

SENATE BILL 8

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

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Pursuant to House Rule 24-1, this document incorporates amendments that have been adopted prior to consideration of this measure by the House. It is a tool to show the amendments in context and is not to be used for the purpose of amendments.

AN ACT

RELATING TO CRIME; REQUIRING A BACKGROUND CHECK WHEN CONDUCTING SALES OF A FIREARM; PROVIDING PENALTIES.

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

SECTION 1. A new section of Chapter 30, Article 7 NMSA 1978 is enacted to read:

"[NEW MATERIAL] 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

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federal instant background check SJC→~~where the sale is made for~~  
~~a fee or other consideration~~←SJC Sf12→. , 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 firearm;

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

(3) a person who holds a current and valid federal firearms license issued pursuant to 18 U.S.C. Section 923(a) may charge a fee not to exceed thirty-five dollars (\$35.00) for conducting a background check pursuant to this section.←Sf12

B. The provisions of Subsection A of this section do not apply to the sale of a firearm:

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

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(2) to a law enforcement agency; Sfl→~~or~~←Sfl

(3) between two law enforcement officers

SJC→authorized to carry a firearm and←SJC certified pursuant

to SJC→federal law or←SJC the Law Enforcement Training Act

SJC→~~and authorized to carry a firearm~~←SJC Sfl→. ; ←Sfl

(4) between immediate family members.

C. As used in this section:

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

Sfl→~~(1)~~ (2)←Sfl "federal instant background check" means a background check that meets the requirements of 18 U.S.C. Section 922(t) and that does not indicate that a sale to the person receiving the firearm would violate 18 U.S.C. Section 922(g) or 18 U.S.C. Section 922(n) or state law;

Sfl→~~(2)~~ (3)←Sfl "firearm" means any weapon that will or is designed to or may readily be converted to expel a projectile by the action of an explosion; the frame or receiver of any such weapon; or any firearm muffler or firearm silencer; and includes any handgun, rifle or shotgun; Sfl→~~and~~  
but shall not include an antique firearm as defined in 18 U.S.C. Section 921(16), a powder-actuated tool or other device designed to be used for construction purposes, an emergency flare or a firearm in permanently inoperable condition;←Sfl

(4) "immediate family member" means a spouse, parent, child, sibling, grandparent, grandchild, great-

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grandchild, niece, nephew, first cousin, aunt or uncle; and

Sf1→~~(3)~~ (5)←Sf1 "sale" means the sale, delivery or passing of ownership, possession or control of a firearm for a fee or other consideration, but does not include temporary possession or control of a firearm provided to a customer by the proprietor of a licensed business in the conduct of that business.

D. Each party to an unlawful sale in violation of this section may be separately charged for the same sale.

E. Each firearm sold contrary to the provisions of this section constitutes a separate offense under Subsection A of this section.

F. Two or more offenses may be charged in the same complaint, information or indictment and shall be punished as separate offenses.

G. Whoever violates the provisions of this section is guilty of a misdemeanor."

**SECTION 2. EFFECTIVE DATE.**--The effective date of the provisions of this act is July 1, 2019.

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