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HOUSE BILL 8

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

Debra M. Sariñana

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:

"[NEW MATERIAL] 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 where the sale is made for a
fee or other consideration.

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

(1) by or to a person who holds a current and

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1 valid federal firearms license issued pursuant to 18 U.S.C.
2 Section 923(a);

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

7 C. As used in this section:

8 (1) "federal instant background check" means a
9 background check that meets the requirements of 18 U.S.C.
10 Section 922(t) and that does not indicate that a sale to the
11 person receiving the firearm would violate 18 U.S.C. Section
12 922(g) or 18 U.S.C. Section 922(n) or state law;

13 (2) "firearm" means any weapon that will or is
14 designed to or may readily be converted to expel a projectile
15 by the action of an explosion; the frame or receiver of any
16 such weapon; or any firearm muffler or firearm silencer; and
17 includes any handgun, rifle or shotgun; and

18 (3) "sale" means the sale, delivery or passing
19 of ownership, possession or control of a firearm for a fee or
20 other consideration, but does not include temporary possession
21 or control of a firearm provided to a customer by the
22 proprietor of a licensed business in the conduct of that
23 business.

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

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

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