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HOUSE BILL 396

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

W. Ken Martinez

FOR THE COURTS AND CRIMINAL JUSTICE COMMITTEE

AN ACT

RELATING TO FIREARMS; ENACTING THE GUN VIOLENCE PREVENTION ACT; PROVIDING FOR CRIMINAL BACKGROUND CHECKS WHEN FIREARMS ARE TRANSFERRED AT GUN SHOWS; PROVIDING PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE. -- This act may be cited as the "Gun Violence Prevention Act".

Section 2. DEFINITIONS. -- As used in the Gun Violence Prevention Act:

A. "firearm" means a handgun, rifle, shotgun or any other weapon that is designed to expel a projectile by action of an explosion;

B. "gun show" means the entire premises provided for an event or function, including parking areas for the event or function, that is sponsored to facilitate, in whole

1 or in part, the purchase, sale, offer for sale or collection
2 of firearms at which:

3 (1) twenty-five or more firearms are offered
4 or exhibited for sale, transfer or exchange; or

5 (2) three or more gun show vendors exhibit,
6 sell, offer for sale, transfer or exchange firearms;

7 C. "gun show promoter" means a person who
8 organizes or operates a gun show;

9 D. "gun show vendor" means a person who exhibits,
10 sells, offers for sale, transfers or exchanges a firearm at a
11 gun show, regardless of whether the person arranges with a gun
12 show promoter for a fixed location from which to exhibit,
13 sell, offer for sale, transfer or exchange a firearm; and

14 E. "licensed firearms dealer" means a person who
15 is a federally licensed firearms dealer, as provided in
16 18 USCA Sections 921 and 923, as amended.

17 Section 3. BACKGROUND CHECKS AT GUN SHOWS--PENALTY.--

18 A. Before a gun show vendor transfers or attempts
19 to transfer a firearm at a gun show, he shall require the
20 performance of a criminal background check on the prospective
21 transferee.

22 B. A gun show promoter shall arrange for the
23 services of one or more licensed firearms dealers on the
24 premises of a gun show to perform the criminal background
25 check required pursuant to Subsection A of this section.

underscored material = new
[bracketed material] = delete

1 C. A person who fails to comply with the
2 provisions of Subsection A or Subsection B of this section is
3 guilty of a petty misdemeanor and upon conviction shall be
4 sentenced pursuant to the provisions of Section 31-19-1 NMSA
5 1978. Upon a third or subsequent conviction, the person is
6 guilty of a fourth degree felony and shall be sentenced
7 pursuant to the provisions of Section 31-18-15 NMSA 1978.

8 Section 4. POSTED NOTICE--PENALTY.--

9 A. A gun show promoter shall post, in a prominent
10 location, a notice that sets forth the requirements for a
11 criminal background check, as provided in the Gun Violence
12 Prevention Act.

13 B. The form of the notice shall be prescribed by
14 the secretary of public safety or his designee.

15 C. A person who fails to comply with the
16 provisions of Subsection A of this section is guilty of a
17 petty misdemeanor and upon conviction shall be sentenced
18 pursuant to the provisions of Section 31-19-1 NMSA 1978.

19 Section 5. RETENTION OF RECORDS--PENALTY.--

20 A. A licensed firearms dealer who conducts a
21 criminal background check on a prospective transferee shall
22 record the transfer of the firearm and retain the records in
23 the same manner as when he conducts a sale, rental or exchange
24 of a firearm at retail.

25 B. A person who fails to comply with the

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[bracketed material] = delete

1 provisions of Subsection A of this section is guilty of a
2 petty misdemeanor and upon conviction shall be sentenced
3 pursuant to the provisions of Section 31-19-1 NMSA 1978.

4 Section 6. FEES. -- For each background check conducted at
5 a gun show, a licensed firearms dealer may charge a fee not to
6 exceed fifteen dollars (\$15.00).

7 Section 7. EXCEPTIONS. -- The provisions of the Gun
8 Violence Prevention Act shall not apply to the transfer of:

9 A. an antique firearm, as defined in 18 USCA
10 Section 921, as amended; or

11 B. a curio or relic, as defined in 27 C. F. R.
12 Section 178.11, as amended.

13 Section 8. EFFECTIVE DATE. -- The effective date of the
14 provisions of this act is July 1, 2001.