

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 that the parties,
4 if neither party to a sale, lease, or transfer of a
5 firearm is a licensed dealer, complete the sale,
6 lease, or transfer through a licensed dealer;
7 specifying procedures and requirements for a licensed
8 dealer, a seller, lessor, or transferor, and a buyer,
9 lessee, or transferee; authorizing a licensed dealer
10 to charge a buyer or transferee specified fees;
11 providing applicability; deleting provisions
12 authorizing a licensee to complete the sale or
13 transfer of a firearm to a person without receiving
14 notification from the Department of Law Enforcement
15 informing the licensee as to whether such person is
16 prohibited from receipt or possession of a firearm or
17 providing a unique approval number under certain
18 circumstances; deleting provisions exempting a
19 licensed importer, licensed manufacturer, or licensed
20 dealer from the sale and delivery requirements, under
21 certain circumstances; amending s. 790.0655, F.S.;
22 applying the mandatory 3-day waiting period to private
23 sales of handguns facilitated through a licensed
24 dealer; amending s. 790.335, F.S.; conforming a cross-
25 reference; providing an effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:

28
29 Section 1. Subsections (1), (3), and (10) of section

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30 790.065, Florida Statutes, are amended to read:

31 790.065 Sale and delivery of firearms.-

32 (1) (a) A licensed importer, licensed manufacturer, or
33 licensed dealer may not sell or deliver from her or his
34 inventory at her or his licensed premises any firearm to another
35 person, other than a licensed importer, licensed manufacturer,
36 licensed dealer, or licensed collector, until she or he has:

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

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

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

73 3. Requested, by means of a toll-free telephone call, the
74 Department of Law Enforcement to conduct a check of the
75 information as reported and reflected in the Florida Crime
76 Information Center and National Crime Information Center systems
77 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 transfer is a licensed dealer, the parties to the
96 transaction must complete the sale, lease, or transfer through a
97 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 or transferor to remove the firearm from the
107 licensed dealer's business premises, the licensed dealer shall
108 comply with all requirements of federal and state law which
109 would apply if she or he were the seller, lessor, or transferor
110 of the firearm;

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

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 he
122 or she may complete the transaction and deliver the firearm to
123 the buyer;

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 that 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 law prohibits the transferee from purchasing or possessing

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146 firearms, or that the transferee is likely to use the firearm
147 for 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, possession, or having
154 on or about the person any firearm is in the ordinary course of
155 business and in conformity with federal, state, and local laws,
156 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 (a) of subsection (1) of section
207 790.0655, Florida Statutes, is amended to read:

208 790.0655 Purchase and delivery of handguns; mandatory
209 waiting period; exceptions; penalties.—

210 (1)(a) There shall be a mandatory 3-day waiting period,
211 which shall be 3 days, excluding weekends and legal holidays,
212 between the purchase and the delivery at retail, or the delivery
213 through a private sale facilitated through a licensed dealer
214 under s. 790.065(1)(d), of any handgun. "Purchase" means the
215 transfer of money or other valuable consideration to the
216 retailer. "Handgun" means a firearm capable of being carried and
217 used by one hand, such as a pistol or revolver. "Retailer" means
218 and includes every person engaged in the business of making
219 sales at retail or for distribution, or use, or consumption, or
220 storage to be used or consumed in this state, as defined in s.
221 212.02(13).

222 Section 3. Paragraph (e) of subsection (3) of section
223 790.335, Florida Statutes, is amended to read:

224 790.335 Prohibition of registration of firearms; electronic
225 records.—

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

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

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233 2. Nothing in this paragraph shall be construed to allow
234 the maintaining of records containing the names of purchasers or
235 transferees who receive unique approval numbers or the
236 maintaining of records of firearm transactions.

237 Section 4. This act shall take effect July 1, 2018.