



ARIZONA STATE SENATE

Fifty-First Legislature, Second Regular Session

FACT SHEET FOR H.B. 2535

certification; of firearm transfers

Purpose

Specifies that a chief law enforcement officer (CLEO) has 60 days to either certify or deny the transfer of a firearm.

Background

In 1934, Congress enacted the National Firearms Act (Act). This Act originally imposed a tax on the making or transferring of a firearm as defined by the Act. Currently under the Act, if an individual is seeking to make or transfer a weapon that requires a certification from the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), then an individual must obtain certification from a local CLEO before applying to the ATF. Currently, the ATF will not accept an application for a transfer of a weapon as defined by the Act unless written proof from a CLEO has first certified the transfer.

The relevant federal definition of *firearm* includes: 1) a shotgun having a barrel or barrels of less than 18 inches in length; 2) a weapon made from a shotgun if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in length; 3) a rifle having a barrel or barrels of less than 16 inches in length; 4) a weapon made from a rifle if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length; 5) any other weapon, as defined in 26 U.S.C. § 5845 (e); 6) a machinegun; 7) any silencer; and 8) a destructive device. The term *firearm* does not include an antique firearm or any device, other than a machinegun or destructive device which, although designed as a weapon, is found by the reason of the date of its manufacture, value, design, and other characteristics to be primarily a collector's item and not likely to be used as a weapon (26 U.S.C. § 5845(a)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

1. Requires a CLEO, if certification is required by federal law or regulation for the transfer of a firearm, to provide the certification within 60 days of request of an applicant, if the applicant is not:
 - a) prohibited by law from receiving the firearm; or
 - b) the subject of a proceeding that could result in the applicant being prohibited by law from receiving the firearm.

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2. Requires a CLEO to notify an applicant in writing and include the reason for the determination if the CLEO is unable to provide a certification.
3. Enables a CLEO of a law enforcement agency with 15 peace officers or less to refer an applicant requesting certification to the county sheriff.
4. Requires a county sheriff who receives a request for certification from a referred applicant to provide the certification as is required.
5. Provides qualified immunity to a CLEO who provides certification pursuant to statute.
6. Stipulates that a county attorney or a tribal agency is not subject to this section but that a county attorney or a tribal agency is not prohibited from providing an applicant with a certification.
7. Stipulates that a CLEO is not required to provide a certification that the officer knows is untrue but provides that the CLEO may not refuse to provide a certification that is based on a generalized objection to private persons or entities making, possessing or receiving firearms or any certain type of firearm, the possession of which is not prohibited by law.
8. Defines *certification, CLEO, firearm and proceeding*.
9. Becomes effective on the general effective date.

House Action

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3rd Read 3/13/14 34-22-4-0

Prepared by Senate Research

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JA/tf