

Floor Amendment to HB 109-FN

1 Amend the bill by replacing sections 1 and 2 with the following:

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3 1 Purpose. It is the purpose and intent of the general court in enacting RSA 159-E to require
4 commercial firearm sales in New Hampshire to be processed through a licensed firearms dealer,
5 who will conduct a background check and create a record of each sale. The general court believes
6 this law will protect public safety by helping to keep firearms out of the hands of felons, domestic
7 abusers, and those adjudicated to be mentally ill.

8 2 New Chapter; Background Checks for Commercial Firearms Sales. Amend RSA by inserting
9 after chapter 159-D the following new chapter:

10 CHAPTER 159-E

11 BACKGROUND CHECKS FOR COMMERCIAL FIREARMS SALES

12 159-E:1 Definitions. In this chapter:

13 I. "Commercial sale" means a transfer of ownership of a firearm, including but not limited
14 to, a sale, exchange, or gift.

15 II. "Firearm" means any weapon or device designed to be used as a weapon, which will, is
16 designed to, or may be readily converted to, expel a projectile by the action of an explosive,
17 explosion, or other means of combustion, or the frame or receiver of such a device, provided the
18 term "firearm" shall not include the term "antique firearm" as defined in 18 U.S.C. section
19 921(a)(16), or a weapon that has been rendered permanently inoperable and is incapable of being
20 readily restored to a firing condition.

21 III. "Immediate family member" means a spouse, parent, stepparent, child, stepchild,
22 sibling, stepsibling, grandparent, step-grandparent, grandchild, step-grandchild, great-
23 grandparent, step-great-grandparent, great-grandchild, and step-great-grandchild.

24 IV. "Individual" means a natural person.

25 V. "Law enforcement" means any person employed by the United States, or a state, county,
26 city, or town, or other political subdivision as a police officer, peace officer, or another position
27 involving the enforcement of the law and protection of the public interest.

28 VI. "Licensed firearms dealer," "licensed dealer," or "dealer" means a person who has a valid
29 federal firearms dealer license under 18 U.S.C. section 923(a), and all additional licenses required
30 by state or local law to engage in the business of selling or transferring firearms.

31 VII. "Person" means any corporation, company, association, firm, partnership, club,
32 organization, society, joint stock company or other entity, and shall include any entity that engages

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1 in business in this state, in whole or part, through Internet or mail order sales.

2 VII. "Prohibited person" means any individual or person who is prohibited from owning or
3 possessing a firearm pursuant to 18 U.S.C. section 922(d) or pursuant to state law.

4 159-E:2 Firearms Sales to be Conducted Through a Licensed Dealer.

5 I. No individual or person shall engage in the commercial sale of a firearm unless:

6 (a) The individual or person is a licensed firearms dealer;

7 (b) The purchaser is a licensed firearms dealer; or

8 (c) The requirements of paragraph II are met.

9 II. If neither party to a prospective firearms transaction is a licensed firearms dealer, the
10 parties to the transaction shall complete the commercial sale through a licensed firearms dealer as
11 follows:

12 (a) The seller shall deliver the firearm to the dealer, who shall process the sale as if he
13 or she were the seller, except that the seller may remove the firearm from the business premises of
14 the licensed dealer while the background check is being conducted. If the seller removes the
15 firearm from the business premises of the licensed dealer while the background check is being
16 conducted, the purchaser and the seller shall return to the business premises of the licensed dealer,
17 and the seller shall again deliver the firearm to the licensed dealer prior to completing the sale.

18 (b) Except as provided in subparagraph (a), the dealer shall comply with all
19 requirements of federal, state, and local law that would apply if the licensed dealer were selling the
20 firearm from his or her inventory to the purchaser, including but not limited to, conducting a
21 background check on the prospective purchaser, which shall include a check of the National Instant
22 Criminal Background Check System (NICS), and compliance with all federal, state, and local
23 recordkeeping requirements.

24 (c) If the transaction is not prohibited, the dealer shall deliver the firearm to the buyer
25 after all legal requirements are met.

26 (d) If the dealer cannot legally deliver the firearm to the buyer, the dealer shall return
27 the firearm to the seller without requiring a background check and the transfer to the buyer shall
28 not take place.

29 (e) The dealer may impose on the purchaser a reasonable fee to cover administrative
30 costs incurred by the dealer for facilitating the transfer of the firearm, plus any applicable fees
31 permitted under state or federal law.

32 159-E:3 Successful Completion of Background Check. No firearm shall be delivered to an
33 individual pursuant to a commercial sale until NICS has issued a "proceed" response.

34 159-E:4 Exceptions. This chapter shall not apply to a commercial sale where the transfer of
35 ownership is:

36 (a) Between individuals, provided neither party to the transaction is a prohibited
37 person. If the status of an individual's eligibility to own or possess a firearm cannot be ascertained,

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1 the transaction shall be completed through a licensed firearm dealer pursuant to RSA 159-E:2, II;

2 (b) Between immediate family members;

3 (c) To a licensed importer, licensed manufacturer, licensed dealer, or licensed collector,
4 as those terms are defined by 18 USC section 921;

5 (d) By or to a law enforcement agency; or

6 (e) By or to a law enforcement officer or member of the United States Armed Forces
7 acting within the course of his or her official duties.

8 159-E:5 Penalties.

9 I. Any individual or person who violates any provision of this chapter shall be guilty of a
10 class B misdemeanor for a first offense, and a class A misdemeanor for a second or subsequent
11 offense.

12 II. The local law enforcement agency shall report all violations of this chapter by a licensed
13 firearms dealer to the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives.

14 159-E:6 Other Laws.

15 I. Nothing in this chapter shall be construed to modify or change the duties of the
16 department of safety pursuant to RSA 159-D.

17 II. Nothing in this chapter shall be construed to require or authorize any state, county, or
18 local law enforcement agency to establish or maintain a registry of firearms sold or transferred in
19 accordance with this chapter.