

1 HOUSE BILL 100  
2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**  
3 INTRODUCED BY  
4 Andrea Romero and Linda Serrato  
5  
6  
7  
8  
9

10 AN ACT

11 RELATING TO FIREARMS; REQUIRING A FOURTEEN-DAY WAITING PERIOD  
12 BEFORE COMPLETION OF A SALE OF A FIREARM.  
13

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

15 SECTION 1. Section 30-7-7.1 NMSA 1978 (being Laws 2019,  
16 Chapter 45, Section 1) is amended to read:

17 "30-7-7.1. UNLAWFUL SALE OF A FIREARM WITHOUT A  
18 BACKGROUND CHECK.--

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

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

.222971.1

underscored material = new  
[bracketed material] = delete

1 firearm;

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

9 (3) a person who holds a current and valid  
10 federal firearms license issued pursuant to 18 U.S.C. Section  
11 923(a) may charge a fee not to exceed thirty-five dollars  
12 (\$35.00) for conducting a background check pursuant to this  
13 section.

14 B. Ownership, possession or control of a firearm  
15 shall not be transferred to the buyer earlier than fourteen  
16 calendar days after submission of the federal instant  
17 background check.

18 [~~B.~~] C. The provisions of [~~Subsection~~] Subsections  
19 A and B of this section do not apply to the sale of a firearm:

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

23 (2) to a law enforcement agency;

24 (3) between two law enforcement officers  
25 authorized to carry a firearm and certified pursuant to federal

.222971.1

underscoring material = new  
~~[bracketed material] = delete~~

1 law or the Law Enforcement Training Act; or

2 (4) between immediate family members.

3 ~~[G-]~~ D. As used in this section:

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

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

11 (3) "firearm" means any weapon that will or is  
12 designed to or may readily be converted to expel a projectile  
13 by the action of an explosion; the frame or receiver of any  
14 such weapon; or any firearm muffler or firearm silencer; and  
15 includes any handgun, rifle or shotgun; but shall not include  
16 an antique firearm as defined in 18 U.S.C. Section 921(16), a  
17 powder-actuated tool or other device designed to be used for  
18 construction purposes, an emergency flare or a firearm in  
19 permanently inoperable condition;

20 (4) "immediate family member" means a spouse,  
21 parent, child, sibling, grandparent, grandchild, great-  
22 grandchild, niece, nephew, first cousin, aunt or uncle; and

23 (5) "sale" means the delivery or passing of  
24 ownership, possession or control of a firearm for a fee or  
25 other consideration, but does not include temporary possession

.222971.1

underscoring material = new  
~~[bracketed material] = delete~~

1 or control of a firearm provided to a customer by the  
2 proprietor of a licensed business in the conduct of that  
3 business.

4 ~~[D.]~~ E. Each party to an unlawful sale in violation  
5 of this section may be separately charged for the same sale.

6 ~~[E.]~~ F. Each firearm sold contrary to the  
7 provisions of this section constitutes a separate offense under  
8 Subsection A of this section.

9 ~~[F.]~~ G. Two or more offenses may be charged in the  
10 same complaint, information or indictment and shall be punished  
11 as separate offenses.

12 ~~[G.]~~ H. Whoever violates the provisions of this  
13 section is guilty of a misdemeanor."