

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: Environmental Preservation Committee

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BILL: CS/SB 1546

INTRODUCER: Criminal Justice Committee and Senator Posey

SUBJECT: Firearms in National Forests, State Parks

DATE: March 22, 2006      REVISED: 03/29/2006      \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cellon</u>	<u>Cannon</u>	<u>CJ</u>	<u>Fav/CS</u>
2.	<u>Molloy</u>	<u>Kiger</u>	<u>EP</u>	<u>Favorable</u>
3.	_____	_____	<u>GA</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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## I. Summary:

The bill repeals sections of Florida law that regulate the possession and use of firearms in national forests and requires the Department of Environmental Protection (department) to amend rule 62D-2.014(10), Florida Administrative Code (F.A.C.), which applies to the use, possession, or carrying of weapons and firearms in state parks.

The bill repeals ss. 790.11, 790.12, and 790.14, Florida Statutes.

## II. Present Situation:

### National Forests

There are four national forests in Florida: Apalachicola National Forest in the Panhandle, Ocala National Forest in Marion County, the Osceola National Forest in North Florida, and the Choctawhatchee National Forest also in the Panhandle but for which recreational activities are not authorized. The U.S. Department of Agriculture's Forest Service is the federal agency that manages lands in national forests. With the exception of the Choctawhatchee National Forest, national forests in Florida are also designed as Wildlife Management Areas.

The Fish and Wildlife Conservation Commission (FWC), under cooperative agreements and contracts with the federal managing agencies, establishes bag limits, seasons and quotas, and provides law enforcement services on federal lands which are available for hunting, including national forest lands. The FWC's rules for the general regulation of wildlife management areas include the following:

- No person shall possess any gun on any wildlife management area during any period when hunting by the use of a gun is prohibited unless authorized by permit from the executive director.

- A person in possession of a valid Concealed Weapon or Firearm License may carry concealed handguns under the provisions of s. 790.06, FS., throughout the year unless preempted pursuant to state or federal law.<sup>1</sup>

### **Chapter 790, F.S.**

Section 790.11, F.S., provides that except during a lawfully established hunting season and except when traveling on state roads when secured within a vehicle, persons may not carry firearms within the limits of a national forest area without first obtaining a special permit issued by the governing body of each county in which the national forest is located.

Section 790.12, F.S., grants the governing body of each county in which a national forest is located the authority to issue a special permit for the carrying of firearms within that national forest area. The special permit must specifically describe the firearm which is the subject of the permit, and the granting of the permit must be recommended in writing by the United States Government official in charge of that national forest area.

Section 790.14, F.S., provides that a violation of ss. 790.11 or 790.12, F.S., is a second-degree misdemeanor with penalties of up to 60 days in jail and/or a maximum \$500 fine.

### **Chapter 258, F.S.**

Section 258.004, F.S., provides that it is the duty of the Division of Recreation and Parks (division) of the department to preserve, manage, regulate, and protect all parks and recreational areas held by the state.. Section 258.007, F.S., provides the division with rulemaking authority to implement provisions of law conferring duties on it.

### **Chapter 62D-2, F.A.C. - Operation of Division Recreation Areas and Facilities**

Chapter 62D-2 of the F.A.C., contains the rules for the operation of recreation areas and facilities managed by the division.

Rule 62D-2.013, F.A.C., relating to Park Property and Resources, provides in part that "state parks include all real property in the State of Florida under the jurisdiction of the Florida Department of Environmental Protection, Division of Recreation and Parks, or which may come under its jurisdiction regardless of the property's designation. Among the designations included in the state park system are state park, state recreation area, state archaeological site, state geological site, state botanical site, state preserve, state garden, state museum, state reserve, state cultural site, state wildlife park, state folk culture center and state trail."

Paragraph (d) of subsection (5) of the rule provides that hunting and fishing in a reserve may be allowed where substantial fish and wildlife habitat and resources exist, and all hunting and fishing will be in accordance with Rule 62D2.014(9) and (10), F.A.C. Hunting is prohibited in all state parks.

Rule 62D-2.014, F.A.C, relating to Activities and Recreation, provides that the "division, in furtherance of the policy and intent of chapter 258, F.S, may prohibit or regulate any activity that lessens the safety or recreation experience of the visiting public..." Subsection (10) of the rule

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<sup>1</sup> See Rule 68A-15.004, General Regulations Relating to Wildlife Management Areas, Florida Administrative Code.

prohibits "hunting, trapping or the pursuit of wildlife on all park property, except in Reserves, as authorized by the Florida Fish and Wildlife Conservation Commission. No person shall use, carry, or possess in any park weapons such as firearms of any type... or any other forms of weapons or trapping devices potentially dangerous to wildlife or human safety..."

### III. Effect of Proposed Changes:

**Section 1.** Repeals the following sections of Florida law:

- Section 790.11, F.S., prohibiting the carrying of firearms in national forests.
- Section 790.12, F.S., providing for special permits to carry firearms to be issued by county commissioners.
- Section 790.14, F.S., providing penalties for violations of ss. 790.11 and 790.12, F.S.

**Section 2.** Amends s. 790.25, F.S., to clarify that the protections provided for lawful ownership, possession and use of firearms and other weapons do not apply for persons violating ss. 790.07-790.115, F.S., and ss. 790.145-790.19, F.S.

**Section 3.** Directs the department to amend Rule 62D-2.014(10), F.A.C., to allow the possession of weapons in state parks in compliance with all applicable state statutes. The rule amendment must further specify that weapons shall, at all times, be in the possession of "a responsible party," or "properly secured" within or to a vehicle or temporary housing, including motor homes, travel trailers, recreational vehicles, campers, tents, or other enclosed structures.

**Section 4.** Provides that the act shall effect October 1, 2006.

### IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

### V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

**C. Government Sector Impact:**

It is unknown whether there will be any fiscal impact to the Department of Environmental Protection or the Fish and Wildlife Conservation Commission as a result of this bill. Potentially there could be expense incurred if it is determined there is a need for additional patrol and surveillance in state parks or national forests, due to the increased carrying of firearms and potential for more hunting activity.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The bill directs the department to revise its rules to allow the carrying of weapons in state parks, but does not direct the FWC to revise its rules to allow the carrying of other than concealed weapons within the national forest areas managed by the FWC as wildlife management areas.

Section 790.01, F.S., defines "securely encased" to mean "in a glove compartment, whether or not locked; snapped in a holster, in a gun case, whether or not locked, in a zippered gun case; or in a closed box or container which requires a lid or cover to be opened for access." However, no definition for "properly secured" is created in statute or in the bill.

The bill provides that all weapons must be in the possession of a "responsible party" but does not clarify who that "responsible party" is.

## **VIII. Summary of Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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