

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
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
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
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 the presence of the transferee.

100 (2) Upon receipt of a request for a criminal history

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

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

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

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

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

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

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

210 d. A person who has been adjudicated mentally defective or
211 committed to a mental institution, as those terms are defined in
212 this paragraph, may petition the court that made the
213 adjudication or commitment, or the court that ordered that the
214 record be submitted to the department pursuant to sub-sub-
215 subparagraph c.(II), for relief from the firearm disabilities
216 imposed by such adjudication or commitment. A copy of the
217 petition shall be served on the state attorney for the county in
218 which the person was adjudicated or committed. The state
219 attorney may object to and present evidence relevant to the
220 relief sought by the petition. The hearing on the petition may
221 be open or closed as the petitioner may choose. The petitioner
222 may present evidence and subpoena witnesses to appear at the
223 hearing on the petition. The petitioner may confront and cross-
224 examine witnesses called by the state attorney. A record of the
225 hearing shall be made by a certified court reporter or by court-

226 approved electronic means. The court shall make written findings
227 of fact and conclusions of law on the issues before it and issue
228 a final order. The court shall grant the relief requested in the
229 petition if the court finds, based on the evidence presented
230 with respect to the petitioner's reputation, the petitioner's
231 mental health record and, if applicable, criminal history
232 record, the circumstances surrounding the firearm disability,
233 and any other evidence in the record, that the petitioner will
234 not be likely to act in a manner that is dangerous to public
235 safety and that granting the relief would not be contrary to the
236 public interest. If the final order denies relief, the
237 petitioner may not petition again for relief from firearm
238 disabilities until 1 year after the date of the final order. The
239 petitioner may seek judicial review of a final order denying
240 relief in the district court of appeal having jurisdiction over
241 the court that issued the order. The review shall be conducted
242 de novo. Relief from a firearm disability granted under this
243 sub-subparagraph has no effect on the loss of civil rights,
244 including firearm rights, for any reason other than the
245 particular adjudication of mental defectiveness or commitment to
246 a mental institution from which relief is granted.

247 e. Upon receipt of proper notice of relief from firearm
248 disabilities granted under sub-subparagraph d., the department
249 shall delete any mental health record of the person granted
250 relief from the automated database of persons who are prohibited

251 from purchasing a firearm based on court records of
252 adjudications of mental defectiveness or commitments to mental
253 institutions.

254 f. The department is authorized to disclose data collected
255 pursuant to this subparagraph to agencies of the Federal
256 Government and other states for use exclusively in determining
257 the lawfulness of a firearm sale or transfer. The department is
258 also authorized to disclose this data to the Department of
259 Agriculture and Consumer Services for purposes of determining
260 eligibility for issuance of a concealed weapons or concealed
261 firearms license and for determining whether a basis exists for
262 revoking or suspending a previously issued license pursuant to
263 s. 790.06(10). When a potential buyer or transferee appeals a
264 nonapproval based on these records, the clerks of court and
265 mental institutions shall, upon request by the department,
266 provide information to help determine whether the potential
267 buyer or transferee is the same person as the subject of the
268 record. Photographs and any other data that could confirm or
269 negate identity must be made available to the department for
270 such purposes, notwithstanding any other provision of state law
271 to the contrary. Any such information that is made confidential
272 or exempt from disclosure by law shall retain such confidential
273 or exempt status when transferred to the department.

274 (b) Inform the licensee making the inquiry either that
275 records demonstrate that the buyer or transferee is so

276 prohibited and provide the licensee a nonapproval number, or
277 provide the licensee with a unique approval number.

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

- 289 a. Criminal anarchy under ss. 876.01 and 876.02.
- 290 b. Extortion under s. 836.05.
- 291 c. Explosives violations under s. 552.22(1) and (2).
- 292 d. Controlled substances violations under chapter 893.
- 293 e. Resisting an officer with violence under s. 843.01.
- 294 f. Weapons and firearms violations under this chapter.
- 295 g. Treason under s. 876.32.
- 296 h. Assisting self-murder under s. 782.08.
- 297 i. Sabotage under s. 876.38.
- 298 j. Stalking or aggravated stalking under s. 784.048.

299
300 If the review indicates any such indictment, information, or

301 arrest, the department shall provide to the licensee a
302 conditional nonapproval number.

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

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

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

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

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

323 7. The department shall continue its attempts to obtain
324 the disposition information and may retain a record of all
325 approval numbers granted without sufficient disposition

326 information. If the department later obtains disposition
327 information which indicates:

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

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

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

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

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

355 (4)

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

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

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

373 (6) Any person who is denied the right to receive or
374 purchase a firearm or ammunition as a result of the procedures
375 established by this section may request a criminal history

376 records review and correction in accordance with the rules
 377 promulgated by the Department of Law Enforcement.

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

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

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

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

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

401 to any person who has been convicted in any court of a crime
402 punishable by imprisonment for a term exceeding 1 year, of any
403 firearm or ammunition which has been shipped or transported in
404 interstate or foreign commerce. The Department of Law
405 Enforcement, its agents and employees shall not be liable for
406 any claim or cause of action under the laws of any state for
407 liability for damages arising from its actions in lawful
408 compliance with this section.

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

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

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

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

426 | 775.083.

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

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