

1 CITY AND COUNTY OF DENVER

2 STATE OF COLORADO

3 JUDICIAL COMMITTEE MEETING

4 Held on March 13, 2013

5 HOUSE BILL 13-1229

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7 REPORTER'S TRANSCRIPT

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9 This transcript was taken from an audio
10 recording by Elissa Steen, Registered Professional
11 Reporter and Notary Public.

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P R O C E E D I N G S

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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.

1 REPRESENTATIVE SONNENBERG: Okay. Thank
2 you, Mr. Speaker.

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

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

13 If I understand this correctly, then,
14 every single one, every time we buy a gun, we have
15 to go through 23 background checks. The way -- the
16 way I understand this, the way it reads, on line
17 22, each member, partner, officer, or other person,
18 that's what I'm trying to understand. If each
19 person, part of that corporation has to go through
20 a background check, that means 23 or 24 different
21 background checks for that -- for my family farm
22 corporation to buy a gun.

23 I'd ask for a no vote on concurrence.

24 MR. SPEAKER: Any further discussion?

25 Representative Gerou.

1 REPRESENTATIVE GEROU: Thank you,
2 Mr. Chair.

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

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

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

24 I'll wait until you're done talking. I
25 would be curious because that one -- that's going

1 to be problematic for a lot of families that --
2 well, she's not listening.

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

6 REPRESENTATIVE GEROU: Okay.

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

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

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

16 MR. SPEAKER: Representative McNulty.

17 REPRESENTATIVE MCNULTY: Thank you,
18 Mr. Speaker.

19 I think with Representative Gerou and
20 Representative Sonnenberg having the same
21 questions, I understand while Representative McCann
22 is limited by the rules from answering those
23 questions, Representative Fields is the maker of
24 the motion and can speak to this issue as often as
25 she likes. And I -- I hope that -- that these

1 questions can be answered, and perhaps they'll be
2 answered in a way that provides clarity to the
3 Republican members who have questions.

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

9 MR. SPEAKER: I agree, Representative
10 McNulty.

11 Representative Fields.

12 REPRESENTATIVE FIELDS: Thank you,
13 Mr. Speaker.

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

17 MR. SPEAKER: Any further discussion?
18 Representative Holbert.

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

21 Representative Sonnenberg has brought up
22 an issue that I had not considered, and I think
23 it's another opportunity for us to -- though this
24 side of the aisle would clearly be in the minority
25 -- to form a conference committee and resolve this

1 issue, the idea of 20-some background checks for a
2 club, is that what you intend?

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

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

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

23 Representative Dore.

24 REPRESENTATIVE DORE: Thank you,
25 Mr. Speaker.

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

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

23 So I would ask for some clarity or some
24 hope that we could get to a point to where we can
25 get this part cured in the legislation.

1 MR. SPEAKER: Mr. Assistant Majority
2 Leader.

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

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

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

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

1 for the purpose of preventing the straw purchase.
2 The strawman is what we generally call it, but in
3 this case it would be the straw corporation, to
4 avoid these background checks.

5 That's the intention of the amendment.

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

9 MR. SPEAKER: Representative McNulty.

10 REPRESENTATIVE MCNULTY: Thank you,
11 Mr. Speaker.

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

19 Rural Colorado is different than Denver,
20 and for those members who represent the eastern
21 plains, that's different from the western slope.
22 And so these are sincere questions based upon
23 fact-specific situations that we want to make sure
24 are either addressed with these Senate amendments
25 or aren't obstructed by the Senate amendments.

1 I suspect that the vote on the final bill
2 isn't going to be the same, but we're not
3 discussing the bill, we're discussing Senate
4 amendments. And so having clarity on what these
5 Senate amendments do is important.

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

16 So there is clearly a need for not only
17 clarity on our side of the aisle, but some level of
18 clarity from -- from the bill's proponents. And I
19 understand that we're in a situation here where we
20 are limited in the -- in the types of debate and
21 the times that we can speak, so it makes it more
22 difficult. But having conflicting information from
23 the bill's proponents does -- I think does lend us
24 to a situation where we may not know what the
25 Senate amendments do and how these Senate

1 amendments apply to these specific situations that
2 some of our state representatives -- the
3 constituents of some of our state representatives
4 face.

5 MR. SPEAKER: Representative Scott.

6 REPRESENTATIVE SCOTT: Thank you,
7 Mr. Speaker.

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

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

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

24 We're not seeing that in the language of
25 the bill. And again, I think it's something that

1 we should sit down and discuss before we make a
2 mistake and have to redo something or end up in
3 court with something that we shouldn't have done in
4 the first place.

5 Thank you.

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

8 REPRESENTATIVE FIELDS: Thank you,
9 Mr. Speaker.

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

14 MR. SPEAKER: Representative Landgraf.

15 REPRESENTATIVE LANDGRAF: Thank you,
16 Mr. Speaker.

17 I have a question I'm trying to get
18 answered for a constituent who owns a pawnshop.
19 It's a legitimate question. His concern is: He
20 takes in guns, and he gives those guns back to
21 people who have pawned them, and he also sells
22 guns. So his concern is that when the gun comes
23 in, does he have to have a background check? When
24 it goes back to the owner, does the owner have to
25 have a background check?

1 The purchaser would have to have a
2 background check, but I'm trying to figure out
3 about the owner who pawned the gun. Do they have
4 to then have a background check? And I'm just
5 wondering if somebody who can speak on that could
6 give me an answer? And I'm -- I'm guessing he
7 doesn't need one when he takes it in because he's
8 covered under whatever rules apply.

9 MR. SPEAKER: Representative Fields.

10 REPRESENTATIVE FIELDS: Thank you,
11 Mr. Speaker.

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

17 MR. SPEAKER: Representative Coram.

18 REPRESENTATIVE CORAM: Thank you,
19 Mr. Speaker.

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

25 And if the LLC were to buy a weapon, and

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

8 MR. SPEAKER: Representative Fields.

9 REPRESENTATIVE FIELDS: Thank you,
10 Mr. Speaker.

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

22 MR. SPEAKER: Representative Priola.

23 REPRESENTATIVE PRIOLA: Thank you,
24 Mr. Speaker.

25 Representative Fields, I think

1 Representative Coram's question was: If your ranch
2 is incorporated, your Bar-K ranch, let's say, and
3 your 20 or 30 ranch hands that patrol the
4 perimeter, fix a fence so on and so forth, they
5 don't all work at the same time, but they hop on
6 the ATV -- yes, I did say ATV -- and they also take
7 a weapon with them, how does that relate to the
8 requirements of the background checks?

9 Do they have to have a one-time
10 background check as an employee of the entire
11 corporation or LLC, or do they have to have
12 background checks, assuming that they will or won't
13 have it within the 72-hour window?

14 MR. SPEAKER: Representative Fields.

15 REPRESENTATIVE FIELDS: Thank you,
16 Mr. Speaker.

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

22 MR. SPEAKER: Representative Kagan.

23 REPRESENTATIVE KAGAN: Thank you.

24 And I'd just like to add that my
25 understanding of the bill, Representative Coram, is

1 that if the corporation has bought it, the
2 corporation is the owner, and all the members of
3 the corporation have to have the background check,
4 then it is a piece of corporate property, and any
5 member of the corporation who has had the
6 background check can pass it between themselves
7 because it is a piece of corporate property and
8 there is no transfer taking place, as long as a
9 member of the corporation themselves has it.

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

17 MR. SPEAKER: Representative Priola.

18 REPRESENTATIVE PRIOLA: Thank you,
19 Mr. Speaker.

20 This also leads to another question
21 concerning ranch ownership, corporation. Let's
22 say, for instance, that a member of the family that
23 lives in Oregon and comes out to the family ranch
24 every few years or so but really is a silent
25 partner in the business, would that resident of

1 Oregon have to go through a background check as a
2 member of the corporation, even though they -- him
3 or her -- may never even actually come in contact
4 of -- with the weapon?

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

7 (A recess was taken at this time.)

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

10 Madame Majority Leader.

11 MAJORITY LEADER HULLINGHORST: Thank you,
12 Mr. Speaker.

13 I move to lay over House Bill 1229 one
14 bill.

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

20 House Bill 1229 will be laid over one bill.

21 (House Bill 1229 continued.)

22 REPRESENTATIVE FIELDS: -- find a very
23 legitimate issue in one of the amendments that the
24 Senate adopted regarding background checks for
25 corporations. So I thank them for raising this

1 important issue and -- and helping us to make this
2 bill better.

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

7 MR. SPEAKER: Representative McCann.

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

11 MR. SPEAKER: Representative Sonnenberg.

12 REPRESENTATIVE SONNENBERG: Thank you,
13 Mr. Speaker.

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

18 So thank you.

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

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

24 Representatives Court, Rosenthal, Ryden.

25 Close the machine.

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

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

7 Madame Majority Leader.

8 MAJORITY LEADER HULLINGHORST: Thank you,
9 Mr. Speaker.

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

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

15 (Announcements and introductions.)

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

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

21 (Whereupon, the recording was concluded.)

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CERTIFICATE

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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.

Registered Professional Reporter
and
Notary Public