

**Item # 49**

**ADDITIONAL MATERIAL**

**10:00 a.m. Regular Meeting**

**APRIL 10, 2018**

**SUBMITTED AT THE REQUEST OF**


**COMMISSIONER STEVE GELLER**



954-357-7600 · FAX 954-357-7641

**MEMORANDUM**

**TO:** Senator Steve Geller

**FROM:** René D. Harrod, Deputy County Attorney 

**DATE:** April 3, 2018

**RE:** **Records Requirements for Firearms Sales**

You have asked whether the Board of County Commissioners could, consistent with Article VII, Section 5, of the Florida Constitution (the "Local Option"), impose record retention requirements on the sale of firearms with Broward County, including requiring documentation of the date and hour of any firearm sale and the date and hour of the actual firearm transfer. Alternately, you asked whether there are any other viable ways to enforce Section 18-96 of the Broward County Code of Ordinances, which, consistent with the Local Option, requires a five-day waiting period for the sale of firearms within Broward County.

The Board likely can impose certain record retention requirements to enforce Section 18-96, provided that the requirements are limited to firearms sales conducted at least in part on property within Broward County to which the public has the right of access, and provided further that the records do not include the names of the firearms purchasers. Additionally, Section 18-96 could be enforced through routine inspections by County code inspectors or by the Broward Sheriff's Office, although this latter approach would appear to be far more administratively burdensome and expensive than would be subsequent review of retained records.

Please note that, in addition to the broad preemption of Section 790.33, Florida Statutes, another statute, Section 790.335, purports to specifically prohibit local governments from requiring records of privately owned firearms or the owners of those firearms. In fact, the statute provides that a limited exception for background check records should not be construed to allow "records of firearm transactions." Given the potentially severe consequences of action by a local government that oversteps the very limited range of arguably permitted local regulation, the Office of the County Attorney recommends that

Senator Steve Geller  
April 3, 2018  
Page 2

this issue be raised in a separate count in an authorized declaratory judgment action prior to the Board enacting any regulation on this issue.

At your direction, we can prepare an amendment to the resolution that will be considered by the Board on April 10 to expressly address this additional desired regulation.

Please call or email me (extension 7618 or rharrod@broward.org) or Drew if we can be of further service regarding this matter.

RDH

c: Board of County Commissioners  
Bertha Henry, County Administrator  
Bob Melton, County Auditor  
Andrew Meyers, County Attorney