

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Shaw offered the following:

2
3 **Substitute Amendment for Amendment (165285) (with title**
4 **amendment)**

5 Between lines 647 and 648, insert:

6 Section 10. Subsections (1), (3), and (10) of section
7 790.065, Florida Statutes, are amended to read:

8 790.065 Sale and delivery of firearms.—

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

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

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

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

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

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

58 (b) However, if the person purchasing, or receiving
59 delivery of, the firearm is a holder of a valid concealed
60 weapons or firearms license pursuant to ~~the provisions of s.~~
61 790.06 or holds an active certification from the Criminal
62 Justice Standards and Training Commission as a "law enforcement
63 officer," a "correctional officer," or a "correctional probation

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64 officer" as defined in s. 943.10(1), (2), (3), (6), (7), (8), or
65 (9), this subsection does not apply.

66 (c) This subsection does not apply to the purchase, trade,
67 or transfer of a rifle or shotgun by a resident of this state
68 when the resident makes such purchase, trade, or transfer from a
69 licensed importer, licensed manufacturer, or licensed dealer in
70 another state.

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

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

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

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

96 (II) If the seller, lessor, or transferor has removed the
97 firearm from the licensed dealer's business premises, contact
98 the seller, lessor, or transferor to let her or him know that he
99 or she may complete the transaction and deliver the firearm to
100 the buyer;

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

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

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

110 d. The licensed dealer may require the buyer or other
111 transferee to pay a fee covering the administrative costs
112 incurred by the licensed dealer for facilitating the transfer of

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113 the firearm, plus applicable fees pursuant to federal and state
114 law.

115 2. This paragraph does not apply to:

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

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

125 (I) The delivery of a firearm to a gunsmith for service or
126 repair, or the return of the firearm to its owner by the
127 gunsmith;

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

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

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

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

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

152 ~~(3) In the event of scheduled computer downtime,~~
153 ~~electronic failure, or similar emergency beyond the control of~~
154 ~~the Department of Law Enforcement, the department shall~~
155 ~~immediately notify the licensee of the reason for, and estimated~~
156 ~~length of, such delay. After such notification, the department~~
157 ~~shall forthwith, and in no event later than the end of the next~~
158 ~~business day of the licensee, either inform the requesting~~
159 ~~licensee if its records demonstrate that the buyer or transferee~~
160 ~~is prohibited from receipt or possession of a firearm pursuant~~
161 ~~to Florida and Federal law or provide the licensee with a unique~~
162 ~~approval number. Unless notified by the end of said next~~

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163 ~~business day that the buyer or transferee is so prohibited, and~~
164 ~~without regard to whether she or he has received a unique~~
165 ~~approval number, the licensee may complete the sale or transfer~~
166 ~~and shall not be deemed in violation of this section with~~
167 ~~respect to such sale or transfer.~~

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

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

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

183 Section 11. Paragraph (a) of subsection (1) of section
184 790.0655, Florida Statutes, is amended to read:

185 790.0655 Purchase and delivery of handguns; mandatory
186 waiting period; exceptions; penalties.-

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187 (1)(a) There shall be a mandatory 3-day waiting period,
188 which shall be 3 days, excluding weekends and legal holidays,
189 between the purchase and the delivery at retail, or the delivery
190 through a private sale facilitated through a licensed dealer
191 under s. 790.065(1)(d), of any handgun. "Purchase" means the
192 transfer of money or other valuable consideration to the
193 retailer. "Handgun" means a firearm capable of being carried and
194 used by one hand, such as a pistol or revolver. "Retailer" means
195 and includes every person engaged in the business of making
196 sales at retail or for distribution, or use, or consumption, or
197 storage to be used or consumed in this state, as defined in s.
198 212.02(13).

199 Section 12. Paragraph (e) of subsection (3) of section
200 790.335, Florida Statutes, is amended to read:

201 790.335 Prohibition of registration of firearms;
202 electronic records.—

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

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

210 2. Nothing in this paragraph shall be construed to allow
211 the maintaining of records containing the names of purchasers or

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212 transferees who receive unique approval numbers or the
213 maintaining of records of firearm transactions.

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

217 Remove line 53 and insert:
218 availability of services; amending s. 790.065, F.S.;
219 requiring that the parties, if neither party to a
220 sale, lease, or transfer of a firearm is a licensed
221 dealer, complete the sale, lease, or transfer through
222 a licensed dealer; specifying procedures and
223 requirements for a licensed dealer, a seller, lessor,
224 or transferor, and a buyer, lessee, or transferee;
225 authorizing a licensed dealer to charge a buyer or
226 transferee specified fees; providing applicability;
227 deleting provisions authorizing a licensee to complete
228 the sale or transfer of a firearm to a person without
229 receiving notification from the Department of Law
230 Enforcement informing the licensee as to whether such
231 person is prohibited from receipt or possession of a
232 firearm or providing a unique approval number under
233 certain circumstances; deleting provisions exempting a
234 licensed importer, licensed manufacturer, or licensed
235 dealer from the sale and delivery requirements, under
236 certain circumstances; amending s. 790.0655, F.S.;

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237 | applying the mandatory 3-day waiting period to private
238 | sales of handguns facilitated through a licensed
239 | dealer; amending s. 790.335, F.S.; conforming a cross-
240 | reference; creating s. 790.064, F.S.;

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