

2021 Regular Session

HOUSE BILL NO. 353

BY REPRESENTATIVE LANDRY

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

WEAPONS/FIREARMS: Provides relative to stronger background checks for gun purchases

1 AN ACT

2 To enact R.S. 14:95.1.4, relative to offenses affecting the public safety; to require criminal
3 background checks on all gun transfers; to authorize a reasonable fee for such
4 background checks; to provide relative to background checks; to provide for
5 exceptions; to provide for definitions; to provide criminal penalties; and to provide
6 for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 14:95.1.4 is hereby enacted to read as follows:

9 §95.1.4. Sale and delivery of firearms; background checks for firearm transfers
10 between unlicensed persons.

11 A. Except as provided in Subsection C of this Section, every transfer of a
12 firearm between unlicensed persons shall be preceded by a background check on the
13 transferee. An unlicensed person may not transfer or receive a firearm without
14 complying with the process described in this Section.

15 (1) When both parties to a prospective firearm transfer are unlicensed
16 persons, the transferor and transferee shall appear jointly with the firearm at a
17 firearms dealer and request that the firearm dealer conduct a background check on
18 the transferee.

19 (2) A firearms dealer who agrees to facilitate a background check pursuant
20 to this Section shall process the transfer as though transferring the firearm from the

1 dealer's own inventory to the transferee, complying with all requirements of federal
2 and state law that would apply if the dealer were making such a transfer, including
3 all background check and record-keeping requirements. This Section does not
4 prevent the transferor from removing the firearm from the premises of the firearm
5 dealer if the results of the background check indicate that the transferee is prohibited
6 from possessing or receiving firearms under federal or state law.

7 (3) The transferor and transferee shall each complete, sign, and submit all
8 federal and state forms necessary to process the background check and otherwise
9 complete the transfer pursuant to this Section, and the firearms dealer shall indicate
10 on the forms that the transfer is between unlicensed persons.

11 (4) A firearms dealer who agrees to conduct a background check pursuant
12 to this Section may charge a reasonable fee for facilitating the transfer.

13 B. Neither a firearms dealer nor a transferor may transfer a firearm to a
14 transferee if the results of the background check indicate that the transferee is
15 prohibited from possessing or receiving firearms under federal or state law.

16 C. The provisions of this Section shall not apply to any of the following:

17 (1) The transfer of a firearm between family members.

18 (2) The transfer of a firearm by or to a law enforcement agency or any law
19 enforcement officer, member of the armed forces, or security guard, if the officer,
20 member, or guard is acting within the course and scope of employment and official
21 duties.

22 (3) The transfer of a firearm to an executor, administrator, trustee, or
23 personal representative of an estate or trust that occurs by operation of law upon the
24 death of the former owner of the firearm.

25 (4) The temporary transfer of a firearm to a person who is not prohibited
26 from possessing or receiving firearms under federal or state law if both of the
27 following circumstances occur:

28 (a) The transfer is necessary to prevent imminent death or great bodily harm.

1 (b) The person's possession lasts only as long as necessary to prevent such
2 imminent death or great bodily harm.

3 (5) The temporary transfer of a firearm to a person who is not prohibited
4 from possessing or receiving firearms under federal or state law if the transfer and
5 the transferee's possession of the firearm take place exclusively:

6 (a) At an established shooting range authorized by the governing body of the
7 jurisdiction in which the range is located or, if no such authorization is required,
8 operated consistently with local law in the jurisdiction.

9 (b) While hunting or trapping if the hunting or trapping is legal in all places
10 where the transferee possesses the firearm and the transferee holds all licenses and
11 permits required for such hunting or trapping.

12 (c) At a lawful organized competition involving the use of a firearm or for
13 participation in or practice for a performance by an organized group that uses
14 firearms as part of the performance.

15 (d) In the presence of the transferor.

16 D. For the purposes of this Section:

17 (1) "Background check" means the process described in 18 U.S.C. §922(t)
18 of using the National Instant Criminal Background Check System to determine that
19 a person is not prohibited from possessing or receiving firearms under federal or
20 state law.

21 (2) "Family member" means a spouse or any of the following relations,
22 whether by consanguinity, adoption, or step-relation: parent, child, sibling,
23 grandparent, grandchild.

24 (3) "Firearm" means any pistol, revolver, rifle, shotgun, machine gun,
25 submachine gun, or assault rifle, which is designed to fire or is capable of firing
26 fixed cartridge ammunition or from which a shot or projectile is discharged by an
27 explosive.

28 (4) "Firearms dealer" means a person who holds a federal firearms license
29 issued pursuant to 18 U.S.C. §923(a).

1 (5) "Person" means any individual, corporation, trust, company, firm,
2 partnership, association, club, organization, society, joint stock company, or other
3 legal entity.

4 (6) "Transfer" means to sell, furnish, give, lend, deliver or otherwise provide,
5 with or without consideration.

6 (7) "Transferee" means an unlicensed person who wishes or intends to
7 receive a firearm from another unlicensed person.

8 (8) "Transferor" means an unlicensed person who wishes or intends to
9 transfer a firearm to another unlicensed person.

10 (9) "Unlicensed person" means a person who is not a firearm dealer.

11 E. Any transferor who violates the provisions of this Section shall be fined
12 not more than one thousand dollars, or imprisoned for not more than six months, or
13 both.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 353 Original

2021 Regular Session

Landry

Abstract: Prohibits the transfer of a firearm between unlicensed persons before performing a background check on the person receiving the firearm.

Proposed law provides that every transfer of a firearm between unlicensed persons shall be preceded by a background check on the transferee.

Proposed law provides for exceptions for family members, law enforcement officers, members of the armed forces, security guards, and certain other persons.

Proposed law provides for definitions.

Proposed law provides penalties of a fine of not more than \$1,000, or imprisonment for not more than six months, or both.

(Adds R.S. 14:95.1.4)