



267706

LEGISLATIVE ACTION

Senate

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House

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Floor: WD/3R

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03/09/2018 07:19 PM

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Senator Farmer moved the following:

**Senate Amendment (with directory and title amendments)**

Between lines 68 and 69

insert:

(b) However, if the person purchasing, or receiving delivery of, the firearm is a holder of a valid concealed weapons or firearms license pursuant to ~~the provisions of~~ s. 790.06 or holds an active certification from the Criminal Justice Standards and Training Commission as a "law enforcement officer," a "correctional officer," or a "correctional probation officer" as defined in s. 943.10(1), (2), (3), (6), (7), (8), or



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12 (9), this subsection does not apply.

13 (c) This subsection does not apply to the purchase, trade,  
14 or transfer of a rifle or shotgun by a resident of this state  
15 when the resident makes such purchase, trade, or transfer from a  
16 licensed importer, licensed manufacturer, or licensed dealer in  
17 another state.

18 (d)1. If neither party to a prospective firearms sale,  
19 lease, or transfer is a licensed dealer, the parties to the  
20 transaction must complete the sale, lease, or other transfer  
21 through a licensed dealer as follows:

22 a. The seller, lessor, or transferor must deliver the  
23 firearm to a licensed dealer who shall process the sale, lease,  
24 or transfer as if he or she were the seller, lessor, or  
25 transferor, except that the seller, lessor, or transferor who is  
26 not a licensed dealer may remove the firearm from the business  
27 premises of the licensed dealer while the background check is  
28 being conducted and while the waiting period requirement set  
29 forth in s. 790.0655 is being met. Other than allowing the  
30 unlicensed seller or transferor to remove the firearm from the  
31 licensed dealer's business premises, the licensed dealer shall  
32 comply with all requirements of federal and state law which  
33 would apply if he or she were the seller, lessor, or transferor  
34 of the firearm;

35 b. The licensed dealer shall conduct a background check on  
36 the buyer or other transferee in accordance with this section  
37 and, unless the transaction is prohibited, after all other legal  
38 requirements are met, including those set forth in s. 790.0655,  
39 the dealer shall either:

40 (I) Deliver the firearm to the seller, lessor, or



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41 transferor, who shall complete the transaction and deliver the  
42 firearm to the buyer; or

43 (II) If the seller, lessor, or transferor has removed the  
44 firearm from the licensed dealer's business premises, contact  
45 the seller, lessor, or transferor to let him or her know that he  
46 or she may complete the transaction and deliver the firearm to  
47 the buyer;

48 c. If the licensed dealer cannot legally complete the  
49 transaction, the dealer must:

50 (I) Return the firearm to the seller, lessor, or  
51 transferor; or

52 (II) If the seller, lessor, or transferor has removed the  
53 firearm from the licensed dealer's business premises, contact  
54 the seller, lessor, or transferor to let him or her know that  
55 the transaction is prohibited, and the seller, lessor, or  
56 transferor may not deliver the firearm to the buyer; and

57 d. The licensed dealer may require the buyer or other  
58 transferee to pay a fee covering the administrative costs  
59 incurred by the licensed dealer for facilitating the transfer of  
60 the firearm, plus applicable fees pursuant to federal and state  
61 law.

62 2. This paragraph does not apply to:

63 a. The activities of the United States Marshals Service,  
64 members of the United States Armed Forces or the National Guard,  
65 or federal officials required to carry firearms while engaged in  
66 performing their official duties; and

67 b. The following activities, unless the lawful owner knows  
68 or has reasonable cause to believe that federal, state, or local  
69 law prohibits the transferee from purchasing or possessing



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70 firearms, or that the transferee is likely to use the firearm  
71 for unlawful purposes:

72 (I) The delivery of a firearm to a gunsmith for service or  
73 repair, or the return of the firearm to its owner by the  
74 gunsmith;

75 (II) The transfer of a firearm to a carrier, warehouseman,  
76 or other person engaged in the business of transportation or  
77 storage, to the extent that the receipt, possession, or having  
78 on or about the person of any firearm is in the ordinary course  
79 of business and in conformity with federal, state, and local  
80 laws, and not for the personal use of any such person;

81 (III) The loan of a firearm solely for the purpose of  
82 shooting at targets, if the loan occurs on the premises of a  
83 properly licensed target facility and if the firearm is at all  
84 times kept within the premises of the target facility;

85 (IV) The loan of a firearm to a person who is under 18  
86 years of age for lawful hunting, sporting, or educational  
87 purposes while under the direct supervision and control of a  
88 responsible adult;

89 (V) The loan of a firearm to a person who is 18 years of  
90 age or older if the firearm remains in the person's possession  
91 only while the person is accompanying the lawful owner and using  
92 the firearm for lawful hunting, sporting, or recreational  
93 purposes; or

94 (VI) The loan of a firearm to an adult family member of the  
95 lawful owner of the firearm if the lawful owner resides with the  
96 family member but is not present in the residence, provided that  
97 the family member does not maintain control over the firearm for  
98 more than 10 consecutive days.



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99           ~~(3) In the event of scheduled computer downtime, electronic~~  
100 ~~failure, or similar emergency beyond the control of the~~  
101 ~~Department of Law Enforcement, the department shall immediately~~  
102 ~~notify the licensee of the reason for, and estimated length of,~~  
103 ~~such delay. After such notification, the department shall~~  
104 ~~forthwith, and in no event later than the end of the next~~  
105 ~~business day of the licensee, either inform the requesting~~  
106 ~~licensee if its records demonstrate that the buyer or transferee~~  
107 ~~is prohibited from receipt or possession of a firearm pursuant~~  
108 ~~to Florida and Federal law or provide the licensee with a unique~~  
109 ~~approval number. Unless notified by the end of said next~~  
110 ~~business day that the buyer or transferee is so prohibited, and~~  
111 ~~without regard to whether she or he has received a unique~~  
112 ~~approval number, the licensee may complete the sale or transfer~~  
113 ~~and shall not be deemed in violation of this section with~~  
114 ~~respect to such sale or transfer.~~

115           ~~(10) A licensed importer, licensed manufacturer, or~~  
116 ~~licensed dealer is not required to comply with the requirements~~  
117 ~~of this section in the event of:~~

118           ~~(a) Unavailability of telephone service at the licensed~~  
119 ~~premises due to the failure of the entity which provides~~  
120 ~~telephone service in the state, region, or other geographical~~  
121 ~~area in which the licensee is located to provide telephone~~  
122 ~~service to the premises of the licensee due to the location of~~  
123 ~~said premises; or the interruption of telephone service by~~  
124 ~~reason of hurricane, tornado, flood, natural disaster, or other~~  
125 ~~act of God, war, invasion, insurrection, riot, or other bona~~  
126 ~~fide emergency, or other reason beyond the control of the~~  
127 ~~licensee; or~~



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128 ~~(b) Failure of the Department of Law Enforcement to comply~~  
129 ~~with the requirements of subsections (2) and (3).~~

130 Section 2. Paragraph (a) of subsection (1) of section  
131 790.0655, Florida Statutes, is amended to read:

132 790.0655 Purchase and delivery of handguns; mandatory  
133 waiting period; exceptions; penalties.—

134 (1) (a) There shall be a mandatory 3-day waiting period,  
135 which shall be 3 days, excluding weekends and legal holidays,  
136 between the purchase and the delivery at retail, or the delivery  
137 through a private sale facilitated through a licensed dealer  
138 under s. 790.065(1)(d), of any handgun. "Purchase" means the  
139 transfer of money or other valuable consideration to the  
140 retailer. "Handgun" means a firearm capable of being carried and  
141 used by one hand, such as a pistol or revolver. "Retailer" means  
142 and includes every person engaged in the business of making  
143 sales at retail or for distribution, or use, or consumption, or  
144 storage to be used or consumed in this state, as defined in s.  
145 212.02(13).

146 Section 3. Paragraph (e) of subsection (3) of section  
147 790.335, Florida Statutes, is amended to read:

148 790.335 Prohibition of registration of firearms; electronic  
149 records.—

150 (3) EXCEPTIONS.—The provisions of this section shall not  
151 apply to:

152 (e)1. Records kept pursuant to the recordkeeping provisions  
153 of s. 790.065; however, nothing in this section shall be  
154 construed to authorize the public release or inspection of  
155 records that are made confidential and exempt from the  
156 provisions of s. 119.07(1) by s. 790.065(3)(a) ~~s. 790.065(4)(a)~~.



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157           2. Nothing in this paragraph shall be construed to allow  
158 the maintaining of records containing the names of purchasers or  
159 transferees who receive unique approval numbers or the  
160 maintaining of records of firearm transactions.

161

162 ===== D I R E C T O R Y   C L A U S E   A M E N D M E N T =====

163 And the directory clause is amended as follows:

164           Delete lines 14 - 15

165 and insert:

166           Section 1. Subsections (1), (3), and (10) of section  
167 790.065, Florida Statutes, are amended to read:

168

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

170 And the title is amended as follows:

171           Delete lines 2 - 9

172 and insert:

173           An act relating to the sale and delivery of firearms;  
174 amending s. 790.065, F.S.; requiring Department of Law  
175 Enforcement procedures to allow the payment or  
176 transmittal of processing fees for criminal history  
177 checks of potential firearms buyers by electronic  
178 means; providing that criminal history check requests  
179 by licensed importers, manufacturers, and dealers to  
180 the department may be made by electronic means;  
181 requiring the parties, if neither party to a sale,  
182 lease, or transfer of a firearm is a licensed dealer,  
183 to complete the sale, lease, or transfer through a  
184 licensed dealer; specifying procedures and  
185 requirements for a licensed dealer, a seller, lessor,



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186 or transferor, and a buyer, lessee, or transferee;  
187 authorizing a licensed dealer to charge a buyer or  
188 transferee specified fees; providing applicability;  
189 deleting provisions authorizing a licensee to complete  
190 the sale or transfer of a firearm to a person without  
191 receiving certain notification from the department  
192 informing the licensee that such person is prohibited  
193 from receipt or possession of a firearm or providing a  
194 unique approval number under certain circumstances;  
195 deleting provisions exempting a licensed importer,  
196 licensed manufacturer, or licensed dealer from the  
197 sale and delivery requirements, under certain  
198 circumstances; amending s. 790.0655, F.S.; applying  
199 the mandatory 3-day waiting period to private sales of  
200 handguns facilitated through a licensed dealer;  
201 amending s. 790.335, F.S.; conforming a cross-  
202 reference; providing