

A bill for an act

requiring criminal background checks for firearm transfers; excepting certain transfers; enacting Minnesota Statutes 2014, section 624.7133; 609.66, subdivision 1i; amending Minnesota Statutes, section 624.7132, subdivision 12; and repealing Minnesota Statutes, section 609.66, subdivision 1f; 624.7132, subdivision 14.

Section 1. Minnesota Statutes, section 624.7133 is enacted to read:

**624.7133 TRANSFERS BY UNLICENSED PERSONS; BACKGROUND CHECK
REQUIRED.**

Subdivision 1. Definitions. (a) As used in this section, the following terms have the meanings given them.

(b) "Federally licensed firearms dealer" means a person who is licensed by the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, under United States Code, title 18, section 923(a).

(c) "Firearm" has the same meaning as given in section 609.666, subdivision 1, paragraph (a).

(d) "Law enforcement agency" has the same meaning as given in section 626.84, subdivision 1, paragraph (f).

(e) "Peace officer" has the same meaning as given in section 626.84, subdivision 1, paragraph (c).

(f) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(g) "Transfer" means a sale, gift, loan, assignment or other delivery to another, whether or not for consideration, of a firearm.

(h) "Transferee" means an unlicensed person who wishes or intends to receive a transfer from another unlicensed person, whether or not for consideration.

(i) "Transferor" means an unlicensed person who wishes or intends to make a transfer to another unlicensed person, whether or not for consideration.

(j) "Unlicensed person" means a person who does not hold a license under United States Code, title 18, section 923(a).

Subd. 2. **Background check required.** Except as provided in this section, each transfer of a firearm occurring in whole or in part in Minnesota shall be preceded by a background check on the transferee. Except as provided in this section, no transferor shall transfer a firearm, and no transferee shall receive a firearm, unless he or she first complies with this section.

Subd. 3. **Background check conducted by federally licensed firearms dealer.** Where both parties to a prospective firearm transfer are unlicensed persons, the transferor and transferee shall appear jointly before a federally licensed firearms dealer with the firearm and request that the federally licensed firearms dealer conduct a background check on the transferee and facilitate the transfer.

Subd. 4. **Compliance with law.** Except as otherwise provided in this section, a federally licensed firearms dealer who agrees to facilitate a transfer pursuant to this section shall process the transfer as though transferring the firearm from its own inventory to the transferee, complying with all requirements of federal and state law that would apply if it were making such a transfer, including all background check and recordkeeping requirements.

Subd. 5. **Transfer prohibited.** If the transferee is prohibited by federal law from purchasing or possessing the firearm, or not entitled under state law to possess the firearm, neither the federally licensed firearms dealer nor the transferor shall transfer the firearm to the transferee.

Subd. 6. **Leaving federally licensed dealer with firearm.** Notwithstanding any other provisions of law:

(1) This section shall not prevent the transferor from removing the firearm from the premises of the federally licensed firearms dealer, or the gun show or event where the federally licensed firearms dealer is conducting business, as applicable, while the background check is being conducted, provided that the transferor must return to the federally licensed firearms dealer with the transferee before the transfer takes place, and the federally licensed firearms dealer must take possession of the firearm in order to complete the transfer; and

(2) This section shall not prevent the transferor from removing the firearm from the business premises of the federally licensed firearms dealer if the results of the background check indicate the transferee is prohibited by federal law from purchasing or possessing the firearm, or not entitled under state law to possess the firearm.

Subd. 7. **Report of transfer not required.** As provided under section 624.7132, subdivision 12, paragraph (1), where both parties to a firearm transfer are unlicensed persons, there is no requirement to make a transfer report either for such unlicensed persons or for a federally licensed firearms dealer facilitating the transfer.

Subd. 8. **Dealer fee.** A federally licensed firearms dealer may charge a reasonable fee for conducting a background check and facilitating a transfer between the transferor and transferee pursuant to this section.

Subd. 9. **Exclusions.** This section shall not apply to the following transfers:

(1) a transfer by or to a federally licensed firearms dealer;

(2) a transfer by or to any law enforcement agency or, to the extent he or she is acting within the course and scope of his or her employment and official duties, any peace officer, any law enforcement officer, any corrections officer, a member of the Armed Forces of the United States or the National Guard or the Reserves of the United States Armed Forces, a federal law enforcement officer, or a security guard employed by a protective agent licensed pursuant to chapter 326;

(3) a transfer between immediate family members, which for the purposes of this section means spouses, domestic partners, parents, step-parents, children, step-children, siblings, step-siblings, grandparents, step-grandparents, grandchildren, and step-grandchildren;

(4) a transfer to an executor, administrator, trustee, or personal representative of an estate or a trust that occurs by operation of law upon the death of the former owner of the firearm;

(5) a transfer of an antique firearm as defined in section 624.712, subdivision 3;

(6) a transfer of a curio or relic, as defined in Code of Federal Regulations, title 27, section 478.11, if the transfer is between collectors of firearms as curios or relics as defined by United States Code, title 18, section 921(a)(13), who each have in their possession a valid Collector of Curio and Relics License issued by the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives;

(7) a temporary transfer to a transferee who is not prohibited by federal law from purchasing or possessing firearms, and is entitled under state law to possess firearms, if such transfer:

(i) is necessary to prevent imminent death or great bodily harm; and

(ii) lasts only as long as immediately necessary to prevent such imminent death or great bodily harm; and

(8) a temporary transfer if the transferor has no reason to believe that the transferee will use or intends to use the firearm in the commission of a crime and such transfer occurs and the transferee's possession of the firearm following the transfer is exclusively:

(i) at a shooting range that operates in compliance with the performance standards set forth under chapter 87A or is a nonconforming use as set forth under section 87A.03, subdivision 2; or if no such compliance is required by the governing body of the jurisdiction, at an established shooting range operated consistently with local law in such jurisdiction;

(ii) at a lawfully organized competition involving the use of a firearm, or while participating in or practicing for a performance by an organized group that uses firearms as part of the performance;

(iii) while hunting or trapping if the hunting or trapping is legal in all places where the transferee possesses the firearm and the transferee holds all licenses or permits required for such hunting or trapping; or

(iv) while in the actual presence of the transferor; provided that any transfer allowed by this paragraph (8) is permitted only if the transferor has no reason to believe that the transferee is prohibited by federal law from buying or possessing firearms or not entitled under state law to possess firearms, or if the transferee is under eighteen years of age and is receiving the firearm under direct supervision and control of an adult, that such adult is prohibited by federal law from buying or possessing firearms or not entitled under state law to possess firearms.

Section 2. Minnesota Statutes 2014, section 624.7132, subdivision 12, is amended to read:

Subd. 12. ***Exclusions.*** — Except as otherwise provided in section 609.66, subdivision 1f, this section shall not apply to transfers of antique firearms as curiosities or for their historical significance or value, transfers to or between federally licensed firearms dealers, transfers by order of court, involuntary transfers, transfers at death or the following transfers:

(1) a transfer by a person other than a federally licensed firearms dealer;

(2) a transfer facilitated by a federally licensed firearms dealer as provided in section 624.7133;

(3) a loan to a prospective transferee if the loan is intended for a period of no more than one day;

~~(4)~~(4) the delivery of a pistol or semiautomatic military-style assault weapon to a person for the purpose of repair, reconditioning or remodeling;

~~(4)~~(5) a loan by a teacher to a student in a course designed to teach marksmanship or safety with a pistol and approved by the commissioner of natural resources;

~~(5)~~(6) a loan between persons at a firearms collectors exhibition;

~~(6)~~(7) a loan between persons lawfully engaged in hunting or target shooting if the loan is intended for a period of no more than 12 hours;

~~(7)~~(8) a loan between law enforcement officers who have the power to make arrests other than citizen arrests; and

~~(8)~~(9) a loan between employees or between the employer and an employee in a business if the employee is required to carry a pistol or semiautomatic military-style assault weapon by reason of employment and is the holder of a valid permit to carry a pistol.

Section 3. Minnesota Statutes 2014, section 609.66, is amended by adding a subdivision to read:

Subd. 1i. **Transfer without background check.** A transferor who voluntarily transfers a firearm, or a transferee who voluntarily receives a firearm, in violation of section 624.7133:

(1) for a first conviction, is guilty of a gross misdemeanor; and

(2) for a second or subsequent conviction, is guilty of a felony and may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$5,000, or both.

Section 4. **REPEALER.**

Minnesota Statutes 2014, section 609.66, subdivision 1f and section 624.7132, subdivision 14 are repealed.

Section 5. **EFFECTIVE DATE.**

Sections 1 through 4 are effective August 1, 2017, and apply to crimes committed on or after that date.