales or transfers. State revenues would be decreased minimally by the loss of use taxes on interstate sales or transfers no longer collected by licensed dealers.

I-594 authorizes licensed dealers to charge a fee to cover the administrative cost of facilitating background checks and private firearm sales and transfers. State revenues would be increased by the business and occupation taxes due on any fees charged by licensed firearms dealers. It is unknown how many licensed dealers will charge a fee or what any particular licensed dealer may set as the fee.

Therefore, I-594 would have a minimal impact on state revenues. The change in revenues cannot be estimated without information on whether licensed dealers would charge administrative fees, at what amount fees might be set, how many licensed dealers may charge administrative fees or the number of firearm purchases made each year where use taxes would be due.

### **State Expenditure Assumptions**

- All private pistol sales and transfers would be reported to the Department of Licensing (DOL).
- Private sales or transfers of firearms other than pistols would not be reported to DOL.
- DOL would process more pistol sales and transfer reports each year than it currently does.
- DOL would print more pistol sales and transfer forms each year than it currently does.
- DOL would modify the Business and Professions Firearm Database System to account for private pistol sales and transfers reported by licensed firearms dealers.
- DOL would need additional staff for the increased pistol transfer workload and program administration, and to develop and manage new reporting requirements and license revocation authority.
- About 90 percent of all licensed firearms dealers would report private pistol sales and transfers using paper forms.
- Based on historical pistol sales and transfer data from DOL, the number of pistol sales and transfers reported to the agency would increase an average of 20 percent annually.

### **State Expenditures**

#### **Licensing and Record Keeping**

Current law requires licensed firearms dealers to record all pistol sales or transfers with DOL. Firearms dealers may use a paper form or an electronic system to report the sale or transfer. In 2013, 89 percent of all licensed dealers used only paper forms.

Under I-594, licensed firearms dealers would continue to be required to report pistol sales and transfers to DOL. In addition, licensed firearms dealers would be required to report all private pistol sales and transfers they facilitate. The initiative includes exceptions to this requirement, such as transfers between certain family members. Private sales or transfers of firearms other than pistols would not be reported to DOL by a licensed firearms dealer.

Currently, a person who privately sells or transfers a pistol to another person may voluntarily record the change of ownership with DOL. The seller or transferor reports the change of ownership to DOL on a paper form. In August 2013, DOL began tracking the number of reported private pistol sales and transfers. From August 2013 to May 2014, DOL received 1,684 private sales and transfer reports.

Under I-594, the majority of private pistol sales and transfers would be reported to DOL through licensed firearms dealers. In an attempt to estimate the fiscal impact of this change, DOL reviewed data in Colorado on the number of private sales and transfers of pistols through licensed dealers. In 2014, Colorado implemented a law requiring all private pistol sales and transfers be processed through a licensed firearms dealer. The dealer must also conduct a

background check on the buyer. Based on data from Colorado, DOL could receive about 12,900 private pistol sales and transfer reports in 2015.

DOL would experience increased expenditures and costs for printing and distributing more pistol sales and transfer forms, modifying the Business and Professions Firearm Database System, hiring a minimal number of staff to handle the additional paper forms submitted by dealers, hiring minimal program administration staff for developing and managing new reporting requirements and license revocation authority, and for rule making. The estimated total cost for these activities over the next five years is \$921,000. Table 1 shows DOL estimated costs over the next five fiscal years.

**Table 1: Department of Licensing Estimated Costs by Fiscal Year**

Fiscal Year	Cost
2015	\$191,000
2016	\$180,000
2017	\$180,000
2018	\$185,000
2019	\$185,000
<b>Total</b>	<b>\$921,000</b>

### Law Enforcement

I-594 would create two new crimes. A person who knowingly violates Section 3 of the initiative could be subject to a gross misdemeanor, punishable under Chapter 9A.20 RCW. A person who knowingly violates Section 3 a second time, or more, is subject to a class C felony, punishable under Chapter 9A.20 RCW.

The sentence for the class C felony created in the initiative has a standard range of 0 to 12 months. Sentences of fewer than 12 months are typically served in county jail facilities. There would be no increase in state expenditures in cases where the sentence is served in a county facility.

Depending on the circumstances of the case, a judge may impose an aggravated exceptional sentence. If this results in a sentence that exceeds 12 months, the time would be served in a state prison facility and the state would experience increased costs. Assuming the number of cases where an aggravated exceptional sentence would be imposed does not exceed four per year, the Department of Corrections estimates the cost to be less than \$50,000 a year.

### Local Government Revenue Assumptions

- Forty cities currently impose a local business and occupation tax. Licensed firearms dealers located in these cities would be required to pay a local business and occupation tax on any fees charged to facilitate a private firearm sale or transfer.
- Licensed firearms dealers would not be required to collect sales or use tax when facilitating a private sale or transfer of a firearm.
- Consistent with current law, a person would continue to be required to pay state use tax when purchasing or transferring a firearm in a private transaction.

### Local Government Revenues

Local government revenues would be increased by the business and occupation taxes owed on any fees charged by a licensed firearms dealer facilitating background checks and firearms transfers in the 40 cities currently imposing a local business and occupation tax. Licensed dealers are not required to charge a fee. If there is a fee, it is set by the dealer. It is unknown how many dealers would charge a fee or what a particular dealer might set as the fee. Local government revenues would be decreased by the loss of use taxes no longer required to be collected by licensed firearms dealers.

Therefore, I-594 would have a minimal impact on local government revenues. The change in revenues cannot be estimated without information on whether licensed dealers would charge administrative fees, at what amount fees might be set, how many licensed dealers may charge administrative fees or the number of firearm purchases made

each year where use taxes are due.

### Local Government Expenditure Assumptions

- No data are available to estimate the number of potential cases that would be investigated and charged for violations of I-594.
- Other criminal justice cost data are available. These data were used to set a maximum number of cases that could occur statewide before local governments experience significant cost increases.
  - The maximum number of gross misdemeanor cases is 400 each year.
  - The maximum number of felony cases is 65 each year.

### Local Government Expenditures

District and municipal courts (counties and cities) may experience increased costs for hearing additional gross misdemeanor cases. Superior courts (counties) may experience similar increased costs for hearing additional felony cases. The Administrative Office of the Courts estimates the fiscal impact of these cases to be less than \$50,000 per fiscal year if there are fewer than 400 additional gross misdemeanor cases statewide each year and fewer than 65 additional felony cases statewide each year.

### Arguments For and Against

Argument For	Argument Against
<p>Initiative 594 will ensure everyone in Washington State passes the same background check, no matter where they buy the gun and no matter whom they buy it from.</p> <p><b>Initiative 594: Criminal Background Checks Save Lives</b> Criminal background checks reduce access to guns for criminals, domestic abusers and people with severe mental illnesses. But current law only requires background checks for gun sales at licensed dealers. This means that anyone - including dangerous criminals - can purchase guns at gun shows or online with no background check. 594 closes this loophole by requiring <i>all</i> gun sales - including those at gun shows or over the internet – go through a criminal background check.</p> <p><b>Initiative 594: Simple and Effective</b> 594 prevents dangerous people from having easy access to guns. It strengthens existing law by ensuring private gun sales go through the same process people use when buying from a licensed gun dealer. Since its inception, the background check system has blocked 2.2 million gun sales to prohibited people. In states that require background checks on all gun sales, 38% fewer women are shot to death by their partners and 39% fewer police officers are killed with handguns.</p> <p><b>Initiative 594: Reasonable Exceptions</b> Gifts between family members, antique sales, and loans for self-defense, hunting or sporting are exempt from background checks.</p> <p><b>Initiative 594: Broad Support</b> Endorsed by law enforcement officers, Republican and Democratic prosecutors, League of Women Voters of Washington, National Physicians Alliance Washington Chapter, Washington Federation of Teachers and newspapers across the state.</p>	<p><b>Rank and file law enforcement oppose 594</b> Initiative 594 is an <i>unfunded mandate</i> that diverts scarce law enforcement resources away from keeping violent criminals off our streets <i>making us all less safe</i>. Do you want sex offenders released from crowded prisons to make room for people convicted of family-firearm transfer violations?</p> <p><b>594 is 18 pages of costly and confusing regulatory excess</b> 594 is punitive to lawful firearms owners. Proponents want you to “pass it so you can find out what’s in it.” Before you vote, <i>consult your attorney</i> to see how it criminalizes your behavior. Want to lend your sister-in-law a gun to protect herself? Want to loan your adult sons shotguns to go hunting? <i>594 makes you a criminal!</i> A police officer who loans a personal firearm to a fellow officer would face criminal prosecution.</p> <p><b>Criminals will violate 594 like they break other laws</b> Criminals will still acquire firearms where they do now: the black market, straw purchasers, theft and illicit sources like drug dealers.</p> <p>594 creates a “universal” <i>government database of all lawful handgun owners</i>. We deserve the protection of a well-written background check law that protects the right of privacy for lawful firearms owners.</p> <p><b>Don’t be fooled by emotional and false statements</b> We all want guns out of the hands of violent criminals and the dangerously unstable who are a threat to people like us. But this is not the way to do</p>

it. *You can't change criminal behavior by criminalizing lawful behavior.*

Rebuttal of Argument Against	Rebuttal of Argument For
<p>Initiative 594 is simple: it applies the existing background check system to all gun sales - including at gun shows or over the internet where criminals can easily get guns. We know background checks work; states with similar laws see fewer domestic violence murders and fewer police officers killed. 594 is supported by gun owners and contains clear exemptions for law enforcement, family members, hunting and self-defense. It is supported by a statewide bipartisan coalition.</p>	<p>Dishonesty! Bait and switch! 594 is <i>not</i> just about gun sales. It regulates <i>transfers</i>, defined so broadly that virtually every time a firearm changes hands it is subject to bureaucracy, fees, taxes and registration. Exceptions are drafted so narrowly they're meaningless. <i>594 will not prevent crime as proponents claim</i>; rarely are criminals prosecuted. 594 is "feel good" legislation that <i>doesn't</i> help law enforcement. 594 is a poorly-written, unfunded mandate. Visit our website for details.</p>
Argument Prepared By	Argument Prepared By
<p><b>Dan Satterberg</b>, King County Prosecutor, Republican; <b>Mark Roe</b>, Snohomish County Prosecutor, Democrat; <b>John Lovick</b>, Snohomish County Executive, former Snohomish County Sheriff; <b>Faith Ireland</b>, retired State Supreme Court Justice; <b>Cheryl Stumbo</b>, Jewish Federation Shooting Survivor; <b>Robert Brauer</b>, Lifetime Member of NRA, Gun Owner</p> <p><b>Contact:</b> (206) 659-6737; <a href="mailto:info@wagunresponsibility.org">info@wagunresponsibility.org</a>; <a href="http://www.wagunresponsibility.org">www.wagunresponsibility.org</a></p>	<p><b>Craig Bulkley</b>, President, Washington Council of Police and Sheriffs (WACOPS); <b>Christopher Hurst</b>, State Representative, Democrat, 25-year veteran Police Commander; <b>Mark Pidgeon</b>, President, Hunters Heritage Council; <b>Alan Gottlieb</b>, Founder, Second Amendment Foundation; <b>Anette Wachter</b>, Member, Medal Winner, United States National Rifle Team; <b>Ozzie Knezovich</b>, Sheriff, Spokane County</p> <p><b>Contact:</b> (425) 454-4911; <a href="mailto:info@WeCare2014.org">info@WeCare2014.org</a>; <a href="http://www.WeCare2014.org">www.WeCare2014.org</a></p>

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