**A** **BILL**

TO AMEND CHAPTER 23, TITLE 16 OF THE 1976 CODE, RELATING TO OFFENSES INVOLVING WEAPONS, BY ADDING ARTICLE 9, TO REQUIRE THAT NO GUN TRANSFER PRECEDED BY A CRIMINAL BACKGROUND CHECK MAY PROCEED UNLESS THE CRIMINAL BACKGROUND CHECK HAS CONCLUDED THAT THE SALE MAY PROCEED, OR UNTIL AT LEAST TEN BUSINESS DAYS HAVE PASSED FROM THE INITIATION OF THE BACKGROUND CHECK, A SECOND APPLICATION HAS BEEN SUBMITTED, AND ANOTHER TEN BUSINESS DAYS HAVE PASSED, AND TO PROVIDE FOR CRIMINAL PENALTIES FOR VIOLATIONS OF THIS PROVISION.

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

SECTION 1. Chapter 23, Title 16 of the 1976 Code is amended by adding:

“ARTICLE 9

Background Checks for Firearm Sales and Transfers

Section 16‑23‑910. As used in this article:

(1) ‘Firearm’ means a weapon, including a starter gun, that 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 a weapon, a firearm muffler or firearm silencer, or a destructive device. The term does not include an antique firearm.

(2) ‘Licensed dealer’ means the holder of any federal firearms licensed under 18 U.S.C. Section 923(a).

(3) ‘Transfer’ means to sell, furnish, give, lend, deliver, or otherwise provide, with or without consideration.

(4) ‘Transferee’ means a person who receives or intends to receive a firearm in a sale or transfer.

Section 16‑23‑920. For any sale or transfer of a firearm for which a licensed dealer contacts the National Instant Criminal Background Check System (NICS) to conduct a background check, the licensed dealer may not deliver a firearm to any transferee unless:

(1) the NICS provides the licensed dealer with a unique identification number; or

(2) if the NICS has not notified the licensed dealer that a sale or transfer to the person would violate state or federal law within ten business days, in order to continue the purchase or transfer, the licensed dealer must again re-contact the NICS to conduct a background check. If another ten business days have elapsed from the date of the second application and the NICS has not notified the licensed dealer that a sale or transfer to the person would violate state or federal law, then the sale or transfer of the firearm may then proceed.

Section 16‑23‑930. A person who violates the provisions of this article is guilty of a Class A misdemeanor and, upon conviction, must be imprisoned not more than three years, fined not more than one thousand dollars, or both.”

SECTION 2. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, then 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 3. This act takes effect upon approval by the Governor.

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