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

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

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

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

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

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

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

(2) a sale or transfer of a firearm to or from:
   (A) a law enforcement agency or law enforcement officer for law enforcement purposes;
   (B) a member of the United States armed forces or National Guard in the discharge of official duties; or
   (C) a security officer who holds a security officer commission under Chapter 1702, Occupations Code, and who is acting within the course and scope of official duties;

(3) a sale or transfer of a firearm by the owner of the firearm if the transferor and the transferee are related within the third degree by consanguinity or within the second degree by affinity as determined under Chapter 573, Government Code, and if the transferor does not have any reason to believe that:
   (A) local, state, or federal law prohibits the transferee from purchasing or possessing a firearm; or
   (B) the transferee is likely to use the firearm for an unlawful purpose;

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

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

(6) a transfer of a firearm that is authorized by Section 5812 of the Internal Revenue Code of 1986 (26 U.S.C. Section
(7) a transfer of a firearm to or from a gunsmith for the purpose of service or repair; or

(B) a temporary loan of a firearm to a person:

(A) while in the presence of the transferor;

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

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

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

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

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