

MINUTES  
**SENATE STATE AFFAIRS COMMITTEE**

**DATE:** Monday, March 14, 2016  
**TIME:** 8:00 A.M.  
**PLACE:** Lincoln Auditorium  
**MEMBERS PRESENT:** Chairman McKenzie, Vice Chairman Lodge, Senators Davis, Hill, Winder, Siddoway, Lakey, Stennett and Buckner-Webb  
**ABSENT/  
EXCUSED:** None

**NOTE:** The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

**CONVENED:** **Chairman McKenzie** called the Senate State Affairs Committee (Committee) to order at 8:00 a.m. with a quorum present.

**H 478** RELATING TO PUBLIC RECORDS ACT to add an exemption for acquisition/transfer of firearms notification in certain instances.

**Representative Troy**, District 5, explained that this is a simple bill about disclosure and has three main components: 1.) It doesn't change what law enforcement knows, it changes what law enforcement can disclose. 2.) It protects sensitive personal and tax information from being disclosed in public records requests without impeding local, State or federal access to that information. 3.) It doesn't change what applicants purchasing firearms submit to the Bureau of Alcohol, Tobacco, Firearms and Explosives, which includes very specific information about the firearm. It does prevent disclosure of this information to potential thieves. It adds an exemption to the items already excluded from the public records requests, including both concealed weapons permits. It doesn't pose a risk to communities, state or local law enforcement, and it doesn't have anything to do with purchasing a gun. This bill protects confidential information without imposing a duty on State or local law enforcement to do anything but to keep this information private. This legislation ensures that sensitive information submitted in connection with the National Firearms Act (NFA) applications is available only to law enforcement and not to the general public. She indicated that the National Rifle Association (NRA) supports this bill.

**Dakota Moore**, NRA, spoke in favor of this bill. This is a new issue for states across the country. In January 2016, a litany of new rules was promulgated by President Obama changing the way the NFA process was carried out. NFA firearms are firearms and other devices that are regulated under a 1934 law that applies to automatic weapons, suppressors, short-barreled rifles and short-barreled shotguns. There has been a boon in the lawful possession of these firearms. Previous to the newly promulgated rule, there were two mechanisms in which an individual could avail themselves of the ability to possess an NFA firearm or device. One was through an individual transfer, which required a sign-off by the local Chief Law Enforcement Officer. The other way was an NFA trust, which did not require that sign-off. As a result, not all NFA firearms were presented to a local law enforcement agency;

therefore, there were no local records. Under these new provisions, NFA transfers will require a notification to the Chief Law Enforcement Officer by the individual who is purchasing the firearm. When that notification, which contains sensitive information, goes on file it would be available for records requests. This legislation is consistent with State and federal law, which exempts the disclosure forms from requests to provide an exemption that would protect the release of that information and requires a notification of an NFA transfer to the Chief Law Enforcement Officer. This bill is consistent with federal and State law to protect concealed carry licenses.

**Chairman McKenzie** noted for the record that it is unusual to refer to a federal statute in Idaho Code and in this case, federal code is explicitly being incorporated. In order to have the desired effect, it would probably be necessary to refer to the federal statute. He asked for clarification as to why the Committee has to do this. **Mr. Moore** answered that the reason for the reference is that they wanted to make sure it only exempts lawfully possessed NFA items under federal code. He spoke to the process for owning an NFA item: the length of time, the cost and how onerous the process is.

**Senator Davis** noted that sometimes there is no choice but to reference federal law. Title 42 of the United States Code is referenced in the bill as well.

**MOTION:**

**Senator Davis** moved to send **H 478** to the floor with a **do pass** recommendation. **Vice Chairman Lodge** seconded the motion. The motion carried by **voice vote**

**PASSED THE GAVEL:**

Chairman McKenzie passed the gavel to Vice Chairman Lodge.

**S 1389**

RELATING TO CONCEALED WEAPONS to revise provisions regarding concealed weapons.

**Chairman McKenzie** thanked the Committee for their patience. This bill replaces a previous bill that was printed; it was found to have some unintended consequences. This bill has much broader support. He indicated that the significant change starts on page 2 and deals with permitless carry inside city limits. Under current law, individuals are able to carry concealed firearms outside city limits; they cannot within city limits. In Idaho there are cities that are as small as five or six people up to major metropolitan areas. This bill allows for permitless concealed carry to apply to those who are over the age of 21, are a resident of the State and are not disqualified from obtaining a concealed carry license under subsection 11. The current language for permitless concealed carry outside city limits stays in the bill, but it is qualified by the requirement that the person is over the age of 18 who is not disqualified from obtaining a concealed carry license under subsection 11.

**Chairman McKenzie** explained the restrictions listed in subsection 11. He pointed out that this bill amends the language regarding withheld judgments and suspended sentences. The current language states that if three years elapse and a defendant gets a suspended sentence or withheld judgment, and successfully completes probation, then after that period the defendant would be eligible to apply for a license. Generally, it is likely to have probation last for a longer period of time and so three years didn't make sense. **S 1389** says, if a sentence is suspended or there is a withheld judgement and the individual successfully completes probation, that person would be able to apply for a license; that is limited by the long list in Section 18-310.

Subsection (i), page 5, lines 6-10 applying to misdemeanors were added. This bill also states that if an individual receives a period of probation for a crime of violence under the federal definition, that individual will not receive their firearm rights back until after probation is successful completed.

The bill also states on page 7 that individuals between 18 and 21 years of age are required to go through training comparable to the enhanced carry training. After the individual turns 21, if they have met the training requirement, they are automatically qualified for an enhanced concealed carry license.

**Chairman McKenzie** highlighted the prohibited conduct section of the bill. He remarked that the exceptions for these locations are for police officers acting within the scope of their employment, security personnel while engaged in their employment and persons who are authorized by the authorities of a building to carry within their facility.

**Senator Stennett** asked for clarification regarding background checks and safety training requirements. **Chairman McKenzie** answered that there are none of these requirements in the bill, consistent with current statute for carry outside of city limits. **Senator Stennett** asked about the different age requirements in the bill. **Chairman McKenzie** responded that current law states that anyone from 18 to 21 years of age can carry a firearm outside the city limits. If the individuals want to conceal carry within the city limits, then they are required to obtain a license and the training equal to the same standard as the enhanced carry training, that accompanies it. **Senator Stennett** asked if those that fall into this age group need to be residents of Idaho. **Chairman McKenzie** answered that in order to obtain the license, the individual would have to be a resident of Idaho.

**Senator Hill** asked if the court ruling determines that a crime is intentional; if not, who determines this. **Chairman McKenzie** replied that the complaint would usually state whether or not it was intentional. He gave some examples. The intent was to limit the term "violent crimes" to those crimes that are commonly thought of as violent, such as battery, assault and similar crimes. **Senator Hill** noted that attorneys usually talk about the difficulty of proving intent. He asked if Chairman McKenzie thought that this bill made intent clear in all situations. **Chairman McKenzie** answered that this bill makes it clearer than what is in current statute. Federal statute was looked at when it came to violent crime being intentional and not accidental.

**Senator Lakey** noted that according to the bill, it is the misdemeanor offense that has the element of intentional use. He asked if the misdemeanor offense definition already has a requirement for intent. **Chairman McKenzie** responded that this is true and even with the citations for these misdemeanors, the jury instructions will have the intention element specified.

**Senator Stennett** asked why violent crime is more precise than just intentional crime. **Senator McKenzie** gave an example where negligent homicide was a violent action, but not intentional. This bill limits it to a person intentionally causing harm to another. He remarked that including a litany of specific offenses in the bill would make it lengthy and wordy. **Senator Stennett** asked if it is almost as bad if an individual unintentionally kills someone with a firearm in a fit of rage or other similar

circumstance. **Chairman McKenzie** answered that if a person intends to fire a firearm then it is still a violent crime. Unintentionally pointing a firearm at another person is a misdemeanor. There is a current distinction under the law between those two scenarios.

**Senator Winder** asked what this bill does or does not do in regards to reciprocity for other states. **Chairman McKenzie** replied that this bill does not effect reciprocity in any way. In the state of Washington, a Deputy Attorney General has noted that states that do not have equivalent laws will not have reciprocity, but that analysis does not apply because residents of other states can carry in Idaho, but they must have a permit that the State recognizes. **Senator Winder** commented that just because an individual is allowed to conceal carry in Idaho, this does not mean that they have the right to carry in other states without the proper concealed carry permit. **Chairman McKenzie** indicated that Senator Winder was correct. **Senator Winder** noted that there are additional federal restrictions in carrying firearms and that individuals must be aware that there are other laws they must follow despite the potential passage of this bill. **Chairman McKenzie** agreed. He remarked that this is why the language in the bill states that a person may still be restricted from carrying a firearm if they are ineligible to do so under the provisions of Idaho or federal law. He cited the example of gun-free school zones. **Senator Winder** asked about the enhanced permit. **Chairman McKenzie** explained that the language Senator Winder was referencing was specifically aimed at individuals between 18 and 21 years of age. These individuals would still have to go through training.

**TESTIMONY:**

**Matt Vraspir** spoke in opposition to the bill. He thinks the current law is working well. The current law is important in making sure a background check is done on an individual. Concealed carry permits make law enforcement's job easier. Forty percent of gun sales in Idaho are done privately with no background check.

**Greg Pruett**, Idaho Second Amendment Alliance (ISAA), testified in favor of the bill. He remarked that his organization was founded partially on the basis for getting permitless carry approved in Idaho.

**Leslie Madsen-Brooks** indicated that Idaho has one of the highest rates of gunshot wounds per capita in the United States. She is frustrated that students in her classes carry weapons and that she has to ask for protection at work against people that have made threats against her. She indicated that she does not feel safe in this State. The easing of gun regulations is concerning to her as a woman and as a resident of Idaho who speaks out against these issues. Gun laws should be based on research and not emotion and paranoia. She stated that research shows that an increase in the number of guns in a particular place, the more likely accidents, negligence, injury and death occur.

**Dakota Moore**, NRA, testified in support of this bill (see attachment 1). The simplicity of this bill betrays the meticulous nature and contemplation that went into the drafting of **S 1389**. He addressed Senator Winder's comments on reciprocity. This bill eliminates the presumption that someone carrying a firearm is a criminal. Open carry in Idaho has been legal since its days as a territory. He reiterated what this bill accomplishes. He stated that technology allows law enforcement greater ability to confirm whether or not an individual is prohibited from carrying a firearm. He addressed Senator Hill's questions about intent. He reiterated talking points regarding permits for 18 to 20-year-olds. This bill does not grant a license to the individual, but rather allows them to obtain the necessary training to obtain an enhanced permit when they are 21 years old. He noted that there is zero correlation between mandated training for a concealed weapons permit and incidents of accidents and misuse in a state.

**Senator Hill** asked if there was data showing an increase in gun crimes, homicides or suicides in the states that allow permitless carry. **Mr.**

**Moore** answered that he could provide that data. He commented that the states with permitless carry for a measurable amount of time show that there is no relationship between permitless carry and an increase in gun crime. There has been a decrease in homicides, robbery and other related violent crimes after the adoption of permitless carry. This decline is consistent with national trends and so there might not be a direct correlation here, but it should be noted that there has not been an increase in these crimes after a state has adopted permitless carry.

**Senator Hill** asked if the data included any information on suicides. **Mr. Moore** responded that the data he possesses does not address instances of suicide. He stated that homicide data includes suicides, but it has not been parsed out. The data for suicides can be done fairly quickly, if the Committee desired.

**Hannah Sharp**, volunteer leader, Moms Demand Action for Gun Sense in America, testified in opposition to this bill. She explained that the existing concealed carry system works and that 81 percent of Idahoans support the current law. This bill endangers responsible gun owners.

**Fred Birnbaum**, Idaho Freedom Foundation, testified in favor of the bill. He remarked that there is required training for many things, but that does not necessarily ensure proficiency in that area. He gave an example of the difference of wearing a coat while carrying a firearm verses slinging the coat over his shoulder while carrying a firearm within city limits. He highlighted another example of traveling through a city to go hunting.

**Richard Porter** spoke in opposition to the bill. He stated that having a gun is a privilege. This bill will not protect the people or the law enforcement officers of Idaho. He is concerned about what happens if Idaho goes permitless.

**Vice Chairman Lodge** remarked that Doug and Shirley Nelson are here in support of the bill, but did not wish to testify.

**Rich Chaney**, ISAA, spoke in favor of this bill. He spoke of reciprocity and how it relates to the bill. He gave the example of Alaska and how they indicated no issues with reciprocity after going to permitless carry. He referred to a survey that indicated that 81 percent of Idahoans are against this bill and noted that the question posed to them talked more about them losing business rather than their perception of permitless carry. He reiterated the argument that this deals with putting on a coat.

**Shirley VanZant**, member, Moms Demand Action for Gun Sense in America, testified in opposition to the bill. She remarked that this bill would dismantle the State's concealed carry permit system. She indicated that this bill would eliminate training requirements and also strip law enforcement of its ability to monitor someone who seeks to carry a firearm through background checks.

**Zach Brooks** testified in favor of this bill. He related that he has spoken to city police chiefs and others who were in favor of this bill. He stated that current concealed carry permit requirements provide a false sense of security. Hunters' education cards may be used as proof of training, and that training does not provide any handling of firearms in some instances. He talked about the enhanced concealed carry permit process.

**Daniel Adams** spoke in opposition to the bill. He stated that he would normally support this type of legislation, but the language of the bill causes concern for him. He spoke about the Gun Control Act of 1968 and the circumstances surrounding the State's related laws. He stated his concerns with the residency requirement, the language related to regulations of 18 to 21-year-olds outside the city limits, the completed probation restriction and the special privileges given to law enforcement.

**Alexandria Kincaid**, attorney, testified in support of the bill. She indicated that this bill does provide for the safety of law enforcement. She related the experience of a Wyoming sheriff after permitless carry was approved in his state. The sheriff noted that there has not been an increase in gun crimes or assaults on law enforcement personnel.

**David Steed**, firearms instructor, opposed this bill. He talked about the fact that no training would be required for an individual to carry a firearm.

**Parrish Miller** supported the bill. He reiterated that training is not required to carry in Idaho. He indicated that most of the concerns brought forth are not relevant to this bill. He noted that law enforcement officers should not be stopping anyone to inquire about permits unless there is a reasonable suspicion of a crime. He stated concern with the language about the residency requirement.

**Cay Marquart** opposed the bill. She showed a newspaper with the survey ad opposed to the bill.

**Jason McKrill** spoke in support of the bill. He spoke about the reason behind the right to keep and bear arms. We cannot protect our nation if we cannot protect ourselves. He highlighted other arguments for carrying arms. He indicated that current law exposed Idahoans to criminal activities.

**Chief William Bones**, Boise Police Department, spoke in opposition to the bill (see attachment 2). He addressed the language regarding 18 to 21-year-olds. There is no ability to monitor out-of-state felons under this bill because Idaho does not have an information sharing system. There are concerns about the residency language in the bill. He indicated that there are Terry vs Ohio implementation issues. He spoke to the lack of background checks that happen now when it comes to an issue of mental health or narcotic use. He remarked that the current language is working, although it needs to be improved. He advocated for the safety of citizens and law enforcement officers.

**Lonnie Pfeifer** spoke in support of the bill. He remarked that firearm ownership is a right as well as a privilege. He read the Second Amendment to the United States Constitution and then reread it with a few of the words changed. He spoke about the terms "well regulated militia" and "infringed."

**Paula Devina** spoke in favor of the bill. She thanked the Committee for allowing everyone to speak.

**Michael Kane**, Sheriffs' Association, indicated his organization's support for this bill. This bill corrects mistakes in current law.

**Harley Brown** supported the bill. He elaborated on the word "infringe."

**Fred Woodbridge** spoke in favor of the bill. He spoke about growing up in Nigeria and how the United States is a beacon of freedom. He indicated the need for the right to bear arms.

**True Pearce**, attorney and professional shooter, spoke in favor of the bill. He noted a few concerns regarding this bill's omission of language regarding federal laws for schools. Having a permit excepts an individual from staying 1,000 feet from a school, set forth under federal law. He indicated he did not know what this bill would do for reciprocity.

**Chairman McKenzie** closed the testimony portion by reading a letter from the Fraternal Order of Police regarding their support (see attachment 3).

Russell Wright (see attachment 4) and Dan Roberts (see attachment 5) sent in written testimony in support of this bill.

**MOTION:**

**Senator Siddoway** moved to send **S 1389** to the floor with a **do pass** recommendation. **Senator Lakey** seconded the motion. The motion carried by **voice vote**. **Senators Stennett, Buckner-Webb** and **Davis** are recorded as voting **nay**.

**PASSED THE GAVEL:**

Vice Chairman Lodge passed the gavel to Chairman McKenzie.

**ADJOURNED:**

There being no further business, **Chairman McKenzie** adjourned the meeting at 10:00 a.m.

---

Senator McKenzie  
Chair

---

Twyla Melton, Secretary

---

Assisted by Michael Jeppson