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

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 seven-calendar-
day waiting period, 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.

H. 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;
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.

I. 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; 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 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."