CITY AND COUNTY OF DENVER
STATE OF COLORADO
JUDICIAL COMMITTEE MEETING
Held on March 13, 2013
HOUSE BILL 13-1229

REPORTER'S TRANSCRIPT

This transcript was taken from an audio recording by Elissa Steen, Registered Professional Reporter and Notary Public.
UNIDENTIFIED SPEAKER: -- buys guns for the use at that range, does everybody that has an interest in that shooting, in -- in -- in that shooting club or range, do they have to go through a background check? Do they have to pay for a background check for everybody that goes through that, if it's a 200-, 300-member -- help -- help me understand this. I don't understand exactly what that says.

Is that what that means?

MR. SPEAKER: Representative McCann.

REPRESENTATIVE MCCANN: Thank you, Mr. Speaker.

This section is designed to prevent people setting up corporations to purchase firearms rather than having them purchased by individuals. So if a corporation is buying guns, yes, the members of the corporation have to go through a background check.

MR. SPEAKER: Representative Sonnenberg.

REPRESENTATIVE SONNENBERG: -- only two --

MR. SPEAKER: Yes.
REPRESENTATIVE SONNENBERG: Okay. Thank you, Mr. Speaker.

And I guess this will be the last time I'm -- I talk on this by rule.

So the example would be that my family corporation that I'm in with my parents, my siblings, and our children, in order for them to continue to collect guns or artifacts that are guns, every one of those members, we would have to pay for a background check, even though we already are a corporation, we already do these type of things.

If I understand this correctly, then, every single one, every time we buy a gun, we have to go through 23 background checks. The way -- the way I understand this, the way it reads, on line 22, each member, partner, officer, or other person, that's what I'm trying to understand. If each person, part of that corporation has to go through a background check, that means 23 or 24 different background checks for that -- for my family farm corporation to buy a gun.

I'd ask for a no vote on concurrence.

MR. SPEAKER: Any further discussion?

Representative Gerou.
REPRESENTATIVE GEROU: Thank you, Mr. Chair.

And I -- I just have another question for the bill sponsors. Those of you that are familiar -- familiar with different state laws know that in California, most -- most couples set up a trust that they don't -- even their bank accounts are in -- in a trust, they don't hold anything personally just because of the laws of the state.

So, Representative McCann, if you could tell me, if -- if I have -- and I have a family trust that I set up for my children so if I get hit by the bus, they don't have to worry about transferring things that I have inherited, and this -- they're not guns, but other things that I've inherited that they -- they automatically -- it's one transfer.

So the family trust, if I -- if I have a family trust that holds guns, if that's part of what is named in the family trust, then my family members will have to go through the background check because it's -- it's actually held in the trust?

I'll wait until you're done talking. I would be curious because that one -- that's going
to be problematic for a lot of families that --
well, she's not listening.

MR. SPEAKER: Representative Gerou,
actually Representative McCann can't speak again on
this motion --

REPRESENTATIVE GEROU: Okay.

MR. SPEAKER: -- under the rules, so --

REPRESENTATIVE GEROU: Oh, thank you,
Mr. Chair -- or Mr. Speaker. I apologize.

Well, then, it sounds to me like this
isn't quite solved yet. And I'll support the
Minority Leader's suggestion that we vote for this.
But it sounds to me like we may have opened
Pandora's box with this. This is going to be very
problematic.

MR. SPEAKER: Representative McNulty.

REPRESENTATIVE McNULTY: Thank you,
Mr. Speaker.

I think with Representative Gerou and
Representative Sonnenberg having the same
questions, I understand while Representative McCann
is limited by the rules from answering those
questions, Representative Fields is the maker of
the motion and can speak to this issue as often as
she likes. And I -- I hope that -- that these
questions can be answered, and perhaps they'll be answered in a way that provides clarity to the Republican members who have questions.

This is -- these are Senate amendments. This is new to us, new information to us. And so making sure that the House is comfortable with what the Senate did is an appropriate use of this time, Mr. Speaker.

MR. SPEAKER: I agree, Representative McNulty.

Representative Fields.

REPRESENTATIVE FIELDS: Thank you, Mr. Speaker.

And as we look at page 3 in the bill, if you are a corporation, you will be required to do a background check.

MR. SPEAKER: Any further discussion?

Representative Holbert.

REPRESENTATIVE HOLBERT: Members, I'm inclined to vote yes on concurrence.

Representative Sonnenberg has brought up an issue that I had not considered, and I think it's another opportunity for us to -- though this side of the aisle would clearly be in the minority -- to form a conference committee and resolve this
issue, the idea of 20-some background checks for a 
club, is that what you intend?

And if it isn't, is there any harm in 
stepping back and saying, wait a minute, maybe we 
can -- maybe we can fix this before we -- we just 
pile onto the people of Colorado with these 
unnecessary requirements? Is that really what you 
intended? And if it is, I -- I -- I can't 
understand why you would do that kind of -- put 
that kind of a requirement on Representative 
Sonnenberg's constituents. Why would we do that?

Now, I understand there is a reluctance 
to call a conference committee to form that and go 
beyond the scope and fix these issues, but that is 
something I think that the minority, we could 
certainly support and say wait a minute, even if 
we're not going to support this bill, don't be so 
heavy-handed with the people of Colorado. Please 
be thoughtful. Please take a moment and reconsider 
that.

MR. SPEAKER: Any further -- any further 
discussion?

Representative Dore.

REPRESENTATIVE DORE: Thank you,

Mr. Speaker.
I have many concerns about this legislation. But now hearing the fact that a gun club, a shooting club, of which there are many in my district, and they serve members outside of my district as well -- many will come from Denver down to Elbert County, for instance -- that they would have to because the club buys a gun that they want others to try and use that they would not buy on their own, would have to go through background checks, I think goes far beyond what we're trying to do here.

I mean, these are individuals who are doing it for the sport. They're highly trained, if you will, because they've been shooting for so long. And this is not the individuals that we're worried about. And then having to go through a secondary hoop, which I think will -- will not only hurt individual's ability to have an opportunity to shoot guns, but it will really hurt these clubs to stay in existence. And I know that's not the intent of the legislation, to put clubs out of business as well.

So I would ask for some clarity or some hope that we could get to a point to where we can get this part cured in the legislation.
MR. SPEAKER: Mr. Assistant Majority Leader.

ASSISTANT MAJORITY LEADER PABON: Thank you, Mr. Speaker.

And this argument is a red herring. The intent of this amendment has to do with the recognition that the State of Colorado has, and frankly, the United States of America has, that of corporate personhood.

And what the fear was, and I think this is a just and -- and correct fear, is that an entity, to get around the sale of these weapons without a background check, would be set up a corporate entity, and that would be the transferor involved in these transfers. That is why you need this protection to guard against this corporate loophole. Because as jurisprudence and as we well know, a corporate entity is treated as a person for a lot of elements of the law, including this one.

So this doesn't deal with the gun clubs. This isn't saying that those entities that are not corporate entities or that they're corporate entities and there's members of those corporate entities, which is a term of art, they will not have to engage in these background checks, but it's
for the purpose of preventing the straw purchase. 

The strawman is what we generally call it, but in this case it would be the straw corporation, to avoid these background checks.

That's the intention of the amendment.

And with that, I ask for a no vote on going to conference committee and a yes vote on concurrence.

MR. SPEAKER: Representative McNulty.

REPRESENTATIVE MCNULTY: Thank you, Mr. Speaker.

And, Representative Pabon, you can just stand down a little bit. This isn't a red herring. These are sincere questions that are being brought from members of our side of the aisle who have these particular circumstances that I understand may not be familiar to everybody in the chamber, and that -- myself included.

Rural Colorado is different than Denver, and for those members who represent the eastern plains, that's different from the western slope. And so these are sincere questions based upon fact-specific situations that we want to make sure are either addressed with these Senate amendments or aren't obstructed by the Senate amendments.
I suspect that the vote on the final bill isn't going to be the same, but we're not
discussing the bill, we're discussing Senate amendments. And so having clarity on what these
Senate amendments do is important.

And it's also important to recognize that
you and Representative Fields have given two
different answers. Representative Fields answered
Representative Sonnenberg's question in the
affirmative, that he would have to have background
checks for everybody and that the same would apply
when Representative Dore came up to the situation
that his constituents face. And then, you --
you -- you come to us and give us a different
answer.

So there is clearly a need for not only
clarity on our side of the aisle, but some level of
clarity from -- from the bill's proponents. And I
understand that we're in a situation here where we
are limited in the -- in the types of debate and
the times that we can speak, so it makes it more
difficult. But having conflicting information from
the bill's proponents does -- I think does lend us
to a situation where we may not know what the
Senate amendments do and how these Senate
amendments apply to these specific situations that
some of our state representatives -- the
constituents of some of our state representatives
face.

MR. SPEAKER: Representative Scott.

REPRESENTATIVE SCOTT: Thank you,
Mr. Speaker.

As you all know, I come from western
Colorado, where it's been well publicized that guns
are a way of life, and I think we all understand
that better than most on the eastern slope.

One of the questions that we also have
for the sponsors, we, in western Colorado, have a
lot of tournament-type shooting events, where
people from other states, other regions, other
countries, actually come to these shooting
tournaments to shoot either sporting clays or to
shoot in target-shooting events.

The question being: Will all of these
individuals that fly in from, let's just say
France, for an example, for a shooting tournament,
have to pass a background check prior to being able
to participate in this tournament?

We're not seeing that in the language of
the bill. And again, I think it's something that
we should sit down and discuss before we make a mistake and have to redo something or end up in court with something that we shouldn't have done in the first place.

Thank you.

MR. SPEAKER: Representative Fields, do you want to address this point?

REPRESENTATIVE FIELDS: Thank you, Mr. Speaker.

And the -- the bill does allow for a -- a transfer for the scenario that you just described. If you look at the amendments made by the Senate, it does allow for that transfer to take place.

MR. SPEAKER: Representative Landgraf.

REPRESENTATIVE LANDGRAF: Thank you, Mr. Speaker.

I have a question I'm trying to get answered for a constituent who owns a pawnshop. It's a legitimate question. His concern is: He takes in guns, and he gives those guns back to people who have pawned them, and he also sells guns. So his concern is that when the gun comes in, does he have to have a background check? When it goes back to the owner, does the owner have to have a background check?
The purchaser would have to have a background check, but I'm trying to figure out about the owner who pawned the gun. Do they have to then have a background check? And I'm just wondering if somebody who can speak on that could give me an answer? And I'm -- I'm guessing he doesn't need one when he takes it in because he's covered under whatever rules apply.

MR. SPEAKER: Representative Fields.

REPRESENTATIVE FIELDS: Thank you, Mr. Speaker.

And if you look in the bill, on page 7 the Senate did make some amendments. And it says here that an owner, manager, or an employee of a business that repairs or maintains a firearm may transfer that firearm.

MR. SPEAKER: Representative Coram.

REPRESENTATIVE CORAM: Thank you, Mr. Speaker.

I will not speak on what happens in -- in the metro Denver, I-25 corridor, or the eastern plains, but I can assure you that in rural, western Colorado, probably 90 percent of our farms and ranches are either corporations or LLC's.

And if the LLC were to buy a weapon, and
there's maybe 25, 30 members of this limited
liability corporation, that weapon is used for
predator control. It doesn't stay in one location.
It -- it goes around with different members of the
LLC. So, therefore, they would have to get a
background check each time that changes; is that
correct?

MR. SPEAKER: Representative Fields.

REPRESENTATIVE FIELDS: Thank you,
Mr. Speaker.

And I think there's -- there may be some
confusion regarding corporations as it relates to
family members, 'cause the bill does have outlines
and exceptions that you can make a transfer to your
immediate family member. But, if you are a
corporation, you will be required to have a
background check. So if you are a family member,
you can make that transfer to your uncle, your
niece, your nephew, your cousin, the mother,
everything that we've already identified as
immediate family member.

MR. SPEAKER: Representative Priola.

REPRESENTATIVE PRIOLA: Thank you,
Mr. Speaker.

Representative Fields, I think
Representative Coram's question was: If your ranch is incorporated, your Bar-K ranch, let's say, and your 20 or 30 ranch hands that patrol the perimeter, fix a fence so on and so forth, they don't all work at the same time, but they hop on the ATV — yes, I did say ATV — and they also take a weapon with them, how does that relate to the requirements of the background checks? Do they have to have a one-time background check as an employee of the entire corporation or LLC, or do they have to have background checks, assuming that they will or won't have it within the 72-hour window?

MR. SPEAKER: Representative Fields.

REPRESENTATIVE FIELDS: Thank you, Mr. Speaker.

And the bill does already allow for a temporary transfer for 72 hours. And it's my understanding that there would only be a one-time background check if these folks are employed with this corporation.

MR. SPEAKER: Representative Kagan.

REPRESENTATIVE KAGAN: Thank you.

And I'd just like to add that my understanding of the bill, Representative Coram, is
that if the corporation has bought it, the
corporation is the owner, and all the members of
the corporation have to have the background check,
then it is a piece of corporate property, and any
member of the corporation who has had the
background check can pass it between themselves
because it is a piece of corporate property and
there is no transfer taking place, as long as a
member of the corporation themselves has it.

So I think that if the situation that
Representative Coram averted to were to take place,
no, there would not be a need for subsequent
background check every time somebody passed it from
one member of the corporation to another, one
farmhand member to another. I -- I think that it's
corporate property at that point.

MR. SPEAKER: Representative Priola.

REPRESENTATIVE PRIOLA: Thank you,
Mr. Speaker.

This also leads to another question
concerning ranch ownership, corporation. Let's
say, for instance, that a member of the family that
lives in Oregon and comes out to the family ranch
every few years or so but really is a silent
partner in the business, would that resident of
Oregon have to go through a background check as a member of the corporation, even though they -- him or her -- may never even actually come in contact of -- with the weapon?

MR. SPEAKER: The House will stand in a brief recess.

(A recess was taken at this time.)

MR. SPEAKER: The House will come back to order.

Madame Majority Leader.

MAJORITY LEADER HULLINGHORST: Thank you, Mr. Speaker.

I move to lay over House Bill 1229 one bill.

MR. SPEAKER: Seeing no objection, and just to be clear with Members, when we come back to this bill, Members who have spoken twice will still not be allowed to speak under the rules. I just want to make that clear.

House Bill 1229 will be laid over one bill.

(House Bill 1229 continued.)

REPRESENTATIVE FIELDS: -- find a very legitimate issue in one of the amendments that the Senate adopted regarding background checks for corporations. So I thank them for raising this
important issue and -- and helping us to make this
bill better.

I'm very confident that we can address
this issue while still ensuring that corporations
are not used to make straw purchases for those
individuals who cannot pass background checks.

MR. SPEAKER: Representative McCann.

REPRESENTATIVE MCCANN: I concur with
Representative Fields' recommendation that we
reject the Senate amendments.

MR. SPEAKER: Representative Sonnenberg.

REPRESENTATIVE SONNENBERG: Thank you,
Mr. Speaker.

And, Members, I would also urge that you
adopt this motion. Vote yes to go to conference
committee so we can indeed address those issues
that were talked about earlier.

So thank you.

MR. SPEAKER: The question before the
House is to reject Senate amendments and appoint a
conference committee on House Bill 1229.

Mr. Kolar, please open the machine, and
Members proceed to vote.

Representatives Court, Rosenthal, Ryden.

Close the machine.
With 64 aye votes, zero no votes, one excused, and zero absent, the House rejects said amendments to House Bill 1229 and requests a conference committee be formed.

The conferees are Representatives Sonnenberg, McCann, Fields, Chair.

Madame Majority Leader.

MAJORITY LEADER HULLINGHORST: Thank you, Mr. Speaker.

I move to lay over the balance of the calendar until Thursday, March 14.

MR. SPEAKER: Seeing no objection, the balance of the calendar will be laid over as requested by the Majority Leader.

(Announcements and introductions.)

MR. SPEAKER: And just to make sure there's notice, the conference committee on House Bill 1229 will be meeting tomorrow. So just everyone knows that.

Seeing no objection, the House will stand in recess until 2:30 today.

(Whereupon, the recording was concluded.)
CERTIFICATE

STATE OF COLORADO            )
CITY AND COUNTY OF DENVER     )  ss.

I, Elissa Steen, Professional Shorthand Reporter and Notary Public in and for the State of Colorado, do hereby certify that this transcript was taken in shorthand by me from an audio recording and was reduced to typewritten form by computer-aided transcription; that the speakers in this transcript were identified by me to the best of my ability and according to the introductions made; that the foregoing is a true transcript of the proceedings had; that I am not attorney, nor counsel, nor in any way connected with any attorney or counsel for any of the parties to said action or otherwise interested in its event.

IN WITNESS WHEREOF, I have hereunto affixed my hand and notarial seal this 5th day of August, 2013.

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Registered Professional Reporter and

Notary Public