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LEGISLATIVE ACTION

Senate

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House

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Floor: WD/2R

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03/03/2018 05:58 PM

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Senator Farmer moved the following:

1           **Senate Amendment to Substitute Amendment (726990) (with**  
2 **title amendment)**

3  
4           Between lines 327 and 328  
5 insert:

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

10           790.065 Sale and delivery of firearms.—

11           (1)(a) A licensed importer, licensed manufacturer, or



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12 licensed dealer may not sell or deliver from her or his  
13 inventory at her or his licensed premises any firearm to another  
14 person, other than a licensed importer, licensed manufacturer,  
15 licensed dealer, or licensed collector, until she or he has:

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

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



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

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

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

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

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



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70 when the resident makes such purchase, trade, or transfer from a  
71 licensed importer, licensed manufacturer, or licensed dealer in  
72 another state.

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

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

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

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

98 (II) If the seller, lessor, or transferor has removed the



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99 firearm from the licensed dealer's business premises, contact  
100 the seller, lessor, or transferor to let her or him know that he  
101 or she may complete the transaction and deliver the firearm to  
102 the buyer.

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

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

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

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

117 2. This paragraph does not apply to:

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

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

127 (I) The delivery of a firearm to a gunsmith for service or



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128 repair, or the return of the firearm to its owner by the  
129 gunsmith;

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

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

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

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

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

154 ~~(3) In the event of scheduled computer downtime, electronic~~  
155 ~~failure, or similar emergency beyond the control of the~~  
156 ~~Department of Law Enforcement, the department shall immediately~~



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

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

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

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

185 (11) A person younger than 21 years of age may not purchase



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

197 Section 11. Section 790.0655, Florida Statutes, is amended  
198 to read:

199 790.0655 Purchase and delivery of firearms ~~handguns~~;  
200 mandatory waiting period; exceptions; penalties.-

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





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215 sales at retail or for distribution, or use, or consumption, or  
216 storage to be used or consumed in this state, as defined in s.  
217 212.02(13).

218 (b) Records of firearm handgun sales must be available for  
219 inspection by any law enforcement agency, as defined in s.  
220 934.02, during normal business hours.

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

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

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

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

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

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

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

238 Section 12. Paragraph (e) of subsection (3) of section  
239 790.335, Florida Statutes, is amended to read:

240 790.335 Prohibition of registration of firearms; electronic  
241 records.—

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



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

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

253 Section 13. For the purpose of incorporating the amendment  
254 made by this act to section 790.065, Florida Statutes, in a  
255 reference thereto, subsection (2) of section 397.6760, Florida  
256 Statutes, is reenacted to read:

257 397.6760 Court records; confidentiality.—

258 (2) This section does not preclude the clerk of the court  
259 from submitting the information required by s. 790.065 to the  
260 Department of Law Enforcement.

261 Section 14. For the purpose of incorporating the amendment  
262 made by this act to section 790.065, Florida Statutes, in a  
263 reference thereto, paragraph (e) of subsection (3) of section  
264 790.335, Florida Statutes, is reenacted to read:

265 790.335 Prohibition of registration of firearms; electronic  
266 records.—

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

269 (e)1. Records kept pursuant to the recordkeeping provisions  
270 of s. 790.065; however, nothing in this section shall be  
271 construed to authorize the public release or inspection of  
272 records that are made confidential and exempt from the



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273 provisions of s. 119.07(1) by s. 790.065(4) (a).

274 2. Nothing in this paragraph shall be construed to allow  
275 the maintaining of records containing the names of purchasers or  
276 transferees who receive unique approval numbers or the  
277 maintaining of records of firearm transactions.

278

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

280 And the title is amended as follows:

281 Delete line 2285

282 and insert:

283 relief; amending s. 790.065, F.S.; requiring that, if  
284 neither party to a prospective firearms sale, lease,  
285 or transfer is a licensed dealer, the parties complete  
286 the sale, lease, or transfer through a licensed  
287 dealer; specifying procedures and requirements for a  
288 licensed dealer, a seller, lessor, or transferor, and  
289 a buyer, lessee, or transferee, including a required  
290 background check; authorizing a licensed dealer to  
291 charge a buyer or transferee specified fees; providing  
292 applicability; deleting provisions authorizing a  
293 licensee to complete the sale or transfer of a firearm  
294 to a person without receiving notification from the  
295 Department of Law Enforcement informing the licensee  
296 as to whether such person is prohibited from receipt  
297 or possession of a firearm or providing a unique  
298 approval number under certain circumstances; deleting  
299 provisions exempting a licensed importer, licensed  
300 manufacturer, or licensed dealer from the sale and  
301 delivery requirements, under certain circumstances;



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302 prohibiting a person younger than a certain age from  
303 purchasing a firearm; prohibiting a person from  
304 transferring a firearm to another person younger than  
305 a certain age; prohibiting the sale or transfer, or  
306 facilitation of a sale or transfer, of a firearm to a  
307 person younger than a certain age by any individual or  
308 entity; providing criminal penalties; providing an  
309 exception; amending s. 790.0655, F.S.; revising the  
310 mandatory waiting period to the later of either 3  
311 days, excluding weekends and legal holidays, or upon  
312 the completion of certain records checks; applying the  
313 mandatory waiting period to private sales of firearms  
314 facilitated through a licensed dealer; revising and  
315 redefining terms; requiring that records of firearm  
316 sales be available for inspection by any law  
317 enforcement agency during normal business hours;  
318 revising applicability of the waiting period;  
319 conforming provisions to changes made by the act;  
320 amending s. 790.335, F.S.; conforming provisions to  
321 changes made by the act; reenacting ss. 397.6760(2)  
322 and 790.335(3)(e), F.S., relating to the  
323 confidentiality of court records and exceptions to the  
324 prohibition of registration of firearms, respectively,  
325 to incorporate the amendment made to s. 790.065, F.S.,  
326 in references thereto; creating s. 790.401, F.S.;  
327 defining terms;