

Legislators should slow down to avoid passing bad laws Proposed gun sales legislation would penalize legitimate gun owners

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By State Sen. Betsy Johnson

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The 2015 Oregon Legislature is shaping up to be one of contradictions – more gun control for those who obey the law but possibly more government protection for those who have broken the law.

We're about to increase background checks on private gun sales, which will do nothing to stop felons from continuing to illegally obtain and use firearms.

At the same time, legislation has been proposed that would make it harder for an employer to do a criminal background check on felons.

Yes, this is a very contentious legislative session. Many bills are on a fast track. If we don't slow down and become more thoughtful, we're going to pass some bad laws, and citizens will pay the price.

Last year during the Legislature's brief 35-day session, state Sen. Floyd Prozanski (D-Eugene) tried to rush approval of a gun control bill to expand background checks. He needed just one more vote, and I declined to give it. I didn't think his bill would reduce crime. I wish all it took to change human behavior was passing legislation. It doesn't work that way.

Prozanski is back this year with a similar bill, and this time he has the votes. That doesn't mean he has a good bill.

His Senate Bill 941 requires that any time a private citizen sells or transfers a firearm both the seller and buyer/recipient must go to a licensed gun dealer and pay to have the buyer undergo a criminal background check.

On the face of it this seems reasonable. Think about it, though; if you know you have a criminal history, you'll bypass this law by having somebody else buy a gun for you, or obtain one on the black market. It's already against the law for ex-felons to possess a firearm. Yet how often do we read about ex-felons committing a crime, and they're armed? It takes more than laws to disarm a criminal.

However, a law can disarm a non-criminal. Under the proposed legislation, a gun owner with no criminal history could find himself in violation if he loans a hunting rifle to a friend without a background check. On a first offense, the punishment could be one year in jail and/or a \$6,250 fine. On a second offense, the punishment could reach 10 years in prison and/or a \$250,000 fine.

Given Prozanski's legislative history, I have to ask: Does he really want to go after violent felons? Or does he want to cause problems for legitimate gun owners?

Two years ago Prozanski served on the governor's Commission on Public Safety, where he worked on House Bill 3194. He pushed unsuccessfully to reduce the sentences for some robbery, assault and sexual abuse crimes.

Even more revealing, Prozanski wanted to expand expungement – a way for felons to wipe clean their criminal history to help them find housing and employment. Now here he is sponsoring a bill that requires background checks on gun purchases. What good does it do to require background checks, if you're also helping felons rewrite their criminal records?

As it is, the public might be surprised how often expungements and sealed records are allowed. I checked with one of the district attorneys in my district – Clatsop County's Josh Marquis – and found that his office alone grants at least 100 expungements or sealed record requests a year.

Once an adult's criminal record is sealed it may not appear on the Law Enforcement Data System, the National Crime Information Center, the older Oregon Judicial Information Network or the newer Odyssey court system. Prozanski's bill does not address this.

There are aspects of his gun bill that are worthy – for example, prohibiting persons undergoing court-ordered outpatient treatment from possessing a firearm. However, confidentiality laws make it difficult to even reveal who is mentally ill. The bill does nothing to protect the public from a person whose mental illness expresses itself in violence.

The overriding intent of Prozanski's bill is not directed at violent behavior but at making gun ownership more inconvenient for the law-abiding.

Nevertheless, it will pass and will be trumpeted as making the public safer.

Meanwhile, the bill assisting ex-felons in the job market makes for a curious counterpoint. If you support Prozanski's gun bill, take note.

Say you're an employer and you also hate guns. You may find yourself unwittingly offering a job to someone who has committed armed robbery. If you then want to rescind the job offer, you may have some explaining to do to a state official.

House Bill 3025, also called the ban-the-box law because of the box on some job applications asking if an applicant has a criminal record, would restrict how private employers can interview job applicants.

No inquiry could be made about an applicant's criminal history, nor could a background check be conducted, until after a job has been offered. Only then could the employer seek a background check. If something turned up, the employer could rescind the offer if the conviction was related to the nature of the job. The applicant could then appeal to the state Bureau of Labor and Industries.

It's popular to say that this is a well-intentioned law, but you know what? It isn't. This is the kind of law that creates animosity. The bill as currently written is clearly designed to give one select group of job applicants a cudgel – the threat of legal action – to force compliance from employers. In this job market, there are a lot of qualified people who can't find suitable work. Why should ex-felons get a special break?

There are already federal tax incentives to encourage employers to hire ex-felons. The Work Opportunity Tax Credit Program has been around since 1996 and has been renewed ever since.

Some employers have made it known that they like to hire people with criminal backgrounds.

Dick Withnell, a Salem auto dealer, has spoken at legislative hearings about hiring employees out of prison. He's to be commended for that. But it's his choice. Freedom of choice is a beautiful thing. It's better than political force.

The ban-the-box bill has had a hearing before the House Business and Labor Committee, where advocates for ex-felons and prisoners' rights were well-organized with their testimony.

If it doesn't pass this session, like Prozanski's gun bill it will likely come around again.

Sen. Betsy Johnson (D-Scappoose) represents Oregon's 16th Senate District, which includes much of Tillamook County. She is currently serving her third term in the State Senate.

**RECOMMENDATIONS: FOCUS ON CRIMINALS AND CRIMINAL GANGS, THE DANGEROUSLY MENTALLY ILL AND NOT LAW ABIDING CITIZENS**

**PLEASE VOTE THIS BILL DOWN. LARRY S HART, PH.D. 503-380-3777**