

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.