

STORAGE NAME: 4453.leps

DATE: April 6, 1998

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
LAW ENFORCEMENT AND PUBLIC SAFETY
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 4453

RELATING TO: Firearms Sales

SPONSOR(S): Rep. Alexander & Others

COMPANION BILL(S): S 2050(I), S 2090(I)

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

- (1) LAW ENFORCEMENT AND PUBLIC SAFETY YEAS 7 NAYS 0
 - (2)
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

The bill provides that any person engaged in the business of selling or dealing in firearms at gun shows, exhibitions, or flea markets or on their premises must be a licensed firearm dealer and abide by the state laws regulating the sale, transfer, delivery, furnishing, and purchase of such firearms.

Under the bill (in conformity with the current state law), unlicensed persons who make occasional sales will not be required seek a criminal history background check on the potential buyer, nor delay the delivery of a handgun for three days after the sale, regardless of the sale location.

The bill provides that this act shall take effect upon becoming law.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

“Firearm” vs. “Handgun”

Section 790.001, F.S., defines a “firearm” as: “any weapon (including a starter gun) which will, is designed to, or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; any firearm muffler or firearm silencer; any destructive device; or any machine gun.”

Section 790.065, F.S., defines a “handgun” as “a firearm capable of being carried and used by one hand, such as a pistol or revolver.”

Current Restrictions on Purchasing a Firearm

Unless a person already has authorization to carry a concealed weapon, there is a criminal history check required for the purchase of any firearm from a licensed dealer, manufacturer, or importer. This check is accomplished by (1) verifying the buyer’s identity by photo identification, and (2) calling the FDLE toll-free telephone number. FDLE then checks state and federal criminal history records to ensure that the prospective buyer is eligible to possess firearms. FDLE informs the dealer whether the individual is approved, not approved, or conditionally approved. An eight dollar non-refundable processing fee is assessed the potential buyer for conducting a record check. These fees are used to fund this program through the FDLE Operating Trust Fund.

3-Day Waiting Period For the Purchase and Delivery of Handguns

Section 790.0655, F.S., provides that:

“There shall be a mandatory 3-day waiting period, which shall be three days, excluding weekends and legal holidays, between the purchase and the delivery at retail of any handgun...Retailer means and includes every person engaged in the business of making sales at retail or for distribution, or use, or consumption, or storage to be used or consumed in this state.”

The 3-day waiting period does not apply if:

- (1) A handgun is being purchased by a holder of a concealed weapons permit
- (2) The transaction is a trade-in of another handgun.

Also, the waiting period is inapplicable to those purchases not made at retail.

Licensed firearm dealers.

The Florida regulations pertaining to the purchase and delivery of firearms/handguns explicitly regulate the actions of “licensed” dealers, manufacturers, and importers.

The Bureau of Alcohol, Tobacco, and Firearms of the Department of the Treasury, provides the licensing standards for firearm dealers, manufacturers, and importers.

These standards also apply to pawnbrokers. 18 U.S.C. ss 921. This federal license authorizes a Florida license holder to conduct business at gun shows in Florida.

B. EFFECT OF PROPOSED CHANGES:

The bill creates **s. 790.0657, F.S.**, to provide that the laws relating to the sale, transfer, delivery, furnishing, and purchase of firearms apply to such transactions occurring at gun shows, exhibitions, and flea markets and on their premises.

The bill provides that any person engaged in the business of selling or dealing in firearms at gun shows, exhibitions, or flea markets or on their premises must be a licensed firearms dealer.

Thus, under the bill, a licensed firearm dealer that attempts to sell a firearm at a gun show must perform a criminal history check. If the firearm is a handgun, the dealer must abide by the three day waiting period unless one of the exceptions are met.

This bill does not change the current law that allows unlicensed dealers who make an occasional sale to proceed without a background check, or a three day waiting period.

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?

No.

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

No.

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

No.

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

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(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?

No.

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

No.

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

No.

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

No.

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

No.

3. Personal Responsibility:

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

No.

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

No.

4. Individual Freedom:

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

No.

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

No.

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?

No.

- 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:

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(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

S. 790.0657, F.S.

E. SECTION-BY-SECTION RESEARCH:

Section 1: The bill creates s. **790.0657, F.S.**, to provide the laws relating to the sale, transfer, delivery, and purchase of firearms apply to transactions occurring at gun shows, exhibitions, and flea markets. The bill provides any person engaged in the business of selling or dealing in firearms at gun shows, exhibitions, and flea markets must be a licensed firearms dealer.

Section 2: The bill provides that this act shall take effect upon becoming a law.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

N/A

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

N/A

D. FISCAL COMMENTS:

N/A

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

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill is not subject to the mandates provision.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce revenue raising authority

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

The bill does not reduce the state tax shared with counties and municipalities.

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V. COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

An amendment was adopted on April 14, 1998, and the changes are reflected below.

The amendment provides that the sale of any firearm at a gun show, exhibition, or flea market shall be considered a sale at retail.

Thus, under the amendment, any individual who sells a handgun at a gun show, exhibition, or flea market must abide by the three day mandatory waiting period. Otherwise, this individual would be guilty of a third-degree felony.

VII. SIGNATURES:

COMMITTEE ON LAW ENFORCEMENT AND PUBLIC SAFETY:

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