SPONSOR: Rep. K. Williams & Rep. Bush & Sen. Lockman
Reps. Burns, Morrison, Romer, Ross Levin, Snyder-Hall, Gorman, Griffith, Phillips, Chukwuocha, Lambert; Sens. Cruce, Sokola

HOUSE OF REPRESENTATIVES
153rd GENERAL ASSEMBLY

HOUSE BILL NO. 141
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLES 11 AND 24 OF THE DELAWARE CODE RELATING TO FIREARMS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each house thereof concurring therein):

Section 1. Amend Subchapter VII, Part E, Chapter 5, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1448A. Background checks for sales of firearms. [Effective until implementation of 84 Del. Laws, c. 259, § 1].

(n) A licensed importer, licensed manufacturer, or licensed dealer may not sell, transfer, or deliver from inventory any firearm to any other person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, without doing all of the following:

(1) Requiring the person to whom the firearm is to be sold, transferred, or delivered to sign a form acknowledging receipt of the Firearm Responsibilities Notice as published by the Department of Safety and Homeland Security under § 907 of Title 24.

(2) Providing the person to whom the firearm is to be sold, transferred, or delivered a copy of the Firearm Responsibilities Notice.

§ 1448A. Background checks and handgun qualified purchaser permit required for sales of firearms [Effective upon implementation of 84 Del. Laws, c. 259, § 1].

(n) A licensed importer, licensed manufacturer, or licensed dealer may not sell, transfer, or deliver from inventory any firearm to any other person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, without doing all of the following:

(1) Requiring the person to whom the firearm is to be sold, transferred, or delivered to sign a form acknowledging receipt of the Firearm Responsibilities Notice as published by the Department of Safety and Homeland Security under § 907 of Title 24.

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(2) Providing the person to whom the firearm is to be sold, transferred, or delivered a copy of the Firearm Responsibilities Notice.

Section 2. Amend Chapter 9, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Chapter 9. DEADLY WEAPONS DEALERS

§ 904. Records.

(a) (1) ~~Any~~ A person desiring to engage in the business described in this chapter ~~shall~~ must keep and securely maintain in the place of business at all times a record in accordance with this section and all applicable federal laws and regulations (including, without limitation, 18 U.S.C. § 921 et seq. and 27 C.F.R. 478.121 et seq.). ~~In such~~ The record ~~the businessperson~~ shall ~~enter~~ include all of the following:

a. ~~the~~ The date of the ~~sale,~~ sale.

b. ~~the~~ The name and address of the person purchasing any deadly ~~weapon,~~ weapon.

c. ~~the number~~ The quantity and kind of deadly weapon so ~~purchased,~~ purchased.

d. ~~the~~ The age of the ~~purchaser,~~ purchaser.

e. ~~the~~ The mode of identification bearing a picture (except as provided in § 1448B(f) of Title 11) which shall include but it is not limited to a driver's ~~license,~~ license.

f. A signed form acknowledging receipt of the Firearm Responsibilities Notice where required for a transaction under § 1448A of Title 11 or § 904A of this title.

g. ~~and any~~ Any other information ~~as shall be~~ required by federal law and regulation.

(2) The record ~~shall~~ must at all times be open for inspection by any judge, justice of the peace, police officer, constable or other peace officer of this ~~State.~~ State in accordance with subsection (d) of this section.

(c) A licensee required to retain a signed form acknowledging receipt of the Firearm Responsibilities Notice must retain that record for no less than 3 years, after which the licensee may destroy that record. A licensee may not disclose, copy, or publish signed forms acknowledging receipt of a Firearm Responsibilities Notice except as required by law.

~~(c)~~ (d) Notwithstanding any provision to the contrary, ~~any~~ an inspection by a judge, justice of the peace, police officer, constable, or other peace officer of this State ~~shall~~ must be reasonable under the circumstances existing at the time and ~~shall~~ may only be made pursuant to and in furtherance of an open criminal investigation or during the course of a criminal ~~prosecution.~~ prosecution, pursuant to a valid warrant or subpoena issued by a court of competent jurisdiction, or a valid investigative subpoena issued by the Attorney General.

(e) A person desiring to engage in the business described in this chapter must maintain the confidentiality and secure custody of all records required by this section.

§ 904A. Background checks for sales between unlicensed persons.

(b) As a condition of its license, any dealer holding a license under this chapter shall facilitate the transfer of a firearm from any unlicensed person on the request of the unlicensed person, through the following procedure:

(1) The prospective buyer and prospective seller shall jointly appear at the place of business of the dealer, during the dealer's regular hours of business, and shall inform the dealer of their desire to avail themselves of this subsection.

(2) The dealer shall do all of the following:

a. ~~subject~~ Subject the prospective buyer to a background check under § 1448A of Title 11.

b. Require the prospective buyer to sign a form acknowledging receipt of the Firearm Responsibilities Notice as published by the Department of Safety and Homeland Security under § 907 of this title.

c. Provide the prospective buyer a copy of the Firearm Responsibilities Notice.

(4) The dealer shall securely maintain a record of all background checks conducted and all signed forms acknowledging receipt of the Firearm Responsibilities Notice under this section in accordance with § 904 of this title.

§ 907. Firearm Responsibilities Notice

(a) The Department of Safety and Homeland Security shall publish a Firearm Responsibilities Notice. The Firearm Responsibilities Notice must be written in plain, concise language and include information about all of the following:

(1) The responsibilities of a firearm owner if a firearm is lost or stolen, and the penalties for a violation of § 1461 of Title 11.

(2) The penalties for engaging in a firearms transaction on behalf of another (a straw purchase) and examples of what constitutes a straw purchase.

(3) The steps necessary to lawfully transfer a firearm to another person.

(4) The crime of wilfully and intentionally making or providing a false oral or written statement or furnishing or exhibiting any false identification intended or likely to deceive a deadly weapons dealer in connection with the purchase, transfer, or attempted purchase or transfer of a firearm.

(5) The importance of firearm safety.

(6) Prevention of suicide by firearm including the contact information for the national suicide prevention hotline.

(7) The importance of safe storage of firearms as well as a summary of Delaware's child access prevention laws and laws relating to the safe storage of firearms, including §§ 603 and 1456 of Title 11.

(8) Restrictions on firearms in sensitive locations.

(b) The Department of Safety and Homeland Security shall publish and make available along with the Firearm Responsibilities Notice required under this section, a form for signature that acknowledges receipt of a Firearm Responsibilities Notice by a person buying or otherwise acquiring a firearm. The form required under this subsection must have on it in clearly legible font the following statement: "I understand that by signing this form I may be exposing myself to criminal liability.

(c) The Department of Safety and Homeland Security must do all of the following:

(1) Annually consult with the Department of Justice and other stakeholders on revisions or updates to the Firearm Responsibilities Notice. Proposed revisions to the Firearm Responsibilities Notice shall be published in the Register of Regulations along with a means for submission of public comment on the revisions.

(2) Post the Firearm Responsibilities Notice to the Department's website.

(3) Provide the Firearm Responsibilities Notice free of charge to licensed importers, licensed manufacturers, and licensed dealers in the State that sell, transfer, or deliver firearms.

Section 3.

(a) This Act is effective upon publication in the Register of Regulations of a notice from the Department of Safety and Homeland Security that a final version of the Firearm Responsibilities Notice has been promulgated. The notice in the Register of Regulations must include a copy of the final version of the Firearm Responsibilities Notice.

(b) Prior to the finalization and publication under subsection (a) of this section, the Department of Safety and Homeland Security must publish a proposed form of the Firearm Responsibilities Notice in the Register of Regulations along with instructions for submission of public comment on the proposed Firearm Responsibilities Notice.

Section 4. Prior to the effective date of this Act, the Department of Safety and Homeland Security shall conduct outreach to licensed dealers, licensed importers, and licensed manufacturers in the State informing them of the requirements of this Act and providing a copy of the Firearm Responsibilities Notice developed by the Department or an internet address where additional information and a copy of the Firearm Responsibilities Notice may be accessed.