

By Senator Rodriguez

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1 A bill to be entitled
2 An act relating to firearms; amending s. 790.065,
3 F.S.; requiring the Department of Law Enforcement to
4 include on a standard form certain questions
5 concerning a potential firearm buyer's or transferee's
6 criminal history and other information relating to the
7 person's eligibility to make the firearm purchase;
8 requiring the department to notify certain law
9 enforcement agencies when a potential sale or transfer
10 receives a nonapproval number; providing requirements
11 for the notification of nonapproval; requiring that,
12 if neither party to a prospective firearms sale,
13 lease, or transfer is a licensed dealer, the parties
14 must complete the sale, lease, or transfer through a
15 licensed dealer; specifying procedures and
16 requirements for a licensed dealer, seller, lessor, or
17 transferor and a buyer, lessee, or transferee,
18 including a required background check; providing
19 applicability; revising the applicability of certain
20 requirements imposed on licensed importers, licensed
21 manufacturers, or licensed dealers; revising
22 applicability of the prohibition against certain sales
23 or deliveries of firearms to include certain
24 purchases, trades, and transfers of a rifle or
25 shotgun; deleting provisions exempting, under certain
26 circumstances, a licensed importer, licensed
27 manufacturer, or licensed dealer from the sale and
28 delivery requirements; deleting provisions authorizing
29 a licensee to complete the sale or transfer of a

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30 firearm to a person without receiving notification
31 from the department informing the licensee as to
32 whether the person is prohibited from receipt or
33 possession of a firearm or providing a unique approval
34 number; prohibiting the sale or transfer, or
35 facilitation of a sale or transfer, of a firearm to a
36 person younger than a certain age by any person or
37 entity; revising an exception to the prohibitions;
38 amending s. 790.335, F.S.; conforming a cross-
39 reference; providing an effective date.

40
41 Be It Enacted by the Legislature of the State of Florida:

42
43 Section 1. Subsections (1) and (3), paragraph (a) of
44 present subsection (4), subsection (10), paragraphs (b) and (c)
45 of present subsection (12), and present subsection (13) of
46 section 790.065, Florida Statutes, are amended to read:

47 790.065 Sale and delivery of firearms.—

48 (1)(a) A licensed importer, licensed manufacturer, or
49 licensed dealer may not sell or deliver from her or his
50 inventory at her or his licensed premises any firearm to another
51 person, other than a licensed importer, licensed manufacturer,
52 licensed dealer, or licensed collector, until she or he has:

53 1. Provided to and obtained a completed form from the
54 potential buyer or transferee a completed form, adopted by the
55 Department of Law Enforcement, which form shall have been
56 promulgated by the Department of Law Enforcement and provided by
57 the licensed importer, licensed manufacturer, or licensed
58 dealer, which, at a minimum, must shall include the name, date

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59 of birth, gender, race, and social security number or other
60 identification number of the ~~such~~ potential buyer or transferee;
61 questions as to any criminal history of the potential buyer or
62 transferee; and other information relating to his or her
63 eligibility to purchase a firearm, and has inspected proper
64 identification, which must include ~~including an identification~~
65 ~~containing~~ a photograph of the potential buyer or transferee.

66 a. If the review of records under subsection (2) indicates
67 that the potential buyer or transferee is prohibited under state
68 or federal law from having in her or his care, custody,
69 possession, or control a firearm and that the potential
70 transfer, sale, or purchase has received a nonapproval number,
71 the Department of Law Enforcement shall send notification of the
72 nonapproval to the federal or state correctional, law
73 enforcement, prosecutorial, and other criminal justice agencies
74 that have jurisdiction in the county where the transfer or
75 purchase was attempted.

76 b. The Department of Law Enforcement shall, for each
77 county, identify the federal or state correctional, law
78 enforcement, prosecutorial, and other criminal justice agencies
79 that must receive the notification of nonapproval.

80 c. The notification of nonapproval must include the
81 identity of the potential buyer or transferee, the identity of
82 the licensee who made the inquiry, the date and time of issuance
83 of the nonapproval number, the reason for the nonapproval, and
84 the location where the attempted purchase or transfer occurred.

85 d. Except in instances in which a delay is necessary to
86 avoid compromising an ongoing investigation, in which case the
87 Department of Law Enforcement may delay notification for as long

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88 as necessary, the department shall notify the required agencies
89 within 1 week after issuing the notification of nonapproval.
90 Such notifications, which may be made by any means, whether
91 oral, written, or electronic, may be aggregated, provided that
92 they are timely made.

93 2. Collected a fee from the potential buyer or transferee
94 for processing the criminal history check ~~of the potential~~
95 ~~buyer.~~ The ~~fee shall be established by the~~ Department of Law
96 Enforcement shall establish the fee, which ~~and~~ may not exceed \$8
97 per transaction. The Department of Law Enforcement may reduce,
98 or suspend collection of, the fee to reflect payment received
99 from the Federal Government applied to the cost of maintaining
100 the criminal history check system established by this section as
101 a means of facilitating or supplementing the National Instant
102 Criminal Background Check System. The Department of Law
103 Enforcement shall, by rule, establish procedures for the fees to
104 be transmitted by the licensee to the Department of Law
105 Enforcement. Such procedures must provide that fees may be paid
106 or transmitted by electronic means, including, but not limited
107 to, debit cards, credit cards, or electronic funds transfers.
108 All such fees shall be deposited into the Department of Law
109 Enforcement Operating Trust Fund, but shall be segregated from
110 all other funds deposited into the ~~such~~ trust fund and must be
111 accounted for separately. Such segregated funds must not be used
112 for any purpose other than the operation of the criminal history
113 checks required by this section. The Department of Law
114 Enforcement, each year before February 1, shall make a full
115 accounting of all receipts and expenditures of such funds to the
116 President of the Senate, the Speaker of the House of

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117 Representatives, the majority and minority leaders of each house
118 of the Legislature, and the chairs of the appropriations
119 committees of each house of the Legislature. In the event that
120 the cumulative amount of funds collected exceeds the cumulative
121 amount of expenditures by more than \$2.5 million, excess funds
122 may be used for the purpose of purchasing soft body armor for
123 law enforcement officers.

124 3. Requested, by means of a toll-free telephone call or
125 other electronic means, the Department of Law Enforcement to
126 conduct a check of the information as reported and reflected in
127 the Florida Crime Information Center and National Crime
128 Information Center systems as of the date of the request.

129 4. Received a unique approval number for that inquiry from
130 the Department of Law Enforcement, and recorded the date and the
131 approval ~~such~~ number on the consent form.

132 (b)1. If neither party to a prospective firearms sale,
133 lease, or transfer is a licensed dealer, the parties to the
134 transaction must complete the sale, lease, or transfer through a
135 licensed dealer as follows:

136 a. The seller, lessor, or transferor shall deliver the
137 firearm to a licensed dealer, who shall process the sale, lease,
138 or transfer as if she or he were the seller, lessor, or
139 transferor, except that the seller, lessor, or transferor who is
140 not a licensed dealer may remove the firearm from the business
141 premises of the licensed dealer while the background check is
142 being conducted and while the waiting period requirement set
143 forth in s. 790.0655 is being met. Other than allowing the
144 unlicensed seller or transferor to remove the firearm from the
145 licensed dealer's business premises, the licensed dealer shall

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146 comply with all requirements of federal and state law which
147 would apply if she or he were the seller, lessor, or transferor
148 of the firearm;

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

154 (I) Deliver the firearm to the seller, lessor, or
155 transferor, who shall complete the transaction and deliver the
156 firearm to the buyer; or

157 (II) If the seller, lessor, or transferor has removed the
158 firearm from the licensed dealer's business premises, contact
159 the seller, lessor, or transferor to inform her or him that she
160 or he may complete the transaction and deliver the firearm to
161 the buyer; and

162 c. If the licensed dealer cannot legally complete the
163 transaction, the dealer must:

164 (I) Return the firearm to the seller, lessor, or
165 transferor; or

166 (II) If the seller, lessor, or transferor has removed the
167 firearm from the licensed dealer's business premises, contact
168 the seller, lessor, or transferor to inform her or him that the
169 transaction is prohibited and that the seller, lessor, or
170 transferor may not deliver the firearm to the buyer.

171 2. This paragraph does not apply to:

172 a. The activities of the United States Marshals Service,
173 members of the United States Armed Forces or the National Guard,
174 or federal officials required to carry firearms while performing

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175 their official duties; or

176 b. The following activities, unless the lawful owner knows
177 or has reasonable cause to believe that federal, state, or local
178 law prohibits the transferee from purchasing or possessing
179 firearms or that the transferee is likely to use the firearm for
180 unlawful purposes:

181 (I) The delivery of a firearm to a gunsmith for service or
182 repair or the return of the firearm to its owner by the
183 gunsmith;

184 (II) The transfer of a firearm to a carrier, warehouseman,
185 or other person engaged in the business of transportation or
186 storage, to the extent that the receipt, possession, or having
187 on or about the person any firearm is in the ordinary course of
188 business and in conformity with federal, state, and local laws,
189 and not for the personal use of any such person;

190 (III) The loan of a firearm solely for the purpose of
191 shooting at targets, if the loan occurs on the premises of a
192 properly licensed target facility and if the firearm is at all
193 times kept within the premises of the target facility;

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

198 (V) The loan of a firearm to a person who is 18 years of
199 age or older if the firearm remains in the person's possession
200 only while the person is accompanying the lawful owner and using
201 the firearm for lawful hunting, sporting, or recreational
202 purposes; or

203 (VI) The loan of a firearm to an adult family member of the

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204 lawful owner of the firearm if the lawful owner resides with the
205 family member but is not present in the residence and the family
206 member does not maintain control over the firearm for more than
207 10 consecutive days.

208
209 This subsection does not apply ~~(b) However,~~ if the person
210 purchasing~~,~~ or receiving delivery of~~,~~ the firearm is ~~a holder of~~
211 ~~a valid concealed weapons or firearms license pursuant to the~~
212 ~~provisions of s. 790.06 or~~ holds an active certification from
213 the Criminal Justice Standards and Training Commission as a "law
214 enforcement officer," a "correctional officer," or a
215 "correctional probation officer" as defined in s. 943.10(1),
216 (2), (3), (6), (7), (8), or (9), ~~this subsection does not apply.~~

217 ~~(c) This subsection does not apply to the purchase, trade,~~
218 ~~or transfer of a rifle or shotgun by a resident of this state~~
219 ~~when the resident makes such purchase, trade, or transfer from a~~
220 ~~licensed importer, licensed manufacturer, or licensed dealer in~~
221 ~~another state.~~

222 ~~(3) In the event of scheduled computer downtime, electronic~~
223 ~~failure, or similar emergency beyond the control of the~~
224 ~~Department of Law Enforcement, the department shall immediately~~
225 ~~notify the licensee of the reason for, and estimated length of,~~
226 ~~such delay. After such notification, the department shall~~
227 ~~forthwith, and in no event later than the end of the next~~
228 ~~business day of the licensee, either inform the requesting~~
229 ~~licensee if its records demonstrate that the buyer or transferee~~
230 ~~is prohibited from receipt or possession of a firearm pursuant~~
231 ~~to Florida and Federal law or provide the licensee with a unique~~
232 ~~approval number. Unless notified by the end of said next~~

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

238 (3) ~~(a)~~ ~~(4)~~ ~~(a)~~ Any records containing any of the information
239 set forth in subsection (1) pertaining to a buyer or transferee
240 who is not found to be prohibited from receipt or transfer of a
241 firearm by reason of state Florida and federal law which records
242 are created by the Department of Law Enforcement to conduct the
243 criminal history record check shall be confidential and exempt
244 from ~~the provisions of~~ s. 119.07(1) and may not be disclosed by
245 the Department of Law Enforcement or any officer or employee
246 thereof to any person or to another agency. The Department of
247 Law Enforcement shall destroy any such records forthwith after
248 it communicates the approval and nonapproval numbers to the
249 licensee and, in any event, such records shall be destroyed
250 within 48 hours after the day of the response to the licensee's
251 request.

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

255 ~~(a) Unavailability of telephone service at the licensed~~
256 ~~premises due to the failure of the entity which provides~~
257 ~~telephone service in the state, region, or other geographical~~
258 ~~area in which the licensee is located to provide telephone~~
259 ~~service to the premises of the licensee due to the location of~~
260 ~~said premises; or the interruption of telephone service by~~
261 ~~reason of hurricane, tornado, flood, natural disaster, or other~~

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262 ~~act of God, war, invasion, insurrection, riot, or other bona~~
263 ~~fide emergency, or other reason beyond the control of the~~
264 ~~licensee; or~~

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

267 ~~(10)-(12)~~

268 (b) Any licensed importer, licensed manufacturer, or
269 licensed dealer who violates ~~the provisions of~~ subsection (1)
270 commits a felony of the third degree, punishable as provided in
271 s. 775.082 or s. 775.083.

272 (c) Any employee or agency of a licensed importer, licensed
273 manufacturer, or licensed dealer who violates ~~the provisions of~~
274 subsection (1) commits a felony of the third degree, punishable
275 as provided in s. 775.082 or s. 775.083.

276 ~~(11)-(13)~~ A person younger than 21 years of age may not
277 purchase a firearm, and a person may not sell or transfer. ~~The~~
278 ~~sale or transfer of~~ a firearm to a person younger than 21 years
279 of age ~~may not be made or facilitated by a licensed importer,~~
280 ~~licensed manufacturer, or licensed dealer.~~ The sale or transfer
281 of a firearm to a person younger than 21 years of age may not be
282 facilitated by any other person or entity on behalf of the
283 person younger than 21 years of age. A person who violates this
284 subsection commits a felony of the third degree, punishable as
285 provided in s. 775.082, s. 775.083, or s. 775.084. ~~The~~
286 ~~prohibitions of~~ This subsection does ~~de~~ not apply to the
287 purchase of a rifle or shotgun by a law enforcement officer or
288 correctional officer, as those terms are defined in s.
289 943.10(1), (2), (3), (6), (7), (8), or (9), or by a person on
290 active duty in the Armed Forces of the United States or full-

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291 time duty in the National Guard ~~a servicemember as defined in s.~~
292 ~~250.01.~~

293 Section 2. Paragraph (e) of subsection (3) of section
294 790.335, Florida Statutes, is amended to read:

295 790.335 Prohibition of registration of firearms; electronic
296 records.—

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

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

304 2. Nothing in this paragraph shall be construed to allow
305 the maintaining of records containing the names of purchasers or
306 transferees who receive unique approval numbers or the
307 maintaining of records of firearm transactions.

308 Section 3. This act shall take effect July 1, 2020.