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LEGISLATIVE ACTION

Senate

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House

Senator Berman moved the following:

Senate Amendment (with title amendment)

Delete lines 868 - 871

and insert:

Section 11. Subsection (1) of section 790.065, Florida Statutes, is amended 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 inventory at her or his licensed premises any firearm to another person, other than a licensed importer, licensed manufacturer,



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

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



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

52 3. Requested, by means of a toll-free telephone call or
53 other electronic means, the Department of Law Enforcement to
54 conduct a check of the information as reported and reflected in
55 the Florida Crime Information Center and National Crime
56 Information Center systems 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 other transfer
76 through a 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 he or she 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 he or she 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 in accordance with this section
92 and, unless the transaction is prohibited, after all other legal
93 requirements are met, including those set forth in s. 790.0655,
94 the 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 him or her know that he
101 or she may complete the transaction and deliver the firearm to
102 the buyer; and

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 him or her know that
110 the transaction is prohibited, and the seller, lessor, or
111 transferor may not deliver the firearm to the buyer.

112 2. 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 3. 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; and

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 a
125 firearm, or that the transferee is likely to use the firearm for
126 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, if the receipt, possession, or having on or about the
133 person of any firearm is in the ordinary course of business and
134 in conformity with federal, state, and local laws, and not for
135 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 younger than
141 18 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
151 the family member but is not present in the residence, provided
152 that the family member does not maintain control over the
153 firearm for more than 10 consecutive days.

154 Section 12. Paragraph (a) of subsection (1) and paragraph
155 (a) of subsection (2) of section 790.0655, Florida Statutes, are
156 amended to read:



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157 790.0655 Purchase and delivery of firearms; mandatory
158 waiting period; exceptions; penalties.—

159 (1) (a) A mandatory waiting period is imposed between the
160 purchase and delivery of a firearm, or the delivery through a
161 private sale facilitated through a licensed dealer as provided
162 in s. 790.065(1)(d). The mandatory waiting period is 3 days,
163 excluding weekends and legal holidays, or expires upon the
164 completion of the records checks required under s. 790.065,
165 whichever occurs later. "Purchase" means the transfer of money
166 or other valuable consideration to the retailer. "Retailer"
167 means and includes a licensed importer, licensed manufacturer,
168 or licensed dealer engaged in the business of making firearm
169 sales at retail or for distribution, or use, or consumption, or
170 storage to be used or consumed in this state, as defined in s.
171 212.02(13).

172
173 ===== T I T L E A M E N D M E N T =====

174 And the title is amended as follows:

175 Delete line 48

176 and insert:

177 amending s. 790.065, F.S.; requiring that, if neither
178 party to a sale, lease, or transfer of a firearm is a
179 licensed dealer, the parties complete the sale, lease,
180 or transfer through a licensed dealer; specifying
181 procedures and requirements for a licensed dealer,
182 seller, lessor, or transferor and for a buyer, lessee,
183 or transferee; authorizing a licensed dealer to charge
184 a buyer or transferee specified fees; providing
185 applicability; amending s. 790.0655, F.S.; applying



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186 the mandatory 3-day waiting period to private sales of
187 handguns facilitated through a licensed dealer; making
188 technical changes;