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HOUSE BILL 09-1180

BY REPRESENTATIVE(S) King S., Acree, Baumgardner, Gardner B., Kerr J., Liston, Looper, Massey, McFadyen, Middleton, Nikkel, Pace, Roberts, Sonnenberg, Summers, Tipton, Vaad, Waller, Balmer, Bradford, Curry, Gardner C., Gerou, Marostica, May, McNulty, Murray, Stephens, Swalm, Vigil;
also SENATOR(S) Brophy, Cadman, Harvey, Isgar, Kester, King K., Kopp, Lundberg, Mitchell, Penry, Renfroe, Scheffel, Schultheis, Spence, Tochtrop, White.

CONCERNING ALLOWING VALID COLORADO CONCEALED HANDGUN PERMITS
TO SATISFY BACKGROUND CHECK REQUIREMENTS FOR TRANSFERS OF
FIREARMS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 12-26.1-101, Colorado Revised Statutes, is amended to read:

12-26.1-101. Background checks at gun shows - penalty.

(1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (1.5) OF THIS SECTION, before a gun show vendor transfers or attempts to transfer a firearm at a gun show, he or she shall:

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(a) require that a background check, in accordance with section 24-33.5-424, C.R.S., be conducted of the prospective transferee; and

(b) obtain approval of a transfer from the Colorado Bureau of Investigation after a background check has been requested by a licensed gun dealer, in accordance with section 24-33.5-424, C.R.S.

(1.5) A TRANSFEE WHO HOLDS A VALID PERMIT TO CARRY A CONCEALED HANDGUN, WHICH PERMIT WAS ISSUED OR RENEWED PURSUANT TO SECTION 18-12-203, C.R.S., ON OR AFTER JANUARY 1, 2010, IS EXEMPT FROM THE BACKGROUND CHECK REQUIREMENT DESCRIBED IN SUBSECTION (1) OF THIS SECTION IF, AT THE TIME OF THE TRANSFER OR ATTEMPTED TRANSFER OF A FIREARM, HE OR SHE PRESENTS TO A GUN SHOW VENDOR TRANSFEROR:

(a) THE PERMIT; AND

(b) A VALID IDENTIFICATION CARD THAT HAS BEEN ISSUED BY AN AGENCY OF THE FEDERAL GOVERNMENT OR ANY STATE GOVERNMENT, INCLUDING BUT NOT LIMITED TO A UNITED STATES PASSPORT OR A STATE DRIVER'S LICENSE.

(2) A gun show promoter shall arrange for the services of one or more licensed gun dealers on the premises of the gun show to obtain the background checks required by this article.

(3) If any part of a firearm transaction takes place at a gun show, no firearm shall be transferred unless a background check has been obtained by a licensed gun dealer OR THE TRANSFEE IS EXEMPT FROM THE BACKGROUND CHECK REQUIREMENT PURSUANT TO SUBSECTION (1.5) OF THIS SECTION.

(4) Any person violating the provisions of this section commits a class 1 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S.

SECTION 2. 18-12-203 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

18-12-203. Criteria for obtaining a permit. (1) Beginning May

17, 2003, except as otherwise provided in this section, a sheriff shall issue a permit to carry a concealed handgun to an applicant who:

(a.5) ASSERTS ON THE PERMIT APPLICATION THAT HE OR SHE IS:

(I) A LEGAL CITIZEN OF THE UNITED STATES; OR

(II) A LEGAL ALIEN AND SUBMITS THE FOLLOWING INFORMATION IN WRITING:

(A) HIS OR HER COUNTRY OF CITIZENSHIP;

(B) HIS OR HER PLACE OF BIRTH;

(C) A VALID UNITED STATES GOVERNMENT-ISSUED ALIEN REGISTRATION OR ADMISSION NUMBER; AND

(D) IF THE APPLICANT IS A NONIMMIGRANT ALIEN ADMITTED TO THE UNITED STATES UNDER A NONIMMIGRANT VISA, ANY EXISTING BASIS FOR AN EXEMPTION FROM THE NONIMMIGRANT ALIEN PROHIBITION PURSUANT TO 18 U.S.C. SEC. 922 (y) (2) OR (y) (3);

SECTION 3. 18-12-204 (1) (a), Colorado Revised Statutes, is amended, and the said 18-12-204 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

18-12-204. Uniform permits required - permit contents - validity - carrying requirements - repeal. (1) (a) (I) Each permit shall bear a color photograph of the permittee and shall display the signature of the sheriff who issues the permit. In addition, the sheriffs of this state shall ensure that all permits issued pursuant to this part 2 contain the same items of information and are the same size and the same color.

(II) THIS PARAGRAPH (a) IS REPEALED, EFFECTIVE JANUARY 1, 2010.

(1.5) (a) ON AND AFTER JANUARY 1, 2010, EACH SHERIFF OF THE STATE SHALL ENSURE THAT EACH PERMIT THAT HE OR SHE ISSUES PURSUANT TO THIS ARTICLE CONFORMS TO THE TEMPLATE ESTABLISHED BY THE BUREAU PURSUANT TO SECTION 24-33.5-427, C.R.S.; EXCEPT THAT A SHERIFF MAY ISSUE A TEMPORARY EMERGENCY PERMIT AS PROVIDED IN

SECTION 18-12-209.

(b) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE TO THE CONTRARY, ON AND AFTER JANUARY 1, 2010, A SHERIFF SHALL NOT RENEW A PERMIT OTHER THAN A PERMIT THAT CONFORMS TO THE TEMPLATE ESTABLISHED BY THE BUREAU PURSUANT TO SECTION 24-33.5-427, C.R.S.; EXCEPT THAT A SHERIFF MAY RENEW A PERMIT AS DESCRIBED IN SECTION 18-12-211 (3).

SECTION 4. 18-12-205 (1) (a) (IV), Colorado Revised Statutes, is amended, and the said 18-12-205 (1) (a) is further amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

18-12-205. Sheriff - application - procedure - background check.

(1) (a) To obtain a permit, a person shall submit a permit application on a statewide standardized form developed by the sheriffs and available from each sheriff. The permit application form shall solicit only the following information from the applicant:

(IV) Whether the applicant is a resident of this state as of the date of application and whether the applicant has a valid driver's license or other state-issued photo identification or military order proving residence; ~~and~~

(IV.5) THE APPLICANT'S COUNTRY OF CITIZENSHIP; AND

SECTION 5. 18-12-207, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

18-12-207. Judicial review - permit denial - permit suspension - permit revocation - confiscation and forfeiture. (4) IF A SHERIFF REVOKES A PERMIT, HE OR SHE SHALL CONFISCATE THE PERMIT FROM THE PERMIT HOLDER AND THE PERMIT HOLDER SHALL FORFEIT HIS OR HER PERMIT.

SECTION 6. 18-12-208 (1), Colorado Revised Statutes, is amended to read:

18-12-208. Colorado bureau of investigation - duties. (1) Upon receipt of a permit applicant's fingerprints from a sheriff pursuant to section 18-12-205 (4) or upon a sheriff's request pursuant to section 18-12-211 (1),

the bureau shall process the full set of fingerprints to obtain any available state criminal justice information or federal information pursuant to section 16-21-103 (5), C.R.S., INCLUDING A SEARCH OF THE FEDERAL BUREAU OF INVESTIGATION'S NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM, and shall report any information received to the sheriff. In addition, within ten days after receiving the fingerprints, the bureau shall forward one set of the fingerprints to the federal bureau of investigation for processing to obtain any available state criminal justice information or federal information.

SECTION 7. 18-12-211, Colorado Revised Statutes, is amended to read:

18-12-211. Renewal of permits. (1) Within one hundred twenty days prior to expiration of a permit, the permittee may obtain a renewal form from the issuing sheriff and renew the permit by submitting to the issuing sheriff a completed renewal form, a notarized affidavit stating that the permittee remains qualified pursuant to the criteria specified in section 18-12-203 (1) (a) to (1) (g), and the required renewal fee not to exceed fifty dollars, as set by the sheriff pursuant to section 18-12-205 (5). The renewal form shall meet the requirements specified in section 18-12-205 (1) for an application. The sheriff shall verify pursuant to section 18-12-205 (4) that the permittee meets the criteria specified in section 18-12-203 (1) (a) to (1) (g) and is not a danger as described in section 18-12-203 (2) and, EXCEPT AS PROVIDED IN SUBSECTION (3) OF THIS SECTION, shall either renew or deny the renewal of the permit in accordance with the provisions of section 18-12-206 (1). If the sheriff denies renewal of a permit, the permittee may seek a second review of the renewal application by the sheriff and may submit additional information for the record. The permittee may also seek judicial review as provided in section 18-12-207.

(2) (a) A permittee who fails to file a renewal form on or before the permit expiration date may renew the permit by paying a late fee of fifteen dollars in addition to the renewal fee established pursuant to subsection (1) of this section. No permit shall be renewed six months or more after its expiration date, and the permit shall be deemed to have permanently expired. A person whose permit has permanently expired may reapply for a permit, but the person shall submit an application for a permit and the fee required pursuant to section 18-12-205. A person who knowingly and intentionally files false or misleading information or deliberately omits

material information required under this section is subject to criminal prosecution for perjury under section 18-8-503.

(b) IF A PERMITTEE FAILS TO FILE A RENEWAL FORM ON OR BEFORE THE PERMIT EXPIRATION DATE, HIS OR HER PERMIT SHALL BE INVALID FROM THE PERMIT EXPIRATION DATE UNTIL SUCH TIME AS THE PERMIT IS RENEWED BY THE SHERIFF WHO ISSUED THE PERMIT.

(3) ON AND AFTER JANUARY 1, 2010, A SHERIFF SHALL NOT RENEW A PERMIT THAT WAS ISSUED BEFORE JANUARY 1, 2010; EXCEPT THAT A SHERIFF MAY RENEW SUCH A PERMIT PURSUANT TO THE PROVISIONS OF THIS SECTION IF THE SHERIFF CONFISCATES THE PERMIT THAT WAS ISSUED BEFORE JANUARY 1, 2010, AND ISSUES IN ITS PLACE A PERMIT THAT CONFORMS TO THE TEMPLATE ESTABLISHED BY THE BUREAU PURSUANT TO SECTION 24-33.5-427, C.R.S.

SECTION 8. Part 2 of article 12 of title 18, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

18-12-217. Exception to federal background check requirement.

(1) NOTWITHSTANDING 18 U.S.C. SEC. 922 (t) (1), A PERSON WHO HOLDS A VALID PERMIT TO CARRY A CONCEALED HANDGUN, WHICH PERMIT WAS ISSUED OR RENEWED PURSUANT TO THE CRITERIA DESCRIBED IN SECTION 18-12-203 ON OR AFTER JANUARY 1, 2010, SHALL NOT BE REQUIRED TO SUBMIT TO AN INSTANT CRIMINAL BACKGROUND CHECK, AS DESCRIBED IN SECTION 24-33.5-424, C.R.S., AS A PREREQUISITE TO RECEIVING THE TRANSFER OF A FIREARM IF HE OR SHE PRESENTS TO THE TRANSFEROR OF THE FIREARM:

(a) THE PERMIT; AND

(b) A VALID IDENTIFICATION CARD THAT HAS BEEN ISSUED BY AN AGENCY OF THE FEDERAL GOVERNMENT OR ANY STATE GOVERNMENT, INCLUDING BUT NOT LIMITED TO A UNITED STATES PASSPORT OR A STATE DRIVER'S LICENSE.

(2) NOTWITHSTANDING 18 U.S.C. SEC. 922 (t) (1), A LICENSED IMPORTER, MANUFACTURER, OR DEALER OF FIREARMS SHALL NOT BE REQUIRED TO CONTACT THE COLORADO BUREAU OF INVESTIGATION OR THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM AS DESCRIBED

IN SECTION 24-33.5-424, C.R.S., BEFORE TRANSFERRING POSSESSION OF A FIREARM TO A PERSON WHO HOLDS AND PRESENTS:

(a) A VALID PERMIT TO CARRY A CONCEALED HANDGUN, WHICH PERMIT WAS ISSUED OR RENEWED PURSUANT TO THE PROVISIONS OF THIS ARTICLE ON OR AFTER JANUARY 1, 2010; AND

(b) A VALID IDENTIFICATION CARD THAT HAS BEEN ISSUED BY AN AGENCY OF THE FEDERAL GOVERNMENT OR ANY STATE GOVERNMENT, INCLUDING BUT NOT LIMITED TO A UNITED STATES PASSPORT OR A STATE DRIVER'S LICENSE.

SECTION 9. 24-33.5-412 (1) (r), Colorado Revised Statutes, is amended, and the said 24-33.5-412 is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

24-33.5-412. Functions of bureau - legislative review. (1) The bureau has the following authority:

(r) To conduct criminal history records checks pursuant to section 24-72-305.3; AND

(s) TO ESTABLISH AND MAINTAIN A TEMPLATE ESTABLISHING A UNIFORM APPEARANCE FOR PERMITS TO CARRY A CONCEALED HANDGUN PURSUANT TO SECTION 24-33.5-427.

SECTION 10. Part 4 of article 33.5 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

24-33.5-427. Permits to carry concealed handguns - template required. (1) ON OR BEFORE OCTOBER 1, 2009, THE BUREAU SHALL ESTABLISH AND MAKE AVAILABLE TO EACH SHERIFF IN THE STATE A TEMPLATE FOR PERMITS TO CARRY CONCEALED HANDGUNS, WHICH PERMITS ARE ISSUED BY SHERIFFS PURSUANT TO ARTICLE 12 OF TITLE 18, C.R.S.

(2) IN ESTABLISHING THE TEMPLATE DESCRIBED IN SUBSECTION (1) OF THIS SECTION, THE BUREAU SHALL ENSURE THAT EACH PERMIT:

(a) IS RESISTANT TO TAMPERING AND FORGERY;

(b) SATISFIES THE PROVISIONS OF ARTICLE 12 OF TITLE 18, C.R.S.;

(c) CONTAINS THE SAME ITEMS OF INFORMATION AND IS UNIFORM IN APPEARANCE; AND

(d) DISPLAYS, AT A MINIMUM, THE FOLLOWING INFORMATION:

(I) THE NAME AND ADDRESS OF THE PERMITTEE;

(II) A COLOR PHOTOGRAPH OF THE PERMITTEE;

(III) THE SIGNATURE OF THE SHERIFF WHO ISSUED THE PERMIT; AND

(IV) THE TELEPHONE NUMBER OF THE OFFICE OF THE SHERIFF WHO ISSUED THE PERMIT.

SECTION 11. Act subject to petition - effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, (August 5, 2009, if adjournment sine die is on May 6, 2009); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item,

section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Terrance D. Carroll
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Brandon C. Shaffer
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

APPROVED _____

Bill Ritter, Jr.
GOVERNOR OF THE STATE OF COLORADO