**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 23‑1‑235 SO AS TO PROVIDE FOR CERTAIN TERMS AND THEIR DEFINITIONS RELATING TO CERTIFICATIONS ISSUED BY A CHIEF LAW ENFORCEMENT OFFICER FOR THE TRANSFERING OR MAKING OF A FIREARM, THE APPLICATION PROCESS FOR AND ISSUANCE OF THESE CERTIFICATIONS, AND THE PROCESS TO APPEAL A DENIAL OF AN APPLICATION FOR CERTIFICATION.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 1, Title 23 of the 1976 Code is amended by adding:

“Section 23‑1‑235. (A) As contained in this section:

(1) ‘Chief law enforcement officer’ means any official that the Bureau of Alcohol, Tobacco, Firearms and Explosives, or any successor agency, identifies by regulation or otherwise as eligible to provide any required certification for making or transferring of a firearm.

(2) ‘Certification’ means the participation and assent of the chief law enforcement officer necessary under federal law for the approval of an application to transfer or make a firearm. A chief law enforcement officer is not required to make any certification under this section he knows to be untrue, but he may not refuse to provide certification based on a generalized objection to private persons or entities making, possessing, or receiving firearms or any certain type of firearm the possession of which is not prohibited by law.

(3) ‘Firearm’ has the same meaning as provided in the National Firearms Act, 26 U.S.C. Section 5845(a).

(B) When a chief law enforcement officer’s certification is required by federal law or regulation for the transferring or making of a firearm, the chief law enforcement officer shall, within fifteen days of receipt of a request for certification, provide the certification if the applicant is not prohibited by law from receiving or possessing the firearm or is not the subject of a proceeding that could result in the applicant being prohibited by law from receiving or possessing the firearm. If the chief law enforcement officer is unable to make a certification as required by this section, he shall provide the applicant a written notification of the denial and the reason for his determination.

(C) Chief law enforcement officers and their employees who act in good faith are immune from liability arising from any act or omission in making a certification as required by this section.

(D) An applicant whose request for certification is denied may appeal the chief law enforcement officer’s decision to the magistrates court in the county in which the applicant resides. The court shall review the chief law enforcement officer’s decision to deny the certification de novo. If the court finds that the applicant is not prohibited by law from receiving or possessing the firearm, or is not the subject of a proceeding that could result in the prohibition, or that no substantial evidence supports the chief law enforcement officer’s determination that he cannot truthfully make the certification, the court shall order the chief law enforcement officer to issue the certification and award court costs and reasonable attorney’s fees to the applicant.”

SECTION 2. This act takes effect upon approval by the Governor.

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