

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

1 under Chapter 573, Government Code; or

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

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

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

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

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

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

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