

Title XLVI. Crimes

Chapter 790. Weapons and Firearms

790.001. Definitions As used in this chapter, except where the context otherwise requires:

(1) "Antique firearm" means any firearm manufactured in or before 1918 (including any matchlock, flintlock, percussion cap, or similar early type of ignition system) or replica thereof, whether actually manufactured before or after the year 1918, and also any firearm using fixed ammunition manufactured in or before 1918, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(2) "Concealed firearm" means any firearm, as defined in subsection (6), which is carried on or about a person in such a manner as to conceal the firearm from the ordinary sight of another person.

(3)(a) "Concealed weapon" means any dirk, metallic knuckles, slungshot, billie, tear gas gun, chemical weapon or device, or other deadly weapon carried on or about a person in such a manner as to conceal the weapon from the ordinary sight of another person.

(b) "Tear gas gun" or "chemical weapon or device" means any weapon of such nature, except a device known as a "self-defense chemical spray." "Self-defense chemical spray" means a device carried solely for purposes of lawful self-defense that is compact in size, designed to be carried on or about the person, and contains not more than two ounces of chemical.

(4) "Destructive device" means any bomb, grenade, mine, rocket, missile, pipebomb, or similar device containing an explosive, incendiary, or poison gas and includes any frangible container filled with an explosive, incendiary, explosive gas, or expanding gas, which is designed or so constructed as to explode by such filler and is capable of causing bodily harm or property damage; any combination of parts either designed or intended for use in converting any device into a destructive device and from which a destructive device may be readily assembled; any device declared a destructive device by the Bureau of Alcohol, Tobacco, and Firearms; any type of weapon which will, is designed to, or may readily be converted to expel a projectile by the action of any explosive and which has a barrel with a bore of one-half inch or more in diameter; and ammunition for such destructive devices, but not including shotgun shells or any other ammunition designed for use in a firearm other than a destructive device. "Destructive device" does not include:

(a) A device which is not designed, redesigned, used, or intended for use as a weapon;

(b) Any device, although originally designed as a weapon, which is redesigned so that it may be used solely as a signaling, line-throwing, safety, or similar device;

(c) Any shotgun other than a short-barreled shotgun; or

(d) Any nonautomatic rifle (other than a short-barreled rifle) generally recognized or particularly suitable for use for the hunting of big game.

(5) "Explosive" means any chemical compound or mixture that has the property of yield-

ing readily to combustion or oxidation upon application of heat, flame, or shock, including but not limited to dynamite, nitroglycerin, trinitrotoluene, or ammonium nitrate when combined with other ingredients to form an explosive mixture, blasting caps, and detonators; but not including:

(a) Shotgun shells, cartridges, or ammunition for firearms;

(b) Fireworks as defined in s. 791.01;

(c) Smokeless propellant powder or small arms ammunition primers, if possessed, purchased, sold, transported, or used in compliance with s. 552.241;

(d) Black powder in quantities not to exceed that authorized by chapter 552, or by any rules adopted thereunder by the Department of Financial Services, when used for, or intended to be used for, the manufacture of target and sporting ammunition or for use in muzzle-loading flint or percussion weapons.

The exclusions contained in paragraphs (a)-(d) do not apply to the term "explosive" as used in the definition of "firearm" in subsection (6).

(6) "Firearm" means any weapon (including a starter gun) which will, is designed to, or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; any firearm muffler or firearm silencer; any destructive device; or any machine gun. The term "firearm" does not include an antique firearm unless the antique firearm is used in the commission of a crime.

(7) "Indictment" means an indictment or an information in any court under which a crime punishable by imprisonment for a term exceeding 1 year may be prosecuted.

(8) "Law enforcement officer" means:

(a) All officers or employees of the United States or the State of Florida, or any agency, commission, department, board, division, municipality, or subdivision thereof, who have authority to make arrests;

(b) Officers or employees of the United States or the State of Florida, or any agency, commission, department, board, division, municipality, or subdivision thereof, duly authorized to carry a concealed weapon;

(c) Members of the Armed Forces of the United States, the organized reserves, state militia, or Florida National Guard, when on duty, when preparing themselves for, or going to or from, military duty, or under orders;

(d) An employee of the state prisons or correctional systems who has been so designated by the Department of Corrections or by a warden of an institution;

(e) All peace officers;

(f) All state attorneys and United States attorneys and their respective assistants and investigators.

(9) "Machine gun" means any firearm, as defined herein, which shoots, or is designed to shoot, automatically more than one shot, without manually reloading, by a single function of the trigger.

(10) "Short-barreled shotgun" means a shotgun having one or more barrels less than 18 inches in length and any weapon made from a shotgun (whether by alteration, modification, or otherwise) if such weapon as modified has an overall length of less than 26 inches.

(11) "Short-barreled rifle" means a rifle having one or more barrels less than 16 inches in length and any weapon made from a rifle (whether by alteration, modification, or otherwise) if such weapon as modified has an overall length of less than 26 inches.

(12) "Slungshot" means a small mass of metal, stone, sand, or similar material fixed on a flexible handle, strap, or the like, used as a weapon.

(13) "Weapon" means any dirk, knife, metallic knuckles, slungshot, billie, tear gas gun, chemical weapon or device, or other deadly weapon except a firearm or a common pocketknife, plastic knife, or blunt-bladed table knife.

(14) "Electric weapon or device" means any device which, through the application or use of electrical current, is designed, redesigned, used, or intended to be used for offensive or defensive purposes, the destruction of life, or the infliction of injury.

(15) "Dart-firing stun gun" means any device having one or more darts that are capable of delivering an electrical current.

(16) "Readily accessible for immediate use" means that a firearm or other weapon is carried on the person or within such close proximity and in such a manner that it can be retrieved and used as easily and quickly as if carried on the person.

(17) "Securely encased" means in a glove compartment, whether or not locked; snapped in a holster; in a gun case, whether or not locked; in a zippered gun case; or in a closed box or container which requires a lid or cover to be opened for access.

(18) "Sterile area" means the area of an airport to which access is controlled by the inspection of persons and property in accordance with federally approved airport security programs.

(19) "Ammunition" means an object consisting of all of the following:

(a) A fixed metallic or nonmetallic hull or casing containing a primer.

(b) One or more projectiles, one or more bullets, or shot.

(c) Gunpowder.

All of the specified components must be present for an object to be ammunition.

790.065. Sale and delivery of firearms

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

(a) Obtained a completed form from the potential buyer or transferee, which form shall have been promulgated by the Department of Law Enforcement and provided by the licensed importer, licensed manufacturer, or licensed dealer, which shall include the name, date of birth, gender, race, and social security number or other identification number of such potential buyer or transferee and has inspected proper identification including an identification containing a photograph of the potential buyer or transferee.

(b) Collected a fee from the potential buyer for processing the criminal history check of the po-

tential buyer. The fee shall be established by the Department of Law Enforcement and may not exceed \$8 per transaction. The Department of Law Enforcement may reduce, or suspend collection of, the fee to reflect payment received from the Federal Government applied to the cost of maintaining the criminal history check system established by this section as a means of facilitating or supplementing the National Instant Criminal Background Check System. The Department of Law Enforcement shall, by rule, establish procedures for the fees to be transmitted by the licensee to the Department of Law Enforcement. All such fees shall be deposited into the Department of Law Enforcement Operating Trust Fund, but shall be segregated from all other funds deposited into such trust fund and must be accounted for separately. Such segregated funds must not be used for any purpose other than the operation of the criminal history checks required by this section. The Department of Law Enforcement, each year prior to February 1, shall make a full accounting of all receipts and expenditures of such funds to the President of the Senate, the Speaker of the House of Representatives, the majority and minority leaders of each house of the Legislature, and the chairs of the appropriations committees of each house of the Legislature. In the event that the cumulative amount of funds collected exceeds the cumulative amount of expenditures by more than \$2.5 million, excess funds may be used for the purpose of purchasing soft body armor for law enforcement officers.

(c) Requested, by means of a toll-free telephone call, the Department of Law Enforcement to conduct a check of the information as reported and reflected in the Florida Crime Information Center and National Crime Information Center systems as of the date of the request.

(d) Received a unique approval number for that inquiry from the Department of Law Enforcement, and recorded the date and such number on the consent form.

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

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

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

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

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

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

4. Has been adjudicated mentally defective or has been committed to a mental institution by a court and as a result is prohibited by federal law from purchasing a firearm.

a. As used in this subparagraph, "adjudicated mentally defective" means a determination by a

court that a person, as a result of marked subnormal intelligence, or mental illness, incompetency, condition, or disease, is a danger to himself or herself or to others or lacks the mental capacity to contract or manage his or her own affairs. The phrase includes a judicial finding of incapacity under s. 744.331(6)(a), an acquittal by reason of insanity of a person charged with a criminal offense, and a judicial finding that a criminal defendant is not competent to stand trial.

b. As used in this subparagraph, "committed to a mental institution" means involuntary commitment, commitment for mental defectiveness or mental illness, and commitment for substance abuse. The phrase includes involuntary inpatient placement as defined in s. 394.467, involuntary outpatient placement as defined in s. 394.4655, involuntary assessment and stabilization under s. 397.6818, and involuntary substance abuse treatment under s. 397.6957, but does not include a person in a mental institution for observation or discharged from a mental institution based upon the initial review by the physician or a voluntary admission to a mental institution.

c. In order to check for these conditions, the department shall compile and maintain an automated database of persons who are prohibited from purchasing a firearm based on court records of adjudications of mental defectiveness or commitments to mental institutions. Clerks of court shall submit these records to the department within 1 month after the rendition of the adjudication or commitment. Reports may be submitted in an automated format. The reports must, at a minimum, include the name, along with any known alias or former name, the sex, and the date of birth of the subject. The department shall delete any mental health record from the database upon request of an individual when 5 years have elapsed since the individual's restoration to capacity by court order after being adjudicated an incapacitated person under s. 744.331, or similar laws of any other state; or, in the case of an individual who was previously committed to a mental institution under chapter 394, or similar laws of any other state, when the individual produces a certificate from a licensed psychiatrist that he or she has not suffered from disability for at least 5 years prior to the date of request for removal of the record. When the department has received a subsequent record of an adjudication of mental defectiveness or commitment to a mental institution for such individual, the 5-year timeframe shall be calculated from the most recent adjudication of incapacitation or commitment.

d. The department is authorized to disclose the collected data to agencies of the Federal Government and other states for use exclusively in determining the lawfulness of a firearm sale or transfer. The department is also authorized to disclose any collected data to the Department of Agriculture and Consumer Services for purposes of determining eligibility for issuance of a concealed weapons or concealed firearms license and for determining whether a basis exists for revoking or suspending a previously issued license pursuant to s. 790.06(10). When a potential buyer or transferee appeals a nonapproval based on these records, the clerks of court and mental institutions shall, upon request by the department, provide information to help determine whether the potential buyer or transferee is the same person as the subject of the record. Photographs and any other data that

could confirm or negate identity must be made available to the department for such purposes, notwithstanding any other provision of state law to the contrary. Any such information that is made confidential or exempt from disclosure by law shall retain such confidential or exempt status when transferred to the department.

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

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

a. Criminal anarchy under ss. 876.01 and 876.02.

b. Extortion under s. 836.05.

c. Explosives violations under s. 552.22(1) and (2).

d. Controlled substances violations under chapter 893.

e. Resisting an officer with violence under s. 843.01.

f. Weapons and firearms violations under this chapter.

g. Treason under s. 876.32.

h. Assisting self-murder under s. 782.08.

i. Sabotage under s. 876.38.

j. Stalking or aggravated stalking under s. 784.048.

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

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

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

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

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

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

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

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

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

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

(3) In the event of scheduled computer downtime, electronic failure, or similar emergency beyond the control of the Department of Law Enforcement, the department shall immediately notify the licensee of the reason for, and estimated length of, such delay. After such notification, the department shall forthwith, and in no event later than the end of the next business day of the licensee, either inform the requesting licensee if its records demonstrate that the buyer or transferee is prohibited from receipt or possession of a firearm pursuant to Florida and Federal law or provide the licensee with a unique approval number. Unless notified by the end of said next business day that the buyer or transferee is so prohibited, and without regard to whether she or he has received a unique approval number, the licensee may complete the sale or transfer and shall not be deemed in violation of this section with respect to such sale or transfer.

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

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

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

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

(5) The Department of Law Enforcement shall establish a toll-free telephone number which

shall be operational 7 days a week with the exception of Christmas Day and New Year's Day, for a period of 12 hours a day beginning at 9 a.m. and ending at 9 p.m., for purposes of responding to inquiries as described in this section from licensed manufacturers, licensed importers, and licensed dealers. The Department of Law Enforcement shall employ and train such personnel as are necessary expeditiously to administer the provisions of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

790.0655. Purchase and delivery of handguns; mandatory waiting period; exceptions; penalties

(1)(a) There shall be a mandatory 3-day waiting period, which shall be 3 days, excluding weekends and legal holidays, between the purchase and the delivery at retail of any handgun. "Purchase" means the transfer of money or other valuable consideration to the retailer. "Handgun" means a firearm capable of being carried and used by one hand, such as a pistol or revolver. "Retailer" means and includes every person engaged in the business of making sales at retail or for distribution, or use, or consumption, or storage to be used or consumed in this state, as defined in s. 212.02(13).

(b) Records of handgun sales must be available for inspection by any law enforcement agency, as defined in s. 934.02, during normal business hours.

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

(a) When a handgun is being purchased by a holder of a concealed weapons permit as defined in s. 790.06.

(b) To a trade-in of another handgun.

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

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

(b) For a purchaser to obtain delivery of a handgun by fraud, false pretense, or false representation.

790.115. Possessing or discharging weapons or firearms at a school-sponsored event or on school property prohibited; penalties; exceptions

(1) A person who exhibits any sword, sword cane, firearm, electric weapon or device, destructive device, or other weapon as defined in s. 790.001(13), including a razor blade, box cutter, or common pocket knife, except as authorized in support of school-sanctioned activities, in the presence of one or more persons in a rude, careless, angry, or threatening manner and not in lawful self-defense, at a school-sponsored event or on the grounds or facilities of any school, school bus, or school bus stop, or within 1,000 feet of the real property that comprises a public or private elementary school, middle school, or secondary school, during school hours or during the time of a sanctioned school

activity, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. This subsection does not apply to the exhibition of a firearm or weapon on private real property within 1,000 feet of a school by the owner of such property or by a person whose presence on such property has been authorized, licensed, or invited by the owner.

(2)(a) A person shall not possess any firearm, electric weapon or device, destructive device, or other weapon as defined in s. 790.001(13), including a razor blade or box cutter, except as authorized in support of school-sanctioned activities, at a school-sponsored event or on the property of any school, school bus, or school bus stop; however, a person may carry a firearm:

1. In a case to a firearms program, class or function which has been approved in advance by the principal or chief administrative officer of the school as a program or class to which firearms could be carried;

2. In a case to a career center having a firearms training range; or

3. In a vehicle pursuant to s. 790.25(5); except that school districts may adopt written and published policies that waive the exception in this subparagraph for purposes of student and campus parking privileges.

For the purposes of this section, "school" means any preschool, elementary school, middle school, junior high school, secondary school, career center, or postsecondary school, whether public or nonpublic.

(b) A person who willfully and knowingly possesses any electric weapon or device, destructive device, or other weapon, as defined in s. 790.001(13), including a razor blade or box cutter, except as authorized in support of school-sanctioned activities, in violation of this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c)1. A person who willfully and knowingly possesses any firearm in violation of this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. A person who stores or leaves a loaded firearm within the reach or easy access of a minor who obtains the firearm and commits a violation of subparagraph 1. commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083; except that this does not apply if the firearm was stored or left in a securely locked box or container or in a location which a reasonable person would have believed to be secure, or was securely locked with a firearm-mounted push-button combination lock or a trigger lock; if the minor obtains the firearm as a result of an unlawful entry by any person; or to members of the Armed Forces, National Guard, or State Militia, or to police or other law enforcement officers, with respect to firearm possession by a minor which occurs during or incidental to the performance of their official duties.

(d) A person who discharges any weapon or firearm while in violation of paragraph (a), unless discharged for lawful defense of himself or herself or another or for a lawful purpose, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(e) The penalties of this subsection shall not apply to persons licensed under s. 790.06. Persons licensed under s. 790.06 shall be punished as provided in s. 790.06(12), except that a li-

censeholder who unlawfully discharges a weapon or firearm on school property as prohibited by this subsection commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) This section does not apply to any law enforcement officer as defined in s. 943.10(1), (2), (3), (4), (6), (7), (8), (9), or (14).

(4) Notwithstanding s. 985.24, s. 985.245, or s. 985.25(1), any minor under 18 years of age who is charged under this section with possessing or discharging a firearm on school property shall be detained in secure detention, unless the state attorney authorizes the release of the minor, and shall be given a probable cause hearing within 24 hours after being taken into custody. At the hearing, the court may order that the minor continue to be held in secure detention for a period of 21 days, during which time the minor shall receive medical, psychiatric, psychological, or substance abuse examinations pursuant to s. 985.18, and a written report shall be completed.

790.151. Using firearm while under the influence of alcoholic beverages, chemical substances, or controlled substances; penalties

(1) As used in [ss. 790.151-790.157](#), to "use a firearm" means to discharge a firearm or to have a firearm readily accessible for immediate discharge.

(2) For the purposes of this section, "readily accessible for immediate discharge" means loaded and in a person's hand.

(3) It is unlawful and punishable as provided in subsection (4) for any person who is under the influence of alcoholic beverages, any chemical substance set forth in [s. 877.111](#), or any substance controlled under chapter 893, when affected to the extent that his or her normal faculties are impaired, to use a firearm in this state.

(4) Any person who violates subsection (3) commits a misdemeanor of the second degree, punishable as provided in [s. 775.082](#) or [s. 775.083](#).

(5) This section does not apply to persons exercising lawful self-defense or defense of one's property.

790.161. Making, possessing, throwing, projecting, placing, or discharging any destructive device or attempt so to do, felony; penalties

A person who willfully and unlawfully makes, possesses, throws, projects, places, discharges, or attempts to make, possess, throw, project, place, or discharge any destructive device:

(1) Commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.084.

(2) If the act is perpetrated with the intent to do bodily harm to any person, or with the intent to do property damage, or if the act results in a disruption of governmental operations, commerce, or the private affairs of another person, commits a felony of the second degree, punishable as provided in s. 775.082 or s. 775.084.

(3) If the act results in bodily harm to another person or in property damage, commits a felony of the first degree, punishable as provided in s. 775.082 or s. 775.084.

(4) If the act results in the death of another person, commits a capital felony, punishable as provided in s. 775.082. In the event the death penalty in a capital felony is held to be unconstitutional by the Florida Supreme Court or the United States Supreme Court, the court having jurisdiction over a person previously sentenced

to death for a capital felony shall cause such person to be brought before the court, and the court shall sentence such person to life imprisonment if convicted of murder in the first degree or of a capital felony under this subsection, and such person shall be ineligible for parole. No sentence of death shall be reduced as a result of a determination that a method of execution is held to be unconstitutional under the State Constitution or the Constitution of the United States.

790.1612. Authorization for governmental manufacture, possession, and use of destructive devices The governing body of any municipality or county and the Division of State Fire Marshal of the Department of Financial Services have the power to authorize the manufacture, possession, and use of destructive devices as defined in s. 790.001(4).

790.17. Furnishing weapons to minors under 18 years of age or persons of unsound mind and furnishing firearms to minors under 18 years of age prohibited

(1) A person who sells, hires, barter, lends, transfers, or gives any minor under 18 years of age any dirk, electric weapon or device, or other weapon, other than an ordinary pocketknife, without permission of the minor's parent or guardian, or sells, hires, barter, lends, transfers, or gives to any person of unsound mind an electric weapon or device or any dangerous weapon, other than an ordinary pocketknife, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2)(a) A person may not knowingly or willfully sell or transfer a firearm to a minor under 18 years of age, except that a person may transfer ownership of a firearm to a minor with permission of the parent or guardian. A person who violates this paragraph commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) The parent or guardian must maintain possession of the firearm except pursuant to s. 790.22.

790.174. Safe storage of firearms required

(1) A person who stores or leaves, on a premise under his or her control, a loaded firearm, as defined in s. 790.001, and who knows or reasonably should know that a minor is likely to gain access to the firearm without the lawful permission of the minor's parent or the person having charge of the minor, or without the supervision required by law, shall keep the firearm in a securely locked box or container or in a location which a reasonable person would believe to be secure or shall secure it with a trigger lock, except when the person is carrying the firearm on his or her body or within such close proximity thereto that he or she can retrieve and use it as easily and quickly as if he or she carried it on his or her body.

(2) It is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, if a person violates subsection (1) by failing to store or leave a firearm in the required manner and as a result thereof a minor gains access to the firearm, without the lawful permission of the minor's parent or the person having charge of the minor, and possesses or exhibits it, without the supervision required by law:

(a) In a public place; or

(b) In a rude, careless, angry, or threatening manner in violation of s. 790.10.

This subsection does not apply if the minor obtains the firearm as a result of an unlawful entry by any person.

(3) As used in this act, the term "minor" means any person under the age of 16.

790.175. Transfer or sale of firearms; required warnings; penalties

(1) Upon the retail commercial sale or retail transfer of any firearm, the seller or transferor shall deliver a written warning to the purchaser or transferee, which warning states, in block letters not less than 1/4 inch in height:

"IT IS UNLAWFUL, AND PUNISHABLE BY IMPRISONMENT AND FINE, FOR ANY ADULT TO STORE OR LEAVE A FIREARM IN ANY PLACE WITHIN THE REACH OR EASY ACCESS OF A MINOR UNDER 18 YEARS OF AGE OR TO KNOWINGLY SELL OR OTHERWISE TRANSFER OWNERSHIP OR POSSESSION OF A FIREARM TO A MINOR OR A PERSON OF UNSOUND MIND."

(2) Any retail or wholesale store, shop, or sales outlet which sells firearms must conspicuously post at each purchase counter the following warning in block letters not less than 1 inch in height:

"IT IS UNLAWFUL TO STORE OR LEAVE A FIREARM IN ANY PLACE WITHIN THE REACH OR EASY ACCESS OF A MINOR UNDER 18 YEARS OF AGE OR TO KNOWINGLY SELL OR OTHERWISE TRANSFER OWNERSHIP OR POSSESSION OF A FIREARM TO A MINOR OR A PERSON OF UNSOUND MIND."

(3) Any person or business knowingly violating a requirement to provide warning under this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

790.18. Sale or transfer of arms to minors by dealers

It is unlawful for any dealer in arms to sell or transfer to a minor any firearm, pistol, Springfield rifle or other repeating rifle, bowie knife or dirk knife, brass knuckles, slungshot, or electric weapon or device. A person who violates this section commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

790.22. Use of BB guns, air or gas-operated guns, or electric weapons or devices by minor under 16; limitation; possession of firearms by minor under 18 prohibited; penalties

(2) Any adult responsible for the welfare of any child under the age of 16 years who knowingly permits such child to use or have in his or her possession any BB gun, air or gas-operated gun, electric weapon or device, or firearm in violation of the provisions of subsection (1) of this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(3) A minor under 18 years of age may not possess a firearm, other than an unloaded firearm at his or her home, unless:

(a) The minor is engaged in a lawful hunting activity and is:

1. At least 16 years of age; or

2. Under 16 years of age and supervised by an adult.

(b) The minor is engaged in a lawful marksmanship competition or practice or other lawful recreational shooting activity and is:

(1) At least 16 years of age; or

(2) Under 16 years of age and supervised by an adult who is acting with the consent of the minor's parent or guardian.

(c) The firearm is unloaded and is being transported by the minor directly to or from an event authorized in paragraph (a) or paragraph (b).

(4)(a) Any parent or guardian of a minor, or other adult responsible for the welfare of a minor, who knowingly and willfully permits the minor to possess a firearm in violation of subsection (3) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. ...

(5)(a) A minor who violates subsection (3) commits a misdemeanor of the first degree; for a first offense, may serve a period of detention of up to 3 days in a secure detention facility; and, in addition to any other penalty provided by law, shall be required to perform 100 hours of community service; and:...

(6) Any firearm that is possessed or used by a minor in violation of this section shall be promptly seized by a law enforcement officer and disposed of in accordance with s. 790.08(1)-(6).

(7) The provisions of this section are supplemental to all other provisions of law relating to the possession, use, or exhibition of a firearm....

790.221. Possession of short-barreled rifle, short-barreled shotgun, or machine gun; penalty

(1) It is unlawful for any person to own or to have in his or her care, custody, possession, or control any short-barreled rifle, short-barreled shotgun, or machine gun which is, or may readily be made, operable; but this section shall not apply to antique firearms.

(2) A person who violates this section commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Firearms in violation hereof which are lawfully owned and possessed under provisions of federal law are excepted.

790.23. Felons and delinquents; possession of firearms, ammunition, or electric weapons or devices unlawful

(1) It is unlawful for any person to own or to have in his or her care, custody, possession, or control any firearm, ammunition, or electric weapon or device, or to carry a concealed weapon, including a tear gas gun or chemical weapon or device, if that person has been:

(a) Convicted of a felony in the courts of this state;

(b) Found, in the courts of this state, to have committed a delinquent act that would be a felony if committed by an adult and such person is under 24 years of age;

(c) Convicted of or found to have committed a crime against the United States which is designated as a felony;

(d) Found to have committed a delinquent act in another state, territory, or country that would be a felony if committed by an adult and which was punishable by imprisonment for a term exceeding 1 year and such person is under 24 years of age; or

(e) Found guilty of an offense that is a felony in another state, territory, or country and which was punishable by imprisonment for a term exceeding 1 year.

(2) This section shall not apply to a person convicted of a felony whose civil rights and firearm authority have been restored.

(3) Except as otherwise provided in subsection(4), any person who violates this section commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) Notwithstanding the provisions of S. 874.04, if the offense described in subsection (1) has been committed by a person who has previously qualified or currently qualifies for the

penalty enhancements provided for in S. 874.04, the offense is a felony of the first degree, punishable by a term of years not exceeding life or as provided in S. 775.082, S. 775.083, or S. 775.084.

790.233. Possession of firearm or ammunition prohibited when person is subject to an injunction against committing acts of domestic violence; penalties

(1) A person may not have in his or her care, custody, possession, or control any firearm or ammunition if the person has been issued a final injunction that is currently in force and effect, restraining that person from committing acts of domestic violence, and that has been issued under s. 741.30.

(2) A person who violates subsection (1) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3) It is the intent of the Legislature that the disabilities regarding possession of firearms and ammunition are consistent with federal law. Accordingly, this section shall not apply to a state or local officer as defined in s. 943.10(14), holding an active certification, who receives or possesses a firearm or ammunition for use in performing official duties on behalf of the officer's employing agency, unless otherwise prohibited by the employing agency.

790.235. Possession of firearm or ammunition by violent career criminal unlawful; penalty

(1) Any person who meets the violent career criminal criteria under s. 775.084(1)(d), regardless of whether such person is or has previously been sentenced as a violent career criminal, who owns or has in his or her care, custody, possession, or control any firearm, ammunition, or electric weapon or device, or carries a concealed weapon, including a tear gas gun or chemical weapon or device, commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A person convicted of a violation of this section shall be sentenced to a mandatory minimum of 15 years' imprisonment; however, if the person would be sentenced to a longer term of imprisonment under s. 775.084 (4)(d), the person must be sentenced under that provision. A person convicted of a violation of this section is not eligible for any form of discretionary early release, other than pardon, executive clemency, or conditional medical release under s. 947.149.

(2) For purposes of this section, the previous felony convictions necessary to meet the violent career criminal criteria under s. 775.084(1)(d) may be convictions for felonies committed as an adult or adjudications of delinquency for felonies committed as a juvenile. In order to be counted as a prior felony for purposes of this section, the felony must have resulted in a conviction sentenced separately, or an adjudication of delinquency entered separately, prior to the current offense, and sentenced or adjudicated separately from any other felony that is to be counted as a prior felony.

(3) This section shall not apply to a person whose civil rights and firearm authority have been restored.

790.25. Lawful ownership, possession, and use of firearms and other weapons

(1) **Declaration of Policy.** The Legislature finds as a matter of public policy and fact that it is necessary to promote firearms safety and to curb and prevent the use of firearms and other weapons in crime and by incompetent persons without prohibiting the lawful use in defense of life, home, and property, and the use by United

States or state military organizations, and as otherwise now authorized by law, including the right to use and own firearms for target practice and marksmanship on target practice ranges or other lawful places, and lawful hunting and other lawful purposes.

(2) Uses Not Authorized.--

(a) This section does not authorize carrying a concealed weapon without a permit, as prohibited by ss. 790.01 and 790.02.

(b) The protections of this section do not apply to the following:

1. A person who has been adjudged mentally incompetent, who is addicted to the use of narcotics or any similar drug, or who is a habitual or chronic alcoholic, or a person using weapons or firearms in violation of ss. 790.07-790.115, 790.145-790.19, 790.22-790.24;

2. Vagrants and other undesirable persons as defined in s. 856.02 [Publisher's Note: s. 856.02 was repealed by s. 3, ch. 72-133];

3. A person in or about a place of nuisance as defined in s. 823.05, unless such person is there for law enforcement or some other lawful purpose.

(3) **Lawful Uses.** The provisions of ss. 790.053 and 790.06 do not apply in the following instances, and, despite such sections, it is lawful for the following persons to own, possess, and lawfully use firearms and other weapons, ammunition, and supplies for lawful purposes:

(a) Members of the Militia, National Guard, Florida State Defense Force, Army, Navy, Air Force, Marine Corps, Coast Guard, organized reserves, and other armed forces of the state and of the United States, when on duty, when training or preparing themselves for military duty, or while subject to recall or mobilization;

(b) Citizens of this state subject to duty in the Armed Forces under s. 2, Art. X of the State Constitution, under chapters 250 and 251, and under federal laws, when on duty or when training or preparing themselves for military duty;

(c) Persons carrying out or training for emergency management duties under chapter 252;

(d) Sheriffs, marshals, prison or jail wardens, police officers, Florida highway patrol officers, game wardens, revenue officers, forest officials, special officers appointed under the provisions of chapter 354, and other peace and law enforcement officers and their deputies and assistants and full-time paid peace officers of other states and of the Federal Government who are carrying out official duties while in this state;

(e) Officers or employees of the state or United States duly authorized to carry a concealed weapon;

(f) Guards or messengers of common carriers, express companies, armored car carriers, mail carriers, banks, and other financial institutions, while actually employed in and about the shipment, transportation, or delivery of any money, treasure, bullion, bonds, or other thing of value within this state;

(g) Regularly enrolled members of any organization duly authorized to purchase or receive weapons from the United States or from this state, or regularly enrolled members of clubs organized for target, skeet, or trap shooting, while at or going to or from shooting practice; or regularly enrolled members of clubs organized for modern or antique firearms collecting, while such members are at or going to or from their collectors' gun shows, conventions, or exhibits;

(h) A person engaged in fishing, camping, or lawful hunting or going to or returning from a fishing, camping, or lawful hunting expedition;

(i) A person engaged in the business of manufacturing, repairing, or dealing in firearms, or the agent or representative of any such person while engaged in the lawful course of such business;

(j) A person firing weapons for testing or target practice under safe conditions and in a safe place not prohibited by law or going to or from such place;

(k) A person firing weapons in a safe and secure indoor range for testing and target practice;

(l) A person traveling by private conveyance when the weapon is securely encased or in a public conveyance when the weapon is securely encased and not in the person's manual possession;

(m) A person while carrying a pistol unloaded and in a secure wrapper, concealed or otherwise, from the place of purchase to his or her home or place of business or to a place of repair or back to his or her home or place of business;

(n) A person possessing arms at his or her home or place of business;

(o) Investigators employed by the several public defenders of the state, while actually carrying out official duties, provided such investigators:

1. Are employed full time;

2. Meet the official training standards for firearms established by the Criminal Justice Standards and Training Commission as provided in s. 943.12(5) and the requirements of ss. 493.6108(1)(a) and 943.13(1)-(4); and

3. Are individually designated by an affidavit of consent signed by the employing public defender and filed with the clerk of the circuit court in the county in which the employing public defender resides.

(p) Investigators employed by the capital collateral regional counsel, while actually carrying out official duties, provided such investigators:

1. Are employed full time;

2. Meet the official training standards for firearms as established by the Criminal Justice Standards and Training Commission as provided in s. 943.12(1) and the requirements of ss. 493.6108(1)(a) and 943.13(1)-(4); and

3. Are individually designated by an affidavit of consent signed by the capital collateral regional counsel and filed with the clerk of the circuit court in the county in which the investigator is headquartered....

(5) **Possession in private conveyance** Notwithstanding subsection (2), it is lawful and is not a violation of s. 790.01 for a person 18 years of age or older to possess a concealed firearm or other weapon for self-defense or other lawful purpose within the interior of a private conveyance, without a license, if the firearm or other weapon is securely encased or is otherwise not readily accessible for immediate use. Nothing herein contained prohibits the carrying of a legal firearm other than a handgun anywhere in a private conveyance when such firearm is being carried for a lawful use. Nothing herein contained shall be construed to authorize the carrying of a concealed firearm or other weapon on the person. This subsection shall be liberally construed in favor of the lawful use, ownership, and possession of firearms and other weapons, including lawful self-defense as provided in s. 776.012.

790.27. Alteration or removal of firearm serial number or possession, sale, or delivery of firearm with serial number altered or removed prohibited; penalties

(1)(a) It is unlawful for any person to knowingly alter or remove the manufacturer's or im-

porter's serial number from a firearm with intent to disguise the true identity thereof.

(b) Any person violating paragraph (a) is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2)(a) It is unlawful for any person to knowingly sell, deliver, or possess any firearm on which the manufacturer's or importer's serial number has been unlawfully altered or removed.

(b) Any person violating paragraph (a) is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3) This section shall not apply to antique firearms.

790.28. Purchase of rifles and shotguns in contiguous states A resident of this state may purchase a rifle or shotgun in any state contiguous to this state if he or she conforms to applicable laws and regulations of the United States, of the state where the purchase is made, and of this state.

790.31. Armor-piercing or exploding ammunition or dragon's breath shotgun shells, bolo shells, or flechette shells prohibited

(1) As used in this section, the term:

(a) "Armor-piercing bullet" means any bullet which has a steel inner core or core of equivalent hardness and a truncated cone and which is designed for use in a handgun and an armor-piercing or metal-piercing bullet.

(b) "Exploding bullet" means any bullet that can be fired from any firearm, if such bullet is designed or altered so as to detonate or forcibly break up through the use of an explosive or deflagrant contained wholly or partially within or attached to such bullet. The term does not include any bullet designed to expand or break up through the mechanical forces of impact alone or any signaling device or pest control device not designed to impact on any target.

(c) "Handgun" means a firearm capable of being carried and used by one hand, such as a pistol or revolver.

(d) "Dragon's breath shotgun shell" means any shotgun shell that contains exothermic pyrophoric misch metal as the projectile and that is designed for the sole purpose of throwing or spewing a flame or fireball to simulate a flamethrower.

(e) "Bolo shell" means any shell that can be fired in a firearm and that expels as projectiles two or more metal balls connected by solid metal wire.

(f) "Flechette shell" means any shell that can be fired in a firearm and that expels two or more pieces of fin-stabilized solid metal wire or two or more solid dart-type projectiles....

(2)(b) Any person who possesses an armor-piercing bullet or exploding bullet with knowledge of its armor-piercing or exploding capabilities loaded in a handgun, or who possesses a dragon's breath shotgun shell, bolo shell, or flechette shell with knowledge of its capabilities loaded in a firearm, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084....

(3) This section does not apply to:

(a) The possession of any item described in subsection (1) by any law enforcement officer, when possessed in connection with the performance of his or her duty as a law enforcement officer, or law enforcement agency.

(b) The manufacture of items described in subsection (1) exclusively for sale or delivery to law enforcement agencies.

(c) The sale or delivery of items described in subsection (1) to law enforcement agencies.

790.33. Field of regulation of firearms and ammunition preempted

(1) **PREEMPTION.** --Except as expressly provided by general law, the Legislature hereby declares that it is occupying the whole field of regulation of firearms and ammunition, including the purchase, sale, transfer, taxation, manufacture, ownership, possession, and transportation thereof, to the exclusion of all existing and future county, city, town, or municipal ordinances or regulations relating thereto. Any such existing ordinances are hereby declared null and void. This subsection shall not affect zoning ordinances which encompass firearms businesses along with other businesses. Zoning ordinances which are designed for the purpose of restricting or prohibiting the sale, purchase, transfer, or manufacture of firearms or ammunition as a method of regulating firearms or ammunition are in conflict with this subsection and are prohibited.

(2) LIMITED EXCEPTION; COUNTY WAITING-PERIOD ORDINANCES.

(a) Any county may have the option to adopt a waiting-period ordinance requiring a waiting period of up to, but not to exceed, 3 working days between the purchase and delivery of a handgun. For purposes of this subsection, "purchase" means payment of deposit, payment in full, or notification of intent to purchase. Adoption of a waiting-period ordinance, by any county, shall require a majority vote of the county commission on votes on waiting-period ordinances. This exception is limited solely to individual counties and is limited to the provisions and restrictions contained in this subsection.

(b) Ordinances authorized by this subsection shall apply to all sales of handguns to individuals by a retail establishment except those sales to individuals exempted in this subsection. For purposes of this subsection, "retail establishment" means a gun shop, sporting goods store, pawn shop, hardware store, department store, discount store, bait or tackle shop, or any other store or shop that offers handguns for walk-in retail sale but does not include gun collectors shows or exhibits, or gun shows.

(c) Ordinances authorized by this subsection shall not require any reporting or notification to any source outside the retail establishment, but records of handgun sales must be available for inspection, during normal business hours, by any law enforcement agency as defined in s. 934.02.

(d) The following shall be exempt from any waiting period:

1. Individuals who are licensed to carry concealed firearms under the provisions of s. 790.06 or who are licensed to carry concealed firearms under any other provision of state law and who show a valid license;

2. Individuals who already lawfully own another firearm and who show a sales receipt for another firearm; who are known to own another firearm through a prior purchase from the retail establishment; or who have another firearm for trade-in;

3. A law enforcement or correctional officer as defined in s. 943.10;

4. A law enforcement agency as defined in s. 934.02;

5. Sales or transactions between dealers or between distributors or between dealers and distributors who have current federal firearms licenses; or

6. Any individual who has been threatened or whose family has been threatened with death or bodily injury, provided the individual may lawfully possess a firearm and provided such threat has been duly reported to local law enforcement.

(3) POLICY AND INTENT.

(a) It is the intent of this section to provide uniform firearms laws in the state; to declare all ordinances and regulations null and void which have been enacted by any jurisdictions other than state and federal, which regulate firearms, ammunition, or components thereof; to prohibit the enactment of any future ordinances or regulations relating to firearms, ammunition, or components thereof unless specifically authorized by this section or general law; and to require local jurisdictions to enforce state firearms laws.

(b) As created by chapter 87-23, Laws of Florida, this section shall be known and may be cited as the "Joe Carlucci Uniform Firearms Act."

790.335. Prohibition of registration of firearms; electronic records

(1) Legislative Findings and Intent. ...

(2) **Prohibitions.** No state governmental agency or local government, special district, or other political subdivision or official, agent, or employee of such state or other governmental entity or any other person, public or private, shall knowingly and willfully keep or cause to be kept any list, record, or registry of privately owned firearms or any list, record, or registry of the owners of those firearms.

(3) **Exceptions.** The provisions of this section shall not apply to:

(a) Records of firearms that have been used in committing any crime.

(b) Records relating to any person who has been convicted of a crime.

(c) Records of firearms that have been reported stolen that are retained for a period not in excess of 10 days after such firearms are recovered. Official documentation recording the theft of a recovered weapon may be maintained no longer than the balance of the year entered, plus 2 years.

(d) Firearm records that must be retained by firearm dealers under federal law, including copies of such records transmitted to law enforcement agencies. However, no state governmental agency or local government, special district, or other political subdivision or official, agent, or employee of such state or other governmental entity or any other person, private or public, shall accumulate, compile, computerize, or otherwise collect or convert such written records into any form of list, registry, or database for any purpose.

(e)1. Records kept pursuant to the record-keeping provisions of s. 790.065; however, nothing in this section shall be construed to authorize the public release or inspection of records that are made confidential and exempt from the provisions of s. 119.07(1) by s. 790.065(4)(a).

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

(f) Firearm records, including paper pawn transaction forms and contracts on firearm transactions, required by chapters 538 and 539.

(1) Electronic firearm records held pursuant to chapter 538 may only be kept by a secondhand dealer for 30 days after the date of the purchase of the firearm by the secondhand dealer.

(2) Electronic firearm records held pursuant to chapter 539 may only be kept by a pawnbroker for 30 days after the expiration of the loan that is secured by a firearm or 30 days after the date of purchase of a firearm, whichever is applicable.

(3) Except as required by federal law, any firearm records kept pursuant to chapter 538 or chapter 539 shall not, at any time, be electronically transferred to any public or private entity, agency, business, or enterprise, nor shall any such records be copied or transferred for purposes of accumulation of such records into lists, registries, or databases.

(4) Notwithstanding subparagraph 3., secondhand dealers and pawnbrokers may electronically submit firearm transaction records to the appropriate law enforcement agencies as required by chapters 538 and 539; however, the law enforcement agencies may not electronically submit such records to any other person or entity and must destroy such records within 60 days after receipt of such records.

(5) Notwithstanding subparagraph 3., secondhand dealers and pawnbrokers may electronically submit limited firearms records consisting solely of the manufacturer, model, serial number, and caliber of pawned or purchased firearms to a third-party private provider that is exclusively incorporated, exclusively owned, and exclusively operated in the United States and that restricts access to such information to only appropriate law enforcement agencies for legitimate law enforcement purposes. Such records must be destroyed within 30 days by the third-party provider. As a condition of receipt of such records, the third-party provider must agree in writing to comply with the requirements of this section. Any pawnbroker or secondhand dealer who contracts with a third-party provider other than as provided in this act or electronically transmits any records of firearms transactions to any third-party provider other than the records specifically allowed by this paragraph commits a felony of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(g) Records kept by the Department of Law Enforcement of NCIC transactions to the extent required by federal law and a log of dates of requests for criminal history record checks, unique approval and nonapproval numbers, license identification numbers, and transaction numbers corresponding to such dates.

(h) Records of an insurer that, as a condition to providing insurance against theft or loss of a firearm, identify such firearm. Such records may not be sold, commingled with records relating to other firearms, or transferred to any other person or entity. The insurer may not keep a record of such firearm more than 60 days after the policy of insurance expires or after notification by the insured that the insured is no longer the owner of such firearm.

(i) Lists of customers of a firearm dealer retained by such dealer, provided that such lists do not disclose the particular firearms purchased. Such lists, or any parts thereof, may not be sold, commingled with records relating to other firearms, or transferred to any other person or entity.

(j) Sales receipts retained by the seller of firearms or by a person providing credit for such purchase, provided that such receipts shall not serve as or be used for the creation of a database for registration of firearms.

(k) Personal records of firearms maintained by the owner of such firearms.

(l) Records maintained by a business that stores or acts as the selling agent of firearms on behalf of the lawful owner of the firearms.

(m) Membership lists of organizations comprised of firearm owners.

(n) Records maintained by an employer or contracting entity of the firearms owned by its officers, employees, or agents, if such firearms are used in the course of business performed on behalf of the employer.

(o) Records maintained pursuant to s. 790.06 by the Department of Agriculture and Consumer Services of a person who was a licensee within the prior 2 years.

(p) Records of firearms involved in criminal investigations, criminal prosecutions, criminal appeals, and postconviction motions, civil proceedings relating to the surrender or seizure of firearms including protective injunctions, Baker Act commitments, and sheriff's levies pursuant to court judgments, and voluntary surrender by the owner or custodian of the firearm.

(q) Paper documents relating to firearms involved in criminal cases, criminal investigations, and criminal prosecutions, civil proceedings relating to the surrender or seizure of firearms including protective injunctions, Baker Act commitments, and sheriff's levies pursuant to court judgments, and voluntary surrender by the owner or custodian of the firearm.

(r) Noncriminal records relating to the receipt, storage or return of firearms, including, but not limited to, records relating to firearms impounded for storage or safekeeping, receipts proving that a firearm was returned to the rightful owner and supporting records of identification and proof of ownership, or records relating to firearms impounded pursuant to levies or court orders, provided, however, that such records shall not be compiled, sorted, or otherwise arranged into any lists, indexes, or registries of firearms or firearm owners.

(4) Penalties.

(a) Any person who, or entity that, violates a provision of this section commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

(b) Except as required by the provisions of s. 16, Art. I of the State Constitution or the Sixth Amendment to the United States Constitution, no public funds shall be used to defend the unlawful conduct of any person charged with a violation of this section, unless the charges against such person are dismissed or such person is determined to be not guilty at trial. Notwithstanding this paragraph, public funds may be expended to provide the services of the office of public defender or court-appointed conflict counsel as provided by law.

(c) The governmental entity, or the designee of such governmental entity, in whose service or employ a list, record, or registry was compiled in violation of this section may be assessed a fine of not more than \$5 million, if the court determines that the evidence shows that the list, record, or registry was compiled or maintained with the knowledge or complicity of the management of the governmental entity. The Attorney General may bring a civil cause of action to enforce the fines assessed under this paragraph.

(d) The state attorney in the appropriate jurisdiction shall investigate complaints of criminal violations of this section and, where evidence indicates a violation may have occurred, shall prosecute violators.

(5) **Electronic Records.** Secondhand dealers and pawnbrokers who electronically submit firearms transaction records to the appropriate

law enforcement agencies as required by Chapters 538 and 539 shall submit the name of the manufacturer and caliber information of each firearm in Florida Crime Information Center coding, and shall include the model and serial number of each firearm.

(6) **Construction.** This section shall be construed to effectuate its remedial and deterrent purposes. This section may not be construed to grant any substantive, procedural privacy right or civil claim to any criminal defendant, and a violation of this section may not be grounds for the suppression of evidence in any criminal case.

[Current through Chapter 271 (End) of the Special 'B' Sessions of the Twenty-First Legislature]

Code of Broward County

Chapter 18. Law Enforcement

Article VI. Firearms, Five-Day Waiting Period

18-96. Waiting period; prohibition. There shall be a mandatory five-day waiting period, which shall be five days, excluding weekends and legal holidays, in connection with the sale of firearms occurring within Broward County when the sale is a transfer of money or other valuable consideration, and any part of the sale transaction is conducted on property to which the public has the right of access. Some examples of properties to which the public has a right of access are: gun shows, firearm exhibits, wholesale and retail stores, and flea markets. No person shall transfer or receive a firearm to or from another person for five days from the hour of such sale, excluding weekends and legal holidays, when the sale is a transfer of money or other valuable consideration, and any part of the sale transaction is conducted on property to which the public has the right of access. An uninterrupted, continuous, and cumulative aggregate of 120 hours must elapse between such sale and receipt of the firearm, excluding the hours of weekends and legal holidays. A person who violates the prohibition of this Section is guilty of a violation of a county ordinance, punishable as provided in § 125.69, F.S. and the violation shall be prosecuted in the same manner as misdemeanors are prosecuted.

18-97. Criminal history records check; requirement; prohibition.

(a) **Legislative intent.** It is the intent of the Board of County Commissioners, in the exercise of its constitutionally-granted authority, to ensure that no firearm is sold, offered for sale, or transferred where any part of the transaction is conducted on property to which the public has a right of access unless a national criminal history background check is conducted. As of the dates of the enactment and effectiveness of this Ordinance, Florida statutory law only allows such checks to be performed for and by licensed dealers, licensed importers, and licensed manufacturers. Therefore, a buyer or seller who is not otherwise a licensed dealer, licensed importer, or licensed manufacturer must use a licensed dealer, licensed importer, or licensed manufacturer as an intermediary to ensure such checks are conducted.

(b) **Requirement; prohibition.** There shall be a mandatory national criminal history records check done in connection with the sale of firearms occurring within Broward County. No per-

son shall transfer or receive a firearm when any part of the sale transaction is conducted on property to which the public has the right of access until all procedures and requirements of § 790.065, F.S. have been complied with by a person statutorily authorized to conduct background information checks, and an approval number has been obtained and documented, as provided by § 790.065, F.S. In case of repeal or amendment of § 790.065, F.S., no person shall transfer or receive a firearm by sale when any part of the sale transaction is conducted on property to which the public has the right of access until all procedures, requirements, and prohibitions set forth in other federal or state laws relating to background checks have been complied with by persons selling or buying firearms. A person who violates the prohibition of this Section is guilty of a violation of a county ordinance, punishable as provided in § 125.69, F.S. and the violation shall be prosecuted in the same manner as misdemeanors are prosecuted.

18-98. Non-applicability to holders of Florida concealed weapon permits. Pursuant to the Florida Constitution, when purchasing a firearm, holders of a Florida concealed weapon permit or license, as prescribed by general law, shall not be subject to the prohibitions and penalties of this article.

18-99. Penalty. Violation of a prohibition of this article shall be punishable by a fine not to exceed \$500.00 or by imprisonment in the county jail not to exceed 60 days or by both such fine and imprisonment. Each violation of a prohibition of this article relating to a specific firearm shall constitute a separate and individual violation. Nothing contained herein shall be construed to preempt the imposition of higher penalties imposed by state or federal law.

[Broward County Code current through Ordinance No. 2009-67, enacted Oct. 18, 2009]

Code of Martin County

Chapter 75. Firearms

75.1. Short title. This chapter shall be known and may be cited as the "Martin County Cooling-Off Period Ordinance."

75.2. Definitions. As used in this chapter, unless the context otherwise indicates:

Purchase means the payment of a deposit, payment in full, or notification of intent to purchase.

Retail establishment means gun shop, sporting goods store, pawnshop, hardware store, department store, discount store, bait or tackle shop, or any other store that offers handguns for walk-in retail sale, but does not include gun collector shows or exhibits, or gun shows.

Working day means any day, excluding Saturday, Sunday and legal holidays as defined in F.S. ch. 683.

75.3. Cooling-off period between purchase and delivery of handguns. A waiting period of three working days, measured from the time of purchase of a handgun, must expire before delivery of the handgun is made to an individual by a retail establishment selling said handgun. This section shall apply to all sales of handguns to individuals by a retail establishment except as specifically exempted herein.

75.4. Exemptions. The provisions of this section [chapter] shall not apply to:

A. Individuals who are licensed to carry concealed firearms under the provisions of F.S. § 790.06, who are licensed to carry concealed firearms under any other provision of State law and who show a valid license.

B. Individuals who already lawfully own another firearm and who show a sales receipt for another firearm, who are known to own another firearm through a prior purchase from the retail establishment, or who have another firearm for trade-in.

C. Any law enforcement or correctional officer as defined in F.S. § 943.10.

D. Any law enforcement agency as defined in F.S. § 934.02.

E. Sales or transactions between dealers or between distributors or between dealers and distributors who have current federal firearms licenses.

F. Any individual who has been threatened or whose family has been threatened with death or bodily injury, provided the individual may lawfully possess a firearm and provided such threat has been duly reported to local law enforcement.

75.5. Inspection of records. Records of handgun sales by retail establishments shall be available for inspection, during normal business hours, by any law enforcement agency as defined in F.S. § 934.02.

[Code of Martin County current through Ordinance No. 829, enacted Sep. 15, 2009]

Code of Miami- Dade County

Chapter 21. Offenses and Miscellaneous Provisions

Article III. Weapons

Division 1. In General

21-16. Sale, loan, etc., weapons to intoxicated persons, etc. It shall be unlawful for any person to sell, loan or furnish any firearm as defined in Section 21-20.1(a) to any person whom he knows or has reasonable cause to believe is under the influence of alcohol or any narcotic, drug, stimulant, or depressant, or who is of unsound mind, or who is a member of any subversive organization. In addition to all other penalties, such unlawful sale, loan or furnishing shall be grounds for revocation of any license issued by the County to such person.

21-17. Possession of weapons by felons, intoxicated persons, etc. It shall be unlawful for any person who has been convicted of a felony, or who is under the influence of alcohol or a narcotic or drug to wear or have about his person or in any vehicle in which he is an occupant any firearm or other dangerous or deadly weapon.

21-19.1. Sale of Saturday night specials in Miami-Dade County prohibited. It shall be unlawful for any person to sell or otherwise transfer any Saturday night special as defined in Section 21-20.1(b) or offer or expose for sale or transfer any such Saturday night special.

(a) Notwithstanding the foregoing provisions of this section, the sale of Saturday night specials to law enforcement agencies or for authorized military use shall not be subject to the limitations herein set forth.

(b) This section shall not apply to wholesale dealers in their business intercourse with retail dealers nor to retail dealers in their business intercourse with other retail dealers nor to whole-

sale or retail dealers in the regular or ordinary transportation of unloaded firearms, merchandise by mail, express or other mode of shipment, to points outside the County, nor to sales or transfer of firearms that do not use a self-containing cartridge.

21-20. Registration of sales and transfers required; penalty.

(a) **Register.** Every person engaged in the business of selling, leasing, or otherwise transferring firearms as defined in Section 21-20.1(a), of the size capable of being concealed on the person, whether such seller, lessor or transferor is a retail dealer, a pawnbroker, or otherwise, shall keep a register in which shall be entered the date and time of sale, lease or transfer; the name of the salesman making the sale, lease or transfer; the place where sold, leased or transferred; the make, model, manufacturer's number, caliber or other marks of identification of such firearm; the purchaser's name, address, color, sex, age, weight, height, complexion, color of hair, birthplace, place of residence, length of residence, occupation, employer, the purpose for which the gun is desired, the date and time of delivery.

(b) **Purchaser and seller to sign.** The person to whom such firearm is sold, leased or otherwise transferred shall sign and the dealer shall require him to sign his name and affix his address to the register in duplicate and the salesman shall affix his signature in duplicate as a witness to the signature of the person to whom such firearm is sold, leased or transferred.

(c) **Waiting period required for handgun.** The person to whom such handgun is sold, leased or otherwise transferred shall wait, and the dealer shall require him to wait, a period of seventy-two (72) hours prior to such person acquiring possession of such handgun.

(d) **Fictitious name prohibited.** Any person signing a fictitious name or address in such register is guilty of a violation of this section.

(e) **Exceptions.** This section shall not apply to wholesale dealers in their business intercourse with retail dealers nor to retail dealers in their business intercourse with other retail dealers, nor to wholesale or retail dealers in the regular or ordinary transportation of unloaded firearms, merchandise by mail, express or other mode of shipment, to points outside the County, nor to sales or transfer of firearms that do not use a self-containing cartridge.

(f) **Penalty.** Every person who is convicted for a violation of Section 21-20(c) shall be punished upon a first conviction by imprisonment for not less than six (6) months or by a fine of not less than one thousand dollars (\$1,000.00) or by both such fine and imprisonment, in the discretion of the court and on a second and subsequent conviction shall be punished by imprisonment for not less than one (1) year or by a fine of not less than one thousand dollars (\$1,000.00) or by both such fine and imprisonment, in the discretion of the court.

Division 2. License to Sell Firearms

21-20.1. Definitions.

(a) The word "firearm" as used in this division shall be construed to mean any firearm, weapon, revolver, pistol, autoloading pistol, modified rifle or shotgun, or any similar mechanism by whatever name known, which is designed to expel a projectile through a gun barrel by the action of any explosive, having the size, length or dimensions which make it capable of being concealed upon the person, and originally designed

or altered to be used by one (1) hand and having a barrel length of less than sixteen (16) inches, and an overall length of less than twenty-six and one-half (26 1/2) inches, but the word firearm shall not be construed to mean guns that do not use self-contained cartridges.

(b) The term "Saturday Night Special" shall mean any firearm which is 32 caliber or smaller, whose barrel is less than three (3) inches, except those whose frame is an investment cast or forged steel, or investment cast or forged high tensile alloy.

(c) The word "sale" includes transfer, assignment, pledge, lease, loan, barter, or gift.

21-20.2. License - Required to sell.

(a) It shall be unlawful for any person who, without being licensed as provided in this act [division], to engage in the business of selling or otherwise transferring any handgun or to advertise for sale, or offer or expose for sale or transfer any handgun defined in Section 21-20.1(a) or to engage in the business of repairing handguns. This section applies to persons in the firearms business or in the business of gunsmithing, and does not apply to:

(1) Sales or trades by an unlicensed person to a person licensed hereunder, nor to

(2) Isolated sales, transfers or trades between unlicensed persons who are not engaged in the firearms business or in the business of gunsmithing.

(b) The provisions of this section shall not apply to gun shows, conferences or conventions which are staged under the auspices of a duly recognized nonprofit state or national organization.

21-20.3. Same - Granted by Clerk of Commission. The Clerk of the Board of County Commissioners may grant licenses in the form prescribed by the County Commission permitting the licensee to sell said handguns within the County on the premises named therein.

21-20.4. Application for license; content. Applicants for licenses to sell must file their applications in duplicate copies in the form prescribed by the County Commission, with the Clerk of the County Commission. All applications must be signed and verified by all persons in whose names the license may be issued. The application shall state the full name, age, residence, present and previous occupations of each person so signing the same, and shall also specify the complete name, address and location of the place of business, as well as other facts as may be required to show the good character, competency and integrity of each person so signing.

21-20.4.1. Demonstration of knowledge of County, State and federal laws applicable to sale of firearms required. As part of the application procedure for a license to sell firearms, the Miami-Dade County Commission shall set up two (2) different type licenses. The first license shall be described as the dealer license, which shall be issued to the owner, corporation or partner, or general manager; and the employee license, which shall be issued to any employee who is engaged primarily in retail sale of firearms. The County Commission shall appoint a four-member committee consisting of a member from each of the following: Miami-Dade Police Department, Trail Glade Range or park employee, County Attorney's Office, and a fourth member from the local Miami-Dade County gun dealers. It shall be the duty of this committee to prepare a guide manual from which questions on a short written examination will be taken so that the applicant, whether he

be a dealer or employee, shall have to show his knowledge of federal, State and Miami-Dade County laws by a testing procedure which shall be multiple choice or true and false, drawn up by this committee, based on the guide book. If the applicant shall have difficulty with the written or spoken English language, which seriously impairs his ability to demonstrate his knowledge of such laws, special provisions shall be made through an interpreter or otherwise, for the administration of the required written examination to such person. In the event of failure, the applicant may retake the test seven (7) days from date of examination, however, no persons shall be allowed to take this test more than three (3) times in a twelve-month period.

21-20.5. Investigation of application; fingerprinting.

(a) The County Commission may require, upon initial application, for applicants for licenses to be fingerprinted, and may require them to attach to their initial applications their photographs. The Director of the Miami-Dade Police Department shall make a records check of each applicant. The Director of the Miami-Dade Police Department shall make a complete investigation only when so directed by the County Commission.

(b) Such fingerprinting shall be searched for any previous criminal record and shall be placed on file by the Director of the Miami-Dade Police Department of the County. No such fingerprinting may be inspected by any person, other than a peace officer, except upon order of a judge of a court of record on such notice, if any, to the person who has been fingerprinted as the judge may determine.

21-20.6. Issuance of license.

(a) Upon completion of the following:

(1) An investigation showing the statements on the application to be true; and

(2) The taking and passing of the required written examination on gun control laws and applicable [applicability] to the sale of firearms in Miami-Dade County;

The Director of the Miami-Dade Police Department shall inquire into the good character, competency and integrity of the applicant. In making his determination on the character of the applicant, the Director shall be governed by the following provisions:

(i) He shall not consider a past arrest of the applicant which did not result in a conviction; provided, however, allegations which are the basis for any pending criminal charges may be considered if the charges are pending when the application is considered.

(ii) In the case of subsequent applications of the same applicant, the Director shall only consider acts or omissions on the part of the applicant which have occurred subsequent to the date of the issuance of prior permits to the applicant.

If the Director receives testimony regarding the applicant, witnesses shall be sworn and the rules of evidence applicable to quasi-judicial proceedings shall govern. If the Director is satisfied as to the applicant's good character, competency and integrity, a license to sell shall be issued to the applicant within sixty (60) days of application, and the committee should also assign a permanent license number to each applicant. If the Director is not satisfied as to the applicant's good character, competency and integrity, the application shall be denied. Any applicant or other person dissatisfied with the decision of the Director may, within ten (10) days from the date of action by the Director,

apply to the County Commission to review the action of the Director. In such event, witnesses shall be sworn and the rules of evidence applicable to quasi-judicial proceedings shall govern. The determination of the Board shall be final unless overturned by a court of competent jurisdiction.

(b) No license may be issued to any person who has been convicted of a felony in this state or elsewhere or who is under eighteen (18) years of age.

(c) No license may be issued solely in the name of a corporation, firm, partnership, company or other fictitious entity, but the corporate name may be listed on the license.

(d) Annual renewal for either dealer or employee shall be a duplicate simple form listing only name, address, company name and address, Miami-Dade County license number, and notarized signature.

21-20.7. File of applications and licenses.

After disposition of the application, the original shall be maintained in the files of the County Commission. The duplicate copy shall be filed with the Director of the Miami-Dade Police Department. Attached thereto shall be information as to the final disposition of the application.

21-20.8. Conditions; revocation.

(A) A license issued in accordance with the provisions of this division is subject to the following conditions, for breach of any of which the license is subject to revocation:

(1) The business shall be carried on only in the premises designated in the license.

(2) The license or a copy certified by the issuing authority shall be displayed in a conspicuous place on the premises in which the business is conducted where it can be easily read.

(3) No handgun, or imitation thereof, shall be placed in any display window of the premises.

(4) No handgun shall be delivered:

(a) Until seventy-two (72) hours after the sale has been completed, unless the purchaser is the possessor of a valid license to carry firearms issued within the State, which license to carry shall be displayed at time of sale, except where an operable firearm is traded for another operable firearm as defined in Section 21-20.8 of this chapter.

(b) Unless the purchaser is either personally known to the licensee, or presents conclusive evidence of his identity, proper identification as required by Omnibus Crime Bill of 1968, said evidence to be noted on the sales record.

(c) Unless the delivery is made to the identical individual who has purchased the firearm, by proof of dealer receipt.

(d) The provisions of this section shall not apply to duly employed federal, State, County or municipal law enforcement officers.

(5) A true record of every sale of firearms as, defined in this division shall be kept by the licensee in accordance with the provisions of Section 21-20, Article III of the Miami-Dade County Code, on a form prescribed by the Director of the Miami-Dade Police Department, and a copy of the record of each sale shall be mailed to the Director of the Miami-Dade Police Department within seventy-two (72) hours of the delivery of the firearm.

All firearms with overall length of twenty-six and one-half (26 1/2) inches shall be excluded from this requirement.

(B) The following shall also constitute grounds for revocation of the license:

(1) Conviction of the licensee of any felony.

(2) Any grounds for which the license could have been refused when applied for.

(3) Conviction for violation of Section 20-20.17 of this Code.

21-20.9. Inspection of sales record book. A sales record book, as required by the Federal Firearms Act, shall be open at all reasonable hours for the inspection of any police or peace officer.

21-20.10. Licenses nontransferable; expiration date; renewals.

(a) Licenses are not transferable. It shall be unlawful for any licensee to assign, sell, lease or in any manner transfer or attempt to sell, lease or in any manner to attempt to transfer said license to sell or any rights or duties thereunder, to any person, persons, firm, partnership, corporation, company or other fictitious entity.

(b) If, during the period of the existence of the license, a person so licensed ceases to engage in the said business or ceases to sell firearms, said license may be surrendered to the County Commission who may order the removal of said person's name from the license and thereby relieve said person from future responsibility under the license as of the date of the removal of the same. All copies of said license shall be corrected.

(c) Any licensed employee may work at any other licensed dealer premises in Miami-Dade County without notice of transfer to the County Commission.

(d) All licenses issued under this division shall expire one (1) year after issuance. Every application for a license to sell, including subsequent successive renewals, may be investigated as provided for in Section 21-20.5 of this division. County must, via certified mail, give thirty (30) days written notice of expiration and send simplified renewal forms.

(e) Licenses may be revoked for cause by the County Commission at any time. The licensee or licensees shall be entitled to an immediate hearing upon the merits to obtain reinstatement of said license.

21-20.11. Review of orders denying license, revocation. The Circuit Court shall review orders denying a license to sell and others denying reinstatement of a revoked license.

21-20.12. Fees, charges. The initial fee for a license, whether it be dealer or employee, to sell firearms shall be determined by the Manager and shall be established by administrative order of the Manager and approved by the Board of County Commissioners, which sum must accompany the application; provided, however, that the said sum is returnable if the application is subsequently denied. Renewal application shall have a license fee determined by the Manager, as provided for in this section whether it be dealer or employee. Fees collected for licenses issued as provided in this division may be paid into the County Treasury.

21-20.13. Sale of firearm with serial number defaced prohibited. It shall be unlawful to sell any firearm whose serial number has been altered, changed, disfigured or defaced.

21-20.14. Sale or delivery of firearms to certain classes of persons. It shall be unlawful to sell or deliver any firearm to any person who the seller has reasonable grounds to believe is under the influence of intoxicating liquor, narcotic drugs or barbiturates, or hallucinogens, or is addicted to the use of any narcotic drug or barbiturate, or hallucinogens, or is a habitual alcoholic, or is of unsound mind; or has been con-

victed of a felony; or is a fugitive from justice; or is a member of a subversive organization.

21-20.14.1. Three working days waiting period.

(a) Definitions.

Purchase means payment of deposit, payment in full, or notification of intent to purchase.

Retail establishment means gun shop, sporting goods store, pawn shop, hardware store, department store, discount store, bait or tackle shop, or any other store or shop that offers handguns for walk-in retail sale but does not include gun collectors shows or exhibits, or gun shows.

(b) Applicability. This section shall apply to all sales of handguns to individuals by retail establishments unless exempted in subsection (d) hereof.

(c) Prohibition. It shall be unlawful and a violation of this section for any retail establishment to deliver a handgun to a purchaser within three (3) working days after the purchase of the handgun. It shall be unlawful and a violation of this section for any individual to take possession of a handgun within three (3) working days after the purchase of the handgun. Records of handgun sales by retail establishments shall be available for inspection during normal business hours by any law enforcement agency as defined in Section 934.02, Florida Statutes.

(d) Exceptions. The following shall be exempted from the provisions of this section.

(1) Individuals who are licensed to carry concealed firearms under the provisions of Section 790.06, Florida Statutes, or who are licensed to carry concealed firearms under any other provisions of State law and who show a valid license;

(2) Individuals who already lawfully own another firearm and who show a sales receipt for another firearm; who are known to own another firearm through a prior purchase from the retail establishment; or who have another firearm for trade-in;

(3) A law enforcement or correctional officer as defined in Section 943.10, Florida Statutes;

(4) A law enforcement agency as defined in Section 943.02, Florida Statutes;

(5) Sales or transactions between dealers or between distributors or between dealers and distributors who have current federal firearms licenses; or

(6) Any individual who has been threatened or whose family has been threatened with death or bodily injury, provided the individual may lawfully possess a firearm and provided such threat has been duly reported to Miami-Dade Police Department or any municipal police department within Miami-Dade County, Florida.

(e) Penalties. Every person who is convicted for a violation of this section shall be punished upon a first conviction by imprisonment for not less than six (6) months or by a fine of not less than one thousand dollars (\$1,000.00) or by both such fine and imprisonment, in the discretion of the court and on a second and subsequent conviction shall be punished by imprisonment for not less than one (1) year or by a fine of not less than one thousand dollars (\$1,000.00) or by both such fine and imprisonment, in the discretion of the court.

21-20.15. Penalty. Every person who is convicted of a violation of this division shall be punished by a fine not to exceed five hundred dollars (\$500.00) or imprisonment in the County Jail for not more than thirty (30) days, or by both such fine and imprisonment; for a second conviction of a violation of this division such person shall be punished by a fine not to exceed one

thousand dollars (\$1,000.00) or imprisonment in the County Jail not more than twelve (12) months, or by both such fine and imprisonment.

21-20.16. Handgun purchaser's instruction and qualification procedure.

(a) Instruction and qualification procedure required. It shall be unlawful for any person to acquire a handgun in Miami-Dade County from a licensed dealer, unless such person has received safety instruction and otherwise qualified, pursuant to this section, or unless he is specifically exempted from the operation of this section.

(b) In order to qualify under this section the purchaser must demonstrate his knowledge of federal, State and Miami-Dade County laws by passing a short written examination consisting of questions prescribed herein by the County Commission. The purchaser must also demonstrate his ability to safely handle the handgun to be purchased pursuant to guidelines prescribed herein by the County Commission. Persons who have successfully completed the above procedures in the course of purchasing a handgun shall not be required to repeat such procedures in any given year in order to purchase another handgun of the same type and caliber previously purchased. If the purchaser shall have difficulty with the written or spoken English language, which seriously impairs his ability to demonstrate his knowledge of such laws and his ability to safely handle said handgun, special provisions shall be made through an interpreter or otherwise, for the administration of the required written examination and qualification procedure to such person. In the event of failure, the applicant may retake the test seven (7) days from the date of examination, however no person shall be allowed to take this test more than three (3) times in a twelve-month period as a result of such failure.

(c) The transferor shall administer unto the purchaser safety procedures as prescribed by the County Commission prior to the purchaser acquiring ownership or possession of the handgun, and shall execute the prescribed form that said procedure has been imparted to the purchaser.

The above prescribed procedure shall be administered only by duly licensed dealers or salesmen under this chapter.

The signature of the purchaser upon the prescribed form shall serve as a release of the transferor from all civil liability as a result of carrying out this section.

(d) The County Commission shall appoint a four (4) member committee consisting of a member from each of the following: Miami-Dade Police Department, Trail Glade Range or park employee, County Attorney's Office, and a fourth member from the local Miami-Dade County gun dealers.

The committee shall from time to time advise the County Commission of needed changes in the prescribed procedure and form. Such changes shall become effective upon the consideration and approval of the County Commission.

(e) This section shall not apply to:

(1) Law enforcement officers or agents of any state of the United States, or any political subdivision, municipal corporation, department or agency of either, members of the organized militia of any state or the armed forces of the United States, or law enforcement officers of any political subdivision, municipal corporation, department or agency of either, while engaged in the discharge of their official duties.

(2) Wholesale dealers in their business intercourse with retail dealers or retail dealers in their

business intercourse with other retail dealers or to wholesale or retail dealers in the regular or ordinary transportation of any unloaded firearms, merchandise by mail, express or other mode of shipment to points outside the country.

(3) Nonresidents of the United States having proper authorization from his or her consulate, acting consulate, commercial attaché, or such other authorized representative.

(4) This section applies to persons in the firearms business or in the business of gunsmithing, and does not apply to:

(a) Sales or trades by an unlicensed person or a person licensed hereunder, nor to

(b) Isolated sales, transfers or trades between unlicensed persons who are not engaged in the firearms business or in the business of gunsmithing.

(5) The provisions of this section shall not apply to gun shows, conferences or conventions which are staged under the auspices of a duly recognized nonprofit, State or national organization.

21-20.17. Unlawful to sell handguns to persons who have not qualified.

(a) It shall be unlawful for a licensed dealer to sell, deliver, transfer, or furnish any handgun to any person in Miami-Dade County unless the purchaser has qualified under Section 21-20.16, or

(b) Unless the purchaser exhibits evidence that he is exempt from the requirements of Section 21-20.16(b). Every person who is convicted for violation of this section shall be punished as provided in Section 21-20.15 of this Code.

21-20.18. Five-day waiting period and criminal history records check on firearms sales.

(a) Definitions. For purposes of this section, the following terms shall be defined as follows:

(1) Any part of the transaction means any part of the sales transaction, including but not limited to, the offer of sale, negotiations, the agreement to sell, the transfer of consideration, or the transfer of the firearm.

(2) Antique firearms means any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898; and any replica of any such firearm if such replica (i) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition, or (ii) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.

(3) Firearm means any weapon which will, is designed to, or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; and firearm muffler or firearm silencer; any destructive device; or any machine gun. Such term does not include an antique firearm.

(4) Property to which the public has the right of access means any real or personal property to which the public has a right of access, including property owned by either public or private individuals, firms and entities and expressly includes, but is not limited to, flea markets, gun shows and firearms exhibitions.

(5) Sale means the transfer of money or other valuable consideration.

(b) Application and enforcement of section. Law enforcement officers shall have the right to enforce the provisions of this section against any person found violating these provisions within their jurisdiction.

(c) Sale and delivery of firearms; mandatory five-day waiting period. There shall be a

mandatory five-day waiting period, which shall be five full days, excluding weekends and legal holidays, between the hour of the sale and the hour of the delivery of any firearm when any part of the transaction is conducted within Miami-Dade County on property to which the public has the right of access.

(d) Sale and delivery of firearms; mandatory criminal records check. No person, whether licensed or unlicensed, shall sell, offer for sale, transfer or deliver any firearm to another person when any part of the transaction is conducted on property to which the public has the right of access within Miami-Dade County until all procedures specified under section 790.065, Florida Statutes, have been complied with by a person authorized by that section to conduct a criminal history check of background information as specified in that section, and the approval number set forth by that section has been obtained and documented. Upon the repeal of section 790.065, Florida Statutes, no person, whether licensed or unlicensed, shall sell, offer for sale, transfer or deliver any firearm to another person when any part of the transaction is conducted on property to which the public has the right of access until all procedures specified under any other state or federal law which requires a national criminal history information or national criminal history check on potential buyer or transferee of firearms have been complied with by any person authorized by law to conduct the required national criminal history or background records check and any required approval under such state or federal law or rule has been obtained. "Person" for purposes of this subsection shall include any person, including, but not limited to a licensed importer, licensed manufacturer or licensed dealer and any unlicensed person.

In the case of a seller who is not a licensed importer, licensed manufacturer or licensed dealer, compliance with section 790.065 or its state or federal successor shall be achieved by the seller requesting that a licensed importer, licensed manufacturer or licensed dealer complete all the requirements of section 790.065 or its state or federal successor. Licensed importers, manufacturers and dealers may charge a reasonable fee of an unlicensed seller to cover costs associated with completing the requirements of section 790.065.

(e) Exemptions. Holders of a concealed weapons permit as prescribed by state law and holders of an active certification from the Criminal Justice Standards and Training Commission as a law enforcement officer, a correctional officer, or a correctional probation officer as set forth in state law shall not be subject to the provisions of this section.

Sales to a licensed importer, licensed manufacturer or licensed dealer shall not be subject to the provisions of this section.

(f) Penalties. Any person violating any provision of this section shall be punished by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment not to exceed sixty (60) days in the County Jail, or by both such fine and imprisonment. Nothing contained herein shall be construed to preempt the imposition of any higher penalties imposed by state or federal law.

(g) Reporting of information. To the fullest extent permissible by law, all information acquired in relation to a violation of this section shall be reported to appropriate federal and state officials.

21-20.19. Locking devices required for firearms.

(a) Definitions. For purposes of this section, the following terms shall be defined as follows:

(1) Locking device means a device that when installed on a firearm and secured by means of a key or a mechanically or electronically operated combination lock prevents the firearm from being discharged without first deactivating or removing the device.

(b) If a person stores or leaves a firearm at any location where the person knows or reasonably should know that a minor might gain access to the firearm, the person shall secure the firearm with a locking device or in a securely locked box or container except when it is carried on his or her body or is located within such close proximity that the person can retrieve the firearm and prevent access to it by a minor.

(c) A violation of this section is a breach of a duty of safety owed by the person who owns or possesses the firearm to all minors who might gain access to it and to the general public.

(d) Any person which is convicted of violating this sub-section shall be punished by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment in the County jail for not more than sixty (60) days or by both such fine and imprisonment.

(e) Applicability. This section shall apply to the incorporated and unincorporated areas of Miami-Dade County.

[Code of Miami-Dade County current through Ordinance No. 09-81, enacted Sep. 1, 2009]

Palm Beach County Code

Chapter 28. Weapons

Article II. Firearms

28-21. Definitions. As used in this article:

Business day means a 24-hour day (beginning at 12:01 a.m.), excluding weekends and legal holidays.

FDLE means the Florida Department of Law Enforcement.

Firearm means any weapon, including a starter gun or handgun, which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; any firearm muffler or firearm silencer; any destructive device; or any machine gun.

Handgun means a firearm capable of being carried and used by one (1) hand, such as a pistol or revolver.

Licensed dealer has the same meaning as in Title 27, Code of Federal Regulations, Part 178.

Licensed importer has the same meaning as in Title 27, Code of Federal Regulations, Part 478, or any successor federal regulations requiring licenses for firearm dealers.

Licensed manufacturer has the same meaning as in Title 27, Code of Federal Regulations, Part 478, or any successor federal regulations requiring licenses for firearm importers.

NICS means the National Instant Criminal Background Check System established pursuant to Title 18, United States Code, Section 922.

Person includes, but is not limited to, any individual, corporation, company, association,

firm, partnership, society, or joint stock company.

Sale means the transfer of money or other valuable consideration for any firearm when any part of the transaction is conducted on property to which the public has the right of access, which includes, but is not limited to, flea markets, gun shows and gun exhibitions.

Shotgun means a shoulder-held firearm with a smooth bore designed primarily to fire shells containing multiple projectiles (shotshells).

Shotshell means a metal, plastic or cardboard case containing a primer, propellant and multiple projectiles intended to be fired from a shotgun.

Structure means that which is three (3) feet or more in height which is built or constructed or erected or tied down having a fixed location on the ground such as buildings, homes and mobile homes.

28-23. Mandatory waiting period; Criminal history records check requirement.

(a) No person shall deliver a firearm to another person, other than a licensed dealer, licensed manufacturer or licensed importer, in connection with the sale, as defined in section 28-1, of such firearm for a period of five (5) business days from the date of the sale.

(b) No person shall deliver a firearm to another person, other than a licensed dealer, licensed manufacturer or licensed importer, in connection with the sale, as defined in section 28-1, of such firearm until the seller, either directly or through a licensed dealer, licensed manufacturer or licensed importer, has:

(1) Requested a national criminal history records check of the potential purchaser or transferee of the firearm from FDLE or NICS, and

(2) Received an approval/identification number from FDLE or NICS signifying the potential purchaser or transferee of the firearm would not be prohibited by state or federal law from receiving or possessing a firearm.

(c) The provisions of this section shall not apply to holders of a concealed weapons permit issued pursuant to general law of the State of Florida when purchasing a firearm.

28-24. Enforcement. It shall be the duty and responsibility of law enforcement officers within their respective jurisdictions to enforce this article and all related state laws.

28-25. Penalty. Any person convicted of a violation of any of provision of this article shall be punished in accordance with section 125.69(1), Florida Statutes, as may be amended, by a fine not to exceed five hundred dollars (\$500.00) per violation or by imprisonment in the county jail not to exceed sixty (60) days or by both such fine and imprisonment. Each violation of this article shall constitute a separate offense. In addition to the sanctions contained herein, the county shall be authorized to take any other appropriate legal action, including, but not limited to, seeking cease and desist orders, instituting other administrative actions, and requesting temporary and permanent injunctions to enforce the provisions of this article. It is the purpose of this article to provide additional and cumulative remedies.

28-26. Applicability. This article shall be applicable in both the unincorporated and incorporated areas of the county to the extent permitted by law.

[Palm Beach County Code current through Ordinance No.09-017, adopted June 29, 2009]