

By Senator Farmer

34-00430-19

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1 A bill to be entitled
2 An act relating to firearms; amending s. 790.065,
3 F.S.; requiring the Department of Law Enforcement to
4 include on a standard form certain questions
5 concerning a potential firearm buyer's criminal
6 history and other information relating to the person's
7 eligibility to make the firearm purchase; requiring
8 the department to notify certain law enforcement
9 agencies when a potential sale or transfer receives a
10 nonapproval number; providing requirements for such
11 notice; requiring that, if neither party to a
12 prospective firearms sale, lease, or transfer is a
13 licensed dealer, the parties must complete the sale,
14 lease, or transfer through a licensed dealer;
15 specifying procedures and requirements for a licensed
16 dealer, seller, lessor, or transferor, and a buyer,
17 lessee, or transferee, including a required background
18 check; providing applicability; revising the
19 applicability of certain requirements imposed on
20 licensed importers, licensed manufacturers, or
21 licensed dealers; revising applicability of the
22 prohibition against certain sales or deliveries of
23 firearms to include certain purchases, trades, and
24 transfers of a rifle or shotgun; deleting provisions
25 exempting, under certain circumstances, a licensed
26 importer, licensed manufacturer, or licensed dealer
27 from the sale and delivery requirements; deleting
28 provisions authorizing a licensee to complete the sale
29 or transfer of a firearm to a person without receiving

34-00430-19

2019468__

30 notification from the department informing the
31 licensee as to whether such person is prohibited from
32 receipt or possession of a firearm or providing a
33 unique approval number; prohibiting the sale or
34 transfer, or facilitation of a sale or transfer, of a
35 firearm to a person younger than a certain age by any
36 person or entity; revising an exception to the
37 prohibitions; amending s. 790.0655, F.S.; applying a
38 mandatory waiting period to private sales of firearms
39 facilitated through a licensed dealer; amending s.
40 790.335, F.S.; conforming a cross-reference; providing
41 an effective date.

42
43 Be It Enacted by the Legislature of the State of Florida:

44
45 Section 1. Subsections (1), (3), and (10) and present
46 subsection (13) of section 790.065, Florida Statutes, are
47 amended, and paragraph (a) of present subsection (4) and
48 paragraphs (b) and (c) of present subsection (12) of that
49 section are republished, to read:

50 790.065 Sale and delivery of firearms.-

51 (1) (a) A licensed importer, licensed manufacturer, or
52 licensed dealer may not sell or deliver from her or his
53 inventory at her or his licensed premises any firearm to another
54 person, other than a licensed importer, licensed manufacturer,
55 licensed dealer, or licensed collector, until she or he has:

56 1. Provided to and obtained a completed form from the
57 potential buyer or transferee a completed form, adopted by the
58 Department of Law Enforcement, which form shall have been

34-00430-19

2019468__

59 ~~promulgated by the Department of Law Enforcement and provided by~~
60 ~~the licensed importer, licensed manufacturer, or licensed~~
61 ~~dealer, which, at a minimum, must shall~~ include the name, date
62 of birth, gender, race, and social security number or other
63 identification number of the such potential buyer or transferee;
64 questions as to any criminal history of the potential buyer or
65 transferee; and other information relating to his or her
66 eligibility to purchase a firearm, and has inspected proper
67 identification, which must include ~~including an identification~~
68 ~~containing~~ a photograph of the potential buyer or transferee.

69 a. If the review of records under subsection (2) indicates
70 that the potential buyer or transferee is prohibited under state
71 or federal law from having in her or his care, custody,
72 possession, or control a firearm and that the potential
73 transfer, sale, or purchase has received a nonapproval number,
74 the Department of Law Enforcement shall send notification of
75 such nonapproval to the federal or state correctional, law
76 enforcement, prosecutorial, and other criminal justice agencies
77 that have jurisdiction in the county where the transfer or
78 purchase was attempted.

79 b. The Department of Law Enforcement shall, for each
80 county, identify the federal or state correctional, law
81 enforcement, prosecutorial, and other criminal justice agencies
82 that must receive such notification of nonapproval.

83 c. The notification of nonapproval must include the
84 identity of the potential buyer or transferee, the identity of
85 the licensee who made the inquiry, the date and time of issuance
86 of the nonapproval number, the reason for the nonapproval, and
87 the location where the attempted purchase or transfer occurred.

34-00430-19

2019468__

88 d. Except in instances in which a delay is necessary to
89 avoid compromising an ongoing investigation, in which case the
90 Department of Law Enforcement may delay notification for as long
91 as necessary, the department shall notify the required agencies
92 within 1 week after issuance of the notice of the nonapproval.
93 Such notifications, which may be made by any means, whether
94 oral, written, or electronic, may be aggregated, provided that
95 they are timely made.

96 2. Collected a fee from the potential buyer or transferee
97 for processing the criminal history check ~~of the potential~~
98 ~~buyer~~. The ~~fee shall be established by the~~ Department of Law
99 Enforcement shall establish the fee, which ~~and~~ may not exceed \$8
100 per transaction. The Department of Law Enforcement may reduce,
101 or suspend collection of, the fee to reflect payment received
102 from the Federal Government applied to the cost of maintaining
103 the criminal history check system established by this section as
104 a means of facilitating or supplementing the National Instant
105 Criminal Background Check System. The Department of Law
106 Enforcement shall, by rule, establish procedures for the fees to
107 be transmitted by the licensee to the Department of Law
108 Enforcement. Such procedures must provide that fees may be paid
109 or transmitted by electronic means, including, but not limited
110 to, debit cards, credit cards, or electronic funds transfers.
111 All such fees shall be deposited into the Department of Law
112 Enforcement Operating Trust Fund, but shall be segregated from
113 all other funds deposited into such trust fund and must be
114 accounted for separately. Such segregated funds must not be used
115 for any purpose other than the operation of the criminal history
116 checks required by this section. The Department of Law

34-00430-19

2019468__

117 Enforcement, each year before February 1, shall make a full
118 accounting of all receipts and expenditures of such funds to the
119 President of the Senate, the Speaker of the House of
120 Representatives, the majority and minority leaders of each house
121 of the Legislature, and the chairs of the appropriations
122 committees of each house of the Legislature. In the event that
123 the cumulative amount of funds collected exceeds the cumulative
124 amount of expenditures by more than \$2.5 million, excess funds
125 may be used for the purpose of purchasing soft body armor for
126 law enforcement officers.

127 3. Requested, by means of a toll-free telephone call or
128 other electronic means, the Department of Law Enforcement to
129 conduct a check of the information as reported and reflected in
130 the Florida Crime Information Center and National Crime
131 Information Center systems as of the date of the request.

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

135 (b)1. If neither party to a prospective firearms sale,
136 lease, or transfer is a licensed dealer, the parties to the
137 transaction must complete the sale, lease, or transfer through a
138 licensed dealer as follows:

139 a. The seller, lessor, or transferor shall deliver the
140 firearm to a licensed dealer, who shall process the sale, lease,
141 or transfer as if she or he were the seller, lessor, or
142 transferor, except that the seller, lessor, or transferor who is
143 not a licensed dealer may remove the firearm from the business
144 premises of the licensed dealer while the background check is
145 being conducted and while the waiting period requirement set

34-00430-19

2019468__

146 forth in s. 790.0655 is being met. Other than allowing the
147 unlicensed seller or transferor to remove the firearm from the
148 licensed dealer's business premises, the licensed dealer shall
149 comply with all requirements of federal and state law which
150 would apply if she or he were the seller, lessor, or transferor
151 of the firearm;

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

157 (I) Deliver the firearm to the seller, lessor, or
158 transferor, who shall complete the transaction and deliver the
159 firearm to the buyer; or

160 (II) If the seller, lessor, or transferor has removed the
161 firearm from the licensed dealer's business premises, contact
162 the seller, lessor, or transferor to let her or him know that
163 she or he may complete the transaction and deliver the firearm
164 to the buyer; and

165 c. If the licensed dealer cannot legally complete the
166 transaction, the dealer must:

167 (I) Return the firearm to the seller, lessor, or
168 transferor; or

169 (II) If the seller, lessor, or transferor has removed the
170 firearm from the licensed dealer's business premises, contact
171 the seller, lessor, or transferor to let her or him know that
172 the transaction is prohibited and that the seller, lessor, or
173 transferor may not deliver the firearm to the buyer.

174 2. This paragraph does not apply to:

34-00430-19

2019468__

175 a. The activities of the United States Marshals Service,
176 members of the United States Armed Forces or the National Guard,
177 or federal officials required to carry firearms while performing
178 their official duties; or

179 b. The following activities, unless the lawful owner knows
180 or has reasonable cause to believe that federal, state, or local
181 law prohibits the transferee from purchasing or possessing
182 firearms or that the transferee is likely to use the firearm for
183 unlawful purposes:

184 (I) The delivery of a firearm to a gunsmith for service or
185 repair or the return of the firearm to its owner by the
186 gunsmith;

187 (II) The transfer of a firearm to a carrier, warehouseman,
188 or other person engaged in the business of transportation or
189 storage, to the extent that the receipt, possession, or having
190 on or about the person any firearm is in the ordinary course of
191 business and in conformity with federal, state, and local laws,
192 and not for the personal use of any such person;

193 (III) The loan of a firearm solely for the purpose of
194 shooting at targets, if the loan occurs on the premises of a
195 properly licensed target facility and if the firearm is at all
196 times kept within the premises of the target facility;

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

201 (V) The loan of a firearm to a person who is 18 years of
202 age or older if the firearm remains in the person's possession
203 only while the person is accompanying the lawful owner and using

34-00430-19

2019468__

204 the firearm for lawful hunting, sporting, or recreational
205 purposes; or

206 (VI) The loan of a firearm to an adult family member of the
207 lawful owner of the firearm if the lawful owner resides with the
208 family member but is not present in the residence and the family
209 member does not maintain control over the firearm for more than
210 10 consecutive days.

211
212 This subsection does not apply ~~(b) However,~~ if the person
213 ~~purchasing,~~ or receiving delivery of, the firearm ~~is a holder of~~
214 ~~a valid concealed weapons or firearms license pursuant to the~~
215 ~~provisions of s. 790.06 or holds an active certification from~~
216 ~~the Criminal Justice Standards and Training Commission as a "law~~
217 ~~enforcement officer," a "correctional officer," or a~~
218 ~~"correctional probation officer" as defined in s. 943.10(1),~~
219 ~~(2), (3), (6), (7), (8), or (9), this subsection does not apply.~~

220 ~~(c) This subsection does not apply to the purchase, trade,~~
221 ~~or transfer of a rifle or shotgun by a resident of this state~~
222 ~~when the resident makes such purchase, trade, or transfer from a~~
223 ~~licensed importer, licensed manufacturer, or licensed dealer in~~
224 ~~another state.~~

225 ~~(3) In the event of scheduled computer downtime, electronic~~
226 ~~failure, or similar emergency beyond the control of the~~
227 ~~Department of Law Enforcement, the department shall immediately~~
228 ~~notify the licensee of the reason for, and estimated length of,~~
229 ~~such delay. After such notification, the department shall~~
230 ~~forthwith, and in no event later than the end of the next~~
231 ~~business day of the licensee, either inform the requesting~~
232 ~~licensee if its records demonstrate that the buyer or transferee~~

34-00430-19

2019468__

233 ~~is prohibited from receipt or possession of a firearm pursuant~~
234 ~~to Florida and Federal law or provide the licensee with a unique~~
235 ~~approval number. Unless notified by the end of said next~~
236 ~~business day that the buyer or transferee is so prohibited, and~~
237 ~~without regard to whether she or he has received a unique~~
238 ~~approval number, the licensee may complete the sale or transfer~~
239 ~~and shall not be deemed in violation of this section with~~
240 ~~respect to such sale or transfer.~~

241 (3) (a) ~~(4) (a)~~ Any records containing any of the information
242 set forth in subsection (1) pertaining to a buyer or transferee
243 who is not found to be prohibited from receipt or transfer of a
244 firearm by reason of Florida and federal law which records are
245 created by the Department of Law Enforcement to conduct the
246 criminal history record check shall be confidential and exempt
247 from the provisions of s. 119.07(1) and may not be disclosed by
248 the Department of Law Enforcement or any officer or employee
249 thereof to any person or to another agency. The Department of
250 Law Enforcement shall destroy any such records forthwith after
251 it communicates the approval and nonapproval numbers to the
252 licensee and, in any event, such records shall be destroyed
253 within 48 hours after the day of the response to the licensee's
254 request.

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

258 ~~(a) Unavailability of telephone service at the licensed~~
259 ~~premises due to the failure of the entity which provides~~
260 ~~telephone service in the state, region, or other geographical~~
261 ~~area in which the licensee is located to provide telephone~~

34-00430-19

2019468__

262 ~~service to the premises of the licensee due to the location of~~
263 ~~said premises; or the interruption of telephone service by~~
264 ~~reason of hurricane, tornado, flood, natural disaster, or other~~
265 ~~act of God, war, invasion, insurrection, riot, or other bona~~
266 ~~fide emergency, or other reason beyond the control of the~~
267 ~~licensee; or~~

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

270 ~~(10)-(12)~~

271 (b) Any licensed importer, licensed manufacturer, or
272 licensed dealer who violates the provisions of subsection (1)
273 commits a felony of the third degree punishable as provided in
274 s. 775.082 or s. 775.083.

275 (c) Any employee or agency of a licensed importer, licensed
276 manufacturer, or licensed dealer who violates the provisions of
277 subsection (1) commits a felony of the third degree punishable
278 as provided in s. 775.082 or s. 775.083.

279 ~~(11)-(13)~~ A person younger than 21 years of age may not
280 purchase a firearm, and a person may not sell or transfer. The
281 sale or transfer of a firearm to a person younger than 21 years
282 of age may not be made or facilitated by a licensed importer,
283 licensed manufacturer, or licensed dealer. The sale or transfer
284 of a firearm to a person younger than 21 years of age may not be
285 facilitated by any other person or entity on behalf of the
286 person younger than 21 years of age. A person who violates this
287 subsection commits a felony of the third degree, punishable as
288 provided in s. 775.082, s. 775.083, or s. 775.084. ~~The~~
289 ~~prohibitions of~~ This subsection does ~~de~~ not apply to the
290 purchase of a rifle or shotgun by a law enforcement officer or

34-00430-19

2019468__

291 correctional officer, as those terms are defined in s.
292 943.10(1), (2), (3), (6), (7), (8), or (9), or by a person on
293 active duty in the Armed Forces of the United States or full-
294 time duty in the National Guard ~~a servicemember as defined in s.~~
295 ~~250.01.~~

296 Section 2. Paragraph (a) of subsection (1) of section
297 790.0655, Florida Statutes, is amended to read:

298 790.0655 Purchase and delivery of firearms; mandatory
299 waiting period; exceptions; penalties.—

300 (1) (a) A mandatory waiting period is imposed between the
301 purchase and delivery of a firearm. The mandatory waiting period
302 is 3 days, excluding weekends and legal holidays, or expires
303 upon the completion of the records checks required under s.
304 790.065, whichever occurs later. The mandatory waiting period
305 applies to the delivery of a firearm through a private sale
306 facilitated by a licensed dealer under s. 790.065(1)(b).

307 "Purchase" means the transfer of money or other valuable
308 consideration to the retailer. "Retailer" means and includes a
309 licensed importer, licensed manufacturer, or licensed dealer
310 engaged in the business of making firearm sales at retail or for
311 distribution, or use, or consumption, or storage to be used or
312 consumed in this state, as defined in s. 212.02(13).

313 Section 3. Paragraph (e) of subsection (3) of section
314 790.335, Florida Statutes, is amended to read:

315 790.335 Prohibition of registration of firearms; electronic
316 records.—

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

319 (e)1. Records kept pursuant to the recordkeeping provisions

34-00430-19

2019468__

320 of s. 790.065; however, nothing in this section shall be
321 construed to authorize the public release or inspection of
322 records that are made confidential and exempt from the
323 provisions of s. 119.07(1) by s. 790.065(3)(a) ~~s. 790.065(4)(a)~~.

324 2. Nothing in this paragraph shall be construed to allow
325 the maintaining of records containing the names of purchasers or
326 transferees who receive unique approval numbers or the
327 maintaining of records of firearm transactions.

328 Section 4. This act shall take effect July 1, 2019.