

THE FLORIDA SENATE
2021 SUMMARY OF LEGISLATION PASSED
Committee on Community Affairs

SB 1884 — Preemption of Firearms and Ammunition Regulation

by Senator Rodrigues (HB 1409 by Representative Byrd and others)

SB 1884 revises the Legislature’s preemption of the field of the regulation of firearms and ammunition. Current law provides a person or certain organizations with the right to seek declaratory or injunctive relief and actual damages due to a local ordinance, regulation, measure directive, rule enactment, order, or written policy regulating firearms or ammunition. The bill provides that the right to maintain a legal action against a preempted local regulation applies even if the local regulation is unwritten.

Existing s. 790.33, F.S., preempts the whole field of regulation of firearms and ammunition, including the purchase, sale, transfer, taxation, manufacture, ownership, possession, storage, and transportation thereof, to the state. Any person or organization whose membership is adversely affected by any ordinance, regulation, measure, directive, rule, enactment, order, or policy promulgated in violation of s. 790.33, F.S., may file suit against the governmental entity for a declaratory judgment and injunctive relief. If a court determines the plaintiff is the prevailing party, the plaintiff may recover actual damages of up to \$100,000 in addition to any attorney fees.

The bill also provides a mechanism for a plaintiff to recover damages and attorney fees when a government entity changes its regulation while the regulation is being challenged under s. 790.33, F.S. Specifically, when a government entity voluntarily changes the regulation that was challenged pursuant to a complaint, the plaintiff challenging that regulation is considered the prevailing party and may recover actual damages and attorney fees.

If approved by the Governor, these provisions take effect July 1, 2021.

Vote: Senate 24-16; House 78-39