88R1871 AJZ-D

By:  Eckhardt S.B. No. 370

A BILL TO BE ENTITLED

AN ACT

relating to requiring a national instant criminal background check in connection with private 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. REGULATION OF PRIVATE FIREARM TRANSFERS

Sec. 205.051.  REQUIREMENTS FOR PRIVATE FIREARM TRANSFER; OFFENSE. (a) A person may not sell or otherwise transfer a firearm to another person unless:

(1)  the person is a licensed firearms dealer; or

(2)  the person is not a licensed firearms dealer, and:

(A)  the person sells or transfers the firearm to a licensed firearms dealer;

(B)  the transferor and the transferee are related within the first degree by consanguinity or affinity as determined under Chapter 573, Government Code; or

(C)  before delivering the firearm to the person to whom the firearm is being sold or transferred, the person selling or transferring the firearm requests that a licensed firearms dealer conduct, in the manner required by 18 U.S.C. Section 922, a national instant criminal background check to verify that the person to whom the firearm is being sold or transferred may lawfully possess a firearm.

(b)  A person who violates this section commits an offense. An offense under this section is a Class A misdemeanor.

Sec. 205.052.  DUTIES OF LICENSED FIREARMS DEALER. (a) If a licensed firearms dealer receives a request to conduct a national instant criminal background check under Section 205.051(a)(2)(C), the dealer shall:

(1)  in the manner required by 18 U.S.C. Section 922, conduct the criminal background check to verify that the person to whom the firearm is being sold or transferred may lawfully possess a firearm; and

(2)  notify the person who is selling or transferring the firearm of the results of the criminal background check.

(b)  A licensed firearms dealer who performs a national instant criminal background check under this section may collect a reasonable fee from the person who requests the criminal background check.

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