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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:

"UNLAWFUL SALE OF A FIREARM WITHOUT A BACKGROUND
CHECK.--

A. Unlawful sale of a firearm without a background
check consists of the sale of a firearm without conducting a
federal instant background check subject to the following:

(1) if the buyer of a firearm is not a
natural person, then each natural person who is authorized by
the buyer to possess the firearm after the sale shall undergo
a federal instant background check before taking possession
of the firearm;

(2) a prospective firearm seller who does
not hold a current and valid federal firearms license issued
pursuant to 18 U.S.C. Section 923(a) shall arrange for a
person who does hold that license to conduct the federal
instant background check. A federal firearms licensee shall
not unreasonably refuse to perform a background check
pursuant to this paragraph; and

(3) a person who holds a current and valid

1 federal firearms license issued pursuant to 18 U.S.C. Section
2 923(a) may charge a fee not to exceed thirty-five dollars
3 (\$35.00) for conducting a background check pursuant to this
4 section."

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

7 (1) by or to a person who holds a current
8 and valid federal firearms license issued pursuant to
9 18 U.S.C. Section 923(a);

10 (2) to a law enforcement agency;

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

14 (4) between immediate family members.

15 C. As used in this section:

16 (1) "consideration" means anything of value
17 exchanged between the parties to a sale;

18 (2) "federal instant background check" means
19 a background check that meets the requirements of 18 U.S.C.
20 Section 922(t) and that does not indicate that a sale to the
21 person receiving the firearm would violate 18 U.S.C. Section
22 922(g) or 18 U.S.C. Section 922(n) or state law;

23 (3) "firearm" means any weapon that will or
24 is designed to or may readily be converted to expel a
25 projectile by the action of an explosion; the frame or

1 receiver of any such weapon; or any firearm muffler or
2 firearm silencer; and includes any handgun, rifle or shotgun;
3 but shall not include an antique firearm as defined in
4 18 U.S.C. Section 921(16), a powder-actuated tool or other
5 device designed to be used for construction purposes, an
6 emergency flare or a firearm in permanently inoperable
7 condition;

8 (4) "immediate family member" means a
9 spouse, parent, child, sibling, grandparent, grandchild,
10 great-grandchild, niece, nephew, first cousin, aunt or uncle;
11 and

12 (5) "sale" means the sale, delivery or
13 passing of ownership, possession or control of a firearm for
14 a fee or other consideration, but does not include temporary
15 possession or control of a firearm provided to a customer by
16 the proprietor of a licensed business in the conduct of that
17 business.

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

20 E. Each firearm sold contrary to the provisions of
21 this section constitutes a separate offense under Subsection
22 A of this section.

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

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

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