

## Universal Background Checks

**SB 3709 (Sponsored by Senators Kotowski, Hunter, Collins, Silverstein, Steans, Martinez, Schoenberg, and Jones)**

**HB 5480 (Sponsored by Representative Osterman)**

### What does it mean?

Under federal law, anyone who wants to engage in the business of selling firearms must obtain a federal firearms license. The Brady Handgun Violence Prevention Act (the Brady Act) requires a federal firearms licensee (FFL) to contact the Federal Bureau of Investigation's National Instant Criminal Background Check System (NICS) when selling a firearm, which ensures that the purchaser is not prohibited from possessing firearms. However, the Brady Act does not apply to the sale of firearms by non-licensees (i.e., private sellers).

Every year, thousands of gun sales occur by unlicensed sellers without background checks on the purchasers. This "private sale loophole" results in guns getting into the hands of criminals who would otherwise not be able to buy firearms. Requiring background checks for all private sales will reduce illegal trafficking and treat all transfers equally.

### What would it *really* do?

By requiring those who privately sell or transfer handguns to do so at the business of a federally licensed firearm dealer, who must then conduct a background check on the recipient, SB 3709 ensures that the transaction will be subject to all other applicable federal, state, and local laws. Exceptions include transfers of a firearm between spouses, from parent to child or grandparent to grandchild. Transfers at gun shows are also exempt, as they are already subject to background checks pursuant to state law.<sup>1</sup>

In addition, under SB 3709, any person who knowingly sells or gives firearms to street gang members would be guilty of a Class 1 felony.

### Do background checks work?

Background checks in Illinois are a vital tool in helping protect the public. In 2008, background checks conducted at federally licensed gun stores and gun shows in Illinois detected 914 Firearm Owner Identification (FOID) card holders who had fallen into a prohibited purchaser category since obtaining a FOID card (up from 859 in 2007, a 6% increase).<sup>2</sup> *Thanks to background checks, these individuals were denied guns.*

### What does the public think?

- Nine in 10 Illinois voters support mandating background checks on all gun sales, including private sales, with three in four voters strongly supporting such a measure. There is wide support for universal background checks among Republicans (85%), gun owners (79%), and NRA members (70%). To read more polling results from the 2009 Voter Survey on Gun Regulations, go to [www.icpgv.org/icpgv\\_polling.html](http://www.icpgv.org/icpgv_polling.html)
- An April 2008 Greenberg Quinlan Rosner Research and The Tarrance Group survey, on behalf of Mayors Against Illegal Guns, found that 87% of Americans support background checks.<sup>3</sup>

- According to a CNN/Opinion Research Corporation Poll in June 2008, 88% of Americans favor government's efforts to prevent convicted felons and people with mental health problems from owning guns.<sup>4</sup>

### What are the facts?

- In 2004, there were 8,084,000 applications for firearm transfers or permits in the U.S. About 126,000 (1.6%) of the applications were rejected by the FBI and state or local agencies. A felony conviction or indictment, a domestic violence misdemeanor conviction or restraining order, and other criminal history were the most common reasons for rejection by the FBI and by state or local agencies.<sup>5</sup>
- Nationwide, 40% of gun transactions occur through unlicensed sellers and no-questions-asked private deals that require no background checks.<sup>6</sup>
- A 2000 report by the Bureau of Alcohol, Tobacco, Firearms and Explosives found that unlicensed sellers were involved in about one-fifth of trafficking investigations and associated with nearly 23,000 illegal guns.<sup>7</sup>
- Roughly 20% of gun trafficking investigations involve transfers by unlicensed sellers who are not required to conduct a background check.<sup>8</sup>
- Every year, hundreds of prohibited persons are stopped from buying guns in Illinois through background checks.<sup>9</sup>

### Have Other States or Jurisdictions Enacted Similar Legislation?

California, Rhode Island and the District of Columbia require background checks for all private gun sales. Connecticut and Pennsylvania require background checks on all private handgun sales. Maryland requires background checks on private transfers of "regulated firearms," which include handguns and assault weapons. California has the most comprehensive law, requiring that every firearm sale, including those by private sellers, is subject to a background check conducted by a licensed dealer.<sup>9</sup>

### Final Thought

Closing the "private sale loophole" for handgun sales would mean that all handgun buyers are treated equally, so that they would be subject to the same requirements whether they buy from a licensed gun shop, at a gun show, or from a private seller. This would help ensure that persons buying handguns are legally eligible to do so, and it would also help law enforcement track the owners of weapons used in crimes.

### For More Information on Universal Background Checks:

- Call **773-209-1002** or email **info@icpgv.org**.
- Sign up for email alerts for updates on legislation and facts at **www.icpgv.org**.

<sup>1</sup> 430 Ill. Comp. Stat. 65/3.

<sup>2</sup> U.S. Department of Justice, *2007 Background Checks for Firearms Transfers, 2007 – Statistical Tables*.

<sup>3</sup> Greenlan Quilan Rosner Research & The Tarrance Group, *Americans Support Common Sense Measures to Cut Down on Illegal Guns*, April 2008 at [www.mayorsagainstillegalguns.org/downloads/pdf/polling\\_memo.pdf](http://www.mayorsagainstillegalguns.org/downloads/pdf/polling_memo.pdf)

<sup>4</sup> CNN/Opinion Research Corporation, *Most Americans Say Constitution Guarantees Right to Own a Gun, Latest CNN/Opinion Research Corporation Poll Shows*, June 2008.

<sup>5</sup> U.S. Department of Justice, Office of Justice Programs. *Background Checks for Firearm Transfers, 2004*. October 2005 at <http://www.ojp.usdoj.gov/bjs/pub/pdf/bcft04.pdf>.

<sup>6</sup> Philip Cook and Jens Ludwig. *Guns in America: National Survey on Private Ownership and Use of Firearms*, National Institute of Justice Research in Brief, May 1997 at <http://www.ncjrs.gov/pdffiles/165476.pdf>.

<sup>7</sup> Bureau of Alcohol, Tobacco and Firearms, U.S. Department of the Treasury, *Following the Gun: Enforcing Federal Laws Against Firearm Traffickers* xi (2000).

<sup>8</sup> *Id.*

<sup>9</sup> Bureau of Justice Statistics, *Background Checks for Firearm Transfers, 2006 – Statistical Tables*.

<sup>10</sup> Legal Community Against Violence, *Regulating Guns in America: An Evaluation and Comparative Analysis of Federal, State and Selected Local Gun Laws*, 2008 Edition at [http://www.lcav.org/library/reports\\_analyses/RegGuns.entire.report.pdf](http://www.lcav.org/library/reports_analyses/RegGuns.entire.report.pdf); Violence Policy Center, *Closing the Gun Show Loophole: Principles for Effective Legislation*, Feb. 2001 at <http://www.vpc.org/studies/gunloop.htm>.