

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 129

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO CRIME; CREATING THE CRIME OF UNLAWFUL SALE OF A FIREARM BEFORE THE REQUIRED WAITING PERIOD ENDS; REQUIRING A Hf11→~~FOURTEEN-DAY~~←Hf11 Hf11→SEVEN-DAY←Hf11 WAITING PERIOD WHEN CONDUCTING THE SALE OF A FIREARM; PROVIDING AN EXCEPTION; PRESCRIBING PENALTIES.

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

SECTION 1. A new Section 30-7-7.3 NMSA 1978 is enacted to

.227701.2AIC February 8, 2024 (2:35pm)

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read:

"30-7-7.3. [NEW MATERIAL] UNLAWFUL SALE OF A FIREARM BEFORE REQUIRED WAITING PERIOD ENDS.--

A. SJC→~~In addition to the crime created in Section 30-7-7.1 NMSA 1978, a required~~←SJC SJC→A←SJC waiting period of Hf11→~~fourteen~~←Hf11 Hf11→seven←Hf11 calendar days shall be required for the sale of a firearm and the transfer of the firearm to the buyer. The Hf11→~~fourteen-calendar-day~~←Hf11 Hf11→seven-calendar-day←Hf11 waiting period shall include the period required to conduct a federal instant background check; provided that, if the Hf11→~~fourteen-calendar-day~~←Hf11 Hf11→seven-calendar-day←Hf11 waiting period has expired without the completion of a required federal instant background check, the seller shall not transfer the firearm to the buyer until the federal instant background check is completed.

Sf11→SJC→~~If the required federal instant background check has not been completed within thirty days, the seller may transfer the firearm to the buyer.~~←SJC←Sf11 Sf11→If the required federal instant background check has not been completed within twenty days, the seller may transfer the firearm to the buyer.←Sf11

SJC→B. ~~The firearm shall remain in the custody of the seller during the entirety of the waiting period.~~←SJC

SJC→B. The firearm shall remain in the custody of the seller or the federal firearms licensee performing the

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federal instant background check during the entirety of the waiting period. ←SJC

C. Unlawful sale of a firearm before the required waiting period ends consists of the transfer of ownership, possession or physical control of the firearm from the seller to the buyer before the end of the required Hf11 → fourteen-calendar-day ←Hf11 Hf11 → seven-calendar-day ←Hf11 waiting period SJC → or, if required, before the completion of the required federal instant background check ←SJC , but does not include temporary possession or control of a firearm provided to a customer by the proprietor of a licensed business in the conduct of that business.

D. Each party to an unlawful sale of a firearm before the required waiting period ends is in violation of this section and may be separately charged for the same sale.

E. Each firearm sold contrary to the provisions of this section constitutes a separate offense under Subsection C of this section.

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

G. Whoever violates the provisions of this section is guilty of a misdemeanor.

SJC → ~~H. Records of firearm sales shall be made~~

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~~available by the seller for inspection upon request of a law enforcement agency.~~

~~I. The provisions of this section do not apply to the sale of a firearm between immediate family members.~~ ←SJC

SJC→ SJC→G.←SJC SJC→H.←SJC The provisions of this section do not apply to the sale of a firearm:

(1) to a buyer who holds a valid federal firearms license;

(2) to a buyer who holds a valid New Mexico concealed handgun license pursuant to the Concealed Handgun Carry Act;

(3) to a law enforcement agency;

(4) between two law enforcement officers authorized to carry a firearm and certified pursuant to federal law or the Law Enforcement Training Act; or

(5) between immediate family members. ←SJC

SJC→J.←SJC SJC→I.←SJC As used in this section:

(1) "firearm" means any weapon that will or is designed to or may readily be converted to expel a projectile by the action of an explosion; the frame or receiver of any such weapon; SJC→~~or any firearm muffler or firearm silencer;~~←SJC and includes any handgun, rifle or shotgun; but shall not include an antique firearm as defined in 18 U.S.C. Section 921(16), a powder-actuated tool or other device

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designed to be used for construction purposes, an emergency flare or a firearm in permanently inoperable condition; and

(2) "immediate family member" means a spouse, a parent, a child, a sibling, a grandparent, a grandchild, a great-grandchild, a niece, a nephew, a first cousin, an aunt or an uncle."

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