



U.S. Department of Justice

**Bureau of Alcohol, Tobacco,
Firearms and Explosives**

Miami Field Division

Miami, Florida 33178

www.atf.gov

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OPEN LETTER TO ALL FEDERAL FIREARMS LICENSEES

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has received a number of inquiries regarding recent changes to Florida law and how they may affect Florida county ordinances that require sellers to wait five days before delivering a firearm. The purpose of this open letter is to provide guidance on the issue and to assist Federal firearms licensees in complying with Federal firearms laws and regulations.

On October 1, 2011, amendments to Florida statute 790.33 (the "Joe Carlucci Uniform Firearms Act") became effective. The stated intent of section 790.33 is to eliminate all existing city and county ordinances, rules, or regulations dealing with firearms or ammunition, reserving all such regulation to the state legislature. There are certain exceptions, however. One exception found in the first paragraph of section 790.33 concerns the provisions of the Florida Constitution.

Adopted in 1998, Article VIII, section 5(b) of the Florida Constitution authorizes counties to require a criminal records check and a three to five-day waiting period in connection with the sale of any firearm occurring within such county. Section 5(b) also states that concealed weapons permit holders do not have to comply with the waiting periods when purchasing a firearm. Several south Florida counties enacted five-day waiting period ordinances pursuant to the Constitution, including Broward (Ordinance No. 1998-45; Code Sec. 18-96), Miami-Dade (Ordinance No. 98-169; Code Sec. 21-20.18) and Palm Beach (Ordinance 99-40; Code Sec. 28-23). Typically, these ordinances require a seller to wait five days from the time of the sale before delivering the firearm.

As you know, Federal law, 18 U.S.C. § 922(b)(2), makes it unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector to sell or deliver any firearm to any person in any State where the purchase or possession by such person of such firearm would be in violation of any State law or any published ordinance applicable at the place of sale, delivery or other disposition, unless the licensee knows or has reasonable cause to believe that the purchase or possession would not be in violation of such State law or such published ordinance.

Therefore, Federal firearms licensees must comply with Florida county waiting period ordinances enacted pursuant to Article VIII, Sec. 5(b), of the Florida Constitution, since these ordinances were not affected by recent Florida law changes and remain in effect.

ATF is committed to assisting you in complying with Federal firearms laws. If you have any questions, please contact ATF's Firearms Industry Programs Branch at (202) 648-7190.

A handwritten signature in black ink, appearing to read 'A. Herbert', written in a cursive style.

Arthur Herbert
Assistant Director
Enforcement Programs and Services