



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Washington, DC 20226

www.atf.gov

September 9, 2024

OPEN LETTER TO ALL NEW MEXICO FEDERAL FIREARMS LICENSEES

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) is committed to helping federal firearms licensees (FFLs) successfully comply with their legal obligations. This letter alerts you to a new firearms law enacted in the State of New Mexico, to aid you in complying with state and federal law.

The New Mexico State Legislature enacted a new statute, N.M. Stat. Ann. § 30-7-7.3, which became effective on May 15, 2024. The new statute imposes a waiting period before a firearm may be sold and transferred and makes it unlawful to sell and transfer a firearm before the required waiting period ends.

Beginning May 15, 2024, the State of New Mexico requires a waiting period of seven calendar days before the firearm is sold and transferred to the buyer. The new statute reads, in part:

A waiting period of seven calendar days shall be required for the sale of a firearm and the transfer of the firearm to the buyer. The seven-calendar-day waiting period shall include the period required to conduct a federal instant background check; provided that, if the seven calendar-day waiting period has expired without the completion of a required federal instant background check, the seller shall not transfer the firearm to the buyer until the federal instant background check is completed. If the required federal instant background check has not been completed within twenty days, the seller may transfer the firearm to the buyer.

This state statutory provision applies to all over-the-counter firearm transactions, regardless of the age of the buyer.

The New Mexico statute also requires that the firearm remain in the custody of the seller or the FFL performing the federal instant background check during the entirety of the waiting period.

The provisions of the state statute do not apply to the sale of a firearm:

- 1) to a buyer who holds a valid Federal Firearms License;
- 2) to a buyer who holds a valid New Mexico concealed handgun license pursuant to the Concealed Handgun Carry Act*;

Open Letter to All New Mexico Federal Firearms Licensees

- 3) to a law enforcement agency;
- 4) between two law enforcement officers authorized to carry a firearm and certified pursuant to federal law or the Law Enforcement Training Act; or
- 5) between immediate family members (defined in the statute as a spouse, a parent, a child, a sibling, a grandparent, a grandchild, a great grandchild, a niece, a nephew, a first cousin, an aunt, or an uncle).

*Please note that § 30-7-7.3 NMSA 1978 only exempts the holder of a valid New Mexico concealed handgun license from the 7-day waiting period under state law. The holder of a valid New Mexico concealed handgun license is still subject to the federal requirement to undergo an FBI/NICS background check and investigatory period prior to receiving a firearm from an FFL.

The state statute makes each party to an unlawful sale of a firearm before the required waiting period ends guilty of a misdemeanor. Each firearm sold contrary to the provisions of this statute constitutes a separate offense. N.M. Stat. Ann. § 30-7-7.3(E).

FFLs are encouraged to review the statute and direct any questions concerning the statute to the New Mexico Attorney General's Office.

If you have any questions regarding the federal firearms laws and regulations, please contact your local ATF office. ATF works closely with the firearms industry and appreciates the important role the industry plays in combating violent crime. A listing of ATF office phone numbers can be found at <https://www.atf.gov/contact/atf-field-divisions>.

Sincerely,

 Digitally signed by
MEGAN BENNETT
Date: 2024.09.09
10:49:54 -0400

Megan A. Bennett
Assistant Director

Office of Enforcement Programs and Services.