



367828

CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: RCS	.	
3/25/2008	.	
	.	
	.	

1 The Committee on Commerce (Diaz de la Portilla) recommended the  
 2 following **amendment**:

3  
 4 **Senate Amendment (with title amendment)**

5 Delete everything after the enacting clause  
 6 and insert:

7 Section 1. Section 790.06, Florida Statutes, is amended to  
 8 read:

9 790.06 License to carry concealed weapon or firearm.--

10 (1) The Department of Agriculture and Consumer Services is  
 11 authorized to issue licenses to carry concealed weapons or  
 12 concealed firearms to persons qualified as provided in this  
 13 section. Each such license must bear a color photograph of the  
 14 licensee. For the purposes of this section, concealed weapons or  
 15 concealed firearms are defined as a handgun, electronic weapon

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16 or device, tear gas gun, knife, or billie, but the term does not  
17 include a machine gun as defined in s. 790.001(9). Such licenses  
18 shall be valid throughout the state for a period of 5 years from  
19 the date of issuance. Any person in compliance with the terms of  
20 such license may carry a concealed weapon or concealed firearm  
21 notwithstanding the provisions of s. 790.01. The licensee must  
22 carry the license, together with valid identification, at all  
23 times in which the licensee is in actual possession of a  
24 concealed weapon or firearm and must display both the license  
25 and proper identification upon demand by a law enforcement  
26 officer. Violations of the provisions of this subsection shall  
27 constitute a noncriminal violation with a penalty of \$25,  
28 payable to the clerk of the court.

29 (2) The Department of Agriculture and Consumer Services  
30 shall issue a license if the applicant:

31 (a) Is a resident of the United States or is a consular  
32 security official of a foreign government that maintains  
33 diplomatic relations and treaties of commerce, friendship, and  
34 navigation with the United States and is certified as such by  
35 the foreign government and by the appropriate embassy in this  
36 country;

37 (b) Is 21 years of age or older;

38 (c) Does not suffer from a physical infirmity which  
39 prevents the safe handling of a weapon or firearm;

40 (d) Is not ineligible to possess a firearm pursuant to s.  
41 790.23 by virtue of having been convicted of a felony;

42 (e) Has not been committed for the abuse of a controlled  
43 substance or been found guilty of a crime under the provisions

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44 of chapter 893 or similar laws of any other state relating to  
45 controlled substances within a 3-year period immediately  
46 preceding the date on which the application is submitted;

47 (f) Does not chronically and habitually use alcoholic  
48 beverages or other substances to the extent that his or her  
49 normal faculties are impaired. It shall be presumed that an  
50 applicant chronically and habitually uses alcoholic beverages or  
51 other substances to the extent that his or her normal faculties  
52 are impaired if the applicant has been committed under chapter  
53 397 or under the provisions of former chapter 396 or has been  
54 convicted under s. 790.151 or has been deemed a habitual  
55 offender under s. 856.011(3), or has had two or more convictions  
56 under s. 316.193 or similar laws of any other state, within the  
57 3-year period immediately preceding the date on which the  
58 application is submitted;

59 (g) Desires a legal means to carry a concealed weapon or  
60 firearm for lawful self-defense;

61 (h) Demonstrates competence with a firearm by any one of  
62 the following:

63 1. Completion of any hunter education or hunter safety  
64 course approved by the Fish and Wildlife Conservation Commission  
65 or a similar agency of another state;

66 2. Completion of any National Rifle Association firearms  
67 safety or training course;

68 3. Completion of any firearms safety or training course or  
69 class available to the general public offered by a law  
70 enforcement, junior college, college, or private or public  
71 institution or organization or firearms training school,

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72 utilizing instructors certified by the National Rifle  
73 Association, Criminal Justice Standards and Training Commission,  
74 or the Department of Agriculture and Consumer Services;

75 4. Completion of any law enforcement firearms safety or  
76 training course or class offered for security guards,  
77 investigators, special deputies, or any division or subdivision  
78 of law enforcement or security enforcement;

79 5. Presents evidence of equivalent experience with a  
80 firearm through participation in organized shooting competition  
81 or military service;

82 6. Is licensed or has been licensed to carry a firearm in  
83 this state or a county or municipality of this state, unless  
84 such license has been revoked for cause; or

85 7. Completion of any firearms training or safety course or  
86 class conducted by a state-certified or National Rifle  
87 Association certified firearms instructor;

88  
89 A photocopy of a certificate of completion of any of the courses  
90 or classes; or an affidavit from the instructor, school, club,  
91 organization, or group that conducted or taught said course or  
92 class attesting to the completion of the course or class by the  
93 applicant; or a copy of any document which shows completion of  
94 the course or class or evidences participation in firearms  
95 competition shall constitute evidence of qualification under  
96 this paragraph; any person who conducts a course pursuant to  
97 subparagraph 2., subparagraph 3., or subparagraph 7., or who, as  
98 an instructor, attests to the completion of such courses, must



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99 maintain records certifying that he or she observed the student  
100 safely handle and discharge the firearm;

101 (i) Has not been adjudicated an incapacitated person under  
102 s. 744.331, or similar laws of any other state, unless 5 years  
103 have elapsed since the applicant's restoration to capacity by  
104 court order;

105 (j) Has not been committed to a mental institution under  
106 chapter 394, or similar laws of any other state, unless the  
107 applicant produces a certificate from a licensed psychiatrist  
108 that he or she has not suffered from disability for at least 5  
109 years prior to the date of submission of the application;

110 (k) Has not had adjudication of guilt withheld or  
111 imposition of sentence suspended on any felony or misdemeanor  
112 crime of domestic violence unless 3 years have elapsed since  
113 probation or any other conditions set by the court have been  
114 fulfilled, or the record has been sealed or expunged;

115 (l) Has not been issued an injunction that is currently in  
116 force and effect and that restrains the applicant from  
117 committing acts of domestic violence or acts of repeat violence;  
118 and

119 (m) Is not prohibited from purchasing or possessing a  
120 firearm by any other provision of Florida or federal law.

121 (3) The Department of Agriculture and Consumer Services  
122 shall deny a license if the applicant has been found guilty of,  
123 had adjudication of guilt withheld for, or had imposition of  
124 sentence suspended for one or more crimes of violence  
125 constituting a misdemeanor, unless 3 years have elapsed since  
126 probation or any other conditions set by the court have been

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127 fulfilled or the record has been sealed or expunged. A license  
128 is revoked ~~The Department of Agriculture and Consumer Services~~  
129 ~~shall revoke a license~~ if the licensee has been found guilty of,  
130 had adjudication of guilt withheld for, or had imposition of  
131 sentence suspended for one or more crimes of violence within the  
132 preceding 3 years. A license is suspended and the ~~The~~ department  
133 shall, upon notification by a law enforcement agency, a court,  
134 or the Florida Department of Law Enforcement and subsequent  
135 written verification, suspend ~~a license or~~ the processing of an  
136 application for a license if the licensee or applicant is  
137 arrested or formally charged with a crime that would disqualify  
138 such person from having a license under this section, until  
139 final disposition of the case resulting in the filing of a nolle  
140 prosequi, No Information or No True Bill by the prosecuting  
141 authority, an acquittal or by the case being dismissed by a  
142 court of competent jurisdiction. A license shall be suspended  
143 and the ~~The~~ department shall suspend ~~a license or~~ the processing  
144 of an application for a license if the licensee or applicant is  
145 issued an injunction that restrains the licensee or applicant  
146 from committing acts of domestic violence or acts of repeat  
147 violence. A license is suspended until successful completion by  
148 the licensee of any term of community supervision imposed by a  
149 court of competent jurisdiction for any crime that would  
150 disqualify such person from having a license under this section.

151 (4) The application shall be completed, under oath, on a  
152 form promulgated by the Department of Agriculture and Consumer  
153 Services and shall include:



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154 (a) The name, address, place and date of birth, race, and  
155 occupation of the applicant;

156 (b) A statement that the applicant is in compliance with  
157 criteria contained within subsections (2) and (3);

158 (c) A statement that the applicant has been furnished a  
159 copy of this chapter and is knowledgeable of its provisions;

160 (d) A conspicuous warning that the application is executed  
161 under oath and that a false answer to any question, or the  
162 submission of any false document by the applicant, subjects the  
163 applicant to criminal prosecution under s. 837.06; and

164 (e) A statement that the applicant desires a concealed  
165 weapon or firearms license as a means of lawful self-defense.

166 (5) The applicant shall submit to the Department of  
167 Agriculture and Consumer Services:

168 (a) A completed application as described in subsection  
169 (4).

170 (b) A nonrefundable license fee not to exceed \$85, if he  
171 or she has not previously been issued a statewide license, or a  
172 nonrefundable license fee not to exceed \$70 for renewal of a  
173 statewide license. Costs for processing the set of fingerprints  
174 as required in paragraph (c) shall be borne by the applicant.  
175 However, an individual holding an active certification from the  
176 Criminal Justice Standards and Training Commission as a "law  
177 enforcement officer," "correctional officer," or "correctional  
178 probation officer" as defined in s. 943.10(1), (2), (3), (6),  
179 (7), (8), or (9) is exempt from the licensing requirements of  
180 this section. If any individual holding an active certification  
181 from the Criminal Justice Standards and Training Commission as a

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182 "law enforcement officer," a "correctional officer," or a  
183 "correctional probation officer" as defined in s. 943.10(1),  
184 (2), (3), (6), (7), (8), or (9) wishes to receive a concealed  
185 weapons or firearms license, such person is exempt from the  
186 background investigation and all background investigation fees,  
187 but shall pay the current license fees regularly required to be  
188 paid by nonexempt applicants. Further, a law enforcement  
189 officer, a correctional officer, or a correctional probation  
190 officer as defined in s. 943.10(1), (2), or (3) is exempt from  
191 the required fees and background investigation for a period of 1  
192 year subsequent to the date of retirement of said officer as a  
193 law enforcement officer, a correctional officer, or a  
194 correctional probation officer.

195 (c) A full set of fingerprints of the applicant  
196 administered by a law enforcement agency.

197 (d) A photocopy of a certificate or an affidavit or  
198 document as described in paragraph (2)(h).

199 (e) A full frontal view color photograph of the applicant  
200 taken within the preceding 30 days, in which the head, including  
201 hair, measures 7/8 of an inch wide and 1 1/8 inches high.

202 (6)(a) The Department of Agriculture and Consumer  
203 Services, upon receipt of the items listed in subsection (5),  
204 shall forward the full set of fingerprints of the applicant to  
205 the Department of Law Enforcement for state and federal  
206 processing, provided the federal service is available, to be  
207 processed for any criminal justice information as defined in s.  
208 943.045. The cost of processing such fingerprints shall be





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209 payable to the Department of Law Enforcement by the Department  
210 of Agriculture and Consumer Services.

211 (b) The sheriff's office shall provide fingerprinting  
212 service if requested by the applicant and may charge a fee not  
213 to exceed \$5 for this service.

214 (c) The Department of Agriculture and Consumer Services  
215 shall, within 90 days after the date of receipt of the items  
216 listed in subsection (5):

217 1. Issue the license; or

218 2. Deny the application based solely on the ground that  
219 the applicant fails to qualify under the criteria listed in  
220 subsection (2) or subsection (3). If the Department of  
221 Agriculture and Consumer Services denies the application, it  
222 shall notify the applicant in writing, stating the ground for  
223 denial and informing the applicant of any right to a hearing  
224 pursuant to chapter 120.

225 3. In the event the department receives criminal history  
226 information with no final disposition on a crime which may  
227 disqualify the applicant, the time limitation prescribed by this  
228 paragraph may be suspended until receipt of the final  
229 disposition or proof of restoration of civil and firearm rights.

230 (d) In the event a legible set of fingerprints, as  
231 determined by the Department of Agriculture and Consumer  
232 Services or the Federal Bureau of Investigation, cannot be  
233 obtained after two attempts, the Department of Agriculture and  
234 Consumer Services shall determine eligibility based upon the  
235 name checks conducted by the Florida Department of Law  
236 Enforcement.



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237 (e) A consular security official of a foreign government  
238 that maintains diplomatic relations and treaties of commerce,  
239 friendship, and navigation with the United States and is  
240 certified as such by the foreign government and by the  
241 appropriate embassy in this country must be issued a license  
242 within 20 days after the date of the receipt of a completed  
243 application, certification document, color photograph as  
244 specified in paragraph (5)(e), and a nonrefundable license fee  
245 of \$300. Consular security official licenses shall be valid for  
246 1 year and may be renewed upon completion of the application  
247 process as provided in this section.

248 (7) The Department of Agriculture and Consumer Services  
249 shall maintain an automated listing of licenseholders and  
250 pertinent information, and such information shall be available  
251 online, upon request, at all times to all law enforcement  
252 agencies through the Florida Crime Information Center.

253 (8) Within 30 days after the changing of a permanent  
254 address, or within 30 days after having a license lost or  
255 destroyed, the licensee shall notify the Department of  
256 Agriculture and Consumer Services of such change. Failure to  
257 notify the Department of Agriculture and Consumer Services  
258 pursuant to the provisions of this subsection shall constitute a  
259 noncriminal violation with a penalty of \$25.

260 (9) In the event that a concealed weapon or firearm  
261 license is lost or destroyed, the license shall be automatically  
262 invalid, and the person to whom the same was issued may, upon  
263 payment of \$15 to the Department of Agriculture and Consumer  
264 Services, obtain a duplicate, or substitute thereof, upon



265 furnishing a notarized statement to the Department of  
266 Agriculture and Consumer Services that such license has been  
267 lost or destroyed.

268 (10) A license issued under this section is shall be  
269 suspended pursuant to the preceding subsections or revoked  
270 pursuant to chapter 120, notwithstanding any provision to the  
271 contrary in chapter 120 if the licensee:

272 (a) Is found to be ineligible under the criteria set forth  
273 in subsection (2);

274 (b) Develops or sustains a physical infirmity which  
275 prevents the safe handling of a weapon or firearm;

276 (c) Is convicted of a felony which would make the licensee  
277 ineligible to possess a firearm pursuant to s. 790.23;

278 (d) Is found guilty of a crime under the provisions of  
279 chapter 893, or similar laws of any other state, relating to  
280 controlled substances;

281 (e) Is committed as a substance abuser under chapter 397,  
282 or is deemed a habitual offender under s. 856.011(3), or similar  
283 laws of any other state;

284 (f) Is convicted of a second violation of s. 316.193, or a  
285 similar law of another state, within 3 years of a previous  
286 conviction of such section, or similar law of another state,  
287 even though the first violation may have occurred prior to the  
288 date on which the application was submitted;

289 (g) Is adjudicated an incapacitated person under s.  
290 744.331, or similar laws of any other state; or

291 (h) Is committed to a mental institution under chapter  
292 394, or similar laws of any other state.



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293           (11) A licensee may request an administrative hearing to  
294 review a suspension or revocation under this section. The  
295 hearing must be held in accordance with the provisions of  
296 chapter 120 as they relate to s. 120.57.

297   ~~(11)~~(12)(a) No less than 90 days before the expiration date of  
298 the license, the Department of Agriculture and Consumer Services  
299 shall mail to each licensee a written notice of the expiration  
300 and a renewal form prescribed by the Department of Agriculture  
301 and Consumer Services. The licensee must renew his or her  
302 license on or before the expiration date by filing with the  
303 Department of Agriculture and Consumer Services the renewal form  
304 containing a notarized affidavit stating that the licensee  
305 remains qualified pursuant to the criteria specified in  
306 subsections (2) and (3), a color photograph as specified in  
307 paragraph (5)(e), and the required renewal fee. Out-of-state  
308 residents must also submit a completed fingerprint card and  
309 fingerprint processing fee. The license shall be renewed upon  
310 receipt of the completed renewal form, color photograph,  
311 appropriate payment of fees, and, if applicable, a completed  
312 fingerprint card. Additionally, a licensee who fails to file a  
313 renewal application on or before its expiration date must renew  
314 his or her license by paying a late fee of \$15. A license may  
315 not be renewed 180 days or more after its expiration date, and  
316 such a license is deemed to be permanently expired. A person  
317 whose license has been permanently expired may reapply for  
318 licensure; however, an application for licensure and fees under  
319 subsection (5) must be submitted, and a background investigation  
320 shall be conducted pursuant to this section. A person who

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321 knowingly files false information under this subsection is  
322 subject to criminal prosecution under s. 837.06.

323 (b) A license issued to a servicemember, as defined in s.  
324 250.01, is subject to paragraph (a); however, such a license  
325 does not expire while the servicemember is serving on military  
326 orders that have taken him or her over 35 miles from his or her  
327 residence and shall be extended, as provided in this paragraph,  
328 for up to 180 days after his or her return to such residence. If  
329 the license renewal requirements in paragraph (a) are met within  
330 the 180-day extension period, the servicemember may not be  
331 charged any additional costs, such as, but not limited to, late  
332 fees or delinquency fees, above the normal license fees. The  
333 servicemember must present to the Department of Agriculture and  
334 Consumer Services a copy of his or her official military orders  
335 or a written verification from the member's commanding officer  
336 before the end of the 180-day period in order to qualify for the  
337 extension.

338 ~~(12)~~(13) No license issued pursuant to this section shall  
339 authorize any person to carry a concealed weapon or firearm into  
340 any place of nuisance as defined in s. 823.05; any police,  
341 sheriff, or highway patrol station; any detention facility,  
342 prison, or jail; any courthouse; any courtroom, except that  
343 nothing in this section would preclude a judge from carrying a  
344 concealed weapon or determining who will carry a concealed  
345 weapon in his or her courtroom; any polling place; any meeting  
346 of the governing body of a county, public school district,  
347 municipality, or special district; any meeting of the  
348 Legislature or a committee thereof; any school, college, or

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349 professional athletic event not related to firearms; any school  
350 administration building; any portion of an establishment  
351 licensed to dispense alcoholic beverages for consumption on the  
352 premises, which portion of the establishment is primarily  
353 devoted to such purpose; any elementary or secondary school  
354 facility; any career center; any college or university facility  
355 unless the licensee is a registered student, employee, or  
356 faculty member of such college or university and the weapon is a  
357 stun gun or nonlethal electric weapon or device designed solely  
358 for defensive purposes and the weapon does not fire a dart or  
359 projectile; inside the passenger terminal and sterile area of  
360 any airport, provided that no person shall be prohibited from  
361 carrying any legal firearm into the terminal, which firearm is  
362 encased for shipment for purposes of checking such firearm as  
363 baggage to be lawfully transported on any aircraft; or any place  
364 where the carrying of firearms is prohibited by federal law. Any  
365 person who willfully violates any provision of this subsection  
366 commits a misdemeanor of the second degree, punishable as  
367 provided in s. 775.082 or s. 775.083.

368 ~~(13)~~(14) All moneys collected by the department pursuant  
369 to this section shall be deposited in the Division of Licensing  
370 Trust Fund, and the Legislature shall appropriate from the fund  
371 those amounts deemed necessary to administer the provisions of  
372 this section. All revenues collected, less those costs  
373 determined by the Department of Agriculture and Consumer  
374 Services to be nonrecurring or one-time costs, shall be deferred  
375 over the 3-year licensure period. Notwithstanding the provisions  
376 of s. 493.6117, all moneys collected pursuant to this section



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377 shall not revert to the General Revenue Fund; however, this  
378 shall not abrogate the requirement for payment of the service  
379 charge imposed pursuant to chapter 215.

380 ~~(14)~~(15) All funds received by the sheriff pursuant to the  
381 provisions of this section shall be deposited into the general  
382 revenue fund of the county and shall be budgeted to the sheriff.

383 ~~(15)~~(16) The Legislature finds as a matter of public  
384 policy and fact that it is necessary to provide statewide  
385 uniform standards for issuing licenses to carry concealed  
386 weapons and firearms for self-defense and finds it necessary to  
387 occupy the field of regulation of the bearing of concealed  
388 weapons or firearms for self-defense to ensure that no honest,  
389 law-abiding person who qualifies under the provisions of this  
390 section is subjectively or arbitrarily denied his or her rights.  
391 The Department of Agriculture and Consumer Services shall  
392 implement and administer the provisions of this section. The  
393 Legislature does not delegate to the Department of Agriculture  
394 and Consumer Services the authority to regulate or restrict the  
395 issuing of licenses provided for in this section, beyond those  
396 provisions contained in this section. Subjective or arbitrary  
397 actions or rules which encumber the issuing process by placing  
398 burdens on the applicant beyond those sworn statements and  
399 specified documents detailed in this section or which create  
400 restrictions beyond those specified in this section are in  
401 conflict with the intent of this section and are prohibited.  
402 This section shall be liberally construed to carry out the  
403 constitutional right to bear arms for self-defense. This section  
404 is supplemental and additional to existing rights to bear arms,



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405 and nothing in this section shall impair or diminish such  
406 rights.

407 ~~(16)~~(17) The Department of Agriculture and Consumer  
408 Services shall maintain statistical information on the number of  
409 licenses issued, revoked, suspended, and denied.

410 ~~(17)~~(18) As amended by chapter 87-24, Laws of Florida,  
411 this section shall be known and may be cited as the "Jack Hagler  
412 Self Defense Act."

413 Section 2. Paragraph (e) of subsection (2) of section  
414 790.115, Florida Statutes, is amended to read:

415 790.115 Possessing or discharging weapons or firearms at a  
416 school-sponsored event or on school property prohibited;  
417 penalties; exceptions.--

418 (2)

419 (e) The penalties of this subsection shall not apply to  
420 persons licensed under s. 790.06. Persons licensed under s.  
421 790.06 shall be punished as provided in s. 790.06(13) ~~s.~~  
422 ~~790.06(12)~~, except that a licenseholder who unlawfully  
423 discharges a weapon or firearm on school property as prohibited  
424 by this subsection commits a felony of the second degree,  
425 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

426 Section 3. Subsection (1) of section 903.047, Florida  
427 Statutes, is amended to read:

428 903.047 Conditions of pretrial release.--

429 (1) As a condition of pretrial release, whether such  
430 release is by surety bail bond or recognizance bond or in some  
431 other form, the defendant shall:

432 (a) Refrain from criminal activity of any kind.





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433 (b) Refrain from any contact of any type with the victim,  
 434 except through pretrial discovery pursuant to the Florida Rules  
 435 of Criminal Procedure.

436 (c) At the request of the prosecuting authority, the  
 437 licensee shall surrender to the clerk of the court a license to  
 438 carry a concealed weapon if the defendant is arrested for any  
 439 crime that would require the Department of Agriculture and  
 440 Consumer Services to deny that license under s. 790.06(3) or  
 441 suspend or revoke that license under s. 790.06(10) and pursuant  
 442 to chapter 120. The Clerk shall, upon receipt, destroy the  
 443 surrendered license. The Comprehensive Case Information System,  
 444 as provided in s. 28.24(12)(e)1., shall develop a report of  
 445 licensees that have had their licenses surrendered under this  
 446 section. This report shall be submitted to the department on no  
 447 less that a monthly basis.

448 (d)~~(e)~~ Comply with all conditions of pretrial release.  
 449 Section 4. This act shall take effect upon becoming a law.

452 ===== T I T L E A M E N D M E N T =====

453 And the title is amended as follows:

454 Delete everything before the enacting clause  
 455 and insert:

456 A bill to be entitled  
 457 An act relating to concealed weapons licenses; amending s.  
 458 790.06, F.S.; requiring that a license shall be revoked or  
 459 suspended under certain circumstances; clarifying the  
 460 meaning of "final disposition of the case" for purposes of



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461 suspending a license; requiring that a license shall be  
462 suspended until the licensee's completion of any community  
463 supervision imposed by a court for any disqualifying  
464 crime; providing that under certain circumstances, a  
465 license issued under this section shall be suspended or  
466 revoked, notwithstanding any provision to the contrary in  
467 chapter 120; providing that a licensee may request an  
468 administrative hearing, and that the hearing will be held  
469 in accordance with the provisions of chapter 120 as they  
470 relate to s. 120.57, F.S.; amending s. 790.115, F.S.,  
471 relating to possessing or discharging a weapon on school  
472 property; conforming a cross-reference; amending s.  
473 903.047, F.S.; requiring that at the request of the  
474 prosecuting authority, a defendant will surrender a  
475 license to the clerk of the court as a condition of  
476 pretrial release if the defendant is arrested for any  
477 crime that would require the department to deny, suspend,  
478 or revoke the license; providing that the Comprehensive  
479 Case Information System, as provided in s. 28.24(12)(e)1.,  
480 shall develop a report of licensees that have had their  
481 licenses surrendered under this section, and that this  
482 report shall be submitted to the department on no less  
483 that a monthly basis; providing an effective date.