

SESSION OF 2014

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2578

As Amended by House Committee on Federal
and State Affairs

Brief*

HB 2578 would create new law concerning the transfer of firearms. Under the bill, applications for certification of firearms' transfers by the chief law enforcement officer, as required by federal law, must be granted within 15 days, unless a condition exists that prevents the chief law enforcement officer from certifying the transfer, as specified in 27 CFR 479.85. If the request for certification is not granted, the chief law enforcement officer, or the officer's designee, would be required to provide the applicant with written notification of the denial of certification and the reason for the denial.

The bill also would allow applicants to appeal denials of requests for certification of firearms' transfers in the district court of the county where the applicant resides. After reviewing the denial of certification, if the district court found the applicant was not prohibited by state or federal law from receiving the firearm and there is no pending legal or administrative proceeding against the applicant that could result in such prohibition, the court would be required to order the chief law enforcement officer to issue the certification.

Chief law enforcement officers certifying and approving transfers under the provisions of the bill would not be liable for any act committed by another person with the firearm after the transfer.

The bill would adopt definitions for the terms "certification" and "chief law enforcement officer" as defined in 27 CFR 479.85, and would adopt the definition of "firearm" as

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

used in the National Firearms Act on the effective date of the bill (July 1, 2014).

Background

At the House Committee hearing, Representatives Carlson and Howell appeared in support of the bill, along with a representative from the Kansas State Rifle Association. Written testimony in support of the bill was submitted by the American Silencer Association and the National Rifle Association. The Kansas Association of Chiefs of Police and the Kansas Sheriffs Association presented neutral testimony on the bill.

The House Committee amended the bill by changing the circumstances under which the chief law enforcement officer may deny applications for firearm transfers to reflect the requirements associated with 27 CFR 479.85. Originally, the bill required certification unless the applicant was prohibited by state or federal law from receiving the firearm or there was a pending legal or administrative proceeding that could result in such prohibition. The amendment by the House Committee also made slight changes to the language requiring the chief law enforcement officer to provide an applicant with a written notice and explanation when a firearm transfer is not certified.

The fiscal note on the original bill indicated the Attorney General's Office may need to increase staff to accommodate requests for firearm transfer certifications and for an increased number of appeals in district court, depending on the number of requests that are made and denied. The Office of Judicial Administration noted a likely increase in the amount of time spent by judicial and non-judicial personnel in processing, researching, and hearing cases. The Kansas Association of Counties indicated a possible increase in costs for sheriffs' offices administering the requirements. Without knowing the precise number of requests for firearms' transfer certification, a precise fiscal effect could not be determined, according to the fiscal note. There was no fiscal note for the bill as amended by the House Committee.