

HOUSE BILL No. 2578

By Committee on Federal and State Affairs

2-7

1 AN ACT concerning firearms; relating to certification by a chief law
2 enforcement officer for the transfer of a firearm.

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4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. (a) When the transfer of a firearm requires certification by
6 a chief law enforcement officer in accordance with 27 C.F.R. § 479.85, in
7 effect on January 24, 2003, a person may apply for such certification to a
8 chief law enforcement officer. Within 15 days of receipt of a request for
9 certification, the chief law enforcement officer shall provide such
10 certification and approve the transfer unless: ~~(1) The applicant is~~
11 ~~prohibited by state or federal law from receiving the firearm; or (2) there is~~
12 ~~a pending legal or administrative proceeding against the applicant which~~
13 ~~could result in such applicant being prohibited by state or federal law from~~
14 ~~receiving the firearm. If the applicant is prohibited by state or federal law~~
15 ~~from receiving the firearm, or there is a pending legal or administrative~~
16 ~~proceeding against the applicant which could result in such prohibition, the~~
17 ~~chief law enforcement officer, or such officer's designee, shall provide~~
18 ~~written notification to the applicant stating that the application for~~
19 ~~certification is denied and the reason for such denial a condition as~~
20 **provided in 27 C.F.R. § 479.85 exists which the chief law enforcement**
21 **officer cannot certify because of specific acts or information directly**
22 **related to the applicant. A generalized belief by the chief law**
23 **enforcement officer that certain types of firearms have no lawful**
24 **purpose or should not be possessed even by those who are not otherwise**
25 **prohibited by law from possessing or receiving them shall not be**
26 **sufficient reason to deny certification under this section. If certification**
27 **of the application is not completed, the chief law enforcement officer,**
28 **or such officer's designee, shall provide written notification to the**
29 **applicant that certification of the application cannot be completed and**
30 **the reason for such denial of certification.**

31 (b) Any applicant whose request for certification is denied pursuant
32 to subsection (a), may appeal such denial to the district court of the county
33 in which the applicant resides. The district court shall review any denial of
34 certification de novo. If the district court finds that the applicant is not

1 prohibited by state or federal law from receiving the firearm and that there
2 is no pending legal or administrative proceeding against the applicant
3 which could result in such prohibition, the district court shall order the
4 chief law enforcement officer to issue the certification. In addition to such
5 other relief as may be ordered, the district court may award the applicant
6 court costs and reasonable attorney's fees.

7 (c) Any chief law enforcement officer who certifies and approves the
8 transfer of a firearm pursuant to this section shall not be held liable in any
9 civil or criminal action for any act committed by another person with such
10 firearm following such transfer.

11 (d) For purposes of this section:

12 (1) "Certification" means the written certificate required under 27
13 C.F.R. § 479.85, in effect on January 24, 2003, to be completed by a chief
14 law enforcement officer for the approval of an application to transfer a
15 firearm.

16 (2) "Chief law enforcement officer" means a person holding any of
17 the offices described in 27 C.F.R. § 479.85, in effect on January 24, 2003,
18 as eligible to provide the required certification for the transfer of a firearm.

19 (3) "Firearm" shall have the same meaning as provided in the federal
20 national firearms act, 26 U.S.C. § 5845, in effect as of the effective date of
21 this act.

22 Sec. 2. This act shall take effect and be in force from and after its
23 publication in the statute book.