

CHAMBER ACTION

1 The Committee on Judiciary recommends the following:

2  
3 **Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to firearm records; creating s. 790.335,  
7 F.S.; providing legislative findings and intent;  
8 prohibiting the creation or maintenance of any list,  
9 record, or registry of privately owned firearms or any  
10 list, record, or registry of the owners of those firearms;  
11 providing exceptions; providing criminal penalties for a  
12 violation of the act; providing for the imposition of  
13 civil fines on certain governmental entities; authorizing  
14 the Attorney General to enforce the civil penalties  
15 against governmental agencies; requiring the state  
16 attorney to vigorously prosecute criminal violators of  
17 this act; prohibiting the expenditure of public funds for  
18 defense counsel for persons charged with a violation of  
19 this act; providing exceptions; requiring liberal  
20 construction of the act; providing for application to  
21 records already in existence; providing an effective date.

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23 Be It Enacted by the Legislature of the State of Florida:

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Section 1. Section 790.335, Florida Statutes, is created to read:

790.335 Prohibition of registration of firearms.--

(1) LEGISLATIVE FINDINGS AND INTENT.--

(a) The Legislature finds and declares that:

1. The right of individuals to keep and bear arms is guaranteed under both the Second Amendment to the United States Constitution and s. 8, Art. I of the State Constitution.

2. A list, record, or registry of legally owned firearms or law-abiding firearm owners is not a law enforcement tool and can become an instrument for profiling, harassing, or abusing law-abiding citizens based on their choice to own a firearm and exercise their Second Amendment right to keep and bear arms as guaranteed under the United States Constitution. Further, such a list, record, or registry has the potential to fall into the wrong hands and become a shopping list for thieves.

3. A list, record, or registry of legally owned firearms or law-abiding firearm owners is not a tool for fighting terrorism, but rather is an instrument that can be used as a means to profile innocent citizens and to harass and abuse American citizens based solely on their choice to own firearms and exercise their Second Amendment right to keep and bear arms as guaranteed under the United States Constitution.

4. Law-abiding firearm owners whose names have been illegally recorded in a list, record, or registry are entitled to redress.

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51 (b) The Legislature intends through the provisions of this  
52 section to:

53 1. Protect the right of individuals to keep and bear arms  
54 as guaranteed under both the Second Amendment to the United  
55 States Constitution and s. 8, Art. I of the State Constitution.

56 2. Protect the privacy rights of law-abiding firearm  
57 owners.

58 (2) PROHIBITIONS.--No state governmental agency or local  
59 government, special district, or other political subdivision or  
60 official, agent, or employee of such state or other governmental  
61 entity or any other person, public or private, shall keep or  
62 cause to be kept any list, record, or registry of privately  
63 owned firearms or any list, record, or registry of the owners of  
64 those firearms.

65 (3) EXCEPTIONS.--The provisions of this section shall not  
66 apply to:

67 (a) Records of firearms which have been used in committing  
68 any crime.

69 (b) Records relating to any person who has been convicted  
70 of a crime.

71 (c) Records of firearms that have been reported stolen  
72 which are retained for a period not in excess of 30 days after  
73 such firearms are recovered.

74 (d) Firearm records which must be retained by firearm  
75 dealers under federal law, including copies of such records  
76 transmitted to law enforcement agencies. However, no state  
77 governmental agency or local government, special district, or  
78 other political subdivision or official, agent, or employee of

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79 such state or other governmental entity or any other person,  
80 private or public, shall accumulate, compile, computerize, or  
81 otherwise collect or convert such written records into any form  
82 of list, registry, or database for any purpose.

83 (e)1. Records kept pursuant to the recordkeeping  
84 provisions of s. 790.065; however, nothing in this section shall  
85 be construed to authorize the public release or inspection of  
86 records which are made confidential and exempt from the  
87 provisions of s. 119.07(1) by s. 790.065(4)(a).

88 2. Nothing in this paragraph shall be construed to allow  
89 the maintaining of records containing the names of purchasers or  
90 transferees who receive unique approval numbers or the  
91 maintaining of records of firearm transactions.

92 (f) Firearm records required by chapters 538 and 539.

93 1. Electronic firearm records held pursuant to chapter 538  
94 may only be kept by a secondhand dealer for 30 days after the  
95 date of the purchase of the firearm by the secondhand dealer.

96 2. Electronic firearm records held pursuant to chapter 539  
97 may only be kept by a pawnbroker for 30 days after the  
98 expiration of the loan which is secured by a firearm.

99 3. Except as required by federal law, any firearm records  
100 kept pursuant to chapter 538 or chapter 539 shall not, at any  
101 time, be electronically transferred to any public or private  
102 entity, agency, business, or enterprise, nor shall any such  
103 records be copied or transferred for purposes of accumulation of  
104 such records into lists, registries, or databases.

105 4. Notwithstanding subparagraph 3., secondhand dealers and  
106 pawnbrokers may electronically submit firearm transaction

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107 records to the appropriate law enforcement agencies as required  
108 by chapters 538 and 539; however, the law enforcement agencies  
109 may not electronically submit such records to any other person  
110 or entity and must destroy such records within 30 days after  
111 receipt of such records.

112 (g) Records kept by the Department of Law Enforcement of  
113 NCIC transactions to the extent required by federal law and a  
114 log of dates of requests for criminal history record checks,  
115 unique approval and nonapproval numbers, license identification  
116 numbers, and transaction numbers corresponding to such dates.

117 (h) Records of an insurer which, as a condition to  
118 providing insurance against theft or loss of a firearm, identify  
119 such firearm. Such records may not be sold, commingled with  
120 records relating to other firearms, or transferred to any other  
121 person or entity. The insurer may not keep a record of such  
122 firearm more than 60 days after the policy of insurance expires  
123 or after notification by the insured that the insured is no  
124 longer the owner of such firearm.

125 (i) Lists of customers of a firearm dealer retained by  
126 such dealer, provided that such lists do not disclose the  
127 particular firearms purchased. Such lists, or any parts thereof,  
128 may not be sold, commingled with records relating to other  
129 firearms, or transferred to any other person or entity.

130 (j) Sales receipts retained by the seller of firearms or  
131 by a person providing credit for such purchase, provided that  
132 such receipts shall not serve as or be used for the creation of  
133 a database for registration of firearms.

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134 (k) Personal records of firearms maintained by the owner  
135 of such firearms.

136 (l) Records maintained by a business which stores or acts  
137 as the selling agent of firearms on behalf of the lawful owner  
138 of the firearms.

139 (m) Membership lists of organizations comprised of firearm  
140 owners.

141 (n) Records maintained by an employer or contracting  
142 entity of the firearms owned by its officers, employees, or  
143 agents, if such firearms are used in the course of business  
144 performed on behalf of the employer.

145 (o) Records maintained pursuant to s. 790.06 by the  
146 Department of Agriculture and Consumer Services of a person who  
147 was a licensee within the prior 2 years.

148 (4) PENALTIES.--

149 (a) Any person who violates a provision of this section  
150 commits a felony of the third degree, punishable as provided in  
151 s. 775.082 or s. 775.083.

152 (b) Except as required by the provisions of s. 16, Art. I  
153 of the State Constitution or the Sixth Amendment to the United  
154 States Constitution, no public funds shall be used to defend the  
155 unlawful conduct of any person charged with a violation of this  
156 section, unless the charges against such person are dismissed or  
157 such person is determined to be not guilty at trial.

158 (c) The governmental entity, or the designee of such  
159 governmental entity, in whose service or employ a list, record,  
160 or registry was compiled in violation of this section may be  
161 assessed a fine of not more than \$5 million, if the court

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162 determines that the evidence shows that the list, record, or  
163 registry was compiled or maintained with the knowledge or  
164 complicity of the management of the governmental entity. The  
165 Attorney General may bring a civil cause of action to enforce  
166 the fines assessed under this paragraph.

167 (d) The state attorney in the appropriate jurisdiction  
168 shall investigate complaints of criminal violations of this  
169 section and, where evidence indicates a violation may have  
170 occurred, shall vigorously prosecute violators.

171 (5) LIBERAL CONSTRUCTION.--This section shall be liberally  
172 construed to effectuate its remedial and deterrent purposes.

173 Section 2. Any list, record, or registry maintained or  
174 under construction on the effective date of this act shall be  
175 destroyed, unless prohibited by law, within 60 calendar days  
176 after this act becomes law. Thereafter, failure to destroy any  
177 such list, record, or registry may result in prosecution under  
178 this act.

179 Section 3. This act shall take effect upon becoming a law.