

By Senator Book

32-00662-20

2020460__

1 A bill to be entitled
2 An act relating to sales of ammunition; providing a
3 short title; amending s. 790.065, F.S.; requiring
4 background checks for the sale or transfer of
5 ammunition; providing exceptions; conforming
6 provisions to changes made by the act; providing an
7 effective date.

8
9 Be It Enacted by the Legislature of the State of Florida:

10
11 Section 1. This act may be cited as "Jaime's Law."

12 Section 2. Subsections (1), (2), and (3), paragraphs (b),
13 (c), and (d) of subsection (4), and subsections (6), (11), and
14 (12) of section 790.065, Florida Statutes, are amended, and
15 subsections (8), (10), and (14) of that section are republished,
16 to read:

17 790.065 Sale and delivery of firearms and ammunition.—

18 (1) (a) A licensed importer, licensed manufacturer, or
19 licensed dealer may not sell or deliver from her or his
20 inventory at her or his licensed premises any firearm or
21 ammunition to another person, other than a licensed importer,
22 licensed manufacturer, licensed dealer, or licensed collector,
23 until she or he has:

24 1. Obtained a completed form from the potential buyer or
25 transferee, which form shall have been promulgated by the
26 Department of Law Enforcement and provided by the licensed
27 importer, licensed manufacturer, or licensed dealer, which shall
28 include the name, date of birth, gender, race, and social
29 security number or other identification number of such potential

32-00662-20

2020460__

30 buyer or transferee and has inspected proper identification
31 including an identification containing a photograph of the
32 potential buyer or transferee.

33 2. Collected a fee from the potential buyer for processing
34 the criminal history check of the potential buyer. The fee shall
35 be established by the Department of Law Enforcement and may not
36 exceed \$8 per transaction. The Department of Law Enforcement may
37 reduce, or suspend collection of, the fee to reflect payment
38 received from the Federal Government applied to the cost of
39 maintaining the criminal history check system established by
40 this section as a means of facilitating or supplementing the
41 National Instant Criminal Background Check System. The
42 Department of Law Enforcement shall, by rule, establish
43 procedures for the fees to be transmitted by the licensee to the
44 Department of Law Enforcement. Such procedures must provide that
45 fees may be paid or transmitted by electronic means, including,
46 but not limited to, debit cards, credit cards, or electronic
47 funds transfers. All such fees shall be deposited into the
48 Department of Law Enforcement Operating Trust Fund, but shall be
49 segregated from all other funds deposited into such trust fund
50 and must be accounted for separately. Such segregated funds must
51 not be used for any purpose other than the operation of the
52 criminal history checks required by this section. The Department
53 of Law Enforcement, each year before February 1, shall make a
54 full accounting of all receipts and expenditures of such funds
55 to the President of the Senate, the Speaker of the House of
56 Representatives, the majority and minority leaders of each house
57 of the Legislature, and the chairs of the appropriations
58 committees of each house of the Legislature. In the event that

32-00662-20

2020460__

59 the cumulative amount of funds collected exceeds the cumulative
60 amount of expenditures by more than \$2.5 million, excess funds
61 may be used for the purpose of purchasing soft body armor for
62 law enforcement officers.

63 3. Requested, by means of a toll-free telephone call or
64 other electronic means, the Department of Law Enforcement to
65 conduct a check of the information as reported and reflected in
66 the Florida Crime Information Center and National Crime
67 Information Center systems as of the date of the request.

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

71 (b) However, if the person purchasing, or receiving
72 delivery of, the firearm or ammunition is a holder of a valid
73 concealed weapons or firearms license pursuant to ~~the provisions~~
74 ~~of~~ s. 790.06 or holds an active certification from the Criminal
75 Justice Standards and Training Commission as a "law enforcement
76 officer," a "correctional officer," or a "correctional probation
77 officer" as defined in s. 943.10(1), (2), (3), (6), (7), (8), or
78 (9), this subsection does not apply.

79 (c) This subsection does not apply to the purchase, trade,
80 or transfer of a rifle or shotgun or rifle or shotgun ammunition
81 by a resident of this state when the resident makes such
82 purchase, trade, or transfer from a licensed importer, licensed
83 manufacturer, or licensed dealer in another state.

84 (d) This subsection does not apply to a transfer of
85 ammunition if the transferor has no reason to believe that the
86 transferee will use or intends to use the ammunition in a crime
87 or that the transferee is prohibited from possessing ammunition

32-00662-20

2020460__

88 under state or federal law, and the transfer takes place and the
89 transferee's possession of the ammunition is exclusively:

90 1. At a shooting range or in a shooting gallery or other
91 area designated for the purpose of target shooting; or

92 2. While reasonably necessary for the purposes of hunting,
93 trapping, or fishing, if the transferor:

94 a. Has no reason to believe that the transferee intends to
95 use the ammunition in a place where it is illegal; and

96 b. Has reason to believe that the transferee will comply
97 with all licensing and permit requirements for such hunting,
98 trapping, or fishing; or

99 c. Is in the presence of the transferee.

100 (2) Upon receipt of a request for a criminal history record
101 check, the Department of Law Enforcement shall, during the
102 licensee's call or by return call, forthwith:

103 (a) Review any records available to determine if the
104 potential buyer or transferee:

105 1. Has been convicted of a felony and is prohibited from
106 receipt or possession of a firearm or ammunition pursuant to s.
107 790.23;

108 2. Has been convicted of a misdemeanor crime of domestic
109 violence, and therefore is prohibited from purchasing a firearm
110 or ammunition;

111 3. Has had adjudication of guilt withheld or imposition of
112 sentence suspended on any felony or misdemeanor crime of
113 domestic violence unless 3 years have elapsed since probation or
114 any other conditions set by the court have been fulfilled or
115 expunction has occurred; or

116 4. Has been adjudicated mentally defective or has been

32-00662-20

2020460__

117 committed to a mental institution by a court or as provided in
118 sub-sub-subparagraph b.(II), and as a result is prohibited by
119 state or federal law from purchasing a firearm.

120 a. As used in this subparagraph, "adjudicated mentally
121 defective" means a determination by a court that a person, as a
122 result of marked subnormal intelligence, or mental illness,
123 incompetency, condition, or disease, is a danger to himself or
124 herself or to others or lacks the mental capacity to contract or
125 manage his or her own affairs. The phrase includes a judicial
126 finding of incapacity under s. 744.331(6)(a), an acquittal by
127 reason of insanity of a person charged with a criminal offense,
128 and a judicial finding that a criminal defendant is not
129 competent to stand trial.

130 b. As used in this subparagraph, "committed to a mental
131 institution" means:

132 (I) Involuntary commitment, commitment for mental
133 defectiveness or mental illness, and commitment for substance
134 abuse. The phrase includes involuntary inpatient placement under
135 ~~as defined in~~ s. 394.467, involuntary outpatient placement under
136 ~~as defined in~~ s. 394.4655, involuntary assessment and
137 stabilization under s. 397.6818, and involuntary substance abuse
138 treatment under s. 397.6957, but does not include a person in a
139 mental institution for observation or discharged from a mental
140 institution based upon the initial review by the physician or a
141 voluntary admission to a mental institution; or

142 (II) Notwithstanding sub-sub-subparagraph (I), voluntary
143 admission to a mental institution for outpatient or inpatient
144 treatment of a person who had an involuntary examination under
145 s. 394.463, where each of the following conditions have been

32-00662-20

2020460__

146 met:

147 (A) An examining physician found that the person is an
148 imminent danger to himself or herself or others.

149 (B) The examining physician certified that if the person
150 did not agree to voluntary treatment, a petition for involuntary
151 outpatient or inpatient treatment would have been filed under s.
152 394.463(2)(g)4., or the examining physician certified that a
153 petition was filed and the person subsequently agreed to
154 voluntary treatment prior to a court hearing on the petition.

155 (C) Before agreeing to voluntary treatment, the person
156 received written notice of that finding and certification, and
157 written notice that as a result of such finding, he or she may
158 be prohibited from purchasing a firearm, and may not be eligible
159 to apply for or retain a concealed weapon or firearms license
160 under s. 790.06 and the person acknowledged such notice in
161 writing, in substantially the following form:

162

163 "I understand that the doctor who examined me believes I am a
164 danger to myself or to others. I understand that if I do not
165 agree to voluntary treatment, a petition will be filed in court
166 to require me to receive involuntary treatment. I understand
167 that if that petition is filed, I have the right to contest it.
168 In the event a petition has been filed, I understand that I can
169 subsequently agree to voluntary treatment prior to a court
170 hearing. I understand that by agreeing to voluntary treatment in
171 either of these situations, I may be prohibited from buying
172 firearms and from applying for or retaining a concealed weapons
173 or firearms license until I apply for and receive relief from
174 that restriction under Florida law."

32-00662-20

2020460__

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176 (D) A judge or a magistrate has, pursuant to sub-sub-
177 subparagraph c.(II), reviewed the record of the finding,
178 certification, notice, and written acknowledgment classifying
179 the person as an imminent danger to himself or herself or
180 others, and ordered that such record be submitted to the
181 department.

182 c. In order to check for these conditions, the department
183 shall compile and maintain an automated database of persons who
184 are prohibited from purchasing a firearm based on court records
185 of adjudications of mental defectiveness or commitments to
186 mental institutions.

187 (I) Except as provided in sub-sub-subparagraph (II), clerks
188 of court shall submit these records to the department within 1
189 month after the rendition of the adjudication or commitment.
190 Reports shall be submitted in an automated format. The reports
191 must, at a minimum, include the name, along with any known alias
192 or former name, the sex, and the date of birth of the subject.

193 (II) For persons committed to a mental institution pursuant
194 to sub-sub-subparagraph b.(II), within 24 hours after the
195 person's agreement to voluntary admission, a record of the
196 finding, certification, notice, and written acknowledgment must
197 be filed by the administrator of the receiving or treatment
198 facility, as defined in s. 394.455, with the clerk of the court
199 for the county in which the involuntary examination under s.
200 394.463 occurred. No fee shall be charged for the filing under
201 this sub-sub-subparagraph. The clerk must present the records to
202 a judge or magistrate within 24 hours after receipt of the
203 records. A judge or magistrate is required and has the lawful

32-00662-20

2020460__

204 authority to review the records ex parte and, if the judge or
205 magistrate determines that the record supports the classifying
206 of the person as an imminent danger to himself or herself or
207 others, to order that the record be submitted to the department.
208 If a judge or magistrate orders the submittal of the record to
209 the department, the record must be submitted to the department
210 within 24 hours.

211 d. A person who has been adjudicated mentally defective or
212 committed to a mental institution, as those terms are defined in
213 this paragraph, may petition the court that made the
214 adjudication or commitment, or the court that ordered that the
215 record be submitted to the department pursuant to sub-sub-
216 subparagraph c.(II), for relief from the firearm disabilities
217 imposed by such adjudication or commitment. A copy of the
218 petition shall be served on the state attorney for the county in
219 which the person was adjudicated or committed. The state
220 attorney may object to and present evidence relevant to the
221 relief sought by the petition. The hearing on the petition may
222 be open or closed as the petitioner may choose. The petitioner
223 may present evidence and subpoena witnesses to appear at the
224 hearing on the petition. The petitioner may confront and cross-
225 examine witnesses called by the state attorney. A record of the
226 hearing shall be made by a certified court reporter or by court-
227 approved electronic means. The court shall make written findings
228 of fact and conclusions of law on the issues before it and issue
229 a final order. The court shall grant the relief requested in the
230 petition if the court finds, based on the evidence presented
231 with respect to the petitioner's reputation, the petitioner's
232 mental health record and, if applicable, criminal history

32-00662-20

2020460__

233 record, the circumstances surrounding the firearm disability,
234 and any other evidence in the record, that the petitioner will
235 not be likely to act in a manner that is dangerous to public
236 safety and that granting the relief would not be contrary to the
237 public interest. If the final order denies relief, the
238 petitioner may not petition again for relief from firearm
239 disabilities until 1 year after the date of the final order. The
240 petitioner may seek judicial review of a final order denying
241 relief in the district court of appeal having jurisdiction over
242 the court that issued the order. The review shall be conducted
243 de novo. Relief from a firearm disability granted under this
244 sub-subparagraph has no effect on the loss of civil rights,
245 including firearm rights, for any reason other than the
246 particular adjudication of mental defectiveness or commitment to
247 a mental institution from which relief is granted.

248 e. Upon receipt of proper notice of relief from firearm
249 disabilities granted under sub-subparagraph d., the department
250 shall delete any mental health record of the person granted
251 relief from the automated database of persons who are prohibited
252 from purchasing a firearm based on court records of
253 adjudications of mental defectiveness or commitments to mental
254 institutions.

255 f. The department is authorized to disclose data collected
256 pursuant to this subparagraph to agencies of the Federal
257 Government and other states for use exclusively in determining
258 the lawfulness of a firearm sale or transfer. The department is
259 also authorized to disclose this data to the Department of
260 Agriculture and Consumer Services for purposes of determining
261 eligibility for issuance of a concealed weapons or concealed

32-00662-20

2020460__

262 firearms license and for determining whether a basis exists for
263 revoking or suspending a previously issued license pursuant to
264 s. 790.06(10). When a potential buyer or transferee appeals a
265 nonapproval based on these records, the clerks of court and
266 mental institutions shall, upon request by the department,
267 provide information to help determine whether the potential
268 buyer or transferee is the same person as the subject of the
269 record. Photographs and any other data that could confirm or
270 negate identity must be made available to the department for
271 such purposes, notwithstanding any other provision of state law
272 to the contrary. Any such information that is made confidential
273 or exempt from disclosure by law shall retain such confidential
274 or exempt status when transferred to the department.

275 (b) Inform the licensee making the inquiry either that
276 records demonstrate that the buyer or transferee is so
277 prohibited and provide the licensee a nonapproval number, or
278 provide the licensee with a unique approval number.

279 (c)1. Review any records available to it to determine
280 whether the potential buyer or transferee has been indicted or
281 has had an information filed against her or him for an offense
282 that is a felony under either state or federal law, or, as
283 mandated by federal law, has had an injunction for protection
284 against domestic violence entered against the potential buyer or
285 transferee under s. 741.30, has had an injunction for protection
286 against repeat violence entered against the potential buyer or
287 transferee under s. 784.046, or has been arrested for a
288 dangerous crime as specified in s. 907.041(4)(a) or for any of
289 the following enumerated offenses:

290 a. Criminal anarchy under ss. 876.01 and 876.02.

32-00662-20

2020460__

- 291 b. Extortion under s. 836.05.
292 c. Explosives violations under s. 552.22(1) and (2).
293 d. Controlled substances violations under chapter 893.
294 e. Resisting an officer with violence under s. 843.01.
295 f. Weapons and firearms violations under this chapter.
296 g. Treason under s. 876.32.
297 h. Assisting self-murder under s. 782.08.
298 i. Sabotage under s. 876.38.
299 j. Stalking or aggravated stalking under s. 784.048.

300

301 If the review indicates any such indictment, information, or
302 arrest, the department shall provide to the licensee a
303 conditional nonapproval number.

304 2. Within 24 working hours, the department shall determine
305 the disposition of the indictment, information, or arrest and
306 inform the licensee as to whether the potential buyer is
307 prohibited from receiving or possessing a firearm or ammunition.
308 For purposes of this paragraph, "working hours" means the hours
309 from 8 a.m. to 5 p.m. Monday through Friday, excluding legal
310 holidays.

311 3. The office of the clerk of court, at no charge to the
312 department, shall respond to any department request for data on
313 the disposition of the indictment, information, or arrest as
314 soon as possible, but in no event later than 8 working hours.

315 4. The department shall determine as quickly as possible
316 within the allotted time period whether the potential buyer is
317 prohibited from receiving or possessing a firearm or ammunition.

318 5. If the potential buyer is not so prohibited, or if the
319 department cannot determine the disposition information within

32-00662-20

2020460__

320 the allotted time period, the department shall provide the
321 licensee with a conditional approval number.

322 6. If the buyer is so prohibited, the conditional
323 nonapproval number shall become a nonapproval number.

324 7. The department shall continue its attempts to obtain the
325 disposition information and may retain a record of all approval
326 numbers granted without sufficient disposition information. If
327 the department later obtains disposition information which
328 indicates:

329 a. That the potential buyer is not prohibited from owning a
330 firearm or ammunition, it shall treat the record of the
331 transaction in accordance with this section; or

332 b. That the potential buyer is prohibited from owning a
333 firearm or ammunition, it shall immediately revoke the
334 conditional approval number and notify local law enforcement.

335 8. During the time that disposition of the indictment,
336 information, or arrest is pending and until the department is
337 notified by the potential buyer that there has been a final
338 disposition of the indictment, information, or arrest, the
339 conditional nonapproval number shall remain in effect.

340 (3) In the event of scheduled computer downtime, electronic
341 failure, or similar emergency beyond the control of the
342 Department of Law Enforcement, the department shall immediately
343 notify the licensee of the reason for, and estimated length of,
344 such delay. After such notification, the department shall
345 forthwith, and in no event later than the end of the next
346 business day of the licensee, either inform the requesting
347 licensee if its records demonstrate that the buyer or transferee
348 is prohibited from receipt or possession of a firearm or

32-00662-20

2020460__

349 ammunition pursuant to Florida and federal law or provide the
350 licensee with a unique approval number. Unless notified by the
351 end of said next business day that the buyer or transferee is so
352 prohibited, and without regard to whether she or he has received
353 a unique approval number, the licensee may complete the sale or
354 transfer and shall not be deemed in violation of this section
355 with respect to such sale or transfer.

356 (4)

357 (b) Notwithstanding ~~the provisions of~~ this subsection, the
358 Department of Law Enforcement may maintain records of NCIC
359 transactions to the extent required by the Federal Government,
360 and may maintain a log of dates of requests for criminal history
361 records checks, unique approval and nonapproval numbers, license
362 identification numbers, and transaction numbers corresponding to
363 such dates for a period of not longer than 2 years or as
364 otherwise required by law.

365 (c) Nothing in this chapter shall be construed to allow the
366 State of Florida to maintain records containing the names of
367 purchasers or transferees who receive unique approval numbers or
368 to maintain records of firearm or ammunition transactions.

369 (d) Any officer or employee, or former officer or employee,
370 of the Department of Law Enforcement or a law enforcement agency
371 who intentionally and maliciously violates ~~the provisions of~~
372 this subsection commits a felony of the third degree, punishable
373 as provided in s. 775.082 or s. 775.083.

374 (6) Any person who is denied the right to receive or
375 purchase a firearm or ammunition as a result of the procedures
376 established by this section may request a criminal history
377 records review and correction in accordance with the rules

32-00662-20

2020460__

378 promulgated by the Department of Law Enforcement.

379 (8) The Department of Law Enforcement shall promulgate
380 regulations to ensure the identity, confidentiality, and
381 security of all records and data provided pursuant to this
382 section.

383 (10) A licensed importer, licensed manufacturer, or
384 licensed dealer is not required to comply with the requirements
385 of this section in the event of:

386 (a) Unavailability of telephone service at the licensed
387 premises due to the failure of the entity which provides
388 telephone service in the state, region, or other geographical
389 area in which the licensee is located to provide telephone
390 service to the premises of the licensee due to the location of
391 said premises; or the interruption of telephone service by
392 reason of hurricane, tornado, flood, natural disaster, or other
393 act of God, war, invasion, insurrection, riot, or other bona
394 fide emergency, or other reason beyond the control of the
395 licensee; or

396 (b) Failure of the Department of Law Enforcement to comply
397 with the requirements of subsections (2) and (3).

398 (11) Compliance with ~~the provisions of~~ this chapter shall
399 be a complete defense to any claim or cause of action under the
400 laws of any state for liability for damages arising from the
401 importation or manufacture, or the subsequent sale or transfer
402 to any person who has been convicted in any court of a crime
403 punishable by imprisonment for a term exceeding 1 year, of any
404 firearm or ammunition which has been shipped or transported in
405 interstate or foreign commerce. The Department of Law
406 Enforcement and, its agents and employees shall not be liable

32-00662-20

2020460__

407 for any claim or cause of action under the laws of any state for
408 liability for damages arising from its actions in lawful
409 compliance with this section.

410 (12) (a) Any potential buyer or transferee who willfully and
411 knowingly provides false information or false or fraudulent
412 identification commits a felony of the third degree, punishable
413 as provided in s. 775.082 or s. 775.083.

414 (b) Any licensed importer, licensed manufacturer, or
415 licensed dealer who violates ~~the provisions of~~ subsection (1)
416 commits a felony of the third degree, punishable as provided in
417 s. 775.082 or s. 775.083.

418 (c) Any employee or agency of a licensed importer, licensed
419 manufacturer, or licensed dealer who violates ~~the provisions of~~
420 subsection (1) commits a felony of the third degree, punishable
421 as provided in s. 775.082 or s. 775.083.

422 (d) Any person who knowingly acquires a firearm or
423 ammunition through purchase or transfer intended for the use of
424 a person who is prohibited by state or federal law from
425 possessing or receiving a firearm or ammunition commits a felony
426 of the third degree, punishable as provided in s. 775.082 or s.
427 775.083.

428 (14) This section does not apply to employees of sheriff's
429 offices, municipal police departments, correctional facilities
430 or agencies, or other criminal justice or governmental agencies
431 when the purchases or transfers are made on behalf of an
432 employing agency for official law enforcement purposes.

433 Section 3. This act shall take effect October 1, 2020.