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AN ACT

RELATING TO CRIME; CREATING THE CRIME OF UNLAWFUL SALE OF A  
FIREARM BEFORE THE REQUIRED WAITING PERIOD ENDS; REQUIRING A  
SEVEN-DAY 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 read:

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

A. A waiting period of seven calendar days shall  
be required for the sale of a firearm and the transfer of the  
firearm to the buyer. The seven-calendar-day waiting period  
shall include the period required to conduct a federal  
instant background check; provided that, if the seven-  
calendar-day 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. If the  
required federal instant background check has not been  
completed within twenty days, the seller may transfer the  
firearm to the buyer.

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

1 federal instant background check during the entirety of the  
2 waiting period.

3 C. Unlawful sale of a firearm before the required  
4 waiting period ends consists of the transfer of ownership,  
5 possession or physical control of the firearm from the seller  
6 to the buyer before the end of the required seven-calendar-  
7 day waiting period, but does not include temporary possession  
8 or control of a firearm provided to a customer by the  
9 proprietor of a licensed business in the conduct of that  
10 business.

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

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

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

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

22 H. The provisions of this section do not apply to  
23 the sale of a firearm:

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

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

4 (3) to a law enforcement agency;

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

8 (5) between immediate family members.

9 I. As used in this section:

10 (1) "firearm" means any weapon that will or  
11 is designed to or may readily be converted to expel a  
12 projectile by the action of an explosion; the frame or  
13 receiver of any such weapon; and includes any handgun, rifle  
14 or shotgun; but shall not include an antique firearm as  
15 defined in 18 U.S.C. Section 921(16), a powder-actuated tool  
16 or other device designed to be used for construction  
17 purposes, an emergency flare or a firearm in permanently  
18 inoperable condition; and

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