

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 SENATE BILL 2101

By: Johnson (Constance)

4  
5  
6 AS INTRODUCED

7 An Act relating to firearm sales; providing for  
8 certain background check for certain transfer of  
9 possession of a firearm under certain circumstances;  
10 requiring certain approval of a transfer by the  
11 Oklahoma State Bureau of Investigation; authorizing  
12 the Bureau to be a state point of contact for certain  
13 implementation of certain laws, regulations and  
14 guidelines; requiring the Bureau to deny a transfer  
15 under certain circumstances; requiring certain  
16 records to be kept under certain circumstances;  
17 requiring a licensed gun dealer to comply with  
18 certain laws; requiring a licensed gun dealer to  
19 provide certain copies of results of certain  
20 background checks and approvals or disapprovals;  
21 authorizing certain fee; prohibiting a transfer under  
22 certain circumstances; prohibiting the giving of  
23 certain false information; making certain approval to  
24 complete a transfer valid for a certain time;  
providing for certain liability; providing certain  
exceptions to the act; providing penalties; requiring  
the state court administrator to report certain  
convictions; providing for content of such report;  
defining term; construing language; providing for  
codification; and providing an effective date.

21 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

22 SECTION 1. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 1288.1 of Title 21, unless there  
24 is created a duplication in numbering, reads as follows:

1       A. On and after the effective date of this act, except as  
2 provided in subsection J of this section, before any person or  
3 entity that is not a licensed gun dealer transfers or attempts to  
4 transfer possession of a firearm while an exhibitor at a gun show or  
5 online to a transferee in this state who does not have a valid  
6 handgun license pursuant to the Self Defense Act, that person or  
7 entity shall:

8       1. Require that a criminal background check in accordance with  
9 18 U.S.C. Section 922, known as the "Brady Handgun Violence  
10 Prevention Act," be conducted of the prospective transferee by  
11 arranging for a licensed gun dealer to obtain the background check;  
12 and

13       2. Obtain approval of a transfer from the Oklahoma State Bureau  
14 of Investigation which is hereby authorized to serve as a state  
15 point of contact for implementation of 18 U.S.C. Section 922, all  
16 federal regulations and applicable guidelines adopted pursuant  
17 thereto and the National Instant Criminal Background Check System.

18       B. The Bureau shall deny a transfer of a firearm to a  
19 prospective transferee if the transfer would violate 18 U.S.C.  
20 Section 922 or result in a violation of any provision of state or  
21 federal law, including but not limited to acts, if committed by an  
22 adult, and notwithstanding any other provision of law, would  
23 constitute a burglary, arson, or any felony involving the use of  
24 force or the use of a deadly weapon.

1 C. A licensed gun dealer who obtains a background check on a  
2 prospective transferee pursuant to paragraph 1 of subsection A of  
3 this section shall record the transfer and retain the records in the  
4 same manner as when conducting a sale, rental, or exchange at  
5 retail. The licensed gun dealer shall comply with all state and  
6 federal laws, including 18 U.S.C. sec. 922, as if he or she was  
7 transferring the firearm from his or her inventory to the  
8 prospective transferee.

9 D. A licensed gun dealer who obtains a background check for a  
10 prospective firearm transferor pursuant to this section shall  
11 provide the firearm transferor and transferee a copy of the results  
12 of the background check, including the approval of the Bureau or  
13 disapproval of the transfer.

14 E. A licensed gun dealer may charge a fee for services rendered  
15 pursuant to this section, which fee shall not exceed Ten Dollars  
16 (\$10.00).

17 F. A prospective firearm transferee shall not accept possession  
18 of the firearm unless the prospective firearm transferor has  
19 obtained approval of the transfer from the Bureau after a background  
20 check has been requested by a licensed gun dealer.

21 G. A prospective firearm transferee shall not knowingly provide  
22 false information to a prospective firearm transferor or to a  
23 licensed gun dealer for the purpose of acquiring a firearm.

1       H. If the Bureau approves a transfer of a firearm pursuant to  
2 this section, the approval shall be valid for thirty (30) calendar  
3 days, during which time the transferor and transferee may complete  
4 the transfer.

5       I. A person who transfers a firearm in violation of the  
6 provisions of this section may be jointly and severally liable for  
7 any civil damages proximately caused by the subsequent use of the  
8 firearm by the transferee.

9       J. The provisions of this section do not apply to:

10       1. A transfer of an antique firearm, as defined in 18 U.S.C.  
11 sec. 921(a) (16), as amended, or a curio or relic, as defined in 27  
12 CFR 478.11, as amended;

13       2. A transfer that is a bona fide gift or loan between  
14 immediate family members, which are limited to spouses, parents,  
15 children, siblings, grandparents, grandchildren, nieces, nephews,  
16 first cousins, aunts, and uncles;

17       3. A transfer that occurs by operation of law or because of the  
18 death of a person for whom the prospective transferor is an executor  
19 or administrator of an estate or a trustee of a trust created in a  
20 will;

21       4. A transfer that is temporary and occurs while in the home of  
22 the unlicensed transferee if:

23           a. the unlicensed transferee is not prohibited from  
24               possessing firearms; and

- 1           b.    the unlicensed transferee reasonably believes that  
2               possession of the firearm is necessary to prevent  
3               imminent death or serious bodily injury to the  
4               unlicensed transferee; or
- 5           c.    a temporary transfer of possession without transfer of  
6               ownership or a title to ownership, which transfer  
7               takes place:
- 8               (i)   at a shooting range located in or on premises  
9                   owned or occupied by a duly incorporated  
10                  organization organized for conservation purposes  
11                  or to foster proficiency in firearms,
- 12              (ii) at a target firearm shooting competition under  
13                  the auspices of, or approved by, a state agency  
14                  or a nonprofit organization, or
- 15              (iii) while hunting, fishing, target shooting, or  
16                  trapping if:
- 17                  (a)   the hunting, fishing, target shooting, or  
18                       trapping is legal in all places where the  
19                       unlicensed transferee possesses the firearm;  
20                       and
- 21                  (b)   the unlicensed transferee holds any license  
22                       or permit that is required for such hunting,  
23                       fishing, target shooting, or trapping;
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1        5. A transfer of a firearm that is made to facilitate the  
2 repair or maintenance of the firearm; provided that this paragraph  
3 shall not apply unless all parties who possess the firearm as a  
4 result of the transfer may legally possess a firearm, provided, an  
5 owner, manager, or employee of a business that repairs or maintains  
6 firearms may rely upon a transferor's statement that he or she may  
7 legally possess a firearm unless the owner, manager, or employee has  
8 actual knowledge to the contrary and may return possession of the  
9 firearm to the transferor upon completion of the repairs or  
10 maintenance without a background check;

11        6. Any temporary transfer that occurs while in the continuous  
12 presence of the owner of the firearm; or

13        7. A transfer of a firearm from a person serving in the armed  
14 forces of the United States who will be deployed outside of the  
15 United States within the next thirty days to any immediate family  
16 member, which is limited to a spouse, parent, child, sibling,  
17 grandparent, grandchild, niece, nephew, first cousin, aunt, or uncle  
18 of the person.

19        K. A person who violates a provision of this section is guilty  
20 of a misdemeanor. Upon conviction, the person shall also be  
21 prohibited from possessing a firearm for two (2) years, beginning on  
22 the date of his or her conviction.

23        L. When a person is convicted of violating a provision of this  
24 section, the state court administrator shall report the conviction

1 to the Oklahoma State Bureau of Investigation and to the National  
2 Instant Background Check System. The report shall include  
3 information indicating that the person is prohibited from possessing  
4 a firearm for two (2) years, beginning on the date of his or her  
5 conviction.

6 M. As used in this section, unless the context requires  
7 otherwise, "transferee" means a person who desires to receive or  
8 acquire a firearm from a transferor. If a transferee is not a  
9 natural person, then each natural person who is authorized by the  
10 transferee to possess the firearm after the transfer shall undergo a  
11 background check before taking possession of the firearm.

12 N. Nothing in this section shall be construed to authorize a  
13 transferee to possess a firearm without a license pursuant to the  
14 Self Defense Act.

15 SECTION 2. This act shall become effective November 1, 2014.

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