

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 4069 Firearms Purchases  
**SPONSOR(S):** Criminal Justice Subcommittee and Diaz  
**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	13 Y, 0 N, As CS	Williams	Cunningham
2) Business & Consumer Affairs Subcommittee	10 Y, 0 N	Whittington	Creamer
3) Judiciary Committee			

### SUMMARY ANALYSIS

In 1968, the federal Gun Control Act (GCA) was enacted, which prohibited a licensed importer, manufacturer, dealer, or collector to sell or deliver any firearm to any person who the licensee knows or has reasonable cause to believe does not reside in the state in which the licensee's place of business is located. The GCA specified that this prohibition did not apply to the sale or delivery of a rifle or shotgun to a resident of a contiguous state, provided that certain conditions were met. This "contiguous state" provision was amended in 1986 by the Firearms Owners' Protection Act, to allow licensees to sell or deliver rifles and shotguns to residents of any state (not just contiguous states), provided that certain conditions were met.

In 1979, Florida enacted SB 452, which created s. 790.28, F.S. The law mirrored the provisions in the original GCA and provided that a resident of Florida may purchase a rifle or shotgun in any contiguous state as long as that resident conforms to the applicable laws and regulations of the United States, the state where the purchase is made, and laws and regulations of the state of Florida.

Many states have revised their laws to reflect the 1986 amendments to the GCA, allowing interstate sales of rifles and shotguns to residents of any state. Likewise, CS/HB 4069 amends s. 790.28, F.S. to allow interstate sales of rifles and shotguns to residents of any state provided the sale conforms to all applicable laws.

As a result, a Florida resident will be able to purchase rifles and shotguns from any state (not just contiguous states), as long as he or she conforms to applicable laws and regulations of the United States, of the state where the purchase is made, and of the state of Florida.

This bill does not appear to have a fiscal impact.

The effective date of the bill is July 1, 2011.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Current Situation

In 1968, the federal Gun Control Act (GCA) was enacted.<sup>1</sup> Among its many provisions was a section that made it unlawful for a licensed importer, manufacturer, dealer, or collector<sup>2</sup> to sell or deliver any firearm<sup>3</sup> to any person who the licensee knows or has reasonable cause to believe does not reside in the state in which the licensee's place of business is located.<sup>4</sup> The GCA specified that this prohibition did not apply to the sale or delivery of a rifle<sup>5</sup> or shotgun<sup>6</sup> to a resident of a state contiguous to the state in which the licensee's place of business was located if:

- The purchaser's state of residence permits such sale or delivery by law;
- The sale fully complies with the legal conditions of sale in both such contiguous states; and
- The purchaser and the licensee have, prior to the sale of the rifle or shotgun, complied with federal requirements applicable to interstate firearm transactions that take place at a location other than at the licensee's premises.<sup>7</sup>

The "contiguous state" provision of the GCA was amended in 1986 by the Firearms Owners' Protection Act, to allow licensees to sell or deliver a rifle or shotgun to residents of any state (not just contiguous states), provided that the transferee met in person with the transferor to accomplish the transfer; and that the sale, delivery and receipt fully complied with the legal conditions of sale in the buyer's and seller's states.<sup>8</sup> Thus, since 1986, it has been legal under federal law for a resident of one state to purchase a rifle or shotgun in any other state (not just contiguous states) so long as the above criteria are met.

A number of states, including Florida, patterned their laws after the original provision of the GCA that allows nonresidents to purchase rifles and shotguns from licensees only in contiguous states.<sup>9</sup> However, some states revised their laws to reflect the 1986 amendments to the GCA that allows interstate sales of rifles or shotguns to residents of any state.<sup>10</sup>

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<sup>1</sup> Pub. L. No. 90-618 (codified at 18 U.S.C. ss. 921-31).

<sup>2</sup> The term "importer" means any person engaged in the business of importing or bringing firearms or ammunition into the United States for purposes of sale or distribution. The term "manufacturer" means any person engaged in the business of manufacturing firearms or ammunition for purposes of sale or distribution. The term "dealer" means any person engaged in the business of selling firearms at wholesale or retail; any person engaged in the business of repairing firearms or of making or fitting special barrels, stocks, or trigger mechanisms to firearms; or any person who is a pawnbroker. The term "collector" means any person who acquires, holds, or disposes of firearms as curios or relics, as the Attorney General shall by regulation define. To be "licensed," any entity listed above must be licensed under the provisions of 18 U.S.C. Ch. 44. See 18 U.S.C. s. 921.

<sup>3</sup> 18 U.S.C. s. 921 defines the term "firearm" as any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; any firearm muffler or firearm silencer; or any destructive device. Such term does not include an antique firearm.

<sup>4</sup> 18 U.S.C. s. 922(b)(3) (1968).

<sup>5</sup> 18 U.S.C. s. 921 defines the term "rifle" as a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of an explosive to fire only a single projectile through a rifled bore for each single pull of the trigger.

<sup>6</sup> 18 U.S.C. s. 921 defines the term "shotgun" as a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of an explosive to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

<sup>7</sup> 18 U.S.C. s. 922(b)(3) (1968).

<sup>8</sup> Pub. L. No. 99-308.

<sup>9</sup> The law of Oregon provides that a resident may purchase or otherwise obtain a rifle or shotgun in a contiguous state and receive or transport into Oregon such rifle or shotgun, unless the purchase or transfer violates the law of Oregon, the state in which the purchase or transfer is made or the United States. "Contiguous state" means California, Idaho, Nevada or Washington. ORS 166.490.

<sup>10</sup> The law of Alabama provides that any resident of Alabama authorized to sell and deliver rifles, shotguns, and ammunition may sell and deliver them to a resident of any state where the sale of the firearms and ammunition is legal. Any purchaser of the firearm or ammunition may take or send it out of the state or have it delivered to his or her place of residence. Any resident of Alabama who

### **Florida's law**

In 1979, Florida enacted SB 452, which created s. 790.28, F.S. The law mirrored the provisions in the original GCA and provided that a resident of Florida may purchase a rifle or shotgun in any contiguous state as long as that resident conforms to the applicable laws and regulations of the United States, the state where the purchase is made, and the state of Florida.<sup>11</sup>

### Proposed Changes

CS/HB 4069 amends s. 790.28, F.S. to allow interstate sales of rifles and shotguns to residents of any state. As a result, a Florida resident will be able to purchase rifles and shotguns from any state (not just contiguous states), as long as he or she conforms to applicable laws and regulations of the United States, the state where the purchase is made, and of the state of Florida.

The bill does not exempt residents of Florida that purchase a rifle or shotgun in any state and bring such firearm back into Florida from Florida's laws relating to weapons and firearms found in Chapter 790, F.S.

#### **B. SECTION DIRECTORY:**

Section 1. Amends s. 790.28, F.S., related to purchase of rifles and shotguns in contiguous states.

Section 2. Provides an effective date of July 1, 2011.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

##### **1. Revenues:**

None.

##### **2. Expenditures:**

None.

#### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

##### **1. Revenues:**

None.

##### **2. Expenditures:**

None.

#### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

#### **D. FISCAL COMMENTS:**

None.

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legally purchases rifles, shotguns, and ammunition in any state where the purchase is legal may take delivery of the weapons either in the state where they were purchased or in Alabama. Ala. Code. S. 13A-11-58 (2006).

<sup>11</sup> See s. 790.28, F.S.

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

##### **1. Applicability of Municipality/County Mandates Provision:**

Not applicable because the bill does not appear to: require the counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties and municipalities.

##### **2. Other:**

None.

#### **B. RULE-MAKING AUTHORITY:**

None.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On February 22, 2011, the Criminal Justice Subcommittee adopted one strike-all amendment to the bill and reported the bill favorably as a Committee Substitute. The amendment deleted language limiting the purchase of rifles and shotguns to purchases in contiguous states.

This analysis is drafted to the Committee Substitute.