

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO CRIME; REQUIRING A BACKGROUND CHECK WHEN CONDUCTING SALES OF A FIREARM; PROVIDING PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of Chapter 30, Article 7 NMSA 1978 is enacted to read:

"[NEW MATERIAL] UNLAWFUL SALE OF A FIREARM WITHOUT A BACKGROUND CHECK.--

A. Unlawful sale of a firearm without a background check consists of the completion of a sale of a firearm without conducting a federal instant background check where the sale proceeds from an advertisement or is otherwise made for a fee or other consideration.

B. The provisions of Subsection A of this section do not apply to the sale of a firearm:

.211083.1

underscored material = new
~~[bracketed material] = delete~~

1 (1) by or to a person who holds a current and
2 valid federal firearms license issued pursuant to 18 U.S.C.
3 Section 923(a);

4 (2) by or to a law enforcement agency; or

5 (3) between two law enforcement officers
6 certified pursuant to the Law Enforcement Training Act and
7 authorized to carry a firearm.

8 C. As used in this section:

9 (1) "advertisement" means all representations
10 disseminated in any manner or by any means, for the purpose of
11 inducing, or that are likely to induce, directly or indirectly,
12 the purchase of one or more firearms from the specified seller;

13 (2) "federal instant background check" means a
14 background check that meets the requirements of 18 U.S.C.
15 Section 922(t) and confirms that a sale to the person receiving
16 the firearm would not violate 18 U.S.C. Section 922(g) or 18
17 U.S.C. Section 922(n) or state law;

18 (3) "firearm" means any weapon that will or is
19 designed to or may readily be converted to expel a projectile
20 by the action of an explosion; the frame or receiver of any
21 such weapon; or any firearm muffler or firearm silencer; and
22 includes any handgun, rifle or shotgun; and

23 (4) "sale" means the sale, delivery or passing
24 of ownership, possession or control of a firearm for a fee or
25 other consideration, but does not include temporary possession

underscoring material = new
~~[bracketed material] = delete~~

1 or control of a firearm provided to a customer by the
2 proprietor of a licensed business in the conduct of that
3 business.

4 D. Each party to an unlawful sale in violation of
5 this section may be separately charged for the same sale.

6 E. Each firearm sold contrary to the provisions of
7 this section constitutes a separate offense under Subsection A
8 of this section.

9 F. Two or more offenses may be charged in the same
10 complaint, information or indictment and shall be punished as
11 separate offenses.

12 G. Whoever violates the provisions of this section
13 is guilty of:

- 14 (1) for a first offense, a misdemeanor; and
- 15 (2) for a second or subsequent offense, a
16 fourth degree felony."

17 SECTION 2. EFFECTIVE DATE.--The effective date of the
18 provisions of this act is July 1, 2019.