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LEGISLATIVE ACTION

Senate

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House

Senator Taddeo moved the following:

1 **Senate Amendment to Amendment (318628) (with title**
2 **amendment)**

3
4 Between lines 436 and 437
5 insert:

6 Section 13. Section 790.33, Florida Statutes, is amended to
7 read:

8 790.33 ~~Field of Regulation of firearms and ammunition~~
9 ~~preempted.~~—

10 (1) It is the intent of the Legislature to set minimum
11 statewide firearm and ammunition standards and to allow local



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12 governments, through their elected officials, to enact
13 ordinances, regulations, or rules that fit the unique makeup and
14 demographics of their respective communities.

15 (2) Local government officials may enact ordinances,
16 regulations, or rules that are more stringent than the laws
17 established by the Legislature which they deem appropriate for
18 their respective communities.

19 ~~(1) PREEMPTION. Except as expressly provided by the State~~
20 ~~Constitution or general law, the Legislature hereby declares~~
21 ~~that it is occupying the whole field of regulation of firearms~~
22 ~~and ammunition, including the purchase, sale, transfer,~~
23 ~~taxation, manufacture, ownership, possession, storage, and~~
24 ~~transportation thereof, to the exclusion of all existing and~~
25 ~~future county, city, town, or municipal ordinances or any~~
26 ~~administrative regulations or rules adopted by local or state~~
27 ~~government relating thereto. Any such existing ordinances,~~
28 ~~rules, or regulations are hereby declared null and void.~~

29 ~~(2) POLICY AND INTENT.—~~

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

39 ~~(b) It is further the intent of this section to deter and~~
40 ~~prevent the violation of this section and the violation of~~



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41 ~~rights protected under the constitution and laws of this state~~
42 ~~related to firearms, ammunition, or components thereof, by the~~
43 ~~abuse of official authority that occurs when enactments are~~
44 ~~passed in violation of state law or under color of local or~~
45 ~~state authority.~~

46 ~~(3) PROHIBITIONS; PENALTIES.—~~

47 ~~(a) Any person, county, agency, municipality, district, or~~
48 ~~other entity that violates the Legislature's occupation of the~~
49 ~~whole field of regulation of firearms and ammunition, as~~
50 ~~declared in subsection (1), by enacting or causing to be~~
51 ~~enforced any local ordinance or administrative rule or~~
52 ~~regulation impinging upon such exclusive occupation of the field~~
53 ~~shall be liable as set forth herein.~~

54 ~~(b) If any county, city, town, or other local government~~
55 ~~violates this section, the court shall declare the improper~~
56 ~~ordinance, regulation, or rule invalid and issue a permanent~~
57 ~~injunction against the local government prohibiting it from~~
58 ~~enforcing such ordinance, regulation, or rule. It is no defense~~
59 ~~that in enacting the ordinance, regulation, or rule the local~~
60 ~~government was acting in good faith or upon advice of counsel.~~

61 ~~(c) If the court determines that a violation was knowing~~
62 ~~and willful, the court shall assess a civil fine of up to \$5,000~~
63 ~~against the elected or appointed local government official or~~
64 ~~officials or administrative agency head under whose jurisdiction~~
65 ~~the violation occurred.~~

66 ~~(d) Except as required by applicable law, public funds may~~
67 ~~not be used to defend or reimburse the unlawful conduct of any~~
68 ~~person found to have knowingly and willfully violated this~~
69 ~~section.~~



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70 ~~(e) A knowing and willful violation of any provision of~~
71 ~~this section by a person acting in an official capacity for any~~
72 ~~entity enacting or causing to be enforced a local ordinance or~~
73 ~~administrative rule or regulation prohibited under paragraph (a)~~
74 ~~or otherwise under color of law shall be cause for termination~~
75 ~~of employment or contract or removal from office by the~~
76 ~~Governor.~~

77 ~~(f) A person or an organization whose membership is~~
78 ~~adversely affected by any ordinance, regulation, measure,~~
79 ~~directive, rule, enactment, order, or policy promulgated or~~
80 ~~caused to be enforced in violation of this section may file suit~~
81 ~~against any county, agency, municipality, district, or other~~
82 ~~entity in any court of this state having jurisdiction over any~~
83 ~~defendant to the suit for declaratory and injunctive relief and~~
84 ~~for actual damages, as limited herein, caused by the violation.~~
85 ~~A court shall award the prevailing plaintiff in any such suit:~~

86 ~~1. Reasonable attorney's fees and costs in accordance with~~
87 ~~the laws of this state, including a contingency fee multiplier,~~
88 ~~as authorized by law; and~~

89 ~~2. The actual damages incurred, but not more than \$100,000.~~

90
91 ~~Interest on the sums awarded pursuant to this subsection shall~~
92 ~~accrue at the legal rate from the date on which suit was filed.~~

93 ~~(4) EXCEPTIONS. This section does not prohibit:~~

94 ~~(a) Zoning ordinances that encompass firearms businesses~~
95 ~~along with other businesses, except that zoning ordinances that~~
96 ~~are designed for the purpose of restricting or prohibiting the~~
97 ~~sale, purchase, transfer, or manufacture of firearms or~~
98 ~~ammunition as a method of regulating firearms or ammunition are~~



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99 ~~in conflict with this subsection and are prohibited;~~

100 ~~(b) A duly organized law enforcement agency from enacting~~
101 ~~and enforcing regulations pertaining to firearms, ammunition, or~~
102 ~~firearm accessories issued to or used by peace officers in the~~
103 ~~course of their official duties;~~

104 ~~(c) Except as provided in s. 790.251, any entity subject to~~
105 ~~the prohibitions of this section from regulating or prohibiting~~
106 ~~the carrying of firearms and ammunition by an employee of the~~
107 ~~entity during and in the course of the employee's official~~
108 ~~duties;~~

109 ~~(d) A court or administrative law judge from hearing and~~
110 ~~resolving any case or controversy or issuing any opinion or~~
111 ~~order on a matter within the jurisdiction of that court or~~
112 ~~judge; or~~

113 ~~(e) The Florida Fish and Wildlife Conservation Commission~~
114 ~~from regulating the use of firearms or ammunition as a method of~~
115 ~~taking wildlife and regulating the shooting ranges managed by~~
116 ~~the commission.~~

117 ~~(5) SHORT TITLE. As created by chapter 87-23, Laws of~~
118 ~~Florida, this section may be cited as the "Joe Carlucci Uniform~~
119 ~~Firearms Act."~~

120 Section 14. Subsection (4) of section 790.251, Florida
121 Statutes, is amended to read:

122 790.251 Protection of the right to keep and bear arms in
123 motor vehicles for self-defense and other lawful purposes;
124 prohibited acts; duty of public and private employers; immunity
125 from liability; enforcement.—

126 (4) PROHIBITED ACTS.—No public or private employer may
127 violate the constitutional rights of any customer, employee, or



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128 invitee as provided in paragraphs (a)-(e):

129 (a) No public or private employer may prohibit any
130 customer, employee, or invitee from possessing any legally owned
131 firearm when such firearm is lawfully possessed and locked
132 inside or locked to a private motor vehicle in a parking lot and
133 when the customer, employee, or invitee is lawfully in such
134 area.

135 (b) No public or private employer may violate the privacy
136 rights of a customer, employee, or invitee by verbal or written
137 inquiry regarding the presence of a firearm inside or locked to
138 a private motor vehicle in a parking lot or by an actual search
139 of a private motor vehicle in a parking lot to ascertain the
140 presence of a firearm within the vehicle. Further, no public or
141 private employer may take any action against a customer,
142 employee, or invitee based upon verbal or written statements of
143 any party concerning possession of a firearm stored inside a
144 private motor vehicle in a parking lot for lawful purposes. A
145 search of a private motor vehicle in the parking lot of a public
146 or private employer to ascertain the presence of a firearm
147 within the vehicle may only be conducted by on-duty law
148 enforcement personnel, based upon due process and must comply
149 with constitutional protections.

150 (c) No public or private employer shall condition
151 employment upon either:

152 1. The fact that an employee or prospective employee holds
153 or does not hold a license issued pursuant to s. 790.06; or

154 2. Any agreement by an employee or a prospective employee
155 that prohibits an employee from keeping a legal firearm locked
156 inside or locked to a private motor vehicle in a parking lot



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157 when such firearm is kept for lawful purposes.

158 (d) No public or private employer shall prohibit or attempt
159 to prevent any customer, employee, or invitee from entering the
160 parking lot of the employer's place of business because the
161 customer's, employee's, or invitee's private motor vehicle
162 contains a legal firearm being carried for lawful purposes, that
163 is out of sight within the customer's, employee's, or invitee's
164 private motor vehicle.

165 (e) No public or private employer may terminate the
166 employment of or otherwise discriminate against an employee, or
167 expel a customer or invitee for exercising his or her
168 constitutional right to keep and bear arms or for exercising the
169 right of self-defense as long as a firearm is never exhibited on
170 company property for any reason other than lawful defensive
171 purposes.

172
173 ~~This subsection applies to all public sector employers,~~
174 ~~including those already prohibited from regulating firearms~~
175 ~~under the provisions of s. 790.33.~~

176
177 ===== T I T L E A M E N D M E N T =====

178 And the title is amended as follows:

179 Delete line 2515

180 and insert:

181 criminal penalties; amending s. 790.33, F.S.;

182 providing legislative intent; authorizing local

183 government officials to enact ordinances, regulations,

184 or rules more stringent than the laws established by

185 the Legislature in the regulation of firearms and



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186 ammunition; deleting preemption provisions; deleting
187 policy and intent provisions; deleting prohibitions on
188 enacting certain ordinances, regulations, or rules;
189 deleting civil penalties; deleting exceptions;
190 deleting a short title; amending s. 790.251, F.S.;
191 conforming a provision to changes made by the act;
192 providing legislative intent;