By: Meza

H.B. No. 461

## A BILL TO BE ENTITLED 1 AN ACT 2 relating to the regulation of certain firearm transfers; creating 3 criminal offenses. BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS: 4 5 SECTION 1. Title 6, Business & Commerce Code, is amended by adding Chapter 205 to read as follows: 6 CHAPTER 205. REGULATION OF FIREARM TRANSFERS 7 SUBCHAPTER A. GENERAL PROVISIONS 8 Sec. 205.001. DEFINITIONS. In this chapter: 9 (1) "Department" means the Department of Public 10 11 Safety. 12 (2) "Firearm" has the meaning assigned by Section 13 46.01, Penal Code. 14 (3) "Licensed firearms dealer" means a person who is licensed as a firearms dealer under 18 U.S.C. Section 923. 15 SUBCHAPTER B. REGULATION OF PRIVATE FIREARM TRANSFERS 16 Sec. 205.051. DOCUMENTATION OF PRIVATE FIREARM TRANSFERS. 17 (a) The department by rule shall adopt a form to document the sale 18 or other transfer of a firearm by a person who is not a licensed 19 20 firearms dealer. 21 (b) The form adopted under Subsection (a) must include: (1) the name, driver's license or personal 22 23 identification certificate number, if any, and contact information 24 of the person selling or transferring the firearm;

1

	H.B. No. 461
1	(2) the name, driver's license or personal
2	identification certificate number, if any, and contact information
3	of the person to whom the firearm is being sold or transferred;
4	(3) the type of firearm and serial number of the
5	firearm being sold or transferred; and
6	(4) any other information the department considers
7	necessary to document the sale or transfer.
8	Sec. 205.052. DOCUMENTATION REQUIREMENTS FOR PRIVATE
9	FIREARM TRANSFERS. (a) Except as provided by Subsection (b), a
10	person may not sell or otherwise transfer a firearm to another
11	person unless the person is a licensed firearms dealer.
12	(b) Subject to Section 205.053, a person who is not a
13	licensed firearms dealer may sell or otherwise transfer a firearm
14	to another person only if the transferor:
15	(1) documents the transfer on the form adopted by the
16	department under Section 205.051; and
17	(2) submits the form described by Subdivision (1) to
18	the department not later than the 30th day after the date of the
19	transfer.
20	(c) A person who violates this section commits an offense.
21	An offense under this section is a Class C misdemeanor.
22	Sec. 205.053. VOLUME LIMITATIONS ON PRIVATE FIREARM
23	TRANSFERS. (a) A person may not sell or otherwise transfer more
24	than five firearms to one or more persons each year unless the
25	transferor is a licensed firearms dealer.
26	(b) A person who violates this section commits an offense.
27	An offense under this section is a Class C misdemeanor.

2

H.B. No. 461

1	(c) This section does not apply to:
2	(1) a transfer of a firearm to a person by inheritance
3	or bequest on the death of the owner of the firearm; or
4	(2) a sale or other transfer of a firearm by the owner
5	of the firearm if the transferor and the transferee are related
6	within the third degree by consanguinity or within the second
7	degree by affinity, as determined under Chapter 573, Government
8	<u>Code.</u>
9	SUBCHAPTER C. NATIONAL INSTANT CRIMINAL BACKGROUND CHECK FOR
10	PRIVATE TRANSFER OF FIREARMS
11	Sec. 205.101. NATIONAL INSTANT CRIMINAL BACKGROUND CHECK
12	REQUIRED FOR PRIVATE TRANSFER OF FIREARMS. A person may not sell or
13	otherwise transfer a firearm to another person unless:
14	(1) the person is a licensed firearms dealer;
15	(2) the person transfers the firearm to a licensed
16	firearms dealer; or
17	(3) before the firearm is delivered to the person to
18	whom the firearm is being transferred, the person transferring the
19	firearm delivers the firearm to a licensed firearms dealer to
20	retain possession of the firearm until the dealer conducts a
21	national instant criminal background check in the manner required
22	by 18 U.S.C. Section 922 and verifies that the proposed transferee
23	may lawfully possess a firearm.
24	Sec. 205.102. DUTIES OF LICENSED FIREARMS DEALER. (a) If a
25	licensed firearms dealer receives a firearm under Section
26	205.101(3), the dealer shall conduct a national instant criminal
27	background check in the manner required by 18 U.S.C. Section 922 to

3

1	verify that the person to whom the firearm is being transferred may
2	lawfully possess the firearm. The transfer may not occur until the
3	dealer completes the background check required by this subchapter.
4	(b) If a licensed firearms dealer determines that the
5	proposed transferee may not lawfully possess a firearm, the dealer
6	shall return the firearm to the person who delivered the firearm to
7	the dealer under Section 205.101(3).
8	(c) A licensed firearms dealer to whom a firearm is
9	delivered under Section 205.101(3) may collect a reasonable fee
10	from the person who delivered the firearm to the dealer.
11	
± ±	Sec. 205.103. OFFENSE. A person who violates this
12	subchapter commits an offense. An offense under this section is a
	<b>_</b>

H.B. No. 461