

Amendment No. SA to Am 1

COMMITTEE/SUBCOMMITTEE ACTION

|                       |       |       |
|-----------------------|-------|-------|
| ADOPTED               | ___   | (Y/N) |
| ADOPTED AS AMENDED    | ___   | (Y/N) |
| ADOPTED W/O OBJECTION | ___   | (Y/N) |
| FAILED TO ADOPT       | ___   | (Y/N) |
| WITHDRAWN             | ___   | (Y/N) |
| OTHER                 | _____ |       |

1 Committee/Subcommittee hearing bill: Judiciary Committee  
2 Representative Kerner offered the following:

3  
4 **Substitute Amendment for Amendment (736117) by**  
5 **Representative Gaetz (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Section 790.053, Florida Statutes, is amended  
8 to read:

9 790.053 Open carrying of weapons.—

10 (1) Except as otherwise provided by law and in subsection

11 (2), it is unlawful for any person to openly carry on or about  
12 his or her person any firearm or electric weapon or device. ~~It~~

13 ~~is not a violation of this section for a person licensed to~~

14 ~~carry a concealed firearm as provided in s. 790.06(1), and who~~

15 ~~is lawfully carrying a firearm in a concealed manner, to briefly~~

16 ~~and openly display the firearm to the ordinary sight of another~~

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17 ~~person, unless the firearm is intentionally displayed in an~~  
18 ~~angry or threatening manner, not in necessary self-defense.~~

19 (2) A person may openly carry, for purposes of lawful  
20 self-defense:

21 (a) A self-defense chemical spray.

22 (b) A nonlethal stun gun or dart-firing stun gun or other  
23 nonlethal electric weapon or device that is designed solely for  
24 defensive purposes.

25 (3) It is not unlawful for a person licensed to carry a  
26 concealed weapon or firearm who is lawfully carrying such a  
27 firearm to inadvertently or accidentally display the firearm to  
28 the sight of another person if the display is unintentional, not  
29 deliberate, not done in a clearly open and obvious manner, and  
30 necessary for self-defense. This subsection does not apply to  
31 violations of s. 790.10.

32 (a) If a person licensed to carry a concealed weapon or  
33 firearm complies with this subsection, the person is immune from  
34 criminal arrest and prosecution, and there is a presumption that  
35 the person has not violated this subsection.

36 (b) A law enforcement officer may not arrest a person  
37 licensed to carry a concealed weapon or firearm for a violation  
38 of this subsection unless the officer, before the arrest,  
39 affords the person an opportunity to explain whether the firearm  
40 was lawfully displayed in a manner that does violate this  
41 subsection. A person may not be convicted of an offense under  
42 this subsection if the officer does not comply with the

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43 procedures required by this paragraph or if it appears at trial  
44 that the explanation given by the person at the time of his or  
45 her arrest is true and, if believed by the officer at that time,  
46 would have prevented the person from being arrested for a  
47 violation of this subsection.

48 (c) If a person arrested under this subsection is  
49 acquitted or found not guilty, or the charges are otherwise  
50 dismissed or nolle prosequi, the person may apply for a  
51 certificate of eligibility to expunge the criminal history  
52 record associated with the arrest pursuant to s. 943.0585(5),  
53 notwithstanding the eligibility requirements of s.  
54 943.0585(1)(b) and (2).

55 (4)-(3) A ~~Any~~ person violating this section commits a  
56 misdemeanor of the second degree, punishable as provided in s.  
57 775.082 or s. 775.083.

58 Section 2. This act shall take effect upon becoming a law.  
59

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

62 Remove everything before the enacting clause and insert:

63 A bill to be entitled

64 An act relating to weapons and firearms; amending s.

65 790.053, F.S.; deleting provisions concerning brief

66 and open display of a firearm; providing that it is

67 not unlawful for a person licensed to carry a

68 concealed weapon or firearm who is lawfully carrying

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/CS/HB 163 (2016)

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69 | such a firearm to inadvertently or accidentally  
70 | display the firearm to the sight of another person in  
71 | certain circumstances; providing immunity from arrest  
72 | and prosecution for such persons; providing a  
73 | presumption of innocence for such persons; specifying  
74 | procedures for the arrest of such persons for certain  
75 | violations; providing for expungement of certain  
76 | criminal history records in certain circumstances;  
77 | providing an effective date.