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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 3647

03/29/2016 Authored by Norton

The bill was read for the first time and referred to the Committee on Public Safety and Crime Prevention Policy and Finance

1.1 A bill for an act
1.2 relating to public safety; requiring criminal background checks for firearm
1.3 transfers; excepting certain transfers; amending Minnesota Statutes 2014,
1.4 sections 609.66, by adding a subdivision; 624.7132, subdivision 12; proposing
1.5 coding for new law in Minnesota Statutes, chapter 624; repealing Minnesota
1.6 Statutes 2014, sections 609.66, subdivision 1f; 624.7132, subdivision 14.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. Minnesota Statutes 2014, section 609.66, is amended by adding a
1.9 subdivision to read:

1.10 Subdivision 1i. **Transfer without background check.** A transferor who voluntarily
1.11 transfers a firearm, or a transferee who voluntarily receives a firearm, in violation of
1.12 section 624.7134:

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

1.14 (2) for a second or subsequent conviction, is guilty of a felony and may be sentenced
1.15 to imprisonment for not more than two years or to payment of a fine of not more than
1.16 \$5,000, or both.

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

1.18 Subd. 12. **Exclusions.** Except as otherwise provided in section 609.66, subdivision
1.19 ~~1f~~ 1i, this section shall not apply to transfers of antique firearms as curiosities or for their
1.20 historical significance or value, transfers to or between federally licensed firearms dealers,
1.21 transfers by order of court, involuntary transfers, transfers at death or the following
1.22 transfers:

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

2.1 (2) a transfer facilitated by a federally licensed firearms dealer as provided in
 2.2 section 624.7134;

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

2.5 ~~(3)~~ (4) the delivery of a pistol or semiautomatic military-style assault weapon to a
 2.6 person for the purpose of repair, reconditioning or remodeling;

2.7 ~~(4)~~ (5) a loan by a teacher to a student in a course designed to teach marksmanship
 2.8 or safety with a pistol and approved by the commissioner of natural resources;

2.9 ~~(5)~~ (6) a loan between persons at a firearms collectors exhibition;

2.10 ~~(6)~~ (7) a loan between persons lawfully engaged in hunting or target shooting if the
 2.11 loan is intended for a period of no more than 12 hours;

2.12 ~~(7)~~ (8) a loan between law enforcement officers who have the power to make arrests
 2.13 other than citizen arrests; and

2.14 ~~(8)~~ (9) a loan between employees or between the employer and an employee in a
 2.15 business if the employee is required to carry a pistol or semiautomatic military-style assault
 2.16 weapon by reason of employment and is the holder of a valid permit to carry a pistol.

2.17 **Sec. 3. [624.7134] TRANSFERS BY UNLICENSED PERSONS; BACKGROUND**
 2.18 **CHECK REQUIRED.**

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

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

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

2.25 (d) "Law enforcement agency" has the meaning given in section 626.84, subdivision
 2.26 1, paragraph (f).

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

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

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

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

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

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

3.7 Subd. 2. **Background check required.** Except as provided in this section:

3.8 (1) each transfer of a firearm occurring in whole or in part in the state shall be
3.9 preceded by a background check on the transferee; and

3.10 (2) no transferor shall transfer a firearm, and no transferee shall receive a firearm,
3.11 unless the transferee first complies with this section.

3.12 Subd. 3. **Background check conducted by federally licensed firearms dealer.**

3.13 Where both parties to a prospective firearm transfer are unlicensed persons, the transferor
3.14 and transferee shall appear jointly before a federally licensed firearms dealer with the
3.15 firearm and request that the federally licensed firearms dealer conduct a background check
3.16 on the transferee and facilitate the transfer.

3.17 Subd. 4. **Compliance with law.** Except as otherwise provided in this section, a
3.18 federally licensed firearms dealer who agrees to facilitate a transfer under this section shall:

3.19 (1) process the transfer as though transferring the firearm from its own inventory to
3.20 the transferee; and

3.21 (2) comply with all requirements of federal and state law that would apply if the
3.22 firearms dealer were making the transfer, including at a minimum all background check
3.23 and record keeping requirements.

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

3.28 Subd. 6. **Leaving firearm with federally licensed dealer.** Notwithstanding any
3.29 other law to the contrary, this section shall not prevent the transferor from:

3.30 (1) removing the firearm from the premises of the federally licensed firearms dealer,
3.31 or the gun show or event where the federally licensed firearms dealer is conducting
3.32 business, as applicable, while the background check is being conducted, provided that the
3.33 transferor must return to the federally licensed firearms dealer with the transferee before
3.34 the transfer takes place, and the federally licensed firearms dealer must take possession of
3.35 the firearm in order to complete the transfer; and

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

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

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

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

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

4.14 (2) a transfer by or to any law enforcement agency or, to the extent an employee
4.15 of the agency is acting within the course and scope of employment and official duties, a
4.16 peace officer; law enforcement officer; corrections officer; member of the armed forces
4.17 of the United States, the National Guard, or the Reserves of the United States armed
4.18 forces; federal law enforcement officer; or security guard employed by a protective agent
4.19 licensed pursuant to chapter 326;

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

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

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

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

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

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

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

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

5.6 (i) at a shooting range that operates in compliance with the performance standards
5.7 under chapter 87A or is a nonconforming use under section 87A.03, subdivision 2; or, if
5.8 compliance is not required by the governing body of the jurisdiction, at an established
5.9 shooting range operated consistently with local law in the jurisdiction;

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

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

5.16 (iv) while in the actual presence of the transferor; provided that any transfer under
5.17 this clause is permitted only if the transferor has no reason to believe that the transferee is
5.18 prohibited by federal law from buying or possessing firearms or not entitled under state law
5.19 to possess firearms, or if the transferee is under 18 years of age and is receiving the firearm
5.20 under direct supervision and control of an adult, that the adult is prohibited by federal law
5.21 from buying or possessing firearms or not entitled under state law to possess firearms.

5.22 **Sec. 4. REPEALER.**

5.23 Minnesota Statutes 2014, sections 609.66, subdivision 1f; and 624.7132, subdivision
5.24 14, are repealed.

5.25 **Sec. 5. EFFECTIVE DATE.**

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

609.66 DANGEROUS WEAPONS.

Subd. 1f. **Gross misdemeanor; transferring firearm without background check.** A person, other than a federally licensed firearms dealer, who transfers a pistol or semiautomatic military-style assault weapon to another without complying with the transfer requirements of section 624.7132, is guilty of a gross misdemeanor if the transferee possesses or uses the weapon within one year after the transfer in furtherance of a felony crime of violence, and if:

(1) the transferee was prohibited from possessing the weapon under section 624.713 at the time of the transfer; or

(2) it was reasonably foreseeable at the time of the transfer that the transferee was likely to use or possess the weapon in furtherance of a felony crime of violence.

624.7132 REPORT OF TRANSFER.

Subd. 14. **Transfer to unknown party.** (a) No person shall transfer a pistol or semiautomatic military-style assault weapon to another who is not personally known to the transferor unless the proposed transferee presents evidence of identity to the transferor.

(b) No person who is not personally known to the transferor shall become a transferee of a pistol or semiautomatic military-style assault weapon unless the person presents evidence of identity to the transferor.

(c) The evidence of identity shall contain the name, residence address, date of birth, and photograph of the proposed transferee; must be made or issued by or under the authority of the United States government, a state, a political subdivision of a state, a foreign government, a political subdivision of a foreign government, an international governmental or an international quasi-governmental organization; and must be of a type commonly accepted for the purpose of identification of individuals.

(d) A person who becomes a transferee of a pistol or semiautomatic military-style assault weapon in violation of this subdivision is guilty of a misdemeanor.