

STORAGE NAME: h2037s1.tr

DATE: March 8, 1998

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
TRANSPORTATION
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: CS/HB 2037 (PCB LEPS 97-05)

RELATING TO: Residency Requirements for Firearms Purchases

SPONSOR(S): Committees on Governmental Operations and Law Enforcement and Public Safety and Representative Futch

COMPANION BILL(S): None

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) LAW ENFORCEMENT AND PUBLIC SAFETY YEAS 5 NAYS 0
 - (2) GOVERNMENTAL OPERATIONS YEAS 4 NAYS 0
 - (3) TRANSPORTATION
 - (4)
 - (5)
-

I. SUMMARY:

The bill requires that a licensed importer, licensed manufacturer, or licensed dealer must determine that the potential buyer or transferee is a resident of this state prior to the sale or delivery of any firearm from his or her inventory at his or her licensed premises. This requirement would be satisfied if the potential buyer possesses a valid Florida driver's license, Florida identification card, or other documentation recognized by Florida law as proof of residency. This restriction does not apply to the sale or delivery of firearms by individuals who are not licensed importers, licensed manufacturers or licensed dealers, or between such importers, manufacturers or dealers.

To document Florida residency, the bill requires that applicants for Florida identification cards and Florida driver's licenses provide proof of residency to the Department of Highway Safety and Motor Vehicles (DHS&MV). Proof of residency shall consist of one of the following documents: a residential lease; title to real property; voter registration card; utility bills; employment records or paychecks; or similar documentation. If DHS&MV determines that the applicant is a Florida resident, the driver's license or identification card would indicate such residency.

The fiscal impact to the Highway Safety Operating Trust is approximately \$104,765 in non-recurring expenditures for data processing services.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Currently, s. 790.065, F.S., provides that no licensed importer, licensed manufacturer, or licensed dealer shall sell or deliver from his or her inventory at his or her licensed premises any firearm to another person, until he or she has:

- Obtained a completed form from the potential buyer or transferee which includes the name, date of birth, gender, race, and social security number or other identification of the potential buyer or transferee and has inspected proper identification including an identification containing a photograph of the potential buyer or transferee, and
- Collected an \$8 fee from the potential buyer, for processing a criminal history check of the potential buyer by the Florida Department of Law Enforcement. The Florida Department of Law Enforcement then searches federal and state databases to determine if the potential firearm purchaser appears to be disqualified based on any criminal record.

There is no requirement in *state* law that a licensed importer, licensed manufacturer, or licensed dealer determine the residency status of an individual prior to the sale or transfer of a firearm to another person. However, *federal* law requires the buyer to certify their state of residence on the transaction record of the purchase. Federal law also requires residency for 90 days prior to the purchase of a firearm by a foreign national.

Chapter 322, F.S., (Drivers' Licenses) does not require that a person be a legal resident of Florida in order to obtain a Florida identification card or driver's license. DHS&MV may issue an identification card to any person 12 years of age or older, upon submission of an application which includes the applicant's full name, sex, race, residence address and mailing address, proof of birth satisfactory to the department, and other data the department may require. Driver's license applications require that similar information be submitted.

Although Florida residency is not required for obtaining a driver's license, under chapter 322, F.S., a "resident", is considered a person who has Florida as his or her principal place of domicile for a period of more than 6 consecutive months, has registered to vote, has made a statement of domicile pursuant to s. 222.17, F.S., or has filed for homestead tax exemption on property in Florida.

B. EFFECT OF PROPOSED CHANGES:

The bill requires that a licensed importer, licensed manufacturer, or licensed dealer must determine that the potential buyer or transferee is a resident of this state prior to the sale or delivery of any firearm from his or her inventory at his or her licensed premises. This requirement would be satisfied if the potential buyer possesses a valid Florida driver's license, Florida identification card, or other documentation recognized by Florida law as proof of residency. This restriction does not apply to the sale or delivery of firearms by individuals who are not licensed importers, licensed manufacturers or licensed dealers, or between such importers, manufacturers or dealers.

To document Florida residency, the bill requires that applicants for Florida identification cards and Florida driver's licenses provide proof of residency to the Department of Highway Safety and Motor Vehicles (DHS&MV). Proof of residency shall consist of one of the following documents: a residential lease; title to real property; voter registration card; utility bills; employment records or paychecks; or similar documentation. If DHS&MV determines that the applicant is a Florida resident, the driver's license or identification card would indicate such residency.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

The bill authorizes DHS&MV to promulgate rules sufficient to determine Florida residency, upon application for an identification card or driver's license.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

The bill requires DHS&MV to obtain additional information from applicants for drivers' licenses and identification cards. Also, licensed importers, manufacturers, and dealers must determine that a potential buyer or transferee is a resident of this state prior to the sale or delivery of any firearm from his or her inventory at his or her licensed premises.

(3) any entitlement to a government service or benefit?

N/A

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

N/A

b. Does the bill require or authorize an increase in any fees?

N/A

c. Does the bill reduce total taxes, both rates and revenues?

N/A

d. Does the bill reduce total fees, both rates and revenues?

N/A

e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

Applicants for Florida driver's licenses and identification cards would be required to provide proof of residency. This is not now a requirement to be issued a driver's license or identification card.

Also, the bill requires that licensed importers, manufacturers, and dealers must determine that a potential buyer or transferee is a resident of this state prior to the sale or delivery of any firearm from his or her inventory at his or her licensed premises.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

N/A

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

ss. 322.051, 322.08, and 790.065

E. SECTION-BY-SECTION RESEARCH:

Section 1: Amends s. 322.051, F.S., to require Florida identification card applicants to provide sufficient information to DHS&MV to determine residency. The identification card must state if the applicant is a Florida resident. Also, provides rulemaking authority.

Section 2: Amends s. 322.08, F.S., to require Florida driver's license applicants to provide sufficient information to DHS&MV to determine residency. The issued license would state if the applicant is a Florida resident. Also, provides rulemaking authority.

Section 3: Amends s. 790.065, F.S., to require that a licensed importer, licensed manufacturer, or licensed dealer, using as evidence a valid Florida driver's license or identification card, or other documentation recognized by Florida law as proof of residency, determine that the potential buyer or transferee of a firearm is a Florida resident, prior to the sale or delivery from his or her inventory at his or her licensed premises any firearm to another person.

Section 4: Provides for an effective date of April 1 of the year enacted.

III. RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

DHS&MV estimates a cost of approximately \$104,765 to the Highway Safety Operating Trust Fund for computer programming.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

<u>EXPENDITURES</u>	<u>1998-99</u>	<u>1999-00</u>
Highway Safety Operating Trust Fund	\$104,765	-0-

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Unknown, the bill requires that licensed importers, manufacturers, and dealers must determine that a potential buyer or transferee is a resident of this state prior to the sale or delivery of any firearm from his or her inventory at his or her licensed premises.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

N/A

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

As amended, CS/HB 2037 requires applicants for identification cards and driver's licenses to be accompanied by proof of residency, without specifying any particular state, country, etc. DHS&MV may infer that such residency proof may be required in order to complete an application.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On January 7, 1998, the Committee on Governmental Operations met and adopted four amendments to HB 2037, and reported the bill favorably as a committee substitute.

The first was an amendment drafted by House Bill Drafting, updating the bill to conform to session law. Such conformation included substituting the term "his or her", for "his", or "her".

The second amendment provided that licensed importers, manufacturers or dealers would use valid Florida driver's licenses, identification cards, or other documentation recognized by Florida law, as proof of Florida residency for applicants for firearms.

The third amendment adds language in Section 1. requiring applications for identification cards to be accompanied by proof of residency, such as a residential lease, title to real property, voter registration, utility bills, or employment documentation. There is no requirement, however, to provide proof of residency from any particular state, country, etc. As worded, It is also possible to infer that such residency proof may be required in order to complete an application for, and be issued, a Florida identification card.

In Section 2., with regard to driver's licenses, similar language is used. In essence, such language mandates proof of residency *somewhere* as a requirement for issuance of Florida driver's licenses and identification cards.

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This amendment also provides the Department with necessary rulemaking authority.

The fourth amendment changes the effective date to April 1, 1999.

VII. SIGNATURES:

COMMITTEE ON LAW ENFORCEMENT AND PUBLIC SAFETY:

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