

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 177

Firearms Transactions

SPONSOR(S): Adams

TIED BILLS:

IDEN./SIM. BILLS: SB 1340

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Public Safety & Domestic Security Policy Committee	8 Y, 0 N	Padgett	Kramer
2)	Criminal & Civil Justice Policy Council	11 Y, 0 N	Padgett	Havlicak
3)	Policy Council	23 Y, 0 N, As CS	Hogge	Hogge
4)				
5)				

SUMMARY ANALYSIS

Current law prohibits government agencies and their employees from knowingly and willfully keeping a list, record, or registry of privately owned firearms or a list, record, or registry of the owners of those firearms. There are several exceptions to this prohibition, including firearm records which are required to be kept by pawn shops and secondhand dealers. Secondhand dealers and pawnbrokers are required to submit firearm transaction information to law enforcement agencies. Currently, firearm transaction records must include the type of action, caliber or gauge, number of barrels, barrel length, and finish of the firearm.

Law enforcement agencies that receive electronic records of firearms transactions from secondhand dealers and pawnbrokers must destroy those records within 60 days after the receipt of the records.

The bill provides that secondhand dealers and pawnbrokers who elect to electronically submit firearms transaction records to law enforcement agencies must submit the name of the manufacturer and caliber information of each firearm in Florida Crime Information coding, and include the model and serial number of each firearm.

Since only firearm transaction records must be destroyed within 60 days, a law enforcement agency must extract firearm records from its database, which contains records of all secondhand dealer and pawnbroker transactions. The reporting requirements in the bill allow law enforcement agencies to screen firearm transaction records out of their databases in a more efficient manner. The bill makes it easier for law enforcement agencies to comply with the required 60 day period for destroying electronically submitted firearm transaction records.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Section 790.335, F.S. prohibits government agencies and their employees from knowingly and willfully keeping a list, record, or registry of privately owned firearms or a list, record, or registry of the owners of firearms.¹ There are several exceptions to this prohibition, including firearm records which are required to be kept by secondhand dealers² and pawnbrokers.³ Secondhand dealers and pawnbrokers are required to submit firearm transaction information to law enforcement agencies.⁴ Currently, firearm transaction records must include the type of action, caliber or gauge, number of barrels, barrel length, and finish of the firearm.⁵ The transaction records may be submitted to law enforcement agencies in electronic form.⁶

Law enforcement agencies that receive electronic records of firearms transactions from secondhand dealers and pawnbrokers must destroy those records within 60 days after the receipt of the records.⁷ If law enforcement agencies fail to destroy firearm transaction records within 60 days, the agency may be subject to a civil fine of up to \$5 million.⁸ An individual person who violates this section commits a third degree felony^{9, 10}

Proposed Changes

The bill provides that secondhand dealers and pawnbrokers who elect to electronically submit firearms transaction records to law enforcement agencies must report the name of the manufacturer and caliber

¹ Section 790.335(2), F.S.

² "Secondhand Dealer" is defined to mean "any person, corporation, or other business organization or entity...which is engaged in the business of purchasing, consigning, or trading secondhand goods." Section 538.03(1)(a), F.S.

³ Section 790.335(3), F.S. Secondhand dealers and pawnbrokers are governed by Ch. 538, Part I, F.S. and Ch. 539, F.S., respectively. Both secondhand dealers and pawn brokers must destroy records of firearm transactions after a period of 30 days from the date of the purchase or sale of a firearm. Section 790.335(f)(1), 790.335(f)(2), F.S.

⁴ Section 538.04(1)(b)8., F.S., s.539.001(8)(b)h., F.S. Secondhand dealers and pawnbrokers are required to submit records of all transactions to law enforcement agencies.

⁵ Section 538.04(1)(b)8., F.S., s. 539.001(8)(b)2.h., F.S.

⁶ Section 538.04(6), F.S., s. 539.001(9)(b), F.S.

⁷ Section 790.335(3)(f)4., F.S.

⁸ Section 790.335(4)(c), F.S.

⁹ A third degree felony is punishable by up to five years imprisonment and a maximum \$5,000 fine. Sections 775.082, 775.083, 775.084, F.S.

¹⁰ Section 790.335(4)(a), F.S.

information of each firearm in Florida Crime Information coding, and include the model and serial number of each firearm.

Since only firearm transaction records must be destroyed within 60 days, a law enforcement agency must extract firearm records from its database, which contains records of all secondhand dealer and pawnbroker transactions. The reporting requirements in the bill allow law enforcement agencies to screen firearm transaction records out of their databases in a more efficient manner. The bill makes it easier for law enforcement agencies to comply with the required 60 day period for destroying electronically submitted firearm transaction records.

B. SECTION DIRECTORY:

Section 1: Amends s. 790.335, F.S. relating to prohibition of registration of firearms.

Section 2: Provides an effective date of July 1, 2009.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

Local law enforcement agencies may have to expend funds to update the electronic submission form and software to comply with the reporting requirements in the bill.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Secondhand dealers and pawnbrokers who are currently submitting transaction information to law enforcement agencies may have to expend funds to update the electronic submission form and software to comply with the reporting requirements in the bill.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to

raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

The Council Substitute favorably reported by the Policy Council on March 18, 2009, differs from the original bill in that the Council Substitute requires only the name of the manufacturer and caliber information of each firearm be submitted in Florida Crime Information coding. The other information required to be submitted—the model and serial number—would still have to be submitted but not in Florida Crime Information coding.