

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Smith offered the following:

2
3 **Amendment (with title amendment)**

4 Remove lines 492-532 and insert:

5 Section 7. Subsections (1), (3), and (10) of section
6 790.065, Florida Statutes, are amended to read:

7 790.065 Sale and delivery of firearms.—

8 (1)(a) A licensed importer, licensed manufacturer, or
9 licensed dealer may not sell or deliver from her or his
10 inventory at her or his licensed premises any firearm to another
11 person, other than a licensed importer, licensed manufacturer,
12 licensed dealer, or licensed collector, until she or he has:

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13 1. Obtained a completed form from the potential buyer or
14 transferee, which form shall have been adopted ~~promulgated~~ by
15 the Department of Law Enforcement and provided by the licensed
16 importer, licensed manufacturer, or licensed dealer, which shall
17 include the name, date of birth, gender, race, and social
18 security number or other identification number of such potential
19 buyer or transferee and has inspected proper identification
20 including an identification containing a photograph of the
21 potential buyer or transferee.

22 2. Collected a fee from the potential buyer for processing
23 the criminal history check of the potential buyer. The fee shall
24 be established by the Department of Law Enforcement and may not
25 exceed \$8 per transaction. The Department of Law Enforcement may
26 reduce, or suspend collection of, the fee to reflect payment
27 received from the Federal Government applied to the cost of
28 maintaining the criminal history check system established by
29 this section as a means of facilitating or supplementing the
30 National Instant Criminal Background Check System. The
31 Department of Law Enforcement shall, by rule, establish
32 procedures for the fees to be transmitted by the licensee to the
33 Department of Law Enforcement. All such fees shall be deposited
34 into the Department of Law Enforcement Operating Trust Fund, but
35 shall be segregated from all other funds deposited into such
36 trust fund and must be accounted for separately. Such segregated
37 funds must not be used for any purpose other than the operation

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38 of the criminal history checks required by this section. The
39 Department of Law Enforcement, each year before ~~prior to~~
40 February 1, shall make a full accounting of all receipts and
41 expenditures of such funds to the President of the Senate, the
42 Speaker of the House of Representatives, the majority and
43 minority leaders of each house of the Legislature, and the
44 chairs of the appropriations committees of each house of the
45 Legislature. In the event that the cumulative amount of funds
46 collected exceeds the cumulative amount of expenditures by more
47 than \$2.5 million, excess funds may be used for the purpose of
48 purchasing soft body armor for law enforcement officers.

49 3. Requested, by means of a toll-free telephone call, the
50 Department of Law Enforcement to conduct a check of the
51 information as reported and reflected in the Florida Crime
52 Information Center and National Crime Information Center systems
53 as of the date of the request.

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

57 (b) However, if the person purchasing, or receiving
58 delivery of, the firearm is a holder of a valid concealed
59 weapons or firearms license pursuant to ~~the provisions of s.~~
60 790.06 or holds an active certification from the Criminal
61 Justice Standards and Training Commission as a "law enforcement
62 officer," a "correctional officer," or a "correctional probation

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63 officer" as defined in s. 943.10(1), (2), (3), (6), (7), (8), or
64 (9), this subsection does not apply.

65 (c) This subsection does not apply to the purchase, trade,
66 or transfer of a rifle or shotgun by a resident of this state
67 when the resident makes such purchase, trade, or transfer from a
68 licensed importer, licensed manufacturer, or licensed dealer in
69 another state.

70 (d)1. As used in this paragraph, the term:

71 a. "Detachable magazine" means an ammunition feeding
72 device that can be removed from a firearm without disassembly of
73 the firearm action.

74 b. "Fixed magazine" means an ammunition feeding device
75 contained in, or permanently attached to, a firearm in such a
76 manner that the device cannot be removed without disassembly of
77 the firearm action.

78 c. "Large-capacity magazine" means any ammunition feeding
79 device with the capacity to accept more than 10 rounds, or any
80 conversion kit, part, or combination of parts from which such a
81 device can be assembled if those parts are in the possession or
82 under the control of the same person, but does not include any
83 of the following:

84 (I) A feeding device that has been permanently altered so
85 that it cannot accommodate more than 10 rounds;

86 (II) A .22 caliber tube ammunition feeding device; or

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87 (III) A tubular magazine that is contained in a lever-
88 action firearm.

89 d. "Licensed gun dealer" means a person who has a federal
90 firearms license.

91 2. If neither party to a prospective sale, lease, or
92 transfer of a large-capacity magazine is a licensed dealer, the
93 parties to the transaction must complete the sale, lease, or
94 transfer through a licensed dealer as follows:

95 a. The seller, lessor, or transferor must deliver the
96 large-capacity magazine to a licensed dealer, who shall process
97 the sale, lease, or transfer as if she or he were the seller,
98 lessor, or transferor, except that the seller, lessor, or
99 transferor who is not a licensed dealer may remove the large-
100 capacity magazine from the business premises of the licensed
101 dealer while the background check is being conducted and while
102 the waiting period requirement set forth in s. 790.0655 is being
103 met. Other than allowing the unlicensed seller or transferor to
104 remove the large-capacity magazine from the licensed dealer's
105 business premises, the licensed dealer shall comply with all
106 requirements of federal and state law which would apply if she
107 or he were the seller, lessor, or transferor of the firearm;

108 b. The licensed dealer shall conduct a background check on
109 the buyer or other transferee as provided in this section and,
110 unless the transaction is prohibited, and after all other legal

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111 requirements are met, including those set forth in s. 790.0655,
112 the licensed dealer shall either:

113 (I) Deliver the large-capacity magazine to the seller,
114 lessor, or transferor, who shall complete the transaction and
115 deliver the large-capacity magazine to the buyer; or

116 (II) If the seller, lessor, or transferor has removed the
117 large-capacity magazine from the licensed dealer's business
118 premises, contact the seller, lessor, or transferor to let her
119 or him know that he or she may complete the transaction and
120 deliver the large-capacity magazine to the buyer;

121 c. If the licensed dealer cannot legally complete the
122 transaction, the dealer must:

123 (I) Return the large-capacity magazine to the seller,
124 lessor, or transferor; or

125 (II) If the seller, lessor, or transferor has removed the
126 large-capacity magazine from the licensed dealer's business
127 premises, contact the seller, lessor, or transferor to let her
128 or him know that the transaction is prohibited, and that the
129 seller, lessor, or transferor may not deliver the large-capacity
130 magazine to the buyer; and

131 d. The licensed dealer may require the buyer or other
132 transferee to pay a fee covering the administrative costs
133 incurred by the licensed dealer for facilitating the transfer of
134 the large-capacity magazine, plus applicable fees pursuant to
135 federal and state law.

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136 3. This paragraph does not apply to:

137 a. The activities of the United States Marshals Service,
138 members of the United States Armed Forces or the National Guard,
139 or federal officials required to carry firearms while engaged in
140 performing their official duties; or

141 b. The following activities, unless the lawful owner knows
142 or has reasonable cause to believe that federal, state, or local
143 law prohibits the transferee from purchasing or possessing
144 firearms, or that the transferee is likely to use the large-
145 capacity magazine for unlawful purposes:

146 (I) The delivery of a large-capacity magazine to a
147 gunsmith for service or repair;

148 (II) The transfer of a large-capacity magazine to a
149 carrier, warehouseman, or other person engaged in the business
150 of transportation or storage, to the extent that the receipt,
151 possession, or having on or about the person a large-capacity
152 magazine is in the ordinary course of business and in conformity
153 with federal, state, and local laws, and not for the personal
154 use of any such person;

155 (III) The loan of a large-capacity magazine solely for the
156 purpose of shooting at targets, if the loan occurs on the
157 premises of a properly licensed target facility and if the
158 large-capacity magazine is at all times kept within the premises
159 of the target facility;

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160 (IV) The loan of a large-capacity magazine to a person who
161 is under 18 years of age for lawful hunting, sporting, or
162 educational purposes while under the direct supervision and
163 control of a responsible adult;

164 (V) The loan of a large-capacity magazine to a person who
165 is 18 years of age or older if the large-capacity magazine
166 remains in the person's possession only while the person is
167 accompanying the lawful owner and using the large-capacity
168 magazine for lawful hunting, sporting, or recreational purposes;
169 or

170 (VI) The loan of a large-capacity magazine to an adult
171 family member of the lawful owner of the large-capacity magazine
172 if the lawful owner resides with the family member but is not
173 present in the residence, provided that the family member does
174 not maintain control over the large-capacity magazine for more
175 than 10 consecutive days.

176 ~~(3) In the event of scheduled computer downtime,~~
177 ~~electronic failure, or similar emergency beyond the control of~~
178 ~~the Department of Law Enforcement, the department shall~~
179 ~~immediately notify the licensee of the reason for, and estimated~~
180 ~~length of, such delay. After such notification, the department~~
181 ~~shall forthwith, and in no event later than the end of the next~~
182 ~~business day of the licensee, either inform the requesting~~
183 ~~licensee if its records demonstrate that the buyer or transferee~~
184 ~~is prohibited from receipt or possession of a firearm pursuant~~

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185 ~~to Florida and Federal law or provide the licensee with a unique~~
186 ~~approval number. Unless notified by the end of said next~~
187 ~~business day that the buyer or transferee is so prohibited, and~~
188 ~~without regard to whether she or he has received a unique~~
189 ~~approval number, the licensee may complete the sale or transfer~~
190 ~~and shall not be deemed in violation of this section with~~
191 ~~respect to such sale or transfer.~~

192 ~~(10) A licensed importer, licensed manufacturer, or~~
193 ~~licensed dealer is not required to comply with the requirements~~
194 ~~of this section in the event of:~~

195 ~~(a) Unavailability of telephone service at the licensed~~
196 ~~premises due to the failure of the entity which provides~~
197 ~~telephone service in the state, region, or other geographical~~
198 ~~area in which the licensee is located to provide telephone~~
199 ~~service to the premises of the licensee due to the location of~~
200 ~~said premises; or the interruption of telephone service by~~
201 ~~reason of hurricane, tornado, flood, natural disaster, or other~~
202 ~~act of God, war, invasion, insurrection, riot, or other bona~~
203 ~~fide emergency, or other reason beyond the control of the~~
204 ~~licensee; or~~

205 ~~(b) Failure of the Department of Law Enforcement to comply~~
206 ~~with the requirements of subsections (2) and (3).~~

207 Section 8. Paragraph (a) of subsection (1) of section
208 790.0655, Florida Statutes, is amended to read:

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209 790.0655 Purchase and delivery of large-capacity magazines
210 and handguns; mandatory waiting period; exceptions; penalties.-

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

225 (b) Records of large-capacity magazine and handgun sales
226 must be available for inspection by any law enforcement agency,
227 as defined in s. 934.02, during normal business hours.

228 (2) The 3-day waiting period shall not apply in the
229 following circumstances:

230 (a) When a f large-capacity magazine and handgun is being
231 purchased by a holder of a concealed weapons permit as defined
232 in s. 790.06.

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233 (b) To a trade-in of another large-capacity magazine or
234 handgun.

235 (c) Upon successfully completing a hunter safety course
236 and possessing a hunter safety certification card issued under
237 s. 379.3581. A person who is exempt from the hunter safety
238 course requirement under s. 379.3581 and holds a valid Florida
239 hunting license as of March 1, 2018, is exempt from the 3-day
240 waiting period under this section.

241 (d) When a rifle or shotgun is being purchased by a law
242 enforcement officer or correctional officer, as defined in s.
243 943.10, or a person on active duty in the Armed Forces of the
244 United States or full-time duty in the National Guard.

245 (3) It is a felony of the third degree, punishable as
246 provided in s. 775.082, s. 775.083, or s. 775.084:

247 (a) For any retailer, or any employee or agent of a
248 retailer, to deliver a large-capacity magazine or handgun before
249 the expiration of the 3-day waiting period, subject to the
250 exceptions provided in subsection (2).

251 (b) For a purchaser to obtain delivery of a large-capacity
252 magazine or handgun by fraud, false pretense, or false
253 representation.

254 Section 9. Section 790.223, Florida Statutes, is created
255 to read:

256 790.223 Online sales of assault weapons and large-capacity
257 magazines.-A person may not buy, sell, trade or otherwise

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258 transfer ownership or possession of an assault weapon or large-
259 capacity magazine, as those terms are defined in s. 790.065, via
260 the Internet or other online means. A person who violates this
261 section commits a felony of the third degree, punishable as
262 provided in s. 775.082, s. 775.083, or s. 775.084.

263 Section 10. Paragraph (e) of subsection (3) of section
264 790.335, Florida Statutes, is amended to read:

265 790.335 Prohibition of registration of firearms;
266 electronic records.—

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

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

274 2. Nothing in this paragraph shall be construed to allow
275 the maintaining of records containing the names of purchasers or
276 transferees who receive unique approval numbers or the
277 maintaining of records of firearm transactions.

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279 -----

280 **T I T L E A M E N D M E N T**

281 Remove lines 33-35 and insert:

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282 790.065, F.S.; providing definitions; requiring that
283 the parties, if neither party to a sale, lease, or
284 transfer of a large-capacity magazine is a licensed
285 dealer, complete the sale, lease, or transfer through
286 a licensed dealer; specifying procedures and
287 requirements for a licensed dealer, a seller, lessor,
288 or transferor, and a buyer, lessee, or transferee;
289 authorizing a licensed dealer to charge a buyer or
290 transferee specified fees; providing applicability;
291 deleting provisions authorizing a licensee to complete
292 the sale or transfer of a firearm to a person without
293 receiving notification from the Department of Law
294 Enforcement informing the licensee as to whether such
295 person is prohibited from receipt or possession of a
296 large-capacity magazine or providing a unique approval
297 number under certain circumstances; deleting
298 provisions exempting a licensed importer, licensed
299 manufacturer, or licensed dealer from the sale and
300 delivery requirements, under certain circumstances;
301 amending s. 790.0655, F.S.; requiring a specified
302 waiting period between the purchase and delivery at
303 retail of a large-capacity magazine; providing
304 exceptions; revising terminology; creating s. 790.223,
305 F.S.; prohibiting online sales of assault weapons or
306 large-capacity magazines; providing penalties;

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307 | amending s. 790.335, F.S.; conforming a cross-
308 | reference;

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