**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 2 TO CHAPTER 31, TITLE 23 SO AS TO REQUIRE A NATIONAL INSTANT CRIMINAL BACKGROUND CHECK BEFORE ANY SALE, EXCHANGE, OR TRANSFER OF A FIREARM IN THE STATE AND TO PROVIDE PROCEDURES FOR THE BACKGROUND CHECKS; TO REQUIRE NATIONAL INSTANT CRIMINAL BACKGROUND CHECKS AT GUN SHOWS AND TO PROVIDE PROCEDURES FOR THE BACKGROUND CHECKS; AND TO EXEMPT RECORDS KEPT FROM DISCLOSURE AS A PUBLIC RECORD UNDER THE FREEDOM OF INFORMATION ACT AND TO PROVIDE A PENALTY FOR A VIOLATION OF THE ARTICLE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 31, Title 23 of the 1976 Code is amended by adding:

“Article 2

Firearms Criminal Background Checks

Section 23‑31‑70. For purposes of this article, the term:

(1) ‘Antique firearm’ means:

(a) a firearm, including a firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system, manufactured in or before 1898; and

(b) a replica of a firearm described in subitem (a) if such replica:

(i) is not designed or redesigned for using rimfire or conventional centerfire‑fixed ammunition; or

(ii) uses rimfire or conventional centerfire‑fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.

(2) ‘Firearm’ means a weapon, including a starter gun, which will, is designed to, or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of such weapon; a firearm muffler or firearm silencer; or a destructive device; but the term does not include an antique firearm. In the case of a licensed collector, the term means only curios and relics.

(3) ‘Firearm frame or receiver’ means that part of a firearm which provides housing for the hammer, bolt or breechblock, and firing mechanism, and which is usually threaded at its forward portion to receive the barrel.

(4) ‘Firearm muffler or firearm silencer’ means a device for silencing, muffling, or diminishing the report of a portable firearm, including any combination of parts, designed or redesigned, and intended for use in assembling or fabricating a firearm silencer or firearm muffler, and any part intended only for use in such assembly or fabrication.

Section 23‑31‑80. (A) In addition to any other requirements pursuant to state and federal law, all sales, exchanges, or transfers of firearms must be conducted in accordance with the provisions of this article unless the sale, exchange, or transfer is conducted by a licensed importer, licensed manufacturer, or licensed dealer, as those terms are defined in 18 U.S.C. Section 922, when the sale, exchange, or transfer is conducted pursuant to that person’s federal firearms license or the sale, exchange, or transfer is between members of an immediate family. For purposes of this section, ‘immediate family’ means spouses, domestic partners, children, and stepchildren.

(B) Before any sale, exchange, or transfer pursuant to the provisions of this article, a national instant criminal background check pursuant to 18 U.S.C. Section 922 must be completed by a licensed dealer who consents to conduct the check, and upon completion of the background check, shall complete a document, the form of which shall be approved by the Chief of the State Law Enforcement Division (SLED), that identifies and confirms that the check was performed.

(C) All dealers shall maintain a record of transactions conducted pursuant to this article and the record must be maintained on the premises mentioned and described in the license and must be open at all reasonable hours for inspection by any law enforcement officer acting in the scope of his employment.

Section 23‑31‑90. (A) A national instant criminal background check must be conducted and a person may not sell, exchange, or transfer a firearm at a gun show in this State except in accordance with the provisions of 18 U.S.C. 922 and the provisions of this section.

(B) A person may not offer or agree to sell, exchange, or transfer a firearm to another person at a gun show in this State and transfer or deliver a firearm to another person, or person acting on his behalf, at a location other than the gun show for the purpose of evading or avoiding compliance with 18 U.S.C. 922.

(C)(1) Before a gun show vendor sells, exchanges, or transfers a firearm at a gun show in this State, he shall:

(a) require that a national instant background check be conducted of the person; and

(b) obtain approval of a transfer from SLED after a national instant background check has been requested by a licensed gun dealer.

(2) A gun show promoter shall arrange for the services of one or more licensed gun dealers on the premises of the gun show to obtain the background checks required by this section.

(3) If any part of a firearm transaction takes place at a gun show, no firearm may be sold, exchanged, or transferred unless a national instant background check has been obtained by a licensed gun dealer.

Section 23‑31‑100. (A) A dealer may require that any sale, exchange, or transfer conducted pursuant to this article be subject to a fee of not more than twenty‑five dollars per transaction.

(B) A record produced pursuant to this article and any transmission of the record to a governmental agency is not considered a public record for purposes of Chapter 4, Title 30, the Freedom of Information Act.

(C) A person who knowingly violates the provisions of this article is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned for not more than one year.”

SECTION 2. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 3. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 4. This act takes effect upon approval by the Governor.

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