

ALEC EXPOSED

"ALEC" has long been a secretive collaboration between Big Business and "conservative" politicians. Behind closed doors, they ghostwrite "model" bills to be introduced in state capitols across the country. This agenda--underwritten by global corporations--includes major tax loopholes for big industries and the super rich, proposals to offshore U.S. jobs and gut minimum wage, and efforts to weaken public health, safety, and environmental protections. Although many of these bills have become law, until now, their origin has been largely unknown. With **ALEC EXPOSED**, the Center for Media and Democracy hopes more Americans will study the bills to understand the depth and breadth of how big corporations are changing the legal rules and undermining democracy across the nation.

ALEC's Corporate Board
--in recent past or present

- AT&T Services, Inc.
- centerpoint360
- UPS
- Bayer Corporation
- GlaxoSmithKline
- Energy Future Holdings
- Johnson & Johnson
- Coca-Cola Company
- PhRMA
- Kraft Foods, Inc.
- Coca-Cola Co.
- Pfizer Inc.
- Reed Elsevier, Inc.
- DIAGEO
- Peabody Energy
- Intuit, Inc.
- Koch Industries, Inc.
- ExxonMobil
- Verizon
- Reynolds American Inc.
- Wal-Mart Stores, Inc.
- Salt River Project
- Altria Client Services, Inc.
- American Bail Coalition
- State Farm Insurance

For more on these corporations, search at www.SourceWatch.org.

& MEETINGS

DID YOU KNOW? Corporations VOTED to adopt this. Through ALEC, global companies work as "equals" in "unison" with politicians to write laws to govern your life. Big Business has "a VOICE and a VOTE," according to newly exposed documents. **DO YOU?**

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Criminal History Record Check for Firearm Sales Act

Did you know the NRA--the National Rifle Association--was the corporate co-chair in 2011?

Summary

This Act would require that, in addition to obtaining identification information, firearms dealers make a criminal history check on potential buyers of firearms before sale or transfer. The state Department of Public Safety would be required to establish a toll-free number that could be accessed by the dealer. Rules and procedures would be established to ensure confidentiality, efficiency, and accountability, and exemptions would be granted for transfers between dealers, purchases by law enforcement officers, and antique firearms.

Model Legislation

{Title, enacting clause, etc.}

Section 1. {Title.} This Act may be cited as the Criminal History Record Check for Firearms Sales Act.

Section 2. {Requirements of firearms dealers.} No licensed importer, licensed manufacturer, or licensed dealer shall sell or deliver from his inventory at his licensed premises any firearm as defined in [cite appropriate state law] to another person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, until he or she has:

- (A) obtained a completed consent form from the potential buyer or transferee, which form shall have been promulgated by the Department of Public Safety (DPS) and provided by the licensed importer, licensed manufacturer, or licensed dealer, which shall include only the name, birth date, gender, race, and social security number or other identification number of such potential buyer or transferee;
- (B) inspected identification containing a photograph of the potential buyer or transferee;
- (C) requested, by means of a toll-free telephone call, that the DPS conduct a criminal history record check; and
- (D) received a unique approval number for that inquiry from the DPS, and recorded the date and such number on the consent form.

Section 3. {Requirements of the Department of Public Safety.} Upon receipt of a request for a criminal history record check, the DPS shall immediately, during the licensee's call or by return call, forthwith:

- (A) review its criminal history records to determine if the potential buyer or transferee is prohibited from receipt or possession of a firearm pursuant to [state] or federal law;
- (B) provide the licensee making the inquiry either:
 - (1) the information that its records demonstrate that the potential buyer or transferee is so prohibited; or
 - (2) a unique approval number.

Section 4. {System failure procedures.} In the event of electronic failure or similar emergency beyond the control of the DPS, the DPS shall immediately notify the requesting licensee of the reason for, and estimated length of, such delay. After such notification, the DPS shall forthwith, and in no event later than the end of the next business day of the licensee, either:

- (A) inform the licensee that its records demonstrate that the potential buyer or transferee is prohibited from receipt or possession of a firearm pursuant to [state] or federal law; or
- (B) provide the licensee with a unique approval number. Unless notified by the end of said next business day that the potential buyer or transferee is so prohibited, and

without regard to whether he has received a unique approval number, the licensee may complete the sale or delivery and shall not be deemed in violation of this section with respect to such sale or delivery.

Section 5. {Confidentiality of records.}

(A) Any records containing any of the information set forth in Section 2, Subsection (A) pertaining to a potential buyer or transferee who is not found to be prohibited from receipt or transfer of a firearm by reason of state or federal law, which are created by the DPS to conduct the criminal history record check shall be confidential and may not be disclosed by the DPS or any officer or employee thereof to any person or to another agency. The DPS shall destroy any such records forthwith after it communicates the corresponding approval number to the licensee and, in any event, such records shall be destroyed 48 hours after the day of the receipt of the licensee's request.

(B) Notwithstanding the provisions of this section, the DPS may maintain only a log of dates of requests for criminal history records checks and unique approval numbers corresponding to such dates for a period of not longer than one year.

(C) Nothing in this Act shall be construed to allow the State of [state] to maintain records containing the names of licensees who receive unique approval numbers or to maintain records of firearm transactions, including the names or other identification of licensees and potential buyers or transferees, including persons not otherwise prohibited by law from the receipt or possession of firearms.

Section 6. {Toll-free number.} The DPS shall establish a toll-free number, which shall be operational seven days a week between the hours of [hours] for the purposes of responding to inquiries as described in this Act from licensed manufacturers, licensed importers, and licensed dealers. The DPS shall employ and train such personnel as are necessary to administer expeditiously the provisions of this Act.

Section 7. {Right to petition the DPS.} Any person who is denied the right to receive or purchase a firearm as a result of the procedures established by this Act may request amendment of the record pertaining to him by petitioning the DPS. If the DPS fails to amend the record within seven days, the person requesting the amendment may petition the circuit court of the county of residence for an order directing the DPS to amend the record. The court shall award the petitioner an attorney's fee if it determines that the record should have been amended by the DPS. If the record as corrected demonstrates that such person is not prohibited from receipt or possession of a firearm by [state] or federal law, the DPS shall destroy any records it maintains which contain any information derived from the criminal history records check set forth in Section 2 Subsection (A).

Section 8. {Regulations to ensure confidentiality.} The DPS shall promulgate regulations to ensure the identity, confidentiality, and security of all records and data provided pursuant to this Act.

Section 9. {Conditions that allow exemptions from compliance.} A licensed importer, licensed manufacturer, or licensed dealer is not required to comply with the provisions of this Act in the event of:

(A) unavailability of telephone service at the licensed premises due to:

(1) the failure of the entity that provides telephone service in the state, region, or other failure of the entity which provides telephone service to the premises of the licensee is located of said premises, or;

(2) the interruption of telephone service by reason of hurricane, tornado, flood, natural disaster, or other act of God, or war, invasion, insurrection, riot, or other bona fide emergency, or other reason beyond the control of the licensee; or

(B) failure of the DPS to comply reasonably with the requirements of Sections 3 and 4 of this Act.

Section 10. {Liability protection.} Compliance with the provisions of this section shall be a complete defense to any claim or cause of action under the laws of this state for liability for damages arising from the importation or manufacture, or the subsequent sale or transfer of any firearm which has been shipped or transported in interstate or foreign commerce to any person who has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year.

Section 11. {Firearms that are exempted.} The provisions of this Act shall not apply to:

(A) any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898;

(B) any replica of any firearm described in Subsection (A) of this Section if such replica:

(1) is not designed or redesigned to use rimfire or conventional centerfire fixed ammunition; or

(2) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade;

(C) firearms transacted at a gun show; and

(D) firearms purchased or transferred by buyers or transferees who are holders of valid permits/licenses to carry concealed deadly weapons pursuant to state law.

Section 12. {Penalty for misuse of the toll free number.} Any licensed dealer, licensed manufacturer, or licensed importer who willfully and intentionally

requests a criminal history record check from the DPS for any purpose other than compliance with Section 2, or willfully and intentionally disseminates any criminal history record information shall be guilty of a [highest degree] misdemeanor.

Section 13. Any person who, in connection with the purchase, transfer, or attempted purchase or transfer of a firearm pursuant to Section 2, willfully and intentionally makes any materially false oral or written statement or willfully and intentionally furnishes or exhibits any false identification intended or likely to deceive the licensee shall be guilty of a [lowest degree] felony.

Section 14. {Penalty for violation of this Act.} Any licensed importer, licensed manufacturer, or licensed dealer who willfully and intentionally sells or delivers a firearm in violation of this Act shall be guilty of a [highest degree] misdemeanor.

Section 15. {Annual report.} The DPS shall provide the Judiciary Committees of the Senate and House of Representatives an annual report including the number of inquiries made pursuant to this section for the prior calendar year. This report shall include, but not be limited to, the number of inquiries received from licensees, the number of inquiries resulting in a determination that the potential buyer or transferee was prohibited from receipt or possession of a firearm pursuant to [state] or federal law, the estimated costs of administering this section, the number of instances in which a person requests amendment of the record pertaining to such person pursuant to Section 7, and the number of instances in which the circuit court issues an order directing the DPS to amend a record pursuant to Section 7.

Section 16. {Severability clause.}

Section 17. {Repealer clause.}

Section 18. {Effective date.} This Act shall become effective at such time as the DPS has notified all licensed importers, licensed manufacturers, and licensed dealers in writing that the procedures and toll-free number described in this section are operational. This Act shall remain in effect only during such times as the procedures described in Section 3 remain operational.

ALEC's Sourcebook of American State Legislation 1995

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