

Senate File 427 - Introduced

SENATE FILE 427
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1263)

A BILL FOR

1 An Act relating to the making, transferring, and possession of
2 firearms and suppressors, and providing penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 724.1, subsection 1, paragraph h, Code
2 2015, is amended by striking the paragraph.

3 Sec. 2. NEW SECTION. **724.1A Firearm suppressors —**
4 **certification.**

5 1. As used in this section, unless the context otherwise
6 requires:

7 *a. "Certification"* means the participation and assent of
8 the chief law enforcement officer of the jurisdiction where the
9 applicant resides or maintains an address of record, that is
10 necessary under federal law for the approval of an application
11 to make or transfer a firearm suppressor.

12 *b. "Chief law enforcement officer"* means the county sheriff,
13 chief of police, or the designee of such official, that the
14 federal bureau of alcohol, tobacco, firearms and explosives,
15 or any successor agency, has identified by regulation or has
16 determined is otherwise eligible to provide any required
17 certification for making or transferring a firearm suppressor.

18 *c. "Firearm suppressor"* means a mechanical device
19 specifically constructed and designed so that when attached to
20 a firearm silences, muffles, or suppresses the sound when fired
21 that is considered a *"firearm silencer"* or *"firearm muffler"* as
22 defined in 18 U.S.C. §921.

23 2. *a.* A chief law enforcement officer is not required
24 to make any certification under this section the chief law
25 enforcement officer knows to be false, but the chief law
26 enforcement officer shall not refuse, based on a generalized
27 objection, to issue a certification to make or transfer a
28 firearm suppressor.

29 *b.* When the certification of the chief law enforcement
30 officer is required by federal law or regulation for making or
31 transferring a firearm suppressor, the chief law enforcement
32 officer shall, within thirty days of receipt of a request for
33 certification, issue such certification if the applicant is
34 not prohibited by law from making or transferring a firearm
35 suppressor or is not the subject of a proceeding that could

1 result in the applicant being prohibited by law from making
2 or transferring the firearm suppressor. If the chief law
3 enforcement officer does not issue a certification as required
4 by this section, the chief law enforcement officer shall
5 provide the applicant with a written notification of the denial
6 and the reason for the denial.

7 3. An applicant whose request for certification is denied
8 may appeal the decision of the chief law enforcement officer
9 to the district court for the county in which the applicant
10 resides or maintains an address of record. The court shall
11 review the decision of the chief law enforcement officer to
12 deny the certification de novo. If the court finds that the
13 applicant is not prohibited by law from making or transferring
14 the firearm suppressor, or is not the subject of a proceeding
15 that could result in such prohibition, or that no substantial
16 evidence supports the decision of the chief law enforcement
17 officer, the court shall order the chief law enforcement
18 officer to issue the certification and award court costs and
19 reasonable attorney fees to the applicant. If the court
20 determines the applicant is not eligible to be issued a
21 certification, the court shall award court costs and reasonable
22 attorney fees to the political subdivision of the state
23 representing the chief law enforcement officer.

24 4. In making a determination about whether to issue a
25 certification under subsection 2, a chief law enforcement
26 officer may conduct a criminal background check, but shall
27 only require the applicant provide as much information as is
28 necessary to identify the applicant for this purpose or to
29 determine the disposition of an arrest or proceeding relevant
30 to the eligibility of the applicant to lawfully possess or
31 receive a firearm suppressor. A chief law enforcement officer
32 shall not require access to or consent to inspect any private
33 premises as a condition of providing a certification under this
34 section.

35 5. A chief law enforcement officer and employees of the

1 chief law enforcement officer who act in good faith are immune
2 from liability arising from any act or omission in making a
3 certification as required by this section.

4 Sec. 3. NEW SECTION. **724.1B Firearm suppressors — penalty.**

5 1. A person shall not possess a firearm suppressor in this
6 state unless authorized by federal law.

7 2. A person who possesses a firearm suppressor in violation
8 of subsection 1 commits a class "D" felony.

9 EXPLANATION

10 The inclusion of this explanation does not constitute agreement with
11 the explanation's substance by the members of the general assembly.

12 This bill relates to the making, transferring, and
13 possession of firearms and suppressors.

14 Current Iowa law provides that a mechanical device
15 specifically constructed and designed so that when attached to
16 a firearm it silences, muffles, or suppresses the sound when
17 fired is an offensive weapon. Under Code section 724.3, any
18 person who knowingly possesses an offensive weapon commits a
19 class "D" felony, punishable by confinement for no more than
20 five years and a fine of at least \$750 but not more than \$7,500.

21 The bill strikes a provision in Code section 724.1(1)(h)
22 that classifies a firearm suppressor as an offensive weapon.
23 By striking this provision, a firearm suppressor is legal
24 to possess in the state. This provision takes effect upon
25 enactment.

26 The bill also creates in new Code section 724.1A, a process
27 whereby a person may apply to the chief law enforcement officer
28 of the jurisdiction where the person resides or maintains an
29 address of record for a certification to make or transfer a
30 firearm suppressor. The bill defines "firearm suppressor" to
31 mean a mechanical device specifically constructed and designed
32 so that when attached to a firearm silences, muffles, or
33 suppresses the sound when fired that is considered a "firearm
34 silencer" or "firearm muffler" as defined in 18 U.S.C. §921.

35 The bill specifies that a chief law enforcement officer

1 shall not refuse to provide certification, based on a
2 generalized objection, to an applicant making or transferring
3 a firearm suppressor. If a person applies for certification
4 to make or transfer a firearm suppressor with the chief
5 law enforcement officer, the bill requires the chief law
6 enforcement officer to issue the certification within 30
7 days of receiving such an application unless the applicant
8 is prohibited by law from making or transferring a firearm
9 suppressor or the applicant is the subject of a proceeding that
10 could result in the applicant being prohibited by law from
11 making or transferring a firearm suppressor. If the chief
12 law enforcement officer does not issue a certification under
13 the bill, the chief law enforcement officer shall provide the
14 applicant a written notification of the denial and the reason
15 for the denial. If the certification has been approved by the
16 chief law enforcement officer under the bill, the applicant
17 has the authority to make or transfer a firearm suppressor as
18 provided by state and federal law.

19 If the applicant's request for certification is denied,
20 the bill specifies that the applicant may appeal the decision
21 to the district court for the county in which the applicant
22 resides or maintains an address of record. The bill specifies
23 that the court shall review the decision of the chief law
24 enforcement officer to deny the certification de novo. If the
25 court finds that the applicant is not prohibited by law from
26 making or transferring a firearm suppressor, the bill requires
27 the court to order the chief law enforcement officer to issue
28 the certification and award court costs and reasonable attorney
29 fees to the applicant. If the court determines the applicant
30 is not eligible to be issued a certification, the bill requires
31 the court to award court costs and reasonable attorney fees to
32 the political subdivision of the state representing the chief
33 law enforcement officer.

34 In making a determination about whether to issue a
35 certification under the bill, a chief law enforcement officer

1 may conduct a criminal background check, but shall only require
2 the applicant to provide as much information as is necessary
3 to identify the applicant for this purpose or to determine
4 the disposition of an arrest or proceeding relevant to the
5 eligibility of the applicant to lawfully make or transfer a
6 firearm suppressor. The bill prohibits a chief law enforcement
7 officer from requiring access to any private premises as a
8 condition of providing a certification under this Code section.

9 A chief law enforcement officer and employees of the chief
10 law enforcement officer who act in good faith are immune
11 from liability arising from any act or omission in making a
12 certification under the bill.

13 The bill provides that a person shall not possess a firearm
14 suppressor unless authorized by federal law. A person who
15 violates this provision commits a class "D" felony.