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HOUSE BILL 100

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY
Andrea Romero

AN ACT

RELATING TO FIREARMS; REQUIRING A FOURTEEN-DAY WAITING PERIOD
BEFORE COMPLETION OF A SALE OF A FIREARM.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 30-7-7.1 NMSA 1978 (being Laws 2019,
Chapter 45, Section 1) is amended to read:

"30-7-7.1. UNLAWFUL SALE OF A FIREARM WITHOUT A
BACKGROUND CHECK.--

A. Unlawful sale of a firearm without a background
check consists of the sale of a firearm without conducting a
federal instant background check, subject to the following:

(1) if the buyer of a firearm is not a natural
person, then each natural person who is authorized by the buyer
to possess the firearm after the sale shall undergo a federal
instant background check before taking possession of the

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1 firearm;

2 (2) a prospective firearm seller who does not
3 hold a current and valid federal firearms license issued
4 pursuant to 18 U.S.C. Section 923(a) shall arrange for a person
5 who does hold that license to conduct the federal instant
6 background check. A federal firearms licensee shall not
7 unreasonably refuse to perform a background check pursuant to
8 this paragraph; and

9 (3) a person who holds a current and valid
10 federal firearms license issued pursuant to 18 U.S.C. Section
11 923(a) may charge a fee not to exceed thirty-five dollars
12 (\$35.00) for conducting a background check pursuant to this
13 section.

14 B. Ownership, possession or control of a firearm
15 shall not be transferred to the buyer earlier than fourteen
16 calendar days after submission of the federal instant
17 background check.

18 ~~[B.]~~ C. The provisions of ~~[Subsection]~~ Subsections
19 A and B of this section do not apply to the sale of a firearm:

20 (1) by or to a person who holds a current and
21 valid federal firearms license issued pursuant to 18 U.S.C.
22 Section 923(a);

23 (2) to a law enforcement agency;

24 (3) between two law enforcement officers
25 authorized to carry a firearm and certified pursuant to federal

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1 law or the Law Enforcement Training Act; or

2 (4) between immediate family members.

3 ~~[G.]~~ D. As used in this section:

4 (1) "consideration" means anything of value
5 exchanged between the parties to a sale;

6 (2) "federal instant background check" means a
7 background check that meets the requirements of 18 U.S.C.
8 Section 922(t) and that does not indicate that a sale to the
9 person receiving the firearm would violate 18 U.S.C. Section
10 922(g) or 18 U.S.C. Section 922(n) or state law;

11 (3) "firearm" means any weapon that will or is
12 designed to or may readily be converted to expel a projectile
13 by the action of an explosion; the frame or receiver of any
14 such weapon; or any firearm muffler or firearm silencer; and
15 includes any handgun, rifle or shotgun; but shall not include
16 an antique firearm as defined in 18 U.S.C. Section 921(16), a
17 powder-actuated tool or other device designed to be used for
18 construction purposes, an emergency flare or a firearm in
19 permanently inoperable condition;

20 (4) "immediate family member" means a spouse,
21 parent, child, sibling, grandparent, grandchild, great-
22 grandchild, niece, nephew, first cousin, aunt or uncle; and

23 (5) "sale" means the delivery or passing of
24 ownership, possession or control of a firearm for a fee or
25 other consideration, but does not include temporary possession

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1 or control of a firearm provided to a customer by the
2 proprietor of a licensed business in the conduct of that
3 business.

4 ~~[D.]~~ E. Each party to an unlawful sale in violation
5 of this section may be separately charged for the same sale.

6 ~~[E.]~~ F. Each firearm sold contrary to the
7 provisions of this section constitutes a separate offense under
8 Subsection A of this section.

9 ~~[F.]~~ G. Two or more offenses may be charged in the
10 same complaint, information or indictment and shall be punished
11 as separate offenses.

12 ~~[G.]~~ H. Whoever violates the provisions of this
13 section is guilty of a misdemeanor."