

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

State of Arizona
House of Representatives
Fifty-fourth Legislature
Second Regular Session
2020

HCR 2018

Introduced by
Representatives Friese: Andrade, Bolding, Butler, Chávez, Fernandez,
Gabaldón, Hernandez A, Hernandez D, Longdon, Pawlik, Peten, Powers
Hannley, Rodriguez, Salman, Sierra, Teller, Terán

A CONCURRENT RESOLUTION

**ENACTING AND ORDERING THE SUBMISSION TO THE PEOPLE OF A MEASURE RELATING
TO FIREARMS.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it resolved by the House of Representatives of the State of Arizona,
2 the Senate concurring:

3 1. Under the power of the referendum, as vested in the Legislature,
4 the following measure, relating to firearms, is enacted to become valid as
5 a law if approved by the voters and on proclamation of the Governor:

6 AN ACT

7 AMENDING TITLE 13, CHAPTER 31, ARIZONA REVISED STATUTES, BY
8 ADDING SECTION 13-3123; RELATING TO FIREARMS.

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

10 Section 1. Title 13, chapter 31, Arizona Revised
11 Statutes, is amended by adding section 13-3123, to read:

12 13-3123. Licensed firearm dealer sales or transfers;
13 background checks; exceptions;
14 classification

15 A. A PERSON MAY NOT SELL OR TRANSFER A FIREARM UNLESS
16 THE PERSON IS A LICENSED FIREARMS DEALER, THE PURCHASER OR
17 TRANSFEREE IS A LICENSED FIREARMS DEALER OR A LICENSED
18 FIREARMS DEALER FACILITATES THE TRANSFER PURSUANT TO
19 SUBSECTION B OF THIS SECTION.

20 B. IF NEITHER PARTY TO A PROSPECTIVE FIREARMS SALE OR
21 TRANSFER IS A LICENSED FIREARMS DEALER, THE PARTIES TO THE
22 TRANSACTION SHALL COMPLETE THE SALE OR TRANSFER THROUGH A
23 LICENSED FIREARMS DEALER IN THE FOLLOWING MANNER:

24 1. THE SELLER OR OTHER TRANSFEROR SHALL DELIVER THE
25 FIREARM TO THE DEALER WHO SHALL RETAIN POSSESSION OF THE
26 FIREARM UNTIL ALL LEGAL REQUIREMENTS FOR THE SALE OR TRANSFER
27 HAVE BEEN MET. THE DEALER SHALL PROCESS THE SALE OR TRANSFER
28 AS IF THE DEALER WERE THE SELLER OR TRANSFEROR. THE DEALER
29 SHALL COMPLY WITH ALL REQUIREMENTS OF FEDERAL, STATE AND LOCAL
30 LAW THAT WOULD APPLY IF THE DEALER WAS THE SELLER OR
31 TRANSFEROR OF THE FIREARM.

32 2. THE DEALER SHALL CONDUCT A BACKGROUND CHECK ON THE
33 PURCHASER OR TRANSFEREE PURSUANT TO 18 UNITED STATES CODE
34 SECTION 922(t) AND STATE AND LOCAL LAW. IF THE TRANSACTION IS
35 NOT PROHIBITED, THE DEALER SHALL DELIVER THE FIREARM TO THE
36 PURCHASER OR TRANSFEREE AFTER ALL OTHER LEGAL REQUIREMENTS ARE
37 MET.

38 3. IF THE DEALER CANNOT LEGALLY DELIVER THE FIREARM TO
39 THE PURCHASER OR TRANSFEREE, THE DEALER SHALL CONDUCT A
40 BACKGROUND CHECK ON THE SELLER OR TRANSFEROR PURSUANT TO
41 18 UNITED STATES CODE SECTION 922(t) AND, IF THE RETURN IS NOT
42 PROHIBITED, RETURN THE FIREARM TO THAT PERSON.

43 4. IF THE DEALER CANNOT LEGALLY RETURN THE FIREARM TO
44 THE SELLER OR TRANSFEROR, THE DEALER, WITHIN TWENTY-FOUR

1 HOURS, SHALL DELIVER THE FIREARM TO THE NEAREST LAW
2 ENFORCEMENT AGENCY.

3 5. THE DEALER MAY REQUIRE THE PURCHASER OR TRANSFEREE
4 TO PAY A FEE OF NOT MORE THAN \$20 THAT COVERS THE
5 ADMINISTRATIVE COSTS INCURRED BY THE DEALER FOR FACILITATING
6 THE TRANSFER OF THE FIREARM, INCLUDING ANY APPLICABLE FEES
7 PURSUANT TO FEDERAL, STATE OR LOCAL LAW.

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

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

13 2. A UNITED STATES MARSHAL, A MEMBER OF THE ARMED
14 FORCES OF THE UNITED STATES OR THE NATIONAL GUARD OR A FEDERAL
15 OFFICIAL TRANSFERRING OR RECEIVING A FIREARM AS REQUIRED IN
16 THE OPERATION OF OFFICIAL DUTIES.

17 3. A GUNSMITH WHO RECEIVES A FIREARM SOLELY FOR THE
18 PURPOSE OF SERVICE OR REPAIR.

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

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

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

31 7. A PERSON WHO IS AT LEAST EIGHTEEN YEARS OF AGE AND
32 WHO IS LOANED A FIREARM WHILE THE PERSON IS ACCOMPANYING THE
33 LAWFUL OWNER AND USING THE FIREARM FOR LAWFUL HUNTING OR
34 SPORTING PURPOSES OR FOR ANY OTHER LAWFUL RECREATIONAL
35 ACTIVITY.

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

39 9. THE SALE OR TRANSFER OF AN ANTIQUE FIREARM. FOR THE
40 PURPOSES OF THIS PARAGRAPH, "ANTIQUÉ FIREARM" MEANS A FIREARM
41 OR REPLICÁ OF A FIREARM THAT WAS NOT DESIGNED OR REDESIGNED
42 FOR USING RIM FIRE OR CONVENTIONAL CENTER FIRE IGNITION WITH
43 FIXED AMMUNITION AND THAT WAS MANUFACTURED IN OR BEFORE 1898,
44 INCLUDING ANY MATCHLOCK, FLINTLOCK, PERCUSSION CAP OR SIMILAR
45 TYPE OF IGNITION SYSTEM AND ALSO ANY FIREARM USING FIXED

1 AMMUNITION MANUFACTURED IN OR BEFORE 1898, FOR WHICH
2 AMMUNITION IS NO LONGER MANUFACTURED IN THE UNITED STATES AND
3 IS NOT READILY AVAILABLE IN THE ORDINARY CHANNELS OF
4 COMMERCIAL TRADE.

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

11 11. A TEMPORARY TRANSFER OF A FIREARM IF THE TRANSFER
12 IS NECESSARY TO PREVENT IMMINENT DEATH OR GREAT BODILY HARM TO
13 THE PERSON TO WHOM THE FIREARM IS TRANSFERRED IF BOTH OF THE
14 FOLLOWING APPLY:

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

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

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

23 2. The Secretary of State shall submit this proposition to the
24 voters at the next general election as provided by article IV, part 1,
25 section 1, Constitution of Arizona.