

Bill No. SB 2090

Amendment No. \_\_\_\_

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Silver moved the following amendment:

**Senate Amendment (with title amendment)**

On page 2, between lines 9 and 10,

insert:

Section 2. Section 790.065, Florida Statutes, is amended to read:

790.065 Sale and delivery of firearms.--

(1) No ~~person licensed importer, licensed manufacturer, or licensed dealer~~ shall sell or deliver from her or his inventory at her or his licensed premises any firearm to another person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, until she or he has:

(a) Obtained a completed form from the potential buyer or transferee, which form shall have been prescribed ~~promulgated~~ by the Department of Law Enforcement and provided by the seller or transferor ~~licensed importer, licensed manufacturer, or licensed dealer~~, which shall include the name, date of birth, gender, race, and social security number

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1 or other identification number of such potential buyer or  
2 transferee and has inspected proper identification including  
3 an identification containing a photograph of the potential  
4 buyer or transferee.

5 (b) Collected a fee from the potential buyer for  
6 processing the criminal history check of the potential buyer.  
7 The fee shall be \$8. The Department of Law Enforcement shall,  
8 by rule, establish procedures for the fees to be transmitted  
9 by the licensee to the Department of Law Enforcement. All such  
10 fees shall be deposited into the Department of Law Enforcement  
11 Operating Trust Fund, but shall be segregated from all other  
12 funds deposited into such trust fund and must be accounted for  
13 separately. Such segregated funds must not be used for any  
14 purpose other than the operation of the criminal history  
15 checks required by this section. The Department of Law  
16 Enforcement, each year prior to February 1, shall make a full  
17 accounting of all receipts and expenditures of such funds to  
18 the President of the Senate, the Speaker of the House of  
19 Representatives, the majority and minority leaders of each  
20 house of the Legislature, and the chairs of the appropriations  
21 committees of each house of the Legislature. In the event  
22 that the cumulative amount of funds collected exceeds the  
23 cumulative amount of expenditures by more than \$2.5 million,  
24 excess funds may be used for the purpose of purchasing soft  
25 body armor for law enforcement officers.

26 (c) Requested, by means of a toll-free telephone call,  
27 the Department of Law Enforcement to conduct a check of the  
28 information as reported and reflected in the Florida Crime  
29 Information Center and National Crime Information Center  
30 systems as of the date of the request.

31 (d) Received a unique approval number for that inquiry

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1 from the Department of Law Enforcement, and recorded the date  
2 and such number on the consent form.

3

4 However, if the person purchasing, or receiving delivery of,  
5 the firearm is a holder of a valid concealed weapons or  
6 firearms license pursuant to the provisions of s. 790.06 or  
7 holds an active certification from the Criminal Justice  
8 Standards and Training Commission as a "law enforcement  
9 officer," a "correctional officer," or a "correctional  
10 probation officer" as defined in s. 943.10(1), (2), (3), (6),  
11 (7), (8), or (9), the provisions of this subsection do not  
12 apply.

13 (2) Upon receipt of a request for a criminal history  
14 record check, the Department of Law Enforcement shall, during  
15 the seller's or transferor's licensee's call or by return  
16 call, forthwith:

17 (a) Review criminal history records to determine if  
18 the potential buyer or transferee has been convicted of a  
19 felony and is prohibited from receipt or possession of a  
20 firearm pursuant to s. 790.23 or has had adjudication of guilt  
21 withheld or imposition of sentence suspended on any felony  
22 unless 3 years have elapsed since probation or any other  
23 conditions set by the court have been fulfilled or expunction  
24 has occurred.

25 (b) Inform the seller or transferor licensee making  
26 the inquiry either that records demonstrate that the buyer or  
27 transferee is so prohibited and provide the seller or  
28 transferor licensee a nonapproval number, or provide the  
29 seller or transferor licensee with a unique approval number.

30 (c)1. Review any records available to it to determine  
31 whether the potential buyer or transferee has been indicted or

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- 1 has had an information filed against her or him for an offense  
2 that is a felony under either state or federal law, or, as  
3 mandated by federal law, has had an injunction for protection  
4 against domestic violence entered against the potential buyer  
5 or transferee under s. 741.30, has had an injunction for  
6 protection against repeat violence entered against the  
7 potential buyer or transferee under s. 784.046, or has been  
8 arrested for a dangerous crime as specified in s.  
9 907.041(4)(a) or for any of the following enumerated offenses:
- 10 a. Criminal anarchy under ss. 876.01 and 876.02.
  - 11 b. Extortion under s. 836.05.
  - 12 c. Explosives violations under s. 552.22(1) and (2).
  - 13 d. Controlled substances violations under chapter 893.
  - 14 e. Resisting an officer with violence under s. 843.01.
  - 15 f. Weapons and firearms violations under this chapter.
  - 16 g. Treason under s. 876.32.
  - 17 h. Assisting self-murder under s. 782.08.
  - 18 i. Sabotage under s. 876.38.
  - 19 j. Stalking or aggravated stalking under s. 784.048.

20  
21 If the review indicates any such indictment, information, or  
22 arrest, the department shall provide to the seller or  
23 transferor ~~licensee~~ a conditional nonapproval number.

24 2. Within 24 working hours, the department shall  
25 determine the disposition of the indictment, information, or  
26 arrest and inform the seller or transferor ~~licensee~~ as to  
27 whether the potential buyer is prohibited from receiving or  
28 possessing a firearm. For purposes of this paragraph,  
29 "working hours" means the hours from 8 a.m. to 5 p.m. Monday  
30 through Friday, excluding legal holidays.

31 3. The office of the clerk of court, at no charge to

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1 the department, shall respond to any department request for  
2 data on the disposition of the indictment, information, or  
3 arrest as soon as possible, but in no event later than 8  
4 working hours.

5 4. The department shall determine as quickly as  
6 possible within the allotted time period whether the potential  
7 buyer is prohibited from receiving or possessing a firearm.

8 5. If the potential buyer is not so prohibited, ~~or if~~  
9 ~~the department cannot determine the disposition information~~  
10 ~~within the allotted time period,~~ the department shall provide  
11 the seller or transferor licensee with a conditional approval  
12 number.

13 6. If the department cannot determine the disposition  
14 information within the allotted time, or if the department  
15 cannot determine compliance with s. 741.30(4), the time  
16 limitation prescribed by this section shall be suspended until  
17 receipt of the final disposition or proof of restoration of  
18 civil and firearm rights.

19 ~~7.6.~~ If the buyer is so prohibited, the conditional  
20 nonapproval number shall become a nonapproval number.

21 ~~8.7.~~ The department shall continue its attempts to  
22 obtain the disposition information ~~and may retain a record of~~  
23 ~~all approval numbers granted without sufficient disposition~~  
24 ~~information.~~ If the department later obtains disposition  
25 information that ~~which~~ indicates:

26 a. That the potential buyer is not prohibited from  
27 owning a firearm, it shall provide the seller or transferor  
28 with a unique approval number and treat the record of the  
29 transaction in accordance with this section; or

30 b. That the potential buyer is prohibited from owning  
31 a firearm, it shall provide the seller or transferor with a

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1 ~~nonapproval immediately revoke the conditional approval number~~  
2 ~~and notify local law enforcement.~~

3 ~~9.8.~~ During the time that disposition of the  
4 indictment, information, or arrest is pending and until the  
5 department is notified by the potential buyer that there has  
6 been a final disposition of the indictment, information, or  
7 arrest, the conditional nonapproval number shall remain in  
8 effect.

9 (3) In the event of scheduled computer downtime,  
10 electronic failure, or similar emergency beyond the control of  
11 the Department of Law Enforcement, the department shall  
12 immediately notify the seller or transferor licensee of the  
13 reason for, and estimated length of, such delay. After such  
14 notification, the department shall forthwith, and in no event  
15 later than the end of the next business day ~~of the licensee~~,  
16 either inform the requesting seller or transferor licensee if  
17 its records demonstrate that the buyer or transferee is  
18 prohibited from receipt or possession of a firearm pursuant to  
19 Florida and Federal law or provide the seller or transferor  
20 ~~licensee~~ with a unique approval number. Unless notified by the  
21 end of said next business day that the buyer or transferee is  
22 so prohibited, and without regard to whether she or he has  
23 received a unique approval number, the seller or transferor  
24 ~~licensee~~ may complete the sale or transfer and shall not be  
25 deemed in violation of this section with respect to such sale  
26 or transfer.

27 (4)(a) Any records containing any of the information  
28 set forth in subsection (1) pertaining to a buyer or  
29 transferee who is not found to be prohibited from receipt or  
30 transfer of a firearm by reason of Florida and federal law  
31 which records are created by the Department of Law Enforcement

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1 to conduct the criminal history record check shall be  
2 confidential and exempt from the provisions of s. 119.07(1)  
3 and may not be disclosed by the Department of Law Enforcement  
4 or any officer or employee thereof to any person or to another  
5 agency. The Department of Law Enforcement shall destroy any  
6 such records forthwith after it communicates the approval and  
7 nonapproval numbers to the seller or transferor licensee and,  
8 in any event, such records shall be destroyed within 48 hours  
9 after the day of the response to the seller's or transferor's  
10 licensee's request.

11 (b) Notwithstanding the provisions of this subsection,  
12 the Department of Law Enforcement may maintain records of NCIC  
13 transactions to the extent required by the Federal Government,  
14 and may maintain a log of dates of requests for criminal  
15 history records checks, unique approval and nonapproval  
16 numbers, license identification numbers, and transaction  
17 numbers corresponding to such dates for a period of not longer  
18 than 2 years or as otherwise required by law.

19 (c) Nothing in this chapter shall be construed to  
20 allow the State of Florida to maintain records containing the  
21 names of purchasers or transferees who receive unique approval  
22 numbers or to maintain records of firearm transactions.

23 (d) Any officer or employee, or former officer or  
24 employee of the Department of Law Enforcement or law  
25 enforcement agency who intentionally and maliciously violates  
26 the provisions of this subsection commits a felony of the  
27 third degree punishable as provided in s. 775.082 or s.  
28 775.083.

29 (5) The Department of Law Enforcement shall establish  
30 a toll-free telephone number which shall be operational 7 days  
31 a week with the exception of Christmas Day and New Year's Day,

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1 for a period of 12 hours a day beginning at 9 a.m. and ending  
2 at 9 p.m., for purposes of responding to inquiries as  
3 described in this section from sellers or transferors ~~licensed~~  
4 ~~manufacturers, licensed importers, and licensed dealers~~. The  
5 Department of Law Enforcement shall employ and train such  
6 personnel as are necessary expeditiously to administer the  
7 provisions of this section.

8 (6) Any person who is denied the right to receive or  
9 purchase a firearm as a result of the procedures established  
10 by this section may request a criminal history records review  
11 and correction in accordance with the rules promulgated by the  
12 Department of Law Enforcement.

13 (7) It shall be unlawful for any seller or transferor  
14 ~~licensed dealer, licensed manufacturer, or licensed importer~~  
15 willfully and intentionally to request criminal history record  
16 information under false pretenses, or willfully and  
17 intentionally to disseminate criminal history record  
18 information to any person other than the subject of such  
19 information. Any person convicted of a violation of this  
20 subsection commits a felony of the third degree punishable as  
21 provided in s. 775.082 or s. 775.083.

22 (8) The Department of Law Enforcement shall promulgate  
23 regulations to ensure the identity, confidentiality, and  
24 security of all records and data provided pursuant to this  
25 section.

26 (9) ~~This section shall become effective at such time~~  
27 ~~as the Department of Law Enforcement has notified all licensed~~  
28 ~~importers, licensed manufacturers, and licensed dealers in~~  
29 ~~writing that the procedures and toll-free number described in~~  
30 ~~this section are operational.~~ This section shall remain in  
31 effect only during such times as the procedures described in

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1 subsection (2) remain operational.

2 (10) A seller or transferor ~~licensed importer,~~  
3 ~~licensed manufacturer, or licensed dealer~~ is not required to  
4 comply with the requirements of this section in the event of:

5 (a) Unavailability of telephone service ~~at the~~  
6 ~~licensed premises~~ due to the failure of the entity which  
7 provides telephone service in the state, region, or other  
8 geographical area in which the sale or delivery of the firearm  
9 occurred ~~licensee is located to provide telephone service to~~  
10 ~~the premises of the licensee due to the location of said~~  
11 ~~premises; or~~ the interruption of telephone service by reason  
12 of hurricane, tornado, flood, natural disaster, or other act  
13 of God, war, invasion, insurrection, riot, or other bona fide  
14 emergency, or other reason beyond the control of the licensee;  
15 or

16 (b) Failure of the Department of Law Enforcement to  
17 comply with the requirements of subsections (2) and (3).

18 (11) Compliance with the provisions of this chapter  
19 shall be a complete defense to any claim or cause of action  
20 under the laws of any state for liability for damages arising  
21 from the importation or manufacture, or the subsequent sale or  
22 transfer to any person who has been convicted in any court of  
23 a crime punishable by imprisonment for a term exceeding 1  
24 year, of any firearm which has been shipped or transported in  
25 interstate or foreign commerce. The Department of Law  
26 Enforcement, its agents and employees shall not be liable for  
27 any claim or cause of action under the laws of any state for  
28 liability for damages arising from its actions in lawful  
29 compliance with this section.

30 (12)(a) Any potential buyer or transferee who  
31 willfully and knowingly provides false information or false or

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1 fraudulent identification commits a felony of the third degree  
2 punishable as provided in s. 775.082 or s. 775.083.

3 (b) Any seller or transferor ~~licensed importer,~~  
4 ~~licensed manufacturer, or licensed dealer~~ who violates the  
5 provisions of subsection (1) commits a felony of the third  
6 degree punishable as provided in s. 775.082 or s. 775.083.

7 (c) Any employee or agency of a seller or transferor  
8 ~~licensed importer, licensed manufacturer, or licensed dealer~~  
9 who violates the provisions of subsection (1) commits a felony  
10 of the third degree punishable as provided in s. 775.082 or s.  
11 775.083.

12 (d) Any person who knowingly acquires a firearm  
13 through purchase or transfer intended for the use of a person  
14 who is prohibited by state or federal law from possessing or  
15 receiving a firearm commits a felony of the third degree,  
16 punishable as provided in s. 775.082 or s. 775.083.

17 (13) This section does not apply to employees of  
18 sheriff's offices, municipal police departments, correctional  
19 facilities or agencies, or other criminal justice or  
20 governmental agencies when the purchases or transfers are made  
21 on behalf of an employing agency for official law enforcement  
22 purposes.

23 Section 3. Subsection (13) of section 790.065, Florida  
24 Statutes, as created by section 1 of chapter 89-191, Laws of  
25 Florida, and subsection (14) of section 790.065, Florida  
26 Statutes, as created by section 1 of chapter 93-197, Laws of  
27 Florida, are repealed.

28 Section 4. Section 790.0655, Florida Statutes, is  
29 amended to read:

30 790.0655 Purchase and delivery of handguns; mandatory  
31 waiting period; exceptions; penalties.--

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1           (1)(a) There shall be a mandatory 3-day waiting  
2 period, which shall be 3 days, excluding weekends and legal  
3 holidays, between the purchase and the delivery at retail of  
4 any handgun when either the purchase or delivery occurs on  
5 property to which the public has the right of access.

6 "Purchase" means the transfer of money or other valuable  
7 consideration to the seller or transferor by another person,  
8 other than a licensed importer, licensed manufacturer,  
9 licensed dealer, or licensed collector ~~retailer~~. "Handgun"

10 means a firearm capable of being carried and used by one hand,  
11 such as a pistol or revolver. ~~"Retailer" means and includes~~  
12 ~~every person engaged in the business of making sales at retail~~  
13 ~~or for distribution, or use, or consumption, or storage to be~~  
14 ~~used or consumed in this state, as defined in s. 212.02(14).~~

15           (b) Records of handgun sales must be available for  
16 inspection by any law enforcement agency, as defined in s.  
17 934.02, during normal business hours.

18           (2) The 3-day waiting period shall not apply in the  
19 following circumstances:

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

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

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

25           (a) For any seller or transferor ~~retailer~~, or any  
26 employee or agent of a seller or transferor ~~retailer~~, to  
27 deliver a handgun before the expiration of the 3-day waiting  
28 period, subject to the exceptions provided in subsection (2).

29           (b) For a purchaser to obtain delivery of a handgun by  
30 fraud, false pretense, or false representation.

31           Section 5. Section 790.33, Florida Statutes, is

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1 amended to read:

2           790.33 Field of regulation of firearms and ammunition  
3 preempted.--

4           (1) PREEMPTION.--Except as expressly provided by  
5 general law, the Legislature hereby declares that it is  
6 occupying the whole field of regulation of firearms and  
7 ammunition, including the purchase, sale, transfer, taxation,  
8 manufacture, ownership, possession, and transportation  
9 thereof, to the exclusion of all existing and future county,  
10 city, town, or municipal ordinances or regulations relating  
11 thereto. Any such existing ordinances are hereby declared  
12 null and void. This subsection shall not affect zoning  
13 ordinances which encompass firearms businesses along with  
14 other businesses. Zoning ordinances which are designed for  
15 the purpose of restricting or prohibiting the sale, purchase,  
16 transfer, or manufacture of firearms or ammunition as a method  
17 of regulating firearms or ammunition are in conflict with this  
18 subsection and are prohibited.

19           (2) LIMITED EXCEPTION; COUNTY WAITING-PERIOD  
20 ORDINANCES.--

21           (a) Any county may have the option to adopt a  
22 waiting-period ordinance requiring a waiting period of ~~up to,~~  
23 ~~but not less than to exceed,~~3 working days no more than 5  
24 working days between the purchase and delivery of a firearm  
25 handgun. For purposes of this subsection, "purchase" means  
26 payment of deposit, payment in full, or notification of intent  
27 to purchase. As used in this subsection, the term "sale"  
28 means the transfer of money or other valuable consideration  
29 for any firearm when any part of the transaction is conducted  
30 on property to which the public has the right of access.  
31 Adoption of a waiting-period ordinance, by any county, shall

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1 require a majority vote of the county commission on votes on  
2 waiting-period ordinances. This exception is limited solely  
3 to individual counties and is limited to the provisions and  
4 restrictions contained in this subsection.

5 (b) Ordinances authorized by this subsection shall  
6 apply to all sales of firearms ~~handguns~~ to individuals by any  
7 person ~~a retail establishment~~ except those sales to  
8 individuals exempted in this subsection. ~~For purposes of this~~  
9 ~~subsection, "retail establishment" means a gun shop, sporting~~  
10 ~~goods store, pawn shop, hardware store, department store,~~  
11 ~~discount store, bait or tackle shop, or any other store or~~  
12 ~~shop that offers handguns for walk-in retail sale but does not~~  
13 ~~include gun collectors shows or exhibits, or gun shows.~~

14 (c) Ordinances authorized by this subsection shall not  
15 require any reporting or notification to any source other than  
16 the seller or transferor ~~outside the retail establishment~~, but  
17 records of firearm ~~handgun~~ sales must be available for  
18 inspection, during normal business hours, by any law  
19 enforcement agency as defined in s. 934.02.

20 (d) The following shall be exempt from any waiting  
21 period:

22 1. Individuals who are licensed to carry concealed  
23 firearms under the provisions of s. 790.06 or who are licensed  
24 to carry concealed firearms under any other provision of state  
25 law and who show a valid license;

26 2. ~~Individuals who already lawfully own another~~  
27 ~~firearm and who show a sales receipt for another firearm; who~~  
28 ~~are known to own another firearm through a prior purchase from~~  
29 ~~the retail establishment; or who have another firearm for~~  
30 ~~trade-in;~~

31 ~~2.3.~~ A law enforcement or correctional officer as

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1 defined in s. 943.10;

2 ~~3.4.~~ A law enforcement agency as defined in s. 934.02;

3 ~~4.5.~~ Sales or transactions between dealers or between  
4 distributors or between dealers and distributors who have  
5 current federal firearms licenses; or

6 ~~5.6.~~ Any individual who has been threatened or whose  
7 family has been threatened with death or bodily injury,  
8 provided the individual may lawfully possess a firearm and  
9 provided such threat has been duly reported to local law  
10 enforcement.

11 (3) POLICY AND INTENT.--

12 (a) It is the intent of this section to provide  
13 uniform firearms laws in the state; to declare all ordinances  
14 and regulations null and void which have been enacted by any  
15 jurisdictions other than state and federal, which regulate  
16 firearms, ammunition, or components thereof; to prohibit the  
17 enactment of any future ordinances or regulations relating to  
18 firearms, ammunition, or components thereof unless  
19 specifically authorized by this section or general law; and to  
20 require local jurisdictions to enforce state firearms laws.

21 (b) As created by chapter 87-23, Laws of Florida, this  
22 section shall be known and may be cited as the "Joe Carlucci  
23 Uniform Firearms Act."  
24

25 (Redesignate subsequent sections.)  
26  
27

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

29 And the title is amended as follows:

30 On page 1, line 7, after the semicolon,  
31

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1 insert:

2           amending ss. 790.065, 790.0655, 790.33, F.S.;

3           regulating the sale and delivery of firearms;

4           abrogating the future repeal of s. 790.065,

5           F.S.;

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