



517672

LEGISLATIVE ACTION

Senate

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House

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Floor: NC/2R

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03/03/2018 06:06 PM

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Senator Farmer moved the following:

**Senate Amendment (with title amendment)**

Delete lines 357 - 409

and insert:

Section 7. Present subsection (13) of section 790.065, Florida Statutes, is redesignated as subsection (12), subsections (1), (3), and (10) of that section are amended, and a new subsection (11) is added to that section, to read:

790.065 Sale and delivery of firearms.—

(1)(a) A licensed importer, licensed manufacturer, or licensed dealer may not sell or deliver from her or his



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12 inventory at her or his licensed premises any firearm to another  
13 person, other than a licensed importer, licensed manufacturer,  
14 licensed dealer, or licensed collector, until she or he has:

15 1. Obtained a completed form from the potential buyer or  
16 transferee, which form shall have been adopted ~~promulgated~~ by  
17 the Department of Law Enforcement and provided by the licensed  
18 importer, licensed manufacturer, or licensed dealer, which shall  
19 include the name, date of birth, gender, race, and social  
20 security number or other identification number of such potential  
21 buyer or transferee and has inspected proper identification  
22 including an identification containing a photograph of the  
23 potential buyer or transferee.

24 2. Collected a fee from the potential buyer for processing  
25 the criminal history check of the potential buyer. The fee shall  
26 be established by the Department of Law Enforcement and may not  
27 exceed \$8 per transaction. The Department of Law Enforcement may  
28 reduce, or suspend collection of, the fee to reflect payment  
29 received from the Federal Government applied to the cost of  
30 maintaining the criminal history check system established by  
31 this section as a means of facilitating or supplementing the  
32 National Instant Criminal Background Check System. The  
33 Department of Law Enforcement shall, by rule, establish  
34 procedures for the fees to be transmitted by the licensee to the  
35 Department of Law Enforcement. All such fees shall be deposited  
36 into the Department of Law Enforcement Operating Trust Fund, but  
37 shall be segregated from all other funds deposited into such  
38 trust fund and must be accounted for separately. Such segregated  
39 funds must not be used for any purpose other than the operation  
40 of the criminal history checks required by this section. The



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41 Department of Law Enforcement, each year before ~~prior to~~  
42 February 1, shall make a full accounting of all receipts and  
43 expenditures of such funds to the President of the Senate, the  
44 Speaker of the House of Representatives, the majority and  
45 minority leaders of each house of the Legislature, and the  
46 chairs of the appropriations committees of each house of the  
47 Legislature. In the event that the cumulative amount of funds  
48 collected exceeds the cumulative amount of expenditures by more  
49 than \$2.5 million, excess funds may be used for the purpose of  
50 purchasing soft body armor for law enforcement officers.

51 3. Requested, by means of a toll-free telephone call, the  
52 Department of Law Enforcement to conduct a check of the  
53 information as reported and reflected in the Florida Crime  
54 Information Center and National Crime Information Center systems  
55 as of the date of the request.

56 4. Received a unique approval number for that inquiry from  
57 the Department of Law Enforcement, and recorded the date and  
58 such number on the consent form.

59 (b) However, if the person purchasing, or receiving  
60 delivery of, the firearm is a holder of a valid concealed  
61 weapons or firearms license pursuant to ~~the provisions of~~ s.  
62 790.06 or holds an active certification from the Criminal  
63 Justice Standards and Training Commission as a "law enforcement  
64 officer," a "correctional officer," or a "correctional probation  
65 officer" as defined in s. 943.10(1), (2), (3), (6), (7), (8), or  
66 (9), this subsection does not apply.

67 (c) This subsection does not apply to the purchase, trade,  
68 or transfer of a rifle or shotgun by a resident of this state  
69 when the resident makes such purchase, trade, or transfer from a



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70 licensed importer, licensed manufacturer, or licensed dealer in  
71 another state.

72 (d)1. If neither party to a prospective firearms sale,  
73 lease, or transfer is a licensed dealer, the parties to the  
74 transaction must complete the sale, lease, or transfer through a  
75 licensed dealer as follows:

76 a. The seller, lessor, or transferor must deliver the  
77 firearm to a licensed dealer, who shall process the sale, lease,  
78 or transfer as if she or he were the seller, lessor, or  
79 transferor, except that the seller, lessor, or transferor who is  
80 not a licensed dealer may remove the firearm from the business  
81 premises of the licensed dealer while the background check is  
82 being conducted and while the waiting period requirement set  
83 forth in s. 790.0655 is being met. Other than allowing the  
84 unlicensed seller or transferor to remove the firearm from the  
85 licensed dealer's business premises, the licensed dealer shall  
86 comply with all requirements of federal and state law which  
87 would apply if she or he were the seller, lessor, or transferor  
88 of the firearm;

89 b. The licensed dealer shall conduct a background check on  
90 the buyer or other transferee as provided in this section and,  
91 unless the transaction is prohibited, and after all other legal  
92 requirements are met, including those set forth in s. 790.0655,  
93 the licensed dealer shall either:

94 (I) Deliver the firearm to the seller, lessor, or  
95 transferor, who shall complete the transaction and deliver the  
96 firearm to the buyer; or

97 (II) If the seller, lessor, or transferor has removed the  
98 firearm from the licensed dealer's business premises, contact



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99 the seller, lessor, or transferor to let her or him know that he  
100 or she may complete the transaction and deliver the firearm to  
101 the buyer.

102 c. If the licensed dealer cannot legally complete the  
103 transaction, the dealer must:

104 (I) Return the firearm to the seller, lessor, or  
105 transferor; or

106 (II) If the seller, lessor, or transferor has removed the  
107 firearm from the licensed dealer's business premises, contact  
108 the seller, lessor, or transferor to let her or him know that  
109 the transaction is prohibited, and that the seller, lessor, or  
110 transferor may not deliver the firearm to the buyer; and

111 d. The licensed dealer may require the buyer or other  
112 transferee to pay a fee covering the administrative costs  
113 incurred by the licensed dealer for facilitating the transfer of  
114 the firearm, plus applicable fees pursuant to federal and state  
115 law.

116 2. This paragraph does not apply to:

117 a. The activities of the United States Marshals Service,  
118 members of the United States Armed Forces or the National Guard,  
119 or federal officials required to carry firearms while engaged in  
120 performing their official duties; or

121 b. The following activities, unless the lawful owner knows  
122 or has reasonable cause to believe that federal, state, or local  
123 law prohibits the transferee from purchasing or possessing  
124 firearms, or that the transferee is likely to use the firearm  
125 for unlawful purposes:

126 (I) The delivery of a firearm to a gunsmith for service or  
127 repair, or the return of the firearm to its owner by the



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128 gunsmith;

129 (II) The transfer of a firearm to a carrier, warehouseman,  
130 or other person engaged in the business of transportation or  
131 storage, to the extent that the receipt, possession, or having  
132 on or about the person any firearm is in the ordinary course of  
133 business and in conformity with federal, state, and local laws,  
134 and not for the personal use of any such person;

135 (III) The loan of a firearm solely for the purpose of  
136 shooting at targets, if the loan occurs on the premises of a  
137 properly licensed target facility and if the firearm is at all  
138 times kept within the premises of the target facility;

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

143 (V) The loan of a firearm to a person who is 18 years of  
144 age or older if the firearm remains in the person's possession  
145 only while the person is accompanying the lawful owner and using  
146 the firearm for lawful hunting, sporting, or recreational  
147 purposes; or

148 (VI) The loan of a firearm to an adult family member of the  
149 lawful owner of the firearm if the lawful owner resides with the  
150 family member but is not present in the residence, provided that  
151 the family member does not maintain control over the firearm for  
152 more than 10 consecutive days.

153 ~~(3) In the event of scheduled computer downtime, electronic~~  
154 ~~failure, or similar emergency beyond the control of the~~  
155 ~~Department of Law Enforcement, the department shall immediately~~  
156 ~~notify the licensee of the reason for, and estimated length of,~~



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157 ~~such delay. After such notification, the department shall~~  
158 ~~forthwith, and in no event later than the end of the next~~  
159 ~~business day of the licensee, either inform the requesting~~  
160 ~~licensee if its records demonstrate that the buyer or transferee~~  
161 ~~is prohibited from receipt or possession of a firearm pursuant~~  
162 ~~to Florida and Federal law or provide the licensee with a unique~~  
163 ~~approval number. Unless notified by the end of said next~~  
164 ~~business day that the buyer or transferee is so prohibited, and~~  
165 ~~without regard to whether she or he has received a unique~~  
166 ~~approval number, the licensee may complete the sale or transfer~~  
167 ~~and shall not be deemed in violation of this section with~~  
168 ~~respect to such sale or transfer.~~

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

172 ~~(a) Unavailability of telephone service at the licensed~~  
173 ~~premises due to the failure of the entity which provides~~  
174 ~~telephone service in the state, region, or other geographical~~  
175 ~~area in which the licensee is located to provide telephone~~  
176 ~~service to the premises of the licensee due to the location of~~  
177 ~~said premises; or the interruption of telephone service by~~  
178 ~~reason of hurricane, tornado, flood, natural disaster, or other~~  
179 ~~act of God, war, invasion, insurrection, riot, or other bona~~  
180 ~~fide emergency, or other reason beyond the control of the~~  
181 ~~licensee; or~~

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

184 (11) A person younger than 21 years of age may not purchase  
185 a firearm. The sale or transfer of a firearm to a person younger



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186 than 21 years of age may not be made or facilitated by a  
187 licensed importer, licensed manufacturer, or licensed dealer. A  
188 person who violates this subsection commits a felony of the  
189 third degree, punishable as provided in s. 775.082, s. 775.083,  
190 or s. 775.084. The prohibitions of this subsection do not apply  
191 to the purchase of a rifle or shotgun by a law enforcement  
192 officer or a correctional officer, as those terms are defined in  
193 s. 943.10, or to a person on active duty in the Armed Forces of  
194 the United States or full-time duty in the National Guard.

195 Section 8. Section 790.0655, Florida Statutes, is amended  
196 to read:

197 790.0655 Purchase and delivery of firearms ~~handguns~~;  
198 mandatory waiting period; exceptions; penalties.-

199 (1) (a) ~~There shall be~~ A mandatory ~~3-day~~ waiting period is  
200 imposed between the purchase and delivery of a firearm. The  
201 mandatory waiting period is, which shall be 3 days, excluding  
202 weekends and legal holidays, or expires upon the completion of  
203 the records checks required under s. 790.065, whichever occurs  
204 later. The mandatory waiting period applies to the delivery of a  
205 firearm through a private sale facilitated through a licensed  
206 dealer under s. 790.065(1) (d) between the purchase and the  
207 delivery at retail of any handgun. "Purchase" means the transfer  
208 of money or other valuable consideration to the retailer.  
209 ~~"Handgun" means a firearm capable of being carried and used by~~  
210 ~~one hand, such as a pistol or revolver. "Retailer" means and~~  
211 includes a licensed importer, licensed manufacturer, or licensed  
212 dealer every person engaged in the business of making firearm  
213 sales at retail or for distribution, or use, or consumption, or  
214 storage to be used or consumed in this state, as defined in s.





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215 212.02(13).

216 (b) Records of firearm handgun sales must be available for  
217 inspection by any law enforcement agency, as defined in s.  
218 934.02, during normal business hours.

219 (2) The ~~3-day~~ waiting period does shall not apply in the  
220 following circumstances:

221 (a) When a firearm handgun is being purchased by a holder  
222 of a concealed weapons permit as defined in s. 790.06.

223 (b) To a trade-in of another firearm handgun.

224 (c) To a person who completes a 16-hour hunter education or  
225 hunter safety course approved by the Fish and Wildlife  
226 Conservation Commission or similar agency of another state,  
227 unless that person is purchasing a handgun.

228 (3) It is a felony of the third degree, punishable as  
229 provided in s. 775.082, s. 775.083, or s. 775.084:

230 (a) For any retailer, or any employee or agent of a  
231 retailer, to deliver a firearm handgun before the expiration of  
232 the ~~3-day~~ waiting period, subject to the exceptions provided in  
233 subsection (2).

234 (b) For a purchaser to obtain delivery of a firearm handgun  
235 by fraud, false pretense, or false representation.

236 Section 9. Paragraph (e) of subsection (3) of section  
237 790.335, Florida Statutes, is amended to read:

238 790.335 Prohibition of registration of firearms; electronic  
239 records.—

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

242 (e)1. Records kept pursuant to the recordkeeping provisions  
243 of s. 790.065; however, nothing in this section shall be



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244 construed to authorize the public release or inspection of  
245 records that are made confidential and exempt from the  
246 provisions of s. 119.07(1) by s. 790.065(3)(a) ~~s. 790.065(4)(a)~~.

247 2. Nothing in this paragraph shall be construed to allow  
248 the maintaining of records containing the names of purchasers or  
249 transferees who receive unique approval numbers or the  
250 maintaining of records of firearm transactions.

251  
252 ===== T I T L E A M E N D M E N T =====

253 And the title is amended as follows:

254 Delete lines 44 - 58

255 and insert:

256 s. 790.065, F.S.; requiring that, if neither party to  
257 a prospective firearms sale, lease, or transfer is a  
258 licensed dealer, the parties complete the sale, lease,  
259 or transfer through a licensed dealer; specifying  
260 procedures and requirements for a licensed dealer, a  
261 seller, lessor, or transferor, and a buyer, lessee, or  
262 transferee, including a required background check;  
263 authorizing a licensed dealer to charge a buyer or  
264 transferee specified fees; providing applicability;  
265 deleting provisions authorizing a licensee to complete  
266 the sale or transfer of a firearm to a person without  
267 receiving notification from the Department of Law  
268 Enforcement informing the licensee as to whether such  
269 person is prohibited from receipt or possession of a  
270 firearm or providing a unique approval number under  
271 certain circumstances; deleting provisions exempting a  
272 licensed importer, licensed manufacturer, or licensed



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273 dealer from the sale and delivery requirements, under  
274 certain circumstances; prohibiting a person younger  
275 than a certain age from purchasing a firearm;  
276 prohibiting the sale or transfer, or facilitation of a  
277 sale or transfer, of a firearm to a person younger  
278 than a certain age by a licensed importer, licensed  
279 manufacturer, or licensed dealer; providing criminal  
280 penalties; providing an exception; amending s.  
281 790.0655, F.S.; revising the mandatory waiting period  
282 to the later of either 3 days, excluding weekends and  
283 legal holidays, or upon the completion of certain  
284 records checks; applying the mandatory waiting period  
285 to private sales of firearms facilitated through a  
286 licensed dealer; revising and redefining terms;  
287 requiring that records of firearm sales be available  
288 for inspection by any law enforcement agency during  
289 normal business hours; revising applicability of the  
290 waiting period; conforming provisions to changes made  
291 by the act; amending s. 790.335, F.S.; conforming a  
292 cross-reference;