



953708

LEGISLATIVE ACTION

Senate

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House

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Floor: WD/2R

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03/03/2018 05:00 PM

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Senator Farmer moved the following:

1 **Senate Amendment to Amendment (234288) (with title**
2 **amendment)**

3
4 Delete lines 364 - 423

5 and insert:

6 Section 10. Present subsection (13) of section 790.065,
7 Florida Statutes, is redesignated as subsection (12),
8 subsections (1), (3), and (10) of that section are amended, and
9 a new subsection (11) is added to that section, to read:

10 790.065 Sale and delivery of firearms.—

11 (1)(a) A licensed importer, licensed manufacturer, or



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12 licensed dealer may not sell or deliver from her or his
13 inventory at her or his licensed premises any firearm to another
14 person, other than a licensed importer, licensed manufacturer,
15 licensed dealer, or licensed collector, until she or he has:

16 1. Obtained a completed form from the potential buyer or
17 transferee, which form shall have been adopted ~~promulgated~~ by
18 the Department of Law Enforcement and provided by the licensed
19 importer, licensed manufacturer, or licensed dealer, which shall
20 include the name, date of birth, gender, race, and social
21 security number or other identification number of such potential
22 buyer or transferee and has inspected proper identification
23 including an identification containing a photograph of the
24 potential buyer or transferee.

25 2. Collected a fee from the potential buyer for processing
26 the criminal history check of the potential buyer. The fee shall
27 be established by the Department of Law Enforcement and may not
28 exceed \$8 per transaction. The Department of Law Enforcement may
29 reduce, or suspend collection of, the fee to reflect payment
30 received from the Federal Government applied to the cost of
31 maintaining the criminal history check system established by
32 this section as a means of facilitating or supplementing the
33 National Instant Criminal Background Check System. The
34 Department of Law Enforcement shall, by rule, establish
35 procedures for the fees to be transmitted by the licensee to the
36 Department of Law Enforcement. All such fees shall be deposited
37 into the Department of Law Enforcement Operating Trust Fund, but
38 shall be segregated from all other funds deposited into such
39 trust fund and must be accounted for separately. Such segregated
40 funds must not be used for any purpose other than the operation



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41 of the criminal history checks required by this section. The
42 Department of Law Enforcement, each year before ~~prior to~~
43 February 1, shall make a full accounting of all receipts and
44 expenditures of such funds to the President of the Senate, the
45 Speaker of the House of Representatives, the majority and
46 minority leaders of each house of the Legislature, and the
47 chairs of the appropriations committees of each house of the
48 Legislature. In the event that the cumulative amount of funds
49 collected exceeds the cumulative amount of expenditures by more
50 than \$2.5 million, excess funds may be used for the purpose of
51 purchasing soft body armor for law enforcement officers.

52 3. Requested, by means of a toll-free telephone call, the
53 Department of Law Enforcement to conduct a check of the
54 information as reported and reflected in the Florida Crime
55 Information Center and National Crime Information Center systems
56 as of the date of the request.

57 4. Received a unique approval number for that inquiry from
58 the Department of Law Enforcement, and recorded the date and
59 such number on the consent form.

60 (b) However, if the person purchasing, or receiving
61 delivery of, the firearm is a holder of a valid concealed
62 weapons or firearms license pursuant to ~~the provisions of~~ s.
63 790.06 or holds an active certification from the Criminal
64 Justice Standards and Training Commission as a "law enforcement
65 officer," a "correctional officer," or a "correctional probation
66 officer" as defined in s. 943.10(1), (2), (3), (6), (7), (8), or
67 (9), this subsection does not apply.

68 (c) This subsection does not apply to the purchase, trade,
69 or transfer of a rifle or shotgun by a resident of this state



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70 when the resident makes such purchase, trade, or transfer from a
71 licensed importer, licensed manufacturer, or licensed dealer in
72 another state.

73 (d)1. If neither party to a prospective firearms sale,
74 lease, or transfer is a licensed dealer, the parties to the
75 transaction must complete the sale, lease, or transfer through a
76 licensed dealer as follows:

77 a. The seller, lessor, or transferor must deliver the
78 firearm to a licensed dealer, who shall process the sale, lease,
79 or transfer as if she or he were the seller, lessor, or
80 transferor, except that the seller, lessor, or transferor who is
81 not a licensed dealer may remove the firearm from the business
82 premises of the licensed dealer while the background check is
83 being conducted and while the waiting period requirement set
84 forth in s. 790.0655 is being met. Other than allowing the
85 unlicensed seller or transferor to remove the firearm from the
86 licensed dealer's business premises, the licensed dealer shall
87 comply with all requirements of federal and state law which
88 would apply if she or he were the seller, lessor, or transferor
89 of the firearm;

90 b. The licensed dealer shall conduct a background check on
91 the buyer or other transferee as provided in this section and,
92 unless the transaction is prohibited, and after all other legal
93 requirements are met, including those set forth in s. 790.0655,
94 the licensed dealer shall either:

95 (I) Deliver the firearm to the seller, lessor, or
96 transferor, who shall complete the transaction and deliver the
97 firearm to the buyer; or

98 (II) If the seller, lessor, or transferor has removed the



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99 firearm from the licensed dealer's business premises, contact
100 the seller, lessor, or transferor to let her or him know that he
101 or she may complete the transaction and deliver the firearm to
102 the buyer.

103 c. If the licensed dealer cannot legally complete the
104 transaction, the dealer must:

105 (I) Return the firearm to the seller, lessor, or
106 transferor; or

107 (II) If the seller, lessor, or transferor has removed the
108 firearm from the licensed dealer's business premises, contact
109 the seller, lessor, or transferor to let her or him know that
110 the transaction is prohibited, and that the seller, lessor, or
111 transferor may not deliver the firearm to the buyer; and

112 d. The licensed dealer may require the buyer or other
113 transferee to pay a fee covering the administrative costs
114 incurred by the licensed dealer for facilitating the transfer of
115 the firearm, plus applicable fees pursuant to federal and state
116 law.

117 2. This paragraph does not apply to:

118 a. The activities of the United States Marshals Service,
119 members of the United States Armed Forces or the National Guard,
120 or federal officials required to carry firearms while engaged in
121 performing their official duties; or

122 b. The following activities, unless the lawful owner knows
123 or has reasonable cause to believe that federal, state, or local
124 law prohibits the transferee from purchasing or possessing
125 firearms, or that the transferee is likely to use the firearm
126 for unlawful purposes:

127 (I) The delivery of a firearm to a gunsmith for service or



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128 repair, or the return of the firearm to its owner by the
129 gunsmith;

130 (II) The transfer of a firearm to a carrier, warehouseman,
131 or other person engaged in the business of transportation or
132 storage, to the extent that the receipt, possession, or having
133 on or about the person any firearm is in the ordinary course of
134 business and in conformity with federal, state, and local laws,
135 and not for the personal use of any such person;

136 (III) The loan of a firearm solely for the purpose of
137 shooting at targets, if the loan occurs on the premises of a
138 properly licensed target facility and if the firearm is at all
139 times kept within the premises of the target facility;

140 (IV) The loan of a firearm to a person who is under 18
141 years of age for lawful hunting, sporting, or educational
142 purposes while under the direct supervision and control of a
143 responsible adult;

144 (V) The loan of a firearm to a person who is 18 years of
145 age or older if the firearm remains in the person's possession
146 only while the person is accompanying the lawful owner and using
147 the firearm for lawful hunting, sporting, or recreational
148 purposes; or

149 (VI) The loan of a firearm to an adult family member of the
150 lawful owner of the firearm if the lawful owner resides with the
151 family member but is not present in the residence, provided that
152 the family member does not maintain control over the firearm for
153 more than 10 consecutive days.

154 ~~(3) In the event of scheduled computer downtime, electronic~~
155 ~~failure, or similar emergency beyond the control of the~~
156 ~~Department of Law Enforcement, the department shall immediately~~



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157 ~~notify the licensee of the reason for, and estimated length of,~~
158 ~~such delay. After such notification, the department shall~~
159 ~~forthwith, and in no event later than the end of the next~~
160 ~~business day of the licensee, either inform the requesting~~
161 ~~licensee if its records demonstrate that the buyer or transferee~~
162 ~~is prohibited from receipt or possession of a firearm pursuant~~
163 ~~to Florida and Federal law or provide the licensee with a unique~~
164 ~~approval number. Unless notified by the end of said next~~
165 ~~business day that the buyer or transferee is so prohibited, and~~
166 ~~without regard to whether she or he has received a unique~~
167 ~~approval number, the licensee may complete the sale or transfer~~
168 ~~and shall not be deemed in violation of this section with~~
169 ~~respect to such sale or transfer.~~

170 ~~(10) A licensed importer, licensed manufacturer, or~~
171 ~~licensed dealer is not required to comply with the requirements~~
172 ~~of this section in the event of:~~

173 ~~(a) Unavailability of telephone service at the licensed~~
174 ~~premises due to the failure of the entity which provides~~
175 ~~telephone service in the state, region, or other geographical~~
176 ~~area in which the licensee is located to provide telephone~~
177 ~~service to the premises of the licensee due to the location of~~
178 ~~said premises; or the interruption of telephone service by~~
179 ~~reason of hurricane, tornado, flood, natural disaster, or other~~
180 ~~act of God, war, invasion, insurrection, riot, or other bona~~
181 ~~fide emergency, or other reason beyond the control of the~~
182 ~~licensee; or~~

183 ~~(b) Failure of the Department of Law Enforcement to comply~~
184 ~~with the requirements of subsections (2) and (3).~~

185 (11) A person younger than 21 years of age may not purchase



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186 a firearm and a person may not transfer a firearm to another
187 person younger than 21 years of age. The sale or transfer of a
188 firearm to a person younger than 21 years of age may not be made
189 or facilitated by any individual or entity. A person who
190 violates this subsection commits a felony of the third degree,
191 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
192 The prohibitions of this subsection do not apply to the purchase
193 of a rifle or shotgun by a law enforcement officer or a
194 correctional officer, as those terms are defined in s. 943.10,
195 or to a person on active duty in the Armed Forces of the United
196 States or full-time duty in the National Guard.

197 Section 11. Section 790.0655, Florida Statutes, is amended
198 to read:

199 790.0655 Purchase and delivery of firearms ~~handguns~~;
200 mandatory waiting period; exceptions; penalties.—

201 (1) (a) ~~There shall be~~ A mandatory ~~3-day~~ waiting period is
202 imposed between the purchase and delivery of a firearm. The
203 mandatory waiting period is, which shall be 3 days, excluding
204 weekends and legal holidays, or expires upon the completion of
205 the records checks required under s. 790.065, whichever occurs
206 later. The mandatory waiting period applies to the delivery of a
207 firearm through a private sale facilitated through a licensed
208 dealer under s. 790.065(1) (d) between the purchase and the
209 delivery at retail of any handgun. "Purchase" means the transfer
210 of money or other valuable consideration to the retailer.
211 ~~"Handgun" means a firearm capable of being carried and used by~~
212 ~~one hand, such as a pistol or revolver. "Retailer" means and~~
213 includes a licensed importer, licensed manufacturer, or licensed
214 dealer every person engaged in the business of making firearm



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215 sales at retail or for distribution, or use, or consumption, or
216 storage to be used or consumed in this state, as defined in s.
217 212.02(13).

218 (b) Records of firearm handgun sales must be available for
219 inspection by any law enforcement agency, as defined in s.
220 934.02, during normal business hours.

221 (2) The ~~3-day~~ waiting period does shall not apply in the
222 following circumstances:

223 (a) When a firearm handgun is being purchased by a holder
224 of a concealed weapons permit as defined in s. 790.06.

225 (b) To a trade-in of another firearm handgun.

226 (c) To a person who completes a 16-hour hunter education or
227 hunter safety course approved by the Fish and Wildlife
228 Conservation Commission or similar agency of another state,
229 unless that person is purchasing a handgun.

230 (3) It is a felony of the third degree, punishable as
231 provided in s. 775.082, s. 775.083, or s. 775.084:

232 (a) For any retailer, or any employee or agent of a
233 retailer, to deliver a firearm handgun before the expiration of
234 the ~~3-day~~ waiting period, subject to the exceptions provided in
235 subsection (2).

236 (b) For a purchaser to obtain delivery of a firearm handgun
237 by fraud, false pretense, or false representation.

238 Section 12. Paragraph (e) of subsection (3) of section
239 790.335, Florida Statutes, is amended to read:

240 790.335 Prohibition of registration of firearms; electronic
241 records.—

242 (3) EXCEPTIONS.—The provisions of this section shall not
243 apply to:



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244 (e)1. Records kept pursuant to the recordkeeping provisions
245 of s. 790.065; however, nothing in this section shall be
246 construed to authorize the public release or inspection of
247 records that are made confidential and exempt from the
248 provisions of s. 119.07(1) by s. 790.065(3)(a) ~~s. 790.065(4)(a)~~.

249 2. Nothing in this paragraph shall be construed to allow
250 the maintaining of records containing the names of purchasers or
251 transferees who receive unique approval numbers or the
252 maintaining of records of firearm transactions.

253
254 ===== T I T L E A M E N D M E N T =====

255 And the title is amended as follows:

256 Delete lines 2434 - 2448

257 and insert:

258 F.S.; requiring that, if neither party to a
259 prospective firearms sale, lease, or transfer is a
260 licensed dealer, the parties complete the sale, lease,
261 or transfer through a licensed dealer; specifying
262 procedures and requirements for a licensed dealer, a
263 seller, lessor, or transferor, and a buyer, lessee, or
264 transferee, including a required background check;
265 authorizing a licensed dealer to charge a buyer or
266 transferee specified fees; providing applicability;
267 deleting provisions authorizing a licensee to complete
268 the sale or transfer of a firearm to a person without
269 receiving notification from the Department of Law
270 Enforcement informing the licensee as to whether such
271 person is prohibited from receipt or possession of a
272 firearm or providing a unique approval number under



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273 certain circumstances; deleting provisions exempting a
274 licensed importer, licensed manufacturer, or licensed
275 dealer from the sale and delivery requirements, under
276 certain circumstances; prohibiting a person younger
277 than a certain age from purchasing a firearm;
278 prohibiting a person from transferring a firearm to
279 another person younger than a certain age; prohibiting
280 the sale or transfer, or facilitation of a sale or
281 transfer, of a firearm to a person younger than a
282 certain age by any individual or entity; providing
283 criminal penalties; providing an exception; amending
284 s. 790.0655, F.S.; revising the mandatory waiting
285 period to the later of either 3 days, excluding
286 weekends and legal holidays, or upon the completion of
287 certain records checks; applying the mandatory waiting
288 period to private sales of firearms facilitated
289 through a licensed dealer; revising and redefining
290 terms; requiring that records of firearm sales be
291 available for inspection by any law enforcement agency
292 during normal business hours; revising applicability
293 of the waiting period; conforming provisions to
294 changes made by the act; amending s. 790.335, F.S.;

295 conforming a cross-reference;