

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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SENATE BILL DRS45417-MLa-148

Short Title: NC Universal Background Check Act. (Public)

Sponsors: Senators Batch, Garrett, and Grafstein (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE UNIVERSAL BACKGROUND CHECKS FOR THE SALE OF
3 FIREARMS AND TO APPROPRIATE NONRECURRING FUNDS TO THE
4 DEPARTMENT OF PUBLIC SAFETY TO CREATE AND DISSEMINATE A PUBLIC
5 SERVICE ANNOUNCEMENT MAKING THE PUBLIC AWARE OF THE LAW
6 REQUIRING BACKGROUND CHECKS FOR THE SALE OF FIREARMS.

7 The General Assembly of North Carolina enacts:

8 SECTION 1.(a) Chapter 14 of the General Statutes is amended by adding a new
9 Article to read:

10 "Article 53D.

11 "Universal Background Check.

12 "**§ 14-409.48. Short title.**

13 This Article shall be known and may be cited as the "North Carolina Universal Background
14 Check Act."

15 "**§ 14-409.49. Definitions.**

16 The following definitions apply in this Article:

- 17 (1) Federally licensed firearm dealer. – A person who is licensed pursuant to 18
18 U.S.C. § 923 to engage in the business of dealing in firearms.
19 (2) Firearm. – A handgun, shotgun, or rifle which expels a projectile by action of
20 an explosion.
21 (3) Materially false information. – Information that portrays an illegal transaction
22 as legal or a legal transaction as illegal.
23 (4) Private person. – A person, firm, or corporation who is not a federally licensed
24 firearm dealer acting in accordance with federal law.

25 "**§ 14-409.50. Background checks for the sales of firearms - federally licensed firearm**
26 **dealers.**

27 (a) A federally licensed firearm dealer may not sell, transfer, or deliver any firearm to
28 any private person without conducting a background check as provided for in subsection (c) of
29 this section to verify that it would not be a violation of State or federal law for the private person
30 to possess the firearm.

31 (b) In addition to any other applicable State or federal law, it shall be unlawful for any of
32 the following persons to possess a firearm:

- 33 (1) One who is under an indictment or information for, or has been convicted in
34 any state or in any court of the United States of, a felony (other than an offense
35 pertaining to antitrust violations, unfair trade practices, or restraints of trade).
36 (2) One who is a fugitive from justice.



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- 1 (3) One who is an unlawful user of or addicted to marijuana or any depressant,
2 stimulant, or narcotic drug (as defined in 21 U.S.C. § 802).
- 3 (4) One who has been adjudicated mentally incompetent or has been committed
4 to any mental institution.
- 5 (5) One who is an alien illegally or unlawfully in the United States.
- 6 (6) One who has been discharged from the Armed Forces of the United States
7 under dishonorable conditions.
- 8 (7) One who, having been a citizen of the United States, has renounced his or her
9 citizenship.
- 10 (8) One who is subject to a court order that:
- 11 a. Was issued after a hearing of which the person received actual notice,
12 and at which the person had an opportunity to participate.
- 13 b. Restrains the person from harassing, stalking, or threatening an
14 intimate partner of the person or child of the intimate partner of the
15 person, or engaging in other conduct that would place an intimate
16 partner in reasonable fear of bodily injury to the partner or child.
- 17 c. Includes a finding that the person represents a credible threat to the
18 physical safety of the intimate partner or child, or by its terms
19 explicitly prohibits the use, attempted use, or threatened use of
20 physical force against the intimate partner or child that would
21 reasonably be expected to cause bodily injury.
- 22 (c) In order to comply with the background check required by subsection (a) of this
23 section, the federally licensed firearm dealer must:
- 24 (1) Verify the private person's identity by examining a government-issued
25 identification card.
- 26 (2) Conduct a check through the National Instant Criminal Background Check
27 System (NICS).
- 28 (d) It is unlawful for a federally licensed firearm dealer to sell, transfer, or deliver any
29 firearm to any other person if a NICS check reveals that the possession of any firearm by the
30 person would violate State or federal law or if the federally licensed firearm dealer knows or has
31 reason to know that the private person is prohibited from possessing any firearm by State or
32 federal law.
- 33 (e) It is a Class F felony for any federally licensed firearm dealer to sell, transfer, or
34 deliver any firearm to any person in violation of this Article. It is a Class F felony for any person
35 to provide any materially false information to a federally licensed firearm dealer with the intent
36 to obtain a firearm in violation of State or federal law.
- 37 **§ 14-409.51. Background checks required for the sales of firearms - private persons.**
- 38 (a) It shall be unlawful for a private person to transfer any firearm to any other private
39 person without conducting a background check of that person through a federally licensed
40 firearm dealer as provided by G.S. 14-409.50(c) and the federally licensed firearm dealer
41 verifying that the transfer would not violate State or federal law.
- 42 (b) A federally licensed firearm dealer may charge a fee for conducting the background
43 check required by subsection (a) of this section.
- 44 (c) For the purposes of this section, "transfer" means assigning, pledging, leasing,
45 loaning, selling, giving away, or otherwise disposing of, but does not include any of the
46 following:
- 47 (1) The loan of a firearm for any lawful purpose, for a period of 14 days or less,
48 by the owner of the firearm to a person known personally to the owner.
- 49 (2) A temporary transfer for any lawful purpose that occurs while in the
50 continuous presence of the owner of the firearm, if the temporary transfer does
51 not exceed 24 hours in duration.

1 (3) The transfer of a firearm for repair, service, or modification to a licensed
2 gunsmith or other person lawfully engaged in such activities as a regular
3 course of trade or business.

4 (4) A transfer that occurs by operation of law or because of the death of a person
5 for whom the prospective transferor is an executor or administrator of an
6 estate or a trustee of a trust created in a will.

7 (d) A private person who transfers any firearm in a transaction subject to the requirement
8 set forth in subsection (a) of this section shall keep an accurate record of all transfers thereof,
9 including the name and place of residence of each person, firm, or corporation to whom or which
10 such transfers are made. Additionally, each record shall include the date of the transfer and a
11 description of the firearm transferred. The records maintained pursuant to this subsection are
12 confidential and are not a public record under G.S. 132-1; provided, however, that the person
13 shall make the records available upon request to all State and local law enforcement agencies.

14 (e) This section does not apply to transactions in which the private person the firearm
15 being transferred to is a parent, mother-in-law, father-in-law, stepparent, legal guardian,
16 grandparent, child, daughter-in-law, son-in-law, stepchild, grandchild, sibling, sister-in-law,
17 brother-in-law, spouse, or civil union partner of the private person.

18 (f) Any violation of this section shall be punished as a Class F felony."

19 **SECTION 1.(b)** This section becomes effective October 1, 2024, and applies to
20 transfers of firearms that occur on or after that date.

21 **SECTION 2.(a)** There is appropriated from the General Fund to the Department of
22 Public Safety the sum of fifty thousand dollars (\$50,000) in nonrecurring funds for the 2024-2025
23 fiscal year to create and disseminate a public service announcement making the public aware of
24 the law set forth in Article 53D of Chapter 14 of the General Statutes, as enacted by Section 1 of
25 this act. In disseminating the public service announcement required by this subsection, the
26 Department shall collaborate with community organizations of the Department's choosing to
27 ensure the public service announcement is disseminated as widely as possible.

28 **SECTION 2.(b)** This section becomes effective July 1, 2024.

29 **SECTION 3.** Except as otherwise provided, this act is effective when it becomes
30 law.