

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 55 Sale of Firearms

SPONSOR(S): Oversight, Transparency & Administration Subcommittee; White and others

TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 152

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|--|---------------------|---------|--|
| 1) Oversight, Transparency & Administration Subcommittee | 10 Y, 0 N, As CS | Moore | Harrington |
| 2) Judiciary Committee | 19 Y, 0 N | Bruno | Poche |
| 3) Government Accountability Committee | | | |

SUMMARY ANALYSIS

The Department of Law Enforcement (DLE) is responsible for regulating the sale and delivery of firearms by licensed firearm dealers to persons who are not licensed. Before a licensed importer, licensed manufacturer, or licensed dealer (licensee) can sell or deliver a firearm to another person who is not a licensee, Florida law requires the licensee to conduct a criminal history check of the potential buyer and collect a \$5 fee for processing the criminal history check. Currently, DLE requires the licensee to transmit the fees using a business or personal check, a money order, or a cashier's check.

CS/HB 55 requires such procedures to allow the processing fees to be paid or transmitted by electronic means, including, but not limited to, debit cards, credit cards, or electronic funds transfers. The bill also authorizes a licensee to request DLE to conduct a criminal history check via electronic means other than a telephone call.

The bill may have an indeterminate negative fiscal impact on the state. See Fiscal Comments section.

The bill provides an effective date of October 1, 2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

The Department of Law Enforcement (DLE) is responsible for regulating the sale and delivery of firearms¹ by licensed firearm dealers to persons who are not licensed. Before a licensed importer, licensed manufacturer, or licensed dealer (licensee) can sell or deliver a firearm to another person who is not a licensee, Florida law requires the licensee to:

- Obtain a completed criminal history check form² from the potential buyer, which is provided by the licensee and must include the name, date of birth, gender, race, and social security number or other identification number of the potential buyer.
- Inspect proper identification that includes a photograph of the potential buyer.
- Collect a fee from the potential buyer for processing the criminal history check of the potential buyer.
- Request, via telephone call, DLE to conduct a check of the information as reported and reflected in the Florida Crime Information Center and National Crime Information Center systems.
- Receive a unique approval number for the inquiry from DLE and record such number and the date on the criminal history check form.³

The fee collected from a potential buyer for processing the criminal history check is established by DLE and may not exceed \$8 per transaction.⁴ Currently, the processing fee is \$5 per transaction.⁵ DLE is required to establish procedures for the fees to be transmitted by the licensee to DLE.⁶ Currently, the procedures established by DLE require a licensee to transmit the fees to DLE each month using a business or personal check, a money order, or a cashier's check.⁷

Effect of the Bill

CS/HB 55 requires the procedures established by DLE for transmitting the criminal history check processing fees to DLE to allow such fees to be paid or transmitted by electronic means, including, but not limited to, debit cards, credit cards, or electronic funds transfers. The bill also authorizes a licensee to request DLE to conduct a criminal history check via electronic means other than a telephone call.

B. SECTION DIRECTORY:

Section 1. Amends s. 790.065, F.S., relating to sale and delivery of firearms.

Section 2. Provides an effective date of October 1, 2018.

¹ The term "firearm" means any weapon (including a starter gun) that 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. The term does not include an antique firearm unless the antique firearm is used in the commission of a crime. Section 790.001(6), F.S.

² The form is created by the United States Treasury Department's Bureau of Alcohol, Tobacco, and Firearms. Rule 11C-6.009, F.A.C. A copy of the form is available online at <https://www.atf.gov/file/61446/download>.

³ Section 790.065(1)(a), F.S.

⁴ Section 790.065(1)(a)2., F.S.

⁵ Rule 11C-6.009(4), F.A.C.

⁶ Section 790.065(1)(a)2., F.S.

⁷ Rule 11C-6.009(9), F.A.C.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to impact state government revenues.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to impact local government revenues.

2. Expenditures:

The bill does not appear to impact local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

According to DLE, the agency will absorb the fiscal impact of the bill by diverting existing staff and resources. However, DLE stated that these existing resources will not be available until the third quarter of 2018 and recommends moving the effective date of the bill to April 1, 2019.⁸

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires DLE to establish procedures for licensees to pay criminal history check fees to the department through electronic means, including debit cards, credit cards, or electronic funds transfers. DLE has sufficient rule-making authority to implement the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

⁸ Department of Law Enforcement, Agency Analysis of 2018 House Bill 55, p. 4 (Sept. 6, 2017) (on file with the Oversight, Transparency & Administration Subcommittee).

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On December 6, 2017, the Oversight, Transparency & Administration Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment:

- Authorized a licensee to request DLE to conduct a criminal history check via electronic means other than a telephone call; and
- Changed the effective date of the bill from July 1, 2018, to October 1, 2018.

This analysis is drafted to the committee substitute as approved by the Oversight, Transparency & Administration Subcommittee.