

By Senator Farmer

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1 A bill to be entitled
2 An act relating to the sale and delivery of firearms;
3 amending s. 790.065, F.S.; requiring the parties, if
4 neither party to a sale, lease, or other transfer of a
5 firearm is a licensed dealer, to complete the sale,
6 lease, or other transfer through a licensed dealer;
7 specifying procedures and requirements for a licensed
8 dealer, seller, lessor, or transferor and a buyer or
9 transferee; authorizing a licensed dealer to charge a
10 buyer or transferee specified fees; providing
11 applicability; deleting provisions authorizing a
12 licensee to complete the sale or transfer of a firearm
13 to a person without receiving certain notification
14 from the Department of Law Enforcement informing the
15 licensee that such person is prohibited from receipt
16 or possession of a firearm or the department providing
17 a unique approval number under certain circumstances;
18 deleting provisions exempting a licensed importer,
19 licensed manufacturer, or licensed dealer from the
20 sale and delivery requirements under certain
21 circumstances; amending s. 790.335, F.S.; conforming a
22 cross-reference; providing an effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:

25
26 Section 1. Subsections (1), (3), and (10) of section
27 790.065, Florida Statutes, are amended to read:

28 790.065 Sale and delivery of firearms.—

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

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30 licensed dealer may not sell or deliver from her or his
31 inventory at her or his licensed premises any firearm to another
32 person, other than a licensed importer, licensed manufacturer,
33 licensed dealer, or licensed collector, until she or he has:

34 1. Obtained a completed form from the potential buyer or
35 transferee, which form shall have been promulgated by the
36 Department of Law Enforcement and provided by the licensed
37 importer, licensed manufacturer, or licensed dealer, which shall
38 include the name, date of birth, gender, race, and social
39 security number or other identification number of such potential
40 buyer or transferee and has inspected proper identification
41 including an identification containing a photograph of the
42 potential buyer or transferee.

43 2. Collected a fee from the potential buyer for processing
44 the criminal history check of the potential buyer. The fee shall
45 be established by the Department of Law Enforcement and may not
46 exceed \$8 per transaction. The Department of Law Enforcement may
47 reduce, or suspend collection of, the fee to reflect payment
48 received from the Federal Government applied to the cost of
49 maintaining the criminal history check system established by
50 this section as a means of facilitating or supplementing the
51 National Instant Criminal Background Check System. The
52 Department of Law Enforcement shall, by rule, establish
53 procedures for the fees to be transmitted by the licensee to the
54 Department of Law Enforcement. Such procedures must provide that
55 fees may be paid or transmitted by electronic means, including,
56 but not limited to, debit cards, credit cards, or electronic
57 funds transfers. All such fees shall be deposited into the
58 Department of Law Enforcement Operating Trust Fund, but shall be

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59 segregated from all other funds deposited into such trust fund
60 and must be accounted for separately. Such segregated funds must
61 not be used for any purpose other than the operation of the
62 criminal history checks required by this section. The Department
63 of Law Enforcement, each year before February 1, shall make a
64 full accounting of all receipts and expenditures of such funds
65 to the President of the Senate, the Speaker of the House of
66 Representatives, the majority and minority leaders of each house
67 of the Legislature, and the chairs of the appropriations
68 committees of each house of the Legislature. In the event that
69 the cumulative amount of funds collected exceeds the cumulative
70 amount of expenditures by more than \$2.5 million, excess funds
71 may be used for the purpose of purchasing soft body armor for
72 law enforcement officers.

73 3. Requested, by means of a toll-free telephone call or
74 other electronic means, the Department of Law Enforcement to
75 conduct a check of the information as reported and reflected in
76 the Florida Crime Information Center and National Crime
77 Information Center systems as of the date of the request.

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

81 (b) However, if the person purchasing, or receiving
82 delivery of, the firearm is a holder of a valid concealed
83 weapons or firearms license pursuant to ~~the provisions of s.~~
84 790.06 or holds an active certification from the Criminal
85 Justice Standards and Training Commission as a "law enforcement
86 officer," a "correctional officer," or a "correctional probation
87 officer" as defined in s. 943.10(1), (2), (3), (6), (7), (8), or

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88 (9), this subsection does not apply.

89 (c) This subsection does not apply to the purchase, trade,
90 or transfer of a rifle or shotgun by a resident of this state
91 when the resident makes such purchase, trade, or transfer from a
92 licensed importer, licensed manufacturer, or licensed dealer in
93 another state.

94 (d)1. If neither party to a prospective firearms sale,
95 lease, or other transfer is a licensed dealer, the parties to
96 such transaction must complete the sale, lease, or other
97 transfer through a licensed dealer as follows:

98 a. The seller, lessor, or transferor must deliver the
99 firearm to a licensed dealer who shall process the sale, lease,
100 or transfer as if she or he were the seller, lessor, or
101 transferor, except that the seller, lessor, or transferor who is
102 not a licensed dealer may remove the firearm from the business
103 premises of the licensed dealer while the background check is
104 being conducted and while the waiting period requirement set
105 forth in s. 790.0655 is being met. Other than allowing the
106 unlicensed seller, lessor, or transferor to remove the firearm
107 from the licensed dealer's business premises, the licensed
108 dealer shall comply with all requirements of federal and state
109 law which would apply if she or he were the seller, lessor, or
110 transferor of the firearm;

111 b. The licensed dealer shall conduct a background check on
112 the buyer or other transferee in accordance with this section
113 and, unless the transaction is prohibited and after all other
114 legal requirements are met, including those set forth in s.
115 790.0655, the dealer shall either:

116 (I) Deliver the firearm to the seller, lessor, or

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117 transferor, who shall complete the transaction and deliver the
118 firearm to the buyer or other transferee; or

119 (II) If the seller, lessor, or transferor has removed the
120 firearm from the licensed dealer's business premises, contact
121 the seller, lessor, or transferor to let her or him know that
122 she or he may complete the transaction and deliver the firearm
123 to the buyer or other transferee;

124 c. If the licensed dealer cannot legally complete the
125 transaction, the dealer must:

126 (I) Return the firearm to the seller, lessor, or
127 transferor; or

128 (II) If the seller, lessor, or transferor has removed the
129 firearm from the licensed dealer's business premises, contact
130 the seller, lessor, or transferor to let her or him know that
131 the transaction is prohibited and the seller, lessor, or
132 transferor may not deliver the firearm to the buyer; and

133 d. The licensed dealer may require the buyer or other
134 transferee to pay a fee covering the administrative costs
135 incurred by the licensed dealer for facilitating the transfer of
136 the firearm, plus applicable fees pursuant to federal and state
137 law.

138 2. This paragraph does not apply to:

139 a. The activities of the United States Marshals Service,
140 members of the United States Armed Forces or the National Guard,
141 or federal officials required to carry firearms while engaged in
142 performing their official duties; or

143 b. The following activities, unless the lawful owner knows
144 or has reasonable cause to believe that federal, state, or local
145 laws prohibit the transferee from purchasing or possessing

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146 firearms or that the transferee is likely to use the firearm for
147 unlawful purposes:

148 (I) The delivery of a firearm to a gunsmith for service or
149 repair, or the return of the firearm to its owner by the
150 gunsmith;

151 (II) The transfer of a firearm to a carrier, warehouseman,
152 or other person engaged in the business of transportation or
153 storage, to the extent that the receipt of, possession of, or
154 having on or about the person any firearm is in the ordinary
155 course of business and in conformity with federal, state, and
156 local laws and not for the personal use of any such person;

157 (III) The loan of a firearm solely for the purpose of
158 shooting at targets, if the loan occurs on the premises of a
159 properly licensed target facility and if the firearm is at all
160 times kept within the premises of the target facility;

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

165 (V) The loan of a firearm to a person who is 18 years of
166 age or older if the firearm remains in the person's possession
167 only while the person is accompanying the lawful owner and using
168 the firearm for lawful hunting, sporting, or recreational
169 purposes; or

170 (VI) The loan of a firearm to an adult family member of the
171 lawful owner of the firearm if the lawful owner resides with the
172 family member but is not present in the residence, provided that
173 the family member does not maintain control over the firearm for
174 more than 10 consecutive days.

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175 ~~(3) In the event of scheduled computer downtime, electronic~~
176 ~~failure, or similar emergency beyond the control of the~~
177 ~~Department of Law Enforcement, the department shall immediately~~
178 ~~notify the licensee of the reason for, and estimated length of,~~
179 ~~such delay. After such notification, the department shall~~
180 ~~forthwith, and in no event later than the end of the next~~
181 ~~business day of the licensee, either inform the requesting~~
182 ~~licensee if its records demonstrate that the buyer or transferee~~
183 ~~is prohibited from receipt or possession of a firearm pursuant~~
184 ~~to Florida and Federal law or provide the licensee with a unique~~
185 ~~approval number. Unless notified by the end of said next~~
186 ~~business day that the buyer or transferee is so prohibited, and~~
187 ~~without regard to whether she or he has received a unique~~
188 ~~approval number, the licensee may complete the sale or transfer~~
189 ~~and shall not be deemed in violation of this section with~~
190 ~~respect to such sale or transfer.~~

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

194 ~~(a) Unavailability of telephone service at the licensed~~
195 ~~premises due to the failure of the entity which provides~~
196 ~~telephone service in the state, region, or other geographical~~
197 ~~area in which the licensee is located to provide telephone~~
198 ~~service to the premises of the licensee due to the location of~~
199 ~~said premises; or the interruption of telephone service by~~
200 ~~reason of hurricane, tornado, flood, natural disaster, or other~~
201 ~~act of God, war, invasion, insurrection, riot, or other bona~~
202 ~~fide emergency, or other reason beyond the control of the~~
203 ~~licensee; or~~

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

206 Section 2. Paragraph (e) of subsection (3) of section
207 790.335, Florida Statutes, is amended to read:

208 790.335 Prohibition of registration of firearms; electronic
209 records.—

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

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

217 2. Nothing in this paragraph shall be construed to allow
218 the maintaining of records containing the names of purchasers or
219 transferees who receive unique approval numbers or the
220 maintaining of records of firearm transactions.

221 Section 3. This act shall take effect July 1, 2022.