

By the Committee on Criminal Justice; and Senator Gaetz

591-00895-16

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1 A bill to be entitled
2 An act relating to weapons and firearms; creating s.
3 776.00111, F.S.; providing for construction of
4 statutes that implicate the right to bear arms or
5 engage in self-defense; amending s. 790.02, F.S.;
6 specifying that a law enforcement officer may arrest a
7 person for the unlicensed carrying of a concealed
8 weapon only upon probable cause that such a violation
9 is being committed; amending s. 790.053, F.S.;
10 providing that a person licensed to carry a concealed
11 firearm or weapon may also openly carry such firearm
12 or weapon as long as such person is in compliance with
13 specified provisions; providing that a person or
14 entity who infringes on specified rights of an
15 individual may be subject to liability under specified
16 provisions; providing an exception; providing that
17 certain persons and entities have no immunity;
18 amending s. 790.25, F.S.; revising legislative
19 findings concerning the possession and carrying of
20 weapons and firearms; revising provisions concerning
21 the construction of provisions; providing an effective
22 date.

23
24 Be It Enacted by the Legislature of the State of Florida:

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26 Section 1. Section 776.00111, Florida Statutes, is created
27 to read:

28 776.00111 Construction.—The judiciary shall employ strict
29 scrutiny in reviewing any statute that implicates the right to

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30 bear arms or defend one's self pursuant to this chapter. The
31 right to bear arms is a fundamental and individual right that
32 exists in any place that a person has the right to be, subject
33 only to exceptionally and narrowly tailored restrictions that
34 employ the least possible restriction on the right in order to
35 achieve a compelling government interest.

36 Section 2. Section 790.02, Florida Statutes, is amended to
37 read:

38 790.02 Officer to arrest without warrant and upon probable
39 cause.—The unlicensed carrying of a concealed weapon is declared
40 a breach of peace, and any officer authorized to make arrests
41 under the laws of this state may make arrests without warrant of
42 persons violating ~~the provisions of~~ s. 790.01 when said officer
43 has ~~reasonable grounds or~~ probable cause to believe that the
44 offense of unlicensed carrying of a concealed weapon is being
45 committed.

46 Section 3. Section 790.053, Florida Statutes, is amended to
47 read:

48 790.053 Open carrying of weapons.—

49 (1) Subject to ss. 790.06 and 790.10, a person licensed to
50 carry a concealed firearm or weapon pursuant to this chapter may
51 openly carry such firearm or weapon; however, except as
52 otherwise provided by law and in subsection (2), it is unlawful
53 for any other person to openly carry on or about his or her
54 person a any firearm or electric weapon or device. ~~It is not a~~
55 violation of this section for a person licensed to carry a
56 concealed firearm as provided in s. 790.06(1), and who is
57 lawfully carrying a firearm in a concealed manner, to briefly
58 and openly display the firearm to the ordinary sight of another

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

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

63 (a) A self-defense chemical spray.

64 (b) A nonlethal stun gun or dart-firing stun gun or other
65 nonlethal electric weapon or device that is designed solely for
66 defensive purposes.

67 (3) Any person violating this section commits a misdemeanor
68 of the second degree, punishable as provided in s. 775.082 or s.
69 775.083.

70 (4) Unless probable cause exists to believe that a crime
71 has been committed by an individual, any person or entity
72 infringing upon the rights conferred on that individual by this
73 chapter, chapter 776, s. 8, Art. I of the State Constitution, or
74 the Second Amendment to the United States Constitution is liable
75 pursuant to s. 790.33(3)(c), (d), (e), and (f). Notwithstanding
76 any other law, no immunity shall apply to persons infringing on
77 such rights in violation of this subsection.

78 Section 4. Subsections (1) and (4) of section 790.25,
79 Florida Statutes, are amended to read:

80 790.25 Lawful ownership, possession, and use of firearms
81 and other weapons.—

82 (1) DECLARATION OF POLICY.—The Legislature finds as a
83 matter of public policy and fact that the possession and
84 carrying of weapons and firearms by law-abiding individuals for
85 lawful purposes, including self-defense, enhances public safety
86 and that it is necessary to promote firearms safety and to curb
87 and prevent the use of firearms and other weapons in crime and

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88 by incompetent persons without prohibiting the lawful use in
89 defense of life, home, and property, and the use by United
90 States or state military organizations, and as otherwise now
91 authorized by law, including the right to use and own firearms
92 for target practice and marksmanship on target practice ranges
93 or other lawful places, and lawful hunting and other lawful
94 purposes.

95 (4) CONSTRUCTION.—The judiciary shall construe this act in
96 conjunction with the right to bear arms or defend one's self as
97 provided in chapter 776. The right to bear arms and defend one's
98 self is a fundamental and individual right that exists in any
99 place that a person has the right to be, subject only to
100 exceptionally and narrowly tailored restrictions that employ the
101 least possible restriction on the right in order to achieve a
102 compelling government interest. This act shall be liberally
103 construed to carry out the declaration of policy herein and in
104 favor of the constitutional right to keep and bear arms for
105 lawful purposes. This act is supplemental and additional to
106 existing rights to bear arms now guaranteed by law and decisions
107 of the courts of Florida, and nothing herein shall impair or
108 diminish any of such rights. This act shall supersede any law,
109 ordinance, or regulation in conflict herewith.

110 Section 5. This act shall take effect upon becoming a law.