

By: Blanco

S.B. No. 163

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. EXCEPTION. This subchapter does not apply
25 to:

26 (1) a transfer of a firearm to a person by inheritance
27 or bequest on the death of the owner of the firearm; or

1 (2) a sale or other transfer of a firearm by the owner
2 of the firearm if the transferor and the transferee are related
3 within the third degree by consanguinity or within the second
4 degree by affinity as determined under Chapter 573, Government
5 Code.

6 Sec. 205.054. OFFENSE. A person who violates this
7 subchapter commits an offense. An offense under this section is a
8 Class A misdemeanor.

9 SECTION 2. This Act takes effect September 1, 2021.