

237.075 Chief law enforcement officer's certification for transfer or making of a firearm -- Immunity from liability -- Appeal of denial of certification request.

- (1) For purposes of this section:
 - (a) "Certification" means the participation and assent of the chief law enforcement officer necessary under federal law for the approval of the application to transfer or make a firearm;
 - (b) "Chief law enforcement officer" means the sheriff of the county of the applicant's residence, notwithstanding the provisions of 27 C.F.R. secs. 479.63 and 479.85; and
 - (c) "Firearm" has the same meaning as provided in the National Firearms Act, 26 U.S.C. sec. 5845(a).
- (2)
 - (a) When a chief law enforcement officer's certification is required by federal law or regulation for the transfer or making of a firearm, the chief law enforcement officer shall, within fifteen (15) days of receipt of a request for certification, provide this certification if the applicant is not prohibited by law from receiving or possessing the firearm and is not the subject of a proceeding that could result in the applicant being prohibited by law from receiving or possessing the firearm. If the chief law enforcement officer is unable to make a certification as required by this section, he or she shall provide the applicant a written notification of the denial and the reason for this determination.
 - (b) A chief law enforcement officer is not required to make any certification under this subsection he or she knows to be untrue, but he or she may not refuse to provide certification based on a generalized objection to private persons or entities making, possessing, or receiving firearms or any certain type of firearm the possession of which is not prohibited by law.
- (3) Chief law enforcement officers and their employees who act in good faith are immune from liability arising from any act or omission in making a certification as required by this section.
- (4) An applicant whose request for certification is denied may appeal the chief law enforcement officer's decision to the Circuit Court that is located in the county in which the applicant resides. The court shall review the chief law enforcement officer's decision to deny the certification de novo. If the court finds that the applicant is not prohibited by law from receiving or possessing the firearm, is not the subject of a proceeding that could result in such prohibition, and that no substantial evidence supports the chief law enforcement officer's determination that he or she cannot truthfully make the certification, the court shall order the chief law enforcement officer to issue the certification and award court costs and reasonable attorney's fees to the applicant.

Effective: July 15, 2014

History: Created 2014 Ky. Acts ch. 120, sec. 3, effective July 15, 2014.