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LEGISLATIVE ACTION

Senate

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House

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The Committee on Appropriations (Gibson) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 330 - 382

and insert:

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

790.065 Sale and delivery of firearms.—

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



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

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

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



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

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

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

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

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



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

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

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

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

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

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



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

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

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

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

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

116 2. This paragraph does not apply to:

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

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

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



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

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

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

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

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

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

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



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

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

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

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

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



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

197 Section 8. 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





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214 dealer ~~every person~~ engaged in the business of making firearm  
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 9. 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



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243 apply to:

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 27 - 41

257 and insert:

258 s. 790.065, F.S.; requiring that, if neither party to  
259 a 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



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272 firearm or providing a unique approval number under  
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 the sale or transfer, or facilitation of a  
279 sale or transfer, of a firearm to a person younger  
280 than a certain age by a licensed importer, licensed  
281 manufacturer, or licensed dealer; providing criminal  
282 penalties; providing an exception; amending s.  
283 790.0655, F.S.; revising the mandatory waiting period  
284 to the later of either 3 days, excluding weekends and  
285 legal holidays, or upon the completion of certain  
286 records checks; applying the mandatory 3-day waiting  
287 period to private sales of firearms facilitated  
288 through a licensed dealer; revising and redefining  
289 terms; requiring that records of firearm sales be  
290 available for inspection by any law enforcement agency  
291 during normal business hours; revising applicability  
292 of the waiting period; conforming provisions to  
293 changes made by the act; amending s. 790.335, F.S.;  
294 conforming a cross-reference;