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2 FIREARMS BACKGROUND CHECKS – DISCUSSION DRAFT AUGUST 7, 2018  
3 54TH LEGISLATURE – STATE OF NEW MEXICO – FIRST SESSION, 2019  
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5

6 AN ACT

7 RELATING TO CRIME; REQUIRING A BACKGROUND CHECK ON THE SALE OF A FIREARM;  
8 PROVIDING PENALTIES  
9

10 BE IT ENACTED BY THE LEGISLATURE OF NEW MEXICO:

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

12 "[NEW MATERIAL] UNLAWFUL SALE OF A FIREARM.--

13 A. Unlawful sale of a firearm consists of the sale of a firearm without  
14 conducting a federal instant background check where the sale is made for a fee or other  
15 consideration. As used in this subsection, "sale" means the sale, delivery or passing of  
16 ownership, possession or control of a firearm for a fee or other consideration, but does not  
17 include temporary possession or control of a firearm provided to a customer by the  
18 proprietor of a licensed business in the conduct of that business.

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

21 (1) to a person who holds a federal firearms license issued pursuant  
22 to 18 U.S.C. Section 923(a);

23 (2) between two law enforcement officers who are certified  
24 pursuant to the Law Enforcement Training Act and authorized to carry firearms; and

25 (3) to a law enforcement agency of the state or a political  
26 subdivision of the state.

27 C. As used in this section,

28 (1) "federal instant background check" means a background check  
29 that meets the requirements of 18 U.S.C. Section 922(t) and which does not indicate that a  
30 sale to the person receiving the firearm would violate 18 U.S.C. Sections(g) or (n) or state  
31 law; and

32 (2) "firearm" means any weapon that will or is designed to or may  
33 readily be converted to expel a projectile by the action of an explosion; the frame or receiver  
34 of any such weapon; or any firearm muffler or firearm silencer; and includes any handgun,  
35 rifle or shotgun.

36 D. Each party to an unlawful sale in violation of this section may be  
37 separately charged for the same sale. Each firearm sold contrary to the provisions of this  
38 section constitutes a separate offense. Two or more offenses may be charged in the same  
39 complaint, information or indictment and shall be punished as separate offenses.

40 E. Whoever violates the provisions of this section is guilty of:

41 (1) for a first offense, a misdemeanor; and

42 (2) for a second or subsequent offense, a fourth degree felony.

43 Section 2. EFFECTIVE DATE -- The effective date of the provisions of this act is  
44 July 1, 2019."