

A BILL TO BE ENTITLED

AN ACT

relating to requiring a national instant criminal background check in connection with certain firearm transfers; creating a criminal offense.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 6, Business & Commerce Code, is amended by adding Chapter 205 to read as follows:

CHAPTER 205. REGULATION OF PRIVATE FIREARM TRANSFERS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 205.001. DEFINITIONS. In this chapter:

(1) "Firearm" has the meaning assigned by Section 46.01, Penal Code.

(2) "Licensed firearms dealer" means a person who is licensed as a firearms dealer under 18 U.S.C. Section 923.

SUBCHAPTER B. NATIONAL INSTANT CRIMINAL BACKGROUND CHECK FOR

PRIVATE FIREARM TRANSFERS

Sec. 205.051. NATIONAL INSTANT CRIMINAL BACKGROUND CHECK REQUIRED FOR PRIVATE TRANSFER OF FIREARM. A person may not sell or otherwise transfer a firearm to another person unless:

(1) the person is a licensed firearms dealer;
(2) the person sells or transfers the firearm to a licensed firearms dealer; or

(3) before the firearm is delivered to the person to whom the firearm is being sold or transferred, the person selling or

1 transferring the firearm delivers the firearm to a licensed
2 firearms dealer to retain possession of the firearm until the
3 dealer conducts a national instant criminal background check in the
4 manner required by 18 U.S.C. Section 922 and verifies that the
5 person to whom the firearm is being sold or transferred may lawfully
6 possess a firearm.

7 Sec. 205.052. DUTIES OF LICENSED FIREARMS DEALER. (a) If a
8 licensed firearms dealer receives a firearm under Section
9 205.051(3), the dealer shall conduct a national instant criminal
10 background check in the manner required by 18 U.S.C. Section 922 to
11 verify that the person to whom the firearm is being sold or
12 transferred may lawfully possess a firearm.

13 (b) If a licensed firearms dealer determines that the person
14 to whom the firearm is being sold or transferred may not lawfully
15 possess a firearm, the dealer shall return the firearm to the person
16 selling or transferring the firearm.

17 (c) If a licensed firearms dealer determines that the person
18 to whom the firearm is being sold or transferred may lawfully
19 possess a firearm, the dealer shall transfer the firearm as
20 directed by the person selling or transferring the firearm.

21 (d) A licensed firearms dealer to whom a firearm is
22 delivered under Section 205.051(3) may collect a reasonable fee
23 from the person who is selling or transferring the firearm.

24 Sec. 205.053. NONAPPLICABILITY. This subchapter does not
25 apply to:

26 (1) a sale or transfer of a firearm to a person
27 licensed to carry a handgun under Subchapter H, Chapter 411,

1 Government Code;

2 (2) a sale or transfer of a firearm to or from:

3 (A) a law enforcement agency or law enforcement
4 officer for law enforcement purposes;

5 (B) a member of the United States armed forces or
6 National Guard in the discharge of official duties; or

7 (C) a security officer who holds a security
8 officer commission under Chapter 1702, Occupations Code, and who is
9 acting within the course and scope of official duties;

10 (3) a sale or transfer of a firearm by the owner of the
11 firearm if the transferor and the transferee are related within the
12 third degree by consanguinity or within the second degree by
13 affinity as determined under Chapter 573, Government Code, and if
14 the transferor does not have any reason to believe that:

15 (A) local, state, or federal law prohibits the
16 transferee from purchasing or possessing a firearm; or

17 (B) the transferee is likely to use the firearm
18 for an unlawful purpose;

19 (4) a temporary transfer of a firearm that is
20 reasonably necessary to prevent imminent death or bodily harm,
21 including harm to self or another person, if the transferee
22 possesses the firearm only to the extent reasonably necessary to
23 prevent the imminent death or bodily harm;

24 (5) a sale or transfer of a firearm that is an antique,
25 curio, or relic;

26 (6) a transfer of a firearm that is authorized by
27 Section 5812 of the Internal Revenue Code of 1986 (26 U.S.C. Section

1 5812);

2 (7) a transfer of a firearm to or from a gunsmith for
3 the purpose of service or repair; or

4 (8) a temporary loan of a firearm to a person:

5 (A) while in the presence of the transferor;

6 (B) on the premises of a sport shooting range, as
7 defined by Section 250.001, Local Government Code, and solely for
8 the purpose of shooting at lawful targets at the range;

9 (C) for the purpose of lawful hunting or
10 sporting, or for any other lawful recreational activity; or

11 (D) at a lawful competition involving the use of
12 a firearm.

13 Sec. 205.054. OFFENSE. A person who violates this
14 subchapter commits an offense. An offense under this section is a
15 Class B misdemeanor. Each firearm sold or transferred in violation
16 of this subchapter constitutes a separate offense.

17 SECTION 2. This Act takes effect September 1, 2023.