

REFERENCE TITLE: **firearm sales; transfers; background checks**

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

HB 2091

Introduced by
Representative Friese

AN ACT

AMENDING TITLE 13, CHAPTER 31, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-3122; RELATING TO FIREARMS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 13, chapter 31, Arizona Revised Statutes, is amended
3 by adding section 13-3122, to read:

4 13-3122. Licensed firearm dealer sales or transfers: background
5 checks; exceptions; classification

6 A. A PERSON MAY NOT SELL OR TRANSFER A FIREARM UNLESS THE PERSON IS A
7 LICENSED FIREARMS DEALER, THE PURCHASER OR TRANSFEREE IS A LICENSED FIREARMS
8 DEALER OR A LICENSED FIREARMS DEALER FACILITATES THE TRANSFER PURSUANT TO
9 SUBSECTION B OF THIS SECTION.

10 B. IF NEITHER PARTY TO A PROSPECTIVE FIREARMS SALE OR TRANSFER IS A
11 LICENSED FIREARMS DEALER, THE PARTIES TO THE TRANSACTION SHALL COMPLETE THE
12 SALE OR TRANSFER THROUGH A LICENSED FIREARMS DEALER IN THE FOLLOWING MANNER:

13 1. THE SELLER OR OTHER TRANSFEROR SHALL DELIVER THE FIREARM TO THE
14 DEALER WHO SHALL RETAIN POSSESSION OF THE FIREARM UNTIL ALL LEGAL
15 REQUIREMENTS FOR THE SALE OR TRANSFER HAVE BEEN MET. THE DEALER SHALL
16 PROCESS THE SALE OR TRANSFER AS IF THE DEALER WERE THE SELLER OR TRANSFEROR.
17 THE DEALER SHALL COMPLY WITH ALL REQUIREMENTS OF FEDERAL, STATE AND LOCAL LAW
18 THAT WOULD APPLY IF THE DEALER WAS THE SELLER OR TRANSFEROR OF THE FIREARM.

19 2. THE DEALER SHALL CONDUCT A BACKGROUND CHECK ON THE PURCHASER OR
20 TRANSFEREE PURSUANT TO 18 UNITED STATES CODE SECTION 922(t) AND STATE AND
21 LOCAL LAW. IF THE TRANSACTION IS NOT PROHIBITED, THE DEALER SHALL DELIVER
22 THE FIREARM TO THE PURCHASER OR TRANSFEREE AFTER ALL OTHER LEGAL REQUIREMENTS
23 ARE MET.

24 3. IF THE DEALER CANNOT LEGALLY DELIVER THE FIREARM TO THE PURCHASER
25 OR TRANSFEREE, THE DEALER SHALL CONDUCT A BACKGROUND CHECK ON THE SELLER OR
26 TRANSFEROR PURSUANT TO 18 UNITED STATES CODE SECTION 922(t) AND, IF THE
27 RETURN IS NOT PROHIBITED, RETURN THE FIREARM TO THAT PERSON.

28 4. IF THE DEALER CANNOT LEGALLY RETURN THE FIREARM TO THE SELLER OR
29 TRANSFEROR, THE DEALER, WITHIN TWENTY-FOUR HOURS, SHALL DELIVER THE FIREARM
30 TO THE NEAREST LAW ENFORCEMENT AGENCY.

31 5. THE DEALER MAY REQUIRE THE PURCHASER OR TRANSFEREE TO PAY A FEE OF
32 NOT TO EXCEED TWENTY DOLLARS THAT COVERS THE ADMINISTRATIVE COSTS INCURRED BY
33 THE DEALER FOR FACILITATING THE TRANSFER OF THE FIREARM, INCLUDING ANY
34 APPLICABLE FEES PURSUANT TO FEDERAL, STATE OR LOCAL LAW.

35 C. THIS SECTION DOES NOT APPLY TO ANY OF THE FOLLOWING:

36 1. A LAW ENFORCEMENT AGENCY IN THIS STATE, THE STATE DEPARTMENT OF
37 CORRECTIONS AND ANY PEACE OFFICER OR CORRECTIONS OFFICER WHO IS ACTING WITHIN
38 THE COURSE AND SCOPE OF THE OFFICER'S EMPLOYMENT OR OFFICIAL DUTIES.

39 2. A UNITED STATES MARSHAL, A MEMBER OF THE ARMED FORCES OF THE UNITED
40 STATES OR THE NATIONAL GUARD OR A FEDERAL OFFICIAL TRANSFERRING OR RECEIVING
41 A FIREARM AS REQUIRED IN THE OPERATION OF OFFICIAL DUTIES.

42 3. A GUNSMITH WHO RECEIVES A FIREARM SOLELY FOR THE PURPOSE OF SERVICE
43 OR REPAIR.

1 4. A COMMON CARRIER, WAREHOUSEMAN OR OTHER PERSON WHO IS ENGAGED IN
2 THE BUSINESS OF TRANSPORTATION OR STORAGE, TO THE EXTENT THAT THE RECEIPT OF
3 ANY FIREARM IS IN THE ORDINARY COURSE OF BUSINESS AND NOT FOR PERSONAL USE BY
4 THE PERSON.

5 5. A PERSON WHO IS LOANED A FIREARM SOLELY FOR THE PURPOSE OF TARGET
6 SHOOTING IF THE LOAN OCCURS ON THE PREMISES OF A SHOOTING RANGE AND THE
7 FIREARM IS AT ALL TIMES KEPT WITHIN THE PREMISES OF THE SHOOTING RANGE.

8 6. A PERSON WHO IS UNDER EIGHTEEN YEARS OF AGE, WHO IS LOANED A
9 FIREARM FOR LAWFUL HUNTING OR SPORTING PURPOSES OR FOR ANY OTHER LAWFUL
10 RECREATIONAL ACTIVITY AND WHO IS ALLOWED TO POSSESS A FIREARM PURSUANT TO
11 SECTION 13-3111.

12 7. A PERSON WHO IS AT LEAST EIGHTEEN YEARS OF AGE AND WHO IS LOANED A
13 FIREARM WHILE THE PERSON IS ACCOMPANYING THE LAWFUL OWNER AND USING THE
14 FIREARM FOR LAWFUL HUNTING OR SPORTING PURPOSES OR FOR ANY OTHER LAWFUL
15 RECREATIONAL ACTIVITY.

16 8. A PERSON WHO IS NOT A PROHIBITED POSSESSOR AND WHO ACQUIRED THE
17 FIREARM BY OPERATION OF LAW ON THE DEATH OF THE FORMER OWNER OF THE FIREARM.

18 9. THE SALE OR TRANSFER OF AN ANTIQUE FIREARM. FOR THE PURPOSES OF
19 THIS PARAGRAPH, "ANTIQUÉ FIREARM" MEANS A FIREARM OR REPLICÁ OF A FIREARM NOT
20 DESIGNED OR REDESIGNED FOR USING RIM FIRE OR CONVENTIONAL CENTER FIRE
21 IGNITION WITH FIXED AMMUNITION AND MANUFACTURED IN OR BEFORE 1898, INCLUDING
22 ANY MATCHLOCK, FLINTLOCK, PERCUSSION CAP OR SIMILAR TYPE OF IGNITION SYSTEM
23 AND ALSO ANY FIREARM USING FIXED AMMUNITION MANUFACTURED IN OR BEFORE 1898,
24 FOR WHICH AMMUNITION IS NO LONGER MANUFACTURED IN THE UNITED STATES AND IS
25 NOT READILY AVAILABLE IN THE ORDINARY CHANNELS OF COMMERCIAL TRADE.

26 10. A FIREARM TRANSFER THAT IS A BONA FIDE GIFT BETWEEN ANY COMBINATION
27 OF IMMEDIATE FAMILY MEMBERS. FOR THE PURPOSES OF THIS PARAGRAPH, "IMMEDIATE
28 FAMILY MEMBERS" MEANS SPOUSES, DOMESTIC PARTNERS, PARENTS, CHILDREN,
29 SIBLINGS, GRANDPARENTS, GRANDCHILDREN, NIECES, NEPHEWS, FIRST COUSINS, AUNTS
30 AND UNCLES.

31 11. A TEMPORARY TRANSFER OF A FIREARM IF THE TRANSFER IS NECESSARY TO
32 PREVENT IMMINENT DEATH OR GREAT BODILY HARM TO THE PERSON TO WHOM THE FIREARM
33 IS TRANSFERRED AND IF BOTH OF THE FOLLOWING APPLY:

34 (a) THE TEMPORARY TRANSFER ONLY LASTS AS LONG AS IMMEDIATELY NECESSARY
35 TO PREVENT THE IMMINENT DEATH OR GREAT BODILY HARM.

36 (b) THE PERSON TO WHOM THE FIREARM IS TRANSFERRED IS NOT PROHIBITED
37 FROM POSSESSING A FIREARM UNDER STATE OR FEDERAL LAW.

38 D. A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A CLASS 5 FELONY.