



355256

LEGISLATIVE ACTION

Senate

.
. .
. .
. .
. .

House

The Committee on Rules (Thurston) recommended the following:

1 **Senate Amendment to Amendment (345360) (with title**
2 **amendment)**

3
4 Delete lines 85 - 209
5 and insert:

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

10 790.065 Sale and delivery of firearms.—

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



355256

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



355256

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



355256

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



355256

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



355256

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~~



355256

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



355256

186 a firearm. The sale or transfer of a firearm to a person younger
187 than 21 years of age may not be made or facilitated by a
188 licensed importer, licensed manufacturer, or licensed dealer. A
189 person who violates this subsection commits a felony of the
190 third degree, punishable as provided in s. 775.082, s. 775.083,
191 or s. 775.084. The prohibition on the purchase of a firearm by a
192 person younger than 21 years of age or the sale or transfer by a
193 licensed importer, licensed manufacturer, or licensed dealer to
194 a person younger than 21 years of age does not apply to a member
195 of the military or naval forces of this state or of the United
196 States or to a law enforcement officer or a correctional
197 officer, as those terms are defined in s. 943.10.

198 Section 7. Section 790.0655, Florida Statutes, is amended
199 to read:

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

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



355256

215 ~~dealer every person~~ engaged in the business of making firearm
216 sales at retail or for distribution, or use, or consumption, or
217 storage to be used or consumed in this state, as defined in s.
218 212.02(13).

219 (b) Records of firearm handgun sales must be available for
220 inspection by any law enforcement agency, as defined in s.
221 934.02, during normal business hours.

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

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

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

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

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

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

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

239 Section 8. Paragraph (e) of subsection (3) of section
240 790.335, Florida Statutes, is amended to read:

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

243 (3) EXCEPTIONS.—The provisions of this section shall not



355256

244 apply to:

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

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

254

255 ===== T I T L E A M E N D M E N T =====

256 And the title is amended as follows:

257 Delete lines 1744 - 1761

258 and insert:

259 s. 790.065, F.S.; requiring that, if neither party to
260 a prospective firearms sale, lease, or transfer is a
261 licensed dealer, the parties complete the sale, lease,
262 or transfer through a licensed dealer; specifying
263 procedures and requirements for a licensed dealer, a
264 seller, lessor, or transferor, and a buyer, lessee, or
265 transferee, including a required background check;
266 authorizing a licensed dealer to charge a buyer or
267 transferee specified fees; providing applicability;
268 deleting provisions authorizing a licensee to complete
269 the sale or transfer of a firearm to a person without
270 receiving notification from the Department of Law
271 Enforcement informing the licensee as to whether such
272 person is prohibited from receipt or possession of a



355256

273 firearm or providing a unique approval number under
274 certain circumstances; deleting provisions exempting a
275 licensed importer, licensed manufacturer, or licensed
276 dealer from the sale and delivery requirements, under
277 certain circumstances; prohibiting a person younger
278 than a certain age from purchasing a firearm;
279 prohibiting the sale or transfer, or facilitation of a
280 sale or transfer, of a firearm to a person younger
281 than a certain age by a licensed importer, licensed
282 manufacturer, or licensed dealer; providing criminal
283 penalties; providing an exception; amending s.
284 790.0655, F.S.; revising the mandatory waiting period
285 to the later of either 3 days, excluding weekends and
286 legal holidays, or upon the completion of certain
287 records checks; applying the mandatory 3-day 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;