

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

State of Arizona
House of Representatives
Fifty-fifth Legislature
First Regular Session
2021

HB 2449

Introduced by
Representatives Friese: Hernandez D, Longdon

AN ACT

AMENDING TITLE 13, CHAPTER 31, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-3123; 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
3 amended by adding section 13-3123, to read:

4 13-3123. Licensed firearm dealer sales or transfers;
5 background checks; exceptions; classification

6 A. A PERSON MAY NOT SELL OR TRANSFER A FIREARM UNLESS THE PERSON IS
7 A LICENSED FIREARMS DEALER, THE PURCHASER OR TRANSFEREE IS A LICENSED
8 FIREARMS DEALER OR A LICENSED FIREARMS DEALER FACILITATES THE TRANSFER
9 PURSUANT TO 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
12 THE SALE OR TRANSFER THROUGH A LICENSED FIREARMS DEALER IN THE FOLLOWING
13 MANNER:

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

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

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

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

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

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

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

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

- 1 3. A GUNSMITH WHO RECEIVES A FIREARM SOLELY FOR THE PURPOSE OF
2 SERVICE OR REPAIR.
- 3 4. A COMMON CARRIER, WAREHOUSEMAN OR OTHER PERSON WHO IS ENGAGED IN
4 THE BUSINESS OF TRANSPORTATION OR STORAGE, TO THE EXTENT THAT THE RECEIPT
5 OF ANY FIREARM IS IN THE ORDINARY COURSE OF BUSINESS AND NOT FOR PERSONAL
6 USE BY THE PERSON.
- 7 5. A PERSON WHO IS LOANED A FIREARM SOLELY FOR THE PURPOSE OF
8 TARGET SHOOTING IF THE LOAN OCCURS ON THE PREMISES OF A SHOOTING RANGE AND
9 THE FIREARM IS AT ALL TIMES KEPT WITHIN THE PREMISES OF THE SHOOTING
10 RANGE.
- 11 6. A PERSON WHO IS UNDER EIGHTEEN YEARS OF AGE, WHO IS LOANED A
12 FIREARM FOR LAWFUL HUNTING OR SPORTING PURPOSES OR FOR ANY OTHER LAWFUL
13 RECREATIONAL ACTIVITY AND WHO IS ALLOWED TO POSSESS A FIREARM PURSUANT TO
14 SECTION 13-3111.
- 15 7. A PERSON WHO IS AT LEAST EIGHTEEN YEARS OF AGE AND WHO IS LOANED
16 A FIREARM WHILE THE PERSON IS ACCOMPANYING THE LAWFUL OWNER AND USING THE
17 FIREARM FOR LAWFUL HUNTING OR SPORTING PURPOSES OR FOR ANY OTHER LAWFUL
18 RECREATIONAL ACTIVITY.
- 19 8. A PERSON WHO IS NOT A PROHIBITED POSSESSOR AND WHO ACQUIRES THE
20 FIREARM BY OPERATION OF LAW ON THE DEATH OF THE FORMER OWNER OF THE
21 FIREARM.
- 22 9. THE SALE OR TRANSFER OF AN ANTIQUE FIREARM. FOR THE PURPOSES OF
23 THIS PARAGRAPH, "ANTIQUÉ FIREARM" MEANS A FIREARM OR REPLICÁ OF A FIREARM
24 THAT WAS NOT DESIGNED OR REDESIGNED FOR USING RIM FIRE OR CONVENTIONAL
25 CENTER FIRE IGNITION WITH FIXED AMMUNITION AND THAT WAS MANUFACTURED IN OR
26 BEFORE 1898, INCLUDING ANY MATCHLOCK, FLINTLOCK, PERCUSSION CAP OR SIMILAR
27 TYPE OF IGNITION SYSTEM AND ALSO ANY FIREARM USING FIXED AMMUNITION
28 MANUFACTURED IN OR BEFORE 1898, FOR WHICH AMMUNITION IS NO LONGER
29 MANUFACTURED IN THE UNITED STATES AND IS NOT READILY AVAILABLE IN THE
30 ORDINARY CHANNELS OF COMMERCIAL TRADE.
- 31 10. A FIREARM TRANSFER THAT IS A BONA FIDE GIFT BETWEEN ANY
32 COMBINATION OF IMMEDIATE FAMILY MEMBERS. FOR THE PURPOSES OF THIS
33 PARAGRAPH, "IMMEDIATE FAMILY MEMBERS" MEANS SPOUSES, DOMESTIC PARTNERS,
34 PARENTS, CHILDREN, SIBLINGS, GRANDPARENTS, GRANDCHILDREN, NIECES, NEPHEWS,
35 FIRST COUSINS, AUNTS AND UNCLES.
- 36 11. A TEMPORARY TRANSFER OF A FIREARM IF THE TRANSFER IS NECESSARY
37 TO PREVENT IMMINENT DEATH OR GREAT BODILY HARM TO THE PERSON TO WHOM THE
38 FIREARM IS TRANSFERRED AND IF BOTH OF THE FOLLOWING APPLY:
- 39 (a) THE TEMPORARY TRANSFER ONLY LASTS AS LONG AS IMMEDIATELY
40 NECESSARY TO PREVENT THE IMMINENT DEATH OR GREAT BODILY HARM.
- 41 (b) THE PERSON TO WHOM THE FIREARM IS TRANSFERRED IS NOT PROHIBITED
42 FROM POSSESSING A FIREARM UNDER STATE OR FEDERAL LAW.
- 43 D. A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A CLASS 5
44 FELONY.