

By Senator Book

32-01447-21

20211170__

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. Section 790.065, Florida Statutes, is amended to
13 read:

14 790.065 Sale and delivery of firearms and ammunition.-

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

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

32-01447-21

20211170__

30 2. Collected a fee from the potential buyer for processing
31 the criminal history check of the potential buyer. The fee shall
32 be established by the Department of Law Enforcement and may not
33 exceed \$8 per transaction. The Department of Law Enforcement may
34 reduce, or suspend collection of, the fee to reflect payment
35 received from the Federal Government applied to the cost of
36 maintaining the criminal history check system established by
37 this section as a means of facilitating or supplementing the
38 National Instant Criminal Background Check System. The
39 Department of Law Enforcement shall, by rule, establish
40 procedures for the fees to be transmitted by the licensee to the
41 Department of Law Enforcement. Such procedures must provide that
42 fees may be paid or transmitted by electronic means, including,
43 but not limited to, debit cards, credit cards, or electronic
44 funds transfers. All such fees shall be deposited into the
45 Department of Law Enforcement Operating Trust Fund, but shall be
46 segregated from all other funds deposited into such trust fund
47 and must be accounted for separately. Such segregated funds must
48 not be used for any purpose other than the operation of the
49 criminal history checks required by this section. The Department
50 of Law Enforcement, each year before February 1, shall make a
51 full accounting of all receipts and expenditures of such funds
52 to the President of the Senate, the Speaker of the House of
53 Representatives, the majority and minority leaders of each house
54 of the Legislature, and the chairs of the appropriations
55 committees of each house of the Legislature. In the event that
56 the cumulative amount of funds collected exceeds the cumulative
57 amount of expenditures by more than \$2.5 million, excess funds
58 may be used for the purpose of purchasing soft body armor for

32-01447-21

20211170__

59 law enforcement officers.

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

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

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

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

81 (d) This subsection does not apply to a transfer of
82 ammunition if the transferor has no reason to believe that the
83 transferee will use or intends to use the ammunition in a crime
84 or that the transferee is prohibited from possessing ammunition
85 under state or federal law, and the transfer takes place and the
86 transferee's possession of the ammunition is exclusively:

87 1. At a shooting range or in a shooting gallery or other

32-01447-21

20211170__

88 area designated for the purpose of target shooting; or

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

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

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

96 c. Is in the presence of the transferee.

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

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

102 1. Has been convicted of a felony and is prohibited from
103 receipt or possession of a firearm or ammunition pursuant to s.
104 790.23;

105 2. Has been convicted of a misdemeanor crime of domestic
106 violence, and therefore is prohibited from purchasing a firearm
107 or ammunition;

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

113 4. Has been adjudicated mentally defective or has been
114 committed to a mental institution by a court or as provided in
115 sub-sub-subparagraph b.(II), and as a result is prohibited by
116 state or federal law from purchasing a firearm.

32-01447-21

20211170__

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

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

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

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

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

32-01447-21

20211170__

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

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

159
160 "I understand that the doctor who examined me believes I am a
161 danger to myself or to others. I understand that if I do not
162 agree to voluntary treatment, a petition will be filed in court
163 to require me to receive involuntary treatment. I understand
164 that if that petition is filed, I have the right to contest it.
165 In the event a petition has been filed, I understand that I can
166 subsequently agree to voluntary treatment prior to a court
167 hearing. I understand that by agreeing to voluntary treatment in
168 either of these situations, I may be prohibited from buying
169 firearms and from applying for or retaining a concealed weapons
170 or firearms license until I apply for and receive relief from
171 that restriction under Florida law."

172
173 (D) A judge or a magistrate has, pursuant to sub-sub-
174 subparagraph c.(II), reviewed the record of the finding,

32-01447-21

20211170__

175 certification, notice, and written acknowledgment classifying
176 the person as an imminent danger to himself or herself or
177 others, and ordered that such record be submitted to the
178 department.

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

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

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

32-01447-21

20211170__

204 others, to order that the record be submitted to the department.
205 If a judge or magistrate orders the submittal of the record to
206 the department, the record must be submitted to the department
207 within 24 hours.

208 d. A person who has been adjudicated mentally defective or
209 committed to a mental institution, as those terms are defined in
210 this paragraph, may petition the court that made the
211 adjudication or commitment, or the court that ordered that the
212 record be submitted to the department pursuant to sub-sub-
213 subparagraph c.(II), for relief from the firearm disabilities
214 imposed by such adjudication or commitment. A copy of the
215 petition shall be served on the state attorney for the county in
216 which the person was adjudicated or committed. The state
217 attorney may object to and present evidence relevant to the
218 relief sought by the petition. The hearing on the petition may
219 be open or closed as the petitioner may choose. The petitioner
220 may present evidence and subpoena witnesses to appear at the
221 hearing on the petition. The petitioner may confront and cross-
222 examine witnesses called by the state attorney. A record of the
223 hearing shall be made by a certified court reporter or by court-
224 approved electronic means. The court shall make written findings
225 of fact and conclusions of law on the issues before it and issue
226 a final order. The court shall grant the relief requested in the
227 petition if the court finds, based on the evidence presented
228 with respect to the petitioner's reputation, the petitioner's
229 mental health record and, if applicable, criminal history
230 record, the circumstances surrounding the firearm disability,
231 and any other evidence in the record, that the petitioner will
232 not be likely to act in a manner that is dangerous to public

32-01447-21

20211170__

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

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

252 f. The department is authorized to disclose data collected
253 pursuant to this subparagraph to agencies of the Federal
254 Government and other states for use exclusively in determining
255 the lawfulness of a firearm sale or transfer. The department is
256 also authorized to disclose this data to the Department of
257 Agriculture and Consumer Services for purposes of determining
258 eligibility for issuance of a concealed weapons or concealed
259 firearms license and for determining whether a basis exists for
260 revoking or suspending a previously issued license pursuant to
261 s. 790.06(10). When a potential buyer or transferee appeals a

32-01447-21

20211170__

262 nonapproval based on these records, the clerks of court and
263 mental institutions shall, upon request by the department,
264 provide information to help determine whether the potential
265 buyer or transferee is the same person as the subject of the
266 record. Photographs and any other data that could confirm or
267 negate identity must be made available to the department for
268 such purposes, notwithstanding any other provision of state law
269 to the contrary. Any such information that is made confidential
270 or exempt from disclosure by law shall retain such confidential
271 or exempt status when transferred to the department.

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

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

- 287 a. Criminal anarchy under ss. 876.01 and 876.02.
288 b. Extortion under s. 836.05.
289 c. Explosives violations under s. 552.22(1) and (2).
290 d. Controlled substances violations under chapter 893.

32-01447-21

20211170__

- 291 e. Resisting an officer with violence under s. 843.01.
292 f. Weapons and firearms violations under this chapter.
293 g. Treason under s. 876.32.
294 h. Assisting self-murder under s. 782.08.
295 i. Sabotage under s. 876.38.
296 j. Stalking or aggravated stalking under s. 784.048.

297

298 If the review indicates any such indictment, information, or
299 arrest, the department shall provide to the licensee a
300 conditional nonapproval number.

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

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

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

315 5. If the potential buyer is not so prohibited, or if the
316 department cannot determine the disposition information within
317 the allotted time period, the department shall provide the
318 licensee with a conditional approval number.

319 6. If the buyer is so prohibited, the conditional

32-01447-21

20211170__

320 nonapproval number shall become a nonapproval number.

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

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

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

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

337 (3) In the event of scheduled computer downtime, electronic
338 failure, or similar emergency beyond the control of the
339 Department of Law Enforcement, the department shall immediately
340 notify the licensee of the reason for, and estimated length of,
341 such delay. After such notification, the department shall
342 forthwith, and in no event later than the end of the next
343 business day of the licensee, either inform the requesting
344 licensee if its records demonstrate that the buyer or transferee
345 is prohibited from receipt or possession of a firearm or
346 ammunition pursuant to Florida and Federal law or provide the
347 licensee with a unique approval number. Unless notified by the
348 end of said next business day that the buyer or transferee is so

32-01447-21

20211170__

349 prohibited, and without regard to whether she or he has received
350 a unique approval number, the licensee may complete the sale or
351 transfer and shall not be deemed in violation of this section
352 with respect to such sale or transfer.

353 (4) (a) Any records containing any of the information set
354 forth in subsection (1) pertaining to a buyer or transferee who
355 is not found to be prohibited from receipt or transfer of a
356 firearm by reason of Florida and federal law which records are
357 created by the Department of Law Enforcement to conduct the
358 criminal history record check shall be confidential and exempt
359 from the provisions of s. 119.07(1) and may not be disclosed by
360 the Department of Law Enforcement or any officer or employee
361 thereof to any person or to another agency. The Department of
362 Law Enforcement shall destroy any such records forthwith after
363 it communicates the approval and nonapproval numbers to the
364 licensee and, in any event, such records shall be destroyed
365 within 48 hours after the day of the response to the licensee's
366 request.

367 (b) Notwithstanding ~~the provisions of~~ this subsection, the
368 Department of Law Enforcement may maintain records of NCIC
369 transactions to the extent required by the Federal Government,
370 and may maintain a log of dates of requests for criminal history
371 records checks, unique approval and nonapproval numbers, license
372 identification numbers, and transaction numbers corresponding to
373 such dates for a period of not longer than 2 years or as
374 otherwise required by law.

375 (c) Nothing in this chapter shall be construed to allow the
376 State of Florida to maintain records containing the names of
377 purchasers or transferees who receive unique approval numbers or

32-01447-21

20211170__

378 to maintain records of firearm or ammunition transactions.

379 (d) Any officer or employee, or former officer or employee,
380 of the Department of Law Enforcement or a law enforcement agency
381 who intentionally and maliciously violates ~~the provisions of~~
382 this subsection commits a felony of the third degree, punishable
383 as provided in s. 775.082 or s. 775.083.

384 (5) The Department of Law Enforcement shall establish a
385 toll-free telephone number which shall be operational 7 days a
386 week with the exception of Christmas Day and New Year's Day, for
387 a period of 12 hours a day beginning at 9 a.m. and ending at 9
388 p.m., for purposes of responding to inquiries as described in
389 this section from licensed manufacturers, licensed importers,
390 and licensed dealers. The Department of Law Enforcement shall
391 employ and train such personnel as are necessary expeditiously
392 to administer the provisions of this section.

393 (6) Any person who is denied the right to receive or
394 purchase a firearm or ammunition as a result of the procedures
395 established by this section may request a criminal history
396 records review and correction in accordance with the rules
397 promulgated by the Department of Law Enforcement.

398 (7) It shall be unlawful for any licensed dealer, licensed
399 manufacturer, or licensed importer willfully and intentionally
400 to request criminal history record information under false
401 pretenses, or willfully and intentionally to disseminate
402 criminal history record information to any person other than the
403 subject of such information. Any person convicted of a violation
404 of this subsection commits a felony of the third degree, punishable
405 as provided in s. 775.082 or s. 775.083.

406 (8) The Department of Law Enforcement shall promulgate

32-01447-21

20211170__

407 regulations to ensure the identity, confidentiality, and
408 security of all records and data provided pursuant to this
409 section.

410 (9) This section shall become effective at such time as the
411 Department of Law Enforcement has notified all licensed
412 importers, licensed manufacturers, and licensed dealers in
413 writing that the procedures and toll-free number described in
414 this section are operational. This section shall remain in
415 effect only during such times as the procedures described in
416 subsection (2) remain operational.

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

420 (a) Unavailability of telephone service at the licensed
421 premises due to the failure of the entity which provides
422 telephone service in the state, region, or other geographical
423 area in which the licensee is located to provide telephone
424 service to the premises of the licensee due to the location of
425 said premises; or the interruption of telephone service by
426 reason of hurricane, tornado, flood, natural disaster, or other
427 act of God, war, invasion, insurrection, riot, or other bona
428 fide emergency, or other reason beyond the control of the
429 licensee; or

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

432 (11) Compliance with ~~the provisions of~~ this chapter shall
433 be a complete defense to any claim or cause of action under the
434 laws of any state for liability for damages arising from the
435 importation or manufacture, or the subsequent sale or transfer

32-01447-21

20211170__

436 to any person who has been convicted in any court of a crime
437 punishable by imprisonment for a term exceeding 1 year, of any
438 firearm or ammunition which has been shipped or transported in
439 interstate or foreign commerce. The Department of Law
440 Enforcement and, its agents and employees shall not be liable
441 for any claim or cause of action under the laws of any state for
442 liability for damages arising from its actions in lawful
443 compliance with this section.

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

448 (b) Any licensed importer, licensed manufacturer, or
449 licensed dealer who violates ~~the provisions of~~ subsection (1)
450 commits a felony of the third degree, punishable as provided in
451 s. 775.082 or s. 775.083.

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

456 (d) Any person who knowingly acquires a firearm or
457 ammunition through purchase or transfer intended for the use of
458 a person who is prohibited by state or federal law from
459 possessing or receiving a firearm or ammunition commits a felony
460 of the third degree, punishable as provided in s. 775.082 or s.
461 775.083.

462 (13) A person younger than 21 years of age may not purchase
463 a firearm. The sale or transfer of a firearm to a person younger
464 than 21 years of age may not be made or facilitated by a

32-01447-21

20211170__

465 licensed importer, licensed manufacturer, or licensed dealer. A
466 person who violates this subsection commits a felony of the
467 third degree, punishable as provided in s. 775.082, s. 775.083,
468 or s. 775.084. The prohibitions of this subsection do not apply
469 to the purchase of a rifle or shotgun by a law enforcement
470 officer or correctional officer, as those terms are defined in
471 s. 943.10(1), (2), (3), (6), (7), (8), or (9), or a
472 servicemember as defined in s. 250.01.

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

478 Section 3. This act shall take effect October 1, 2021.