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SENATE BILL 48

**53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

INTRODUCED BY

Richard C. Martinez and Peter Wirth

AN ACT

RELATING TO CRIME; REQUIRING CRIMINAL BACKGROUND CHECKS ON GUN  
TRANSFERS BETWEEN CERTAIN PERSONS; PROVIDING EXCEPTIONS;  
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] FIREARM TRANSFERS BETWEEN UNLICENSED  
PERSONS--BACKGROUND CHECKS.--

A. Except as provided in Subsection D of this  
section, an unlicensed person who transfers a firearm to or  
receives a firearm from another unlicensed person shall comply  
with the provisions of this section.

B. Before unlicensed persons transfer a firearm  
between them, the transferor and the transferee shall appear

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1 together with the firearm to be transferred at a firearm dealer  
2 and request that the firearm dealer facilitate the transfer.

3 If the firearm dealer agrees to facilitate the transfer, the  
4 dealer shall process the transfer using the same procedures and  
5 complying with all federal and state laws that would apply if  
6 the dealer transferred the firearm from the dealer's own  
7 inventory to the transferee. The transferor and transferee  
8 shall complete and sign all forms required by state and federal  
9 law to process the transferee's background check and to  
10 complete the transfer. The firearm dealer shall indicate on  
11 the forms that the transfer is between unlicensed persons and  
12 may charge a reasonable fee for facilitating the transfer.

13 C. If the results of a transferee's background  
14 check indicate that the transferee is prohibited by federal or  
15 state law from possessing or receiving a firearm, the firearm  
16 shall not be transferred to the transferee by the firearm  
17 dealer or the transferor, but the transferor may remove the  
18 firearm from the premises of the firearm dealer.

19 D. The provisions of this section do not apply to  
20 the transfer of a firearm:

- 21 (1) between family members;  
22 (2) by or to a firearm dealer;  
23 (3) by or to a law enforcement agency;  
24 (4) by or to a law enforcement officer, a  
25 member of the armed forces or a level three security guard

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1 licensed pursuant to Section 61-27B-15 NMSA 1978, if the  
2 officer, member or security guard is acting within the course  
3 and scope of employment and official duties;

4 (5) to an executor, administrator, trustee or  
5 personal representative of an estate or trust, which transfer  
6 occurs by operation of law upon the death of the owner of the  
7 firearm;

8 (6) that is temporarily transferred to a  
9 person who is not prohibited from possessing or receiving  
10 firearms by federal or state law if:

11 (a) the transfer is necessary to prevent  
12 imminent death or great bodily harm; and

13 (b) the transfer lasts only as long as  
14 necessary to prevent such imminent death or great bodily harm;  
15 or

16 (7) that is temporarily transferred to a  
17 person who is not prohibited from possessing or receiving  
18 firearms by federal or state law if the transfer and the  
19 transferee's possession of the firearm take place exclusively:

20 (a) at a shooting range authorized by  
21 the governing body of the jurisdiction in which the range is  
22 located or, if no such authorization is required, operated  
23 consistently with local law in the jurisdiction;

24 (b) while hunting or trapping if the  
25 hunting or trapping is legal in all places where the transferee

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1 possesses the firearm and the transferee holds all licenses and  
2 permits required for such hunting or trapping;

3 (c) at a lawful and organized  
4 competition involving the use of a firearm or for participation  
5 in or practice for a performance by an organized group that  
6 uses firearms as part of the performance; or

7 (d) in the presence of the transferor.

8 E. An unlicensed person who violates the provisions  
9 of this section shall be guilty of:

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

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

13 F. As used in this section:

14 (1) "background check" means the process  
15 described in 18 U.S.C. Section 922(t) that uses the national  
16 instant criminal background check system to determine whether a  
17 person is prohibited from possessing or receiving firearms  
18 under federal or state law;

19 (2) "family member" means:

20 (a) a spouse; or

21 (b) a parent, child, sibling,  
22 grandparent or grandchild, whether by consanguinity, adoption  
23 or step-relation;

24 (3) "firearm" means any weapon that will or is  
25 designed to or may readily be converted to expel a projectile

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1 by the action of an explosion;

2 (4) "firearm dealer" means a person who holds  
3 a federal firearms license issued pursuant to 18 U.S.C. Section  
4 923(a);

5 (5) "person" means an individual, corporation,  
6 trust, company, firm, partnership, association, club,  
7 organization, society, joint stock company or other legal  
8 entity;

9 (6) "transfer" means to sell, furnish, give,  
10 lend, deliver or otherwise provide, with or without  
11 consideration;

12 (7) "transferee" means an unlicensed person  
13 who intends to receive a firearm from another unlicensed  
14 person;

15 (8) "transferor" means an unlicensed person  
16 who intends to transfer a firearm to another unlicensed person;  
17 and

18 (9) "unlicensed person" means a person who is  
19 not a firearm dealer."

20 SECTION 2. EFFECTIVE DATE.--The effective date of the  
21 provisions of this act is July 1, 2017.

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