

1 A bill to be entitled
 2 An act relating to weapons and firearms; creating s.
 3 790.0653, F.S.; providing definitions; requiring a
 4 background check on every sale or other transfer of a
 5 firearm; requiring background checks on all persons
 6 involved in firearm sales or other transfers;
 7 requiring firearm sales or other transfers to be
 8 conducted through, and processed by, a licensed
 9 dealer; authorizing a fee; providing exceptions;
 10 providing criminal penalties; requiring reporting to
 11 the Attorney General; providing applicability;
 12 providing an effective date.

13
 14 Be It Enacted by the Legislature of the State of Florida:

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 16 Section 1. Section 790.0653, Florida Statutes, is created
 17 to read:

18 790.0653 Transfers of firearms; transfer through licensed
 19 dealer required.-

20 (1) As used in this section, the term:

21 (a) "Background check" means the process described in 18
 22 U.S.C. s. 922(t) and s. 790.065 of using the National Instant
 23 Criminal Background Check System and other systems to determine
 24 that a person is not prohibited from possessing or receiving a
 25 firearm under federal or state law.

26 (b) "Family member" means a spouse or any of the following
27 relations, whether by consanguinity, adoption, or step-relation:
28 parent, child, sibling, grandparent, or grandchild.

29 (c) "Firearm" has the same meaning as in s. 790.001 and
30 includes any handgun, rifle, or shotgun.

31 (d) "Licensed dealer" means a person who holds a federal
32 firearms license issued pursuant to 18 U.S.C. s. 923(a).

33 (e) "Person" means any individual, corporation, trust,
34 company, firm, partnership, association, club, organization,
35 society, joint stock company, or other legal entity.

36 (f) "Purchaser or other transferee" means an unlicensed
37 person who wishes or intends to receive a firearm from another
38 unlicensed person.

39 (g) "Sale" means the sale, delivery, or passing of
40 ownership or control of a firearm for a fee or other
41 consideration.

42 (h) "Seller or other transferor" means an unlicensed
43 person who wishes or intends to transfer a firearm to another
44 unlicensed person.

45 (i) "Transfer" means to furnish, give, lend, deliver, or
46 otherwise provide, with or without consideration.

47 (j) "Unlicensed person" means a person who is not a
48 licensed dealer.

49 (2) All persons involved in firearm sales or other
50 transfers, in whole or in part, shall be subject to background

51 checks unless specifically exempted by state or federal law. If
52 the person involved in the firearm sale or other transfer, in
53 whole or in part, is a corporation or any entity other than an
54 individual person, the principal individual or individuals
55 involved in such sale or other transfer on behalf of the
56 corporation or other entity shall be subject to background
57 checks unless specifically exempted by federal law. A person may
58 not sell or otherwise transfer a firearm unless:

59 (a) The person is a licensed dealer;

60 (b) The purchaser or other transferee is a licensed
61 dealer; or

62 (c) The requirements of subsection (3) are met.

63 (3) If neither party to a prospective firearm sale or
64 other transfer is a licensed dealer, the parties to the
65 transaction shall complete the sale or other transfer through a
66 licensed dealer as follows:

67 (a) The seller or other transferor and the purchaser or
68 other transferee shall appear jointly with the firearm at a
69 licensed dealer and request that the licensed dealer conduct a
70 background check on the purchaser or other transferee.

71 (b) A licensed dealer who agrees to facilitate a
72 background check pursuant to this section shall process the sale
73 or other transfer as if he or she were transferring the firearm
74 from the licensed dealer's own inventory to the purchaser or
75 other transferee, complying with all requirements of federal and

76 state law that would apply if he or she were the seller or other
77 transferor of the firearm, including all background check and
78 recordkeeping requirements.

79 (c) The seller or other transferor and the purchaser or
80 other transferee shall each complete, sign, and submit all state
81 and federal forms necessary to process the background check and
82 otherwise complete the sale or other transfer pursuant to this
83 section, and the licensed dealer shall indicate on the forms
84 that the sale or other transfer is between unlicensed persons.

85 (d) This section does not prevent the seller or other
86 transferor from removing the firearm from the premises of the
87 licensed dealer while the background check is being conducted or
88 during the applicable waiting period, provided that the seller
89 or other transferor returns to the business premises of the
90 licensed dealer and delivers the firearm to the licensed dealer
91 before completion of the sale or other transfer.

92 (e) A licensed dealer or a seller or other transferor may
93 not sell or otherwise transfer a firearm to a purchaser or other
94 transferee if the results of the background check indicate that
95 the purchaser or other transferee is prohibited from possessing
96 or receiving a firearm under federal or state law.

97 (f) A licensed dealer who agrees to conduct a background
98 check may charge a reasonable fee not to exceed the
99 administrative costs incurred by the licensed dealer for
100 facilitating the sale or other transfer of the firearm, plus

101 applicable fees pursuant to federal and state law.

102 (4) Subsections (2) and (3) do not apply to the following:

103 (a) A law enforcement or corrections agency, or a law
104 enforcement or correctional officer, as defined in s. 943.10,
105 vested with the authority to bear arms, acting within the course
106 and scope of his or her employment or official duties.

107 (b) A United States Marshals Service officer, United
108 States Armed Forces or National Guard member, or federal
109 official vested with the authority to bear arms, acting within
110 the course and scope of his or her employment or official
111 duties.

112 (c) A gunsmith who receives a firearm solely for the
113 purposes of service or repair who returns the firearm to its
114 lawful owner.

115 (d) A common carrier, warehouseman, or other person
116 engaged in the business of transportation or storage, to the
117 extent that the receipt of any firearm is in the ordinary course
118 of business and not for the personal use of any such person.

119 (e) A person who is not prohibited from possessing or
120 receiving a firearm under state or federal law who has
121 temporarily transferred a firearm:

122 1. Solely for the purpose of shooting at targets, if the
123 transfer occurs on the premises of a sport shooting range
124 authorized by the governing body of the jurisdiction in which
125 the range is located, or, if no such authorization is required,

126 operated consistently with local law in such jurisdiction, and
127 the firearm is at all times kept within the premises of the
128 sport shooting range;

129 2. While the person is accompanying the lawful owner of
130 the firearm and using the firearm for lawful hunting purposes,
131 if hunting is legal in all places where the person possesses the
132 firearm and the person holds all licenses and permits required
133 for such hunting;

134 3. While participating in a lawfully organized competition
135 involving the use of a firearm; or

136 4. While in the presence of the seller or other
137 transferor.

138 (f) A family member of the seller or other transferor.
139 This paragraph does not apply if the lawful owner or family
140 member knows or has reasonable cause to believe that federal or
141 state law prohibits the family member from purchasing or
142 possessing a firearm, or the seller or other transferor knows or
143 has reasonable cause to believe that the family member is likely
144 to use the firearm for unlawful purposes.

145 (g) An executor, administrator, trustee, or personal
146 representative of an estate or trust that occurs by operation of
147 law upon the death of the former lawful owner of the firearm.

148 (h) The temporary transfer of a firearm if such transfer
149 is to prevent immediate or imminent death or great bodily harm
150 to one's self or others, provided that the person to whom the

151 firearm is transferred is not prohibited from possessing a
152 firearm under state or federal law and the temporary transfer
153 lasts no longer than necessary to prevent such immediate or
154 imminent death or great bodily harm.

155 (i) The sale or other transfer of an antique firearm.

156 (5) A person who violates this section commits a felony of
157 the third degree, punishable as provided in s. 775.082, s.
158 775.083, or s. 775.084.

159 (6) In addition to any other penalty or remedy, the
160 investigating law enforcement agency shall report any violation
161 of this section committed by a licensed dealer to the Attorney
162 General.

163 (7) This section does not apply to any firearm modified to
164 render it permanently inoperable.

165 Section 2. This act shall take effect July 1, 2020.