

C.R.S. 18-12-112

Copy Citation

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- [Colorado Revised Statutes Annotated](#)
- [Title 18. Criminal Code \(Arts. 1 — 26\)](#)
- [Article 12. Offenses Relating to Firearms and Weapons \(Pts. 1 — 5\)](#)
- [Part 1. Firearms and Weapons - General \(§§ 18-12-101 — 18-12-114\)](#)

18-12-112. Private firearms transfers - background check required - penalty - definitions

(1)

(a) On and after July 1, 2013, except as described in subsection (6) of this section, before any person who is not a licensed gun dealer, as defined in section 18-12-506 (6), transfers or attempts to transfer possession of a firearm to a transferee, he or she shall:

(I) Require that a background check, in accordance with section 24-33.5-424, C.R.S., be conducted of the prospective transferee; and

(II) Obtain approval of a transfer from the bureau after a background check has been requested by a licensed gun dealer, in accordance with section 24-33.5-424, C.R.S.

(b) As used in this section, unless the context requires otherwise, "transferee" means a person who desires to receive or acquire a firearm from a transferor. If a transferee is not a natural person, then each natural person who is authorized by the transferee to possess the firearm after the transfer shall undergo a background check, as described in paragraph (a) of this subsection (1), before taking possession of the firearm.

(2)

(a) A prospective firearm transferor who is not a licensed gun dealer shall arrange for a licensed gun dealer to obtain the background check required by this section.

(b) A licensed gun dealer who obtains a background check on a prospective transferee shall record the transfer, as provided in section 18-12-402, and retain the records, as provided in section 18-12-403, in the same manner as when conducting a sale, rental, or exchange at retail. The licensed gun dealer shall comply with all state and federal laws, including 18 U.S.C. sec. 922, as if he or she were transferring the firearm from his or her inventory to the prospective transferee.

(c) A licensed gun dealer who obtains a background check for a prospective firearm transferor pursuant to this section shall provide the firearm transferor and transferee a copy of the results of the background check, including the bureau's approval or disapproval of the transfer.

(d) A licensed gun dealer may charge a fee for services rendered pursuant to this section, which fee shall not exceed ten dollars.

(3)

(a) A prospective firearm transferee under this section shall not accept possession of the firearm unless the prospective firearm transferor has obtained approval of the transfer from the bureau after a background check has been requested by a licensed gun dealer, as described in paragraph (b) of subsection (1) of this section.

(b) A prospective firearm transferee shall not knowingly provide false information to a prospective firearm transferor or to a licensed gun dealer for the purpose of acquiring a firearm.

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

(5) A person who transfers a firearm in violation of the provisions of this section may be jointly and severally liable for any civil damages proximately caused by the transferee's subsequent use of the firearm.

(6) The provisions of this section do not apply to:

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

(b) A transfer that is a bona fide gift or loan between immediate family members, which are limited to spouses, parents, children, siblings, grandparents, grandchildren, nieces, nephews, first cousins, aunts, and uncles;

(c) A transfer that occurs by operation of law or because of the death of a person for whom the prospective transferor is an executor or administrator of an estate or a trustee of a trust created in a will;

(d) A transfer that is temporary and occurs while in the home of the unlicensed transferee if:

(I) The unlicensed transferee is not prohibited from possessing firearms; and

(II) The unlicensed transferee reasonably believes that possession of the firearm is necessary to prevent imminent death or serious bodily injury to the unlicensed transferee;

(e) A temporary transfer of possession without transfer of ownership or a title to ownership, which transfer takes place:

(I) At a shooting range located in or on premises owned or occupied by a duly incorporated organization organized for conservation purposes or to foster proficiency in firearms;

(II) At a target firearm shooting competition under the auspices of, or approved by, a state agency or a nonprofit organization; or

(III) While hunting, fishing, target shooting, or trapping if:

(A) The hunting, fishing, target shooting, or trapping is legal in all places where the unlicensed transferee possesses the firearm; and

(B) The unlicensed transferee holds any license or permit that is required for such hunting, fishing, target shooting, or trapping;

(f) A transfer of a firearm that is made to facilitate the repair or maintenance of the firearm; except that this paragraph (f) does not apply unless all parties who possess the firearm as a result of the transfer may legally possess a firearm;

(g) Any temporary transfer that occurs while in the continuous presence of the owner of the firearm;

(h) A temporary transfer for not more than seventy-two hours. A person who transfers a firearm pursuant to this paragraph (h) may be jointly and severally liable for damages proximately caused by the transferee's subsequent unlawful use of the firearm; or

(i) A transfer of a firearm from a person serving in the armed forces of the United States who will be deployed outside of the United States within the next thirty days to any immediate family member, which is limited to a spouse, parent, child, sibling, grandparent, grandchild, niece, nephew, first cousin, aunt, and uncle of the person.

(7) For purposes of paragraph (f) of subsection (6) of this section:

(a) An owner, manager, or employee of a business that repairs or maintains firearms may rely upon a transferor's statement that he or she may legally possess a firearm unless the owner, manager, or employee has actual knowledge to the contrary and may return possession of the firearm to the transferor upon completion of the repairs or maintenance without a background check;

(b) Unless a transferor of a firearm has actual knowledge to the contrary, the transferor may rely upon the statement of an owner, manager, or employee of a business that repairs or maintains firearms that no owner, manager, or employee of the business is prohibited from possessing a firearm.

(8) Nothing in subsection (6) of this section shall be interpreted to limit or otherwise alter the applicability of section 18-12-111 concerning the unlawful purchase or transfer of firearms.

(9)

(a) A person who violates a provision of this section commits a class 1 misdemeanor and shall be punished in accordance with section 18-1.3-501. The person shall also be prohibited from possessing a firearm for two years, beginning on the date of his or her conviction.

(b) When a person is convicted of violating a provision of this section, the state court administrator shall report the conviction to the bureau and to the national instant criminal background check system created by the federal "Brady Handgun Violence Prevention Act", Pub.L. 103-159, the relevant portion of which is codified at 18 U.S.C. sec. 922 (t). The report shall include information indicating that the person is prohibited from possessing a firearm for two years, beginning on the date of his or her conviction.

History

Source: **L. 2013:** Entire section added, (HB 13-1229), ch. 47, p. 128, § 1, effective March 20. **L. 2018:** IP(1)(a) and (2)(b) amended, (SB 18-032), ch. 8, p. 153, § 6, effective October 1.

▼ Annotations

State Notes

ANNOTATION

This section does not infringe upon the right to bear arms. Because this section only expands the reach of the background check requirements already in place in Colorado, it does not infringe on individuals' right to keep and bear arms for a lawful purpose. *Rocky Mtn. Gun Owners v. Hickenlooper*, 2016 COA 45M, 371 P.3d 768.

This section does not unlawfully delegate legislative or executive power. The fact that licensed gun dealers are not legally obligated to facilitate sales between private parties is not a delegation of legislative power. Likewise, this section does not charge licensed gun dealers with enforcing the law and therefore does not designate executive power. *Rocky Mtn. Gun Owners v. Hickenlooper*, 2016 COA 45M, 371 P.3d 761.