

Amendment No. \_\_\_\_ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Representative(s) Miller offered the following:

**Amendment (with title amendment)**

On page 1,  
remove from the bill: everything after the enacting clause  
and insert in lieu thereof:

Section 1. Subsections (1), (2), (3), (4), (5), (7),  
(9), (10) and (12) of section 790.065, Florida Statutes, are  
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 or  
to a place to which the public has the right of access 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 promulgated by the  
Department of Law Enforcement and provided by the seller or

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1 ~~transferor licensed importer, licensed manufacturer, or~~  
2 ~~licensed dealer~~, which shall include the name, date of birth,  
3 gender, race, and social security number or other  
4 identification number of such potential buyer or transferee  
5 and has inspected proper identification including an  
6 identification containing a photograph of the potential buyer  
7 or transferee.

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

29 (c) Requested, by means of a toll-free telephone call,  
30 the Department of Law Enforcement to conduct a check of the  
31 information as reported and reflected in the Florida Crime

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1 Information Center and National Crime Information Center  
2 systems as of the date of the request.

3 (d) Received a unique approval number for that inquiry  
4 from the Department of Law Enforcement, and recorded the date  
5 and such number on the consent form.

6  
7 However, if the person purchasing, or receiving delivery of,  
8 the firearm is a holder of a valid concealed weapons or  
9 firearms license pursuant to the provisions of s. 790.06 or  
10 holds an active certification from the Criminal Justice  
11 Standards and Training Commission as a "law enforcement  
12 officer," a "correctional officer," or a "correctional  
13 probation officer" as defined in s. 943.10(1), (2), (3), (6),  
14 (7), (8), or (9), the provisions of this subsection do not  
15 apply.

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

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

28 (b) Inform the seller or transferor ~~licensee~~ making  
29 the inquiry either that records demonstrate that the buyer or  
30 transferee is so prohibited and provide the seller or  
31 transferor ~~licensee~~ with a nonapproval number, or provide the

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1 ~~seller or transferor~~licensee with a unique approval number.

2 (c)1. Review any records available to it to determine  
3 whether the potential buyer or transferee has been indicted or  
4 has had an information filed against her or him for an offense  
5 that is a felony under either state or federal law, or, as  
6 mandated by federal law, has had an injunction for protection  
7 against domestic violence entered against the potential buyer  
8 or transferee under s. 741.30, has had an injunction for  
9 protection against repeat violence entered against the  
10 potential buyer or transferee under s. 784.046, or has been  
11 arrested for a dangerous crime as specified in s.

12 907.041(4)(a) or for any of the following enumerated offenses:

- 13 a. Criminal anarchy under ss. 876.01 and 876.02.  
14 b. Extortion under s. 836.05.  
15 c. Explosives violations under s. 552.22(1) and (2).  
16 d. Controlled substances violations under chapter 893.  
17 e. Resisting an officer with violence under s. 843.01.  
18 f. Weapons and firearms violations under this chapter.  
19 g. Treason under s. 876.32.  
20 h. Assisting self-murder under s. 782.08.  
21 i. Sabotage under s. 876.38.  
22 j. Stalking or aggravated stalking under s. 784.048.

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

27 2. Within 24 working hours, the department shall  
28 determine the disposition of the indictment, information, or  
29 arrest and inform the seller or transferor ~~licensee~~ as to  
30 whether the potential buyer is prohibited from receiving or  
31 possessing a firearm. For purposes of this paragraph,

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1 "working hours" means the hours from 8 a.m. to 5 p.m. Monday  
2 through Friday, excluding legal holidays.

3 3. The office of the clerk of court, at no charge to  
4 the department, shall respond to any department request for  
5 data on the disposition of the indictment, information, or  
6 arrest as soon as possible, but in no event later than 8  
7 working hours.

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

11 5. If the potential buyer is not so prohibited, the  
12 department shall provide the seller or transferor licensee  
13 with a conditional approval number.

14 6. If the department cannot determine the disposition  
15 information within the allotted time, or if the department  
16 cannot determine compliance with s. 741.30, the time  
17 limitation prescribed by this section shall be suspended until  
18 receipt of the final disposition of proof of restoration of  
19 civil and firearm rights ~~the department shall provide the~~  
20 ~~licensee with a conditional approval number.~~

21 7. If the buyer is so prohibited, the conditional  
22 nonapproval number shall become a nonapproval number.

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

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

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1           b. That the potential buyer is prohibited from owning  
2 a firearm, it shall provide the seller or transferor with a  
3 nonapproval number ~~immediately revoke the conditional approval~~  
4 ~~number and notify local law enforcement.~~

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

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

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

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

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

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

24 (d) Any officer or employee, or former officer or  
25 employee of the Department of Law Enforcement or law  
26 enforcement agency who intentionally and maliciously violates  
27 the provisions of this subsection commits a felony of the  
28 third degree punishable as provided in s. 775.082 or s.  
29 775.083.

30 (5) The Department of Law Enforcement shall establish  
31 a toll-free telephone number which shall be operational 7 days

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

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

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

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

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



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1 effect only during such times as the procedures described in  
2 subsection (2) remain operational.

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

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

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

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

31 (12)(a) Any potential buyer or transferee who

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1 willfully and knowingly provides false information or false or  
2 fraudulent identification commits a felony of the third degree  
3 punishable as provided in s. 775.082 or s. 775.083.

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

8 (c) Any employee or agency of a seller or transferor  
9 ~~licensed importer, licensed manufacturer, or licensed dealer~~  
10 who violates the provisions of subsection (1) commits a felony  
11 of the third degree punishable as provided in s. 775.082 or s.  
12 775.083.

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

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

24 Section 2. Subsection (13) of s. 790.065, Florida  
25 Statutes, as created by chapter 89-191, Laws of Florida, is  
26 hereby repealed.

27 Section 3. Subsection (14) of s. 790.065, Florida  
28 Statutes, as created by chapter 93-197, Laws of Florida is  
29 hereby repealed.

30 Section 4. Section 3 of chapter 90-316, Laws of  
31 Florida, is hereby repealed.

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1           Section 5.       Subsections (1) and (3) of section  
2 790.0655, Florida Statutes, are amended to read:

3           790.0655 Purchase and delivery of handguns; mandatory  
4 waiting period; exceptions; penalties.--

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

10 "Purchase" means the transfer of money or other valuable  
11 consideration to the seller or transferor by any person,  
12 other than a licensed importer, licensed manufacturer,  
13 licensed dealer or licensed collector ~~retailer~~. "Handgun"  
14 means a firearm capable of being carried and used by one hand,  
15 such as a pistol or revolver. ~~"Retailer" means and includes~~  
16 ~~every person engaged in the business of making sales at retail~~  
17 ~~or for distribution, or use, or consumption, or storage to be~~  
18 ~~used or consumed in this state, as defined in s. 212.02(14).~~

19           (b) Records of handgun sales must be available for  
20 inspection by any law enforcement agency, as defined in s.  
21 934.02, during normal business hours.

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

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

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

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

29           (a) For any seller or transferor ~~retailer~~, or any  
30 employee or agent of a seller or transferor ~~retailer~~, to  
31 deliver a handgun before the expiration of the 3-day waiting

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1 period, subject to the exceptions provided in subsection (2).

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

4 Section 6. Subsection (2) of section 790.33, Florida  
5 Statutes, is amended to read:

6 790.33 Field of regulation of firearms and ammunition  
7 preempted.--

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

23 (2) LIMITED EXCEPTION; COUNTY WAITING-PERIOD  
24 ORDINANCES.--

25 (a) Any county may have the option to adopt a  
26 waiting-period ordinance requiring a waiting period of ~~up to,~~  
27 ~~but not less than to exceed,~~ 3 working days nor more than 5  
28 working days between the purchase and delivery of a firearm  
29 handgun. For purposes of this subsection, the term "sale"  
30 means the transfer of money or other valuable consideration  
31 for any firearm when any part of the transaction is conducted

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1 on property to which the public has a right of access. For  
2 purposes of this subsection, "purchase" means payment of  
3 deposit, payment in full, or notification of intent to  
4 purchase. Adoption of a waiting-period ordinance, by any  
5 county, shall require a majority vote of the county commission  
6 on votes on waiting-period ordinances. This exception is  
7 limited solely to individual counties and is limited to the  
8 provisions and restrictions contained in this subsection.

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

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

24 (d) The following shall be exempt from any waiting  
25 period:

26 1. Individuals who are licensed to carry concealed  
27 firearms under the provisions of s. 790.06 or who are licensed  
28 to carry concealed firearms under any other provision of state  
29 law and who show a valid license;

30 ~~2. Individuals who already lawfully own another~~  
31 ~~firearm and who show a sales receipt for another firearm; who~~

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1 ~~are known to own another firearm through a prior purchase from~~  
2 ~~the retail establishment; or who have another firearm for~~  
3 ~~trade-in;~~

4 ~~2.3.~~ A law enforcement or correctional officer as  
5 defined in s. 943.10;

6 ~~3.4.~~ A law enforcement agency as defined in s.  
7 934.02;

8 ~~4.5.~~ Sales or transactions between dealers or between  
9 distributors or between dealers and distributors who have  
10 current federal firearms licenses; or

11 ~~5.6.~~ Any individual who has been threatened or whose  
12 family has been threatened with death or bodily injury,  
13 provided the individual may lawfully possess a firearm and  
14 provided such threat has been duly reported to local law  
15 enforcement.

16 (3) POLICY AND INTENT.--

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

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

29 Section 7. This act shall take effect upon becoming  
30 a law.

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1 ===== T I T L E A M E N D M E N T =====  
2 And the title is amended as follows:  
3       On page 1, lines 2 - 7  
4 remove from the title of the bill: all of said lines  
5  
6 and insert in lieu thereof:  
7       An act relating to firearm sales; amending s.  
8       790.065, sale and delivery of firearms;  
9       repealing s. 790.065(13), F.S., as created by  
10       chapter 89-191, Laws of Florida; nullifying the  
11       scheduled repeal of s. 790.065, F.S., on the  
12       effective date of federal law which provides  
13       access to national criminal history information  
14       and requires national criminal history checks  
15       on potential buyers or transferees on firearms;  
16       repealing s. 790.065(14), F.S., as created by  
17       chapter 93-197, Laws of Florida; nullifying the  
18       scheduled repeal of s. 790.065, F.S., on  
19       October 1, 1999; repealing s. 3, ch. 90-316,  
20       Laws of Florida, which provides that ch.  
21       90-316, Laws of Florida, shall not be construed  
22       to nullify the expiration of s. 790.065, F.S.,  
23       provided for in ch. 89-191, Laws of Florida;  
24       amending s. 790.0655, F.S., purchase and  
25       delivery of handguns; mandatory waiting period;  
26       exceptions; penalties; amending s. 790.33,  
27       field of regulation of firearms and ammunition  
28       preempted; providing an effective date.  
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