

2015 SENATE JUDICIARY

SB 2274

2015 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

SB 2274
1/27/2015
22594

- Subcommittee
 Conference Committee

Committee Clerk Signature 

Minutes:

Ch. Hogue: We will open the hearing on SB 2274.

Sen. Armstrong: Sponsor, support. I have a gun bill and I don't think it's going to be controversial. Essentially this law is putting a deadline in place when you are required to complete paperwork from the federal government. That paperwork always runs through the local or state law enforcement agencies. What we found in looking at the bill, we don't really have a deadline for when the state has to submit this paperwork. This is not a problem in ND, but there is no remedy if your paperwork is not submitted in a timely manner. Essentially what happens in states who may have a different take on gun laws than ND does, is if you give something to your local law enforcement office, to send to the federal government, which they are required to do, and there's no deadline to it, they can pocket veto it (put it in the desk and not send it in). At the end of the day, all this bill does is say that the paperwork has to be submitted in 30 days. That length of time seems reasonable to the folks I talked with. The length of the timeline can be different than 30 days, but there needs to be a time limit in the law. If you are doing something that is legal at the state level and the federal level, that there is a requirement that the paperwork get sent in.

Ch. Hogue: Are you saying that some individual sit on applications and hold them in the drawer.

Sen. Armstrong: Yes. Again, I want to stress that this is a real issue in other states.

Sen. C. Nelson: So what happens if they don't send it? Do we have a penalty in here somewhere?

Sen. Armstrong: They may appeal under section 5. There's not a fine, but then they can, at least, keep the process moving forward to a remedy. We did some of this last session with the concealed weapons; they were running into backlogs and things of that nature, and I think it is working really well now. There were some transitional issues when we moved to the BCI, but there were requirements as to when those applications had to be processed in state. This is really just forwarding paperwork.

Ch. Hogue: The approach is to start with the deadline and see if that works first.

Sen. Armstrong: Once there is a deadline in law, you have legal remedy when the deadline isn't met; even if it is a private action.

Sen. C. Nelson: I remember when a certain official who closed down the office to catch up with the paperwork. I don't see that as a problem with this bill, but if you do things in a timely manner, you're not going to get caught in that scenario.

Sen. Armstrong: My point in sponsoring the bill wasn't to create an adversarial position; whether your remedy is political or private in nature, if there is a deadline in place we expect our agencies to follow it. That's why I want to make sure the deadline is reasonable. That deadline could be moved up and back, just as long as we have a deadline in law.

Ch. Hogue: Thank you. Further testimony in support. Testimony in opposition. Neutral testimony. We will close the hearing.

Ch. Hogue: We will take a look at SB 2274. What are the committee's wishes?

Sen. Luick: I'm just wondering about the timeline. If somebody is looking for information from whomever, sometimes getting that information to and from that office in a timely manner can be difficult. I am wondering if the 30 days is long enough or if the 60 days is more appropriate for a deadline.

Ch. Hogue: If law enforcement folks, who are charged with following that section, had concerns we would have heard from them. Thirty days, I don't know if that is okay or not.

Sen. Luick: I'm fine with it, but wanted to throw that out there.

Sen. Grabinger: Do you know now, how much the average time it takes to complete this process, at this point. I don't know personally.

Sen. Armstrong: Personally, I've never filed federal paperwork. I do know it's more complicated on the federal side, not on the state law enforcement side. Thirty days is a fairly common length of time for lots of different deadlines.

Sen. Grabinger: I just wondered if there might be some idea of how long it takes to get this work completed.

Sen. C. Nelson: Are these certification forms on-line. If it were a form and all they had to fill out, it seems to me that the longer out you make it, the longer you are going to put it off. If you know you have 30 days, and it comes in and it said that the form was attached, you go fill it out and in 5 minutes it's done. The clerk is probably going to end up doing it, not the chief anyway.

Sen. Armstrong: I think it is important to look at subsection 4; if they are acting in good faith to finish this, they are immune. If there is a complication or something of that nature; this is really designed to just make sure that everybody knows what kind of timeline they are dealing with and if something comes up, they have the ability to say, we're not going to get this done in 30 days. If that starts happening a lot, we'll come back and change the timeline. It's not an apples to apples comparison, but when we changed over all the concealed weapons to the BCI, I think we drastically underestimated how much time that was going to take them, combined with the population growth in ND and then they had a backlog and as they worked through that back log, I think it is working really great now. I personally think, unfairly, they took some criticism for that. When we were writing this, we tried to make sure that they have everything they need to do it right. If they can't do it in the amount of time, we give them that out.

Sen. C. Nelson: I move a Do Pass.

Sen. Grabinger: Second the motion.

6 YES 0 NO 0 ABSENT

DO PASS

CARRIER: Sen. Armstrong

Date: 1/27/2015

Roll Call Vote #: 1

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTE

BILL/RESOLUTION NO. 2274

Senate

JUDICIARY

Committee

Subcommittee

Amendment LC# or Description: _____

- Recommendation: Adopt Amendment
- Do Pass Do Not Pass Without Committee Recommendation
- As Amended Rerefer to Appropriations
- Place on Consent Calendar
- Other Actions: Reconsider _____

Motion Made By Sen. Nelson Seconded By Sen. Grabinger

| Senators | Yes | No | Senators | Yes | No |
|----------------|-----|----|----------------|-----|----|
| Chairman Hogue | ✓ | | Sen. Grabinger | ✓ | |
| Sen. Armstrong | ✓ | | Sen. C. Nelson | ✓ | |
| Sen. Casper | ✓ | | | | |
| Sen. Luick | ✓ | | | | |

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen. Armstrong

REPORT OF STANDING COMMITTEE

SB 2274: Judiciary Committee (Sen. Hogue, Chairman) recommends DO PASS
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2274 was placed on the
Eleventh order on the calendar.

2015 HOUSE JUDICIARY

SB 2274

2015 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

SB 2274
3/16/2015
Job # 24888

- Subcommittee
 Conference Committee

Committee Clerk Signature

Marlyp King

Explanation or reason for introduction of bill/resolution:

Relating to chief law enforcement officer certification for certain firearms.

Minutes:

Chairman K. Koppelman: Opened the hearing on SB 2274.

Senator Armstrong District 36: Introduced the bill. This bill is essentially a countermanded to a Local Law Enforcement Officer pocket veto. To own or poses any firearms or additions to firearms such as a suppressor or a fully automatic machine gun. There are strict ATF licensing and forms. There is nothing in the law that says that the Local Law Enforcement Officers have to do it. This bill does require the Law Enforcement Officer has to take care of these forms and forward these forms on to the Federal Government in 30 days. The teeth in this are that a private action from a citizen can be taken if the Local Law Enforcement does not send it in to the Federal Government. The federal requirements to get any of this stuff are not overly strict.

Rep. Lois Delmore: How often are these denied?

Senator Armstrong: Most of the denials come from the Federal Government. This is for normal law abiding citizens who have met the federal requirements.

Chairman K. Koppelman: You have immunity in there for law enforcement officials and then you have the remedy of taking this to district court and in sub-section 5 on page 2 of the bill it says that if the District Court finds everything in order but the Local Law Enforcement has not moved the paper work along they would order that official to do so and further refusal would mean attempt of court charges.

Senator Armstrong: Yes or a private suite. They also could get charged for attorney and court fees.

Rep. Brabandt: Are you talking Police Chief in the cities and the Sheriff in the counties?

Senator Armstrong: Yes that is exactly who it is.

Rep. Brabandt: I bring an application in to the sheriff's department and he sits on it and doesn't have it sent in or he just tells the applicant he will not send it in?

Senator Armstrong: Yes it has been both. Local law enforcement has just been setting on the paperwork. North Dakota Law Enforcement has been very cooperative.

Rep. D. Larson: Does this go through local law enforcement so that they can check on the applicant history locally? Is that why it has to go through this channel?

Senator Armstrong: I believe it is Federal Law.

Rep. K. Wallman: Miss the beginning of the sponsors statement and wanted to know why this Law would be needed if it is already a Federal Law.

Senator Armstrong: Yes this is a remedy statue. Without specific remedies in the century code it is incredibly difficult to seek civil remedy against local government.

Rep. K. Wallman: But there are not any instances of this problem in ND right now?

Senator Armstrong: Yes

Rep. L. Klemin: On page 1 line 10 the word identities should be identified and what is the or otherwise?

Senator Armstrong: I don't know.

Rep. L. Klemin: On page 2, subsection 5, line 18 where an applicant resides or maintains the address of record? The Address of record is a unique and is it necessary? The court shall review the law enforcement decision den oval? A den oval is not the same as a review.

Senator Armstrong: I don't think address of record would need to be in the bill. It is not an agency repeal it would be coming from one person. It is so the denial process gets as much information as possible. There is not record or transcript.

Rep. L. Klemin: But we do have a Record and we have a denial?

Senator Armstrong: We cannot always prove a negative, so we want to know how many other ones they have denied. We wanted the court to have as much discretion as possible. This would be your first chance in front of a neutral arbitrator.

Rep. Brabandt: What is an example of a pocket veto?

Senator Armstrong: They put it somewhere and never send it out. He just holds it and never does anything with it.

Chairman K. Koppelman: I am pleased the in ND it is a foreign veto here.

Rep. K. Wallman: Is this is modeling language from an organization like NRA?

Senator Armstrong: I work very closely with NRA.

Rep. L. Klemin: Why wouldn't we want to use that reference to that statue instead of putting all that stuff in here?

Senator Armstrong: This language is specific to the Federal forms relating to gun ownership. I would like to protect the second amendment as much as possible.

Opposition: None

Neutral: None

Hearing closed.

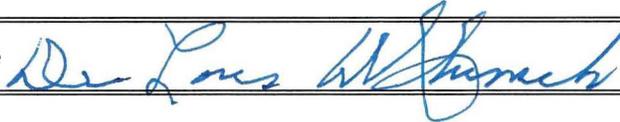
2015 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

SB 2274
3/25/2015
25443

- Subcommittee
 Conference Committee

Committee Clerk Signature



Minutes:

Proposed amendment #1

Chairman K. Koppelman: Reopened the meeting on SB2274.

Rep. L. Klemin: (See proposed amendment #1)

Chairman K. Koppelman: We are not doing this today.

Meeting closed.

2015 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

SB 2274
4/1/2015
25697

- Subcommittee
 Conference Committee

Committee Clerk Signature



Minutes:

Chairman K. Koppelman: Reopened the meeting on SB 2274. This has to do with people who apply for federal permits to have suppressors and other types of fire arms. It is a federal application that is required. In some places law enforcement is required to take the application and some of them are setting on them and not doing anything with them so they are in effect denying people their constitutional right to have their application heard by the federal government and this says you have to do something with it.

Rep. P. Anderson: I think it was a Florida sheriff that was doing this.

Rep. L. Klemin: Explained his proposed amendment #1 from March 25, 2015. (2:53-6:00)

Motion made to move the amendment by Rep. L. Klemin: Seconded by Rep. Mary Johnson:

Discussion: None

Voice vote carried.

Do Pass As Amended Motion Made by Rep. Maragos; Seconded by Rep. Lois Delmore:

Discussion: None

Roll Call Vote: 13 Yes 0 No 0 Absent Carrier: Vice Chairman Karls:

SK
4/1/15

PROPOSED AMENDMENTS TO SENATE BILL NO. 2274

Page 1, line 10, replace "identifies" with "identified"

Page 1, line 10, remove "or otherwise"

Page 2, line 18, remove "or maintains the applicant's address of record. The court shall review the chief"

Page 2, line 19, replace "law enforcement officer's decision to deny the certification de novo" with "in accordance with the procedures provided in section 28-34-01"

Page 2, line 21, remove the second "not"

Page 2, line 22, replace "any substantial" with "insufficient"

Page 2, line 22, replace "that supports" with "to support"

Renumber accordingly

Date: 4-1-15
 Roll Call Vote #: 1

**2015 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. SB 2274**

House JUDICIARY Committee

- Subcommittee Conference Committee

Amendment LC# or Description: 15.0926.01001.02000

- Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Other Actions: Reconsider _____

Motion Made By Rep. Klemin Seconded By Rep. Johnson

| Representative | Yes | No | Representative | Yes | No |
|-----------------------|-----|----|----------------------|-----|----|
| Chairman K. Koppelman | | | Rep. Pamela Anderson | | |
| Vice Chairman Karls | | | Rep. Delmore | | |
| Rep. Brabandt | | | Rep. K. Wallman | | |
| Rep. Hawken | | | | | |
| Rep. Mary Johnson | | | | | |
| Rep. Klemin | | | | | |
| Rep. Kretschmar | | | | | |
| Rep. D. Larson | | | | | |
| Rep. Maragos | | | | | |
| Rep. Paur | | | | | |
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Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 4-1-15
Roll Call Vote #: 2

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2274

House JUDICIARY Committee

Subcommittee Conference Committee

Amendment LC# or Description: 15.0926.01001.02000

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
Other Actions: Reconsider

Motion Made By Rep. Maragos Seconded By Rep. Delmore

| Representative | Yes | No | Representative | Yes | No |
|-----------------------|-----|----|----------------------|-----|----|
| Chairman K. Koppelman | ✓ | | Rep. Pamela Anderson | ✓ | |
| Vice Chairman Karls | ✓ | | Rep. Delmore | ✓ | |
| Rep. Brabandt | ✓ | | Rep. K. Wallman | ✓ | |
| Rep. Hawken | ✓ | | | | |
| Rep. Mary Johnson | ✓ | | | | |
| Rep. Klemin | ✓ | | | | |
| Rep. Kretschmar | ✓ | | | | |
| Rep. D. Larson | ✓ | | | | |
| Rep. Maragos | ✓ | | | | |
| Rep. Paur | ✓ | | | | |
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Total (Yes) 13 No 0

Absent 0

Floor Assignment Rep. Karls

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2274: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2274 was placed on the Sixth order on the calendar.

Page 1, line 10, replace "identifies" with "identified"

Page 1, line 10, remove "or otherwise"

Page 2, line 18, remove "or maintains the applicant's address of record. The court shall review the chief"

Page 2, line 19, replace "law enforcement officer's decision to deny the certification de novo" with "in accordance with the procedures provided in section 28-34-01"

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Renumber accordingly

2015 TESTIMONY

SB 2274

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Renumber accordingly