

By the Committee on Commerce; and Senators Diaz de la Portilla
and Bullard

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1 A bill to be entitled
2 An act relating to concealed weapons licenses; amending s.
3 790.06, F.S.; requiring that a license be revoked or
4 suspended under certain circumstances; clarifying the
5 meaning of "final disposition of the case" for purposes of
6 suspending a license; requiring that a license be
7 suspended until the licensee's completion of any community
8 supervision imposed by a court for any disqualifying
9 crime; requiring that, under certain circumstances, a
10 license be suspended or revoked, notwithstanding any
11 provision to the contrary in ch. 120, F.S.; providing that
12 a licensee may request an administrative hearing;
13 requiring that the hearing be held in accordance with the
14 provisions of ch. 120, F.S., and s. 120.57, F.S.; amending
15 s. 790.115, F.S., relating to possessing or discharging a
16 weapon on school property; conforming a cross-reference;
17 amending s. 903.047, F.S.; requiring that a defendant
18 surrender a license to the clerk of the court as a
19 condition of pretrial release at the request of the
20 prosecuting authority if the defendant is arrested for any
21 crime that would require the Department of Agriculture and
22 Consumer Services to deny, suspend, or revoke the license;
23 requiring the Comprehensive Case Information System to
24 develop a report of licensees who have surrendered their
25 licenses and submit the report monthly to the department;
26 providing an effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:
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30 Section 1. Section 790.06, Florida Statutes, is amended to
31 read:

32 790.06 License to carry concealed weapon or firearm.--

33 (1) The Department of Agriculture and Consumer Services is
34 authorized to issue licenses to carry concealed weapons or
35 concealed firearms to persons qualified as provided in this
36 section. Each such license must bear a color photograph of the
37 licensee. For the purposes of this section, concealed weapons or
38 concealed firearms are defined as a handgun, electronic weapon or
39 device, tear gas gun, knife, or billie, but the term does not
40 include a machine gun as defined in s. 790.001(9). Such licenses
41 shall be valid throughout the state for a period of 5 years from
42 the date of issuance. Any person in compliance with the terms of
43 such license may carry a concealed weapon or concealed firearm
44 notwithstanding the provisions of s. 790.01. The licensee must
45 carry the license, together with valid identification, at all
46 times in which the licensee is in actual possession of a
47 concealed weapon or firearm and must display both the license and
48 proper identification upon demand by a law enforcement officer.
49 Violations of the provisions of this subsection shall constitute
50 a noncriminal violation with a penalty of \$25, payable to the
51 clerk of the court.

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

54 (a) Is a resident of the United States or is a consular
55 security official of a foreign government that maintains
56 diplomatic relations and treaties of commerce, friendship, and
57 navigation with the United States and is certified as such by the
58 foreign government and by the appropriate embassy in this

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59 | country;

60 | (b) Is 21 years of age or older;

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

63 | (d) Is not ineligible to possess a firearm pursuant to s.
64 | 790.23 by virtue of having been convicted of a felony;

65 | (e) Has not been committed for the abuse of a controlled
66 | substance or been found guilty of a crime under the provisions of
67 | chapter 893 or similar laws of any other state relating to
68 | controlled substances within a 3-year period immediately
69 | preceding the date on which the application is submitted;

70 | (f) Does not chronically and habitually use alcoholic
71 | beverages or other substances to the extent that his or her
72 | normal faculties are impaired. It shall be presumed that an
73 | applicant chronically and habitually uses alcoholic beverages or
74 | other substances to the extent that his or her normal faculties
75 | are impaired if the applicant has been committed under chapter
76 | 397 or under the provisions of former chapter 396 or has been
77 | convicted under s. 790.151 or has been deemed a habitual offender
78 | under s. 856.011(3), or has had two or more convictions under s.
79 | 316.193 or similar laws of any other state, within the 3-year
80 | period immediately preceding the date on which the application is
81 | submitted;

82 | (g) Desires a legal means to carry a concealed weapon or
83 | firearm for lawful self-defense;

84 | (h) Demonstrates competence with a firearm by any one of
85 | the following:

86 | 1. Completion of any hunter education or hunter safety
87 | course approved by the Fish and Wildlife Conservation Commission

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88 or a similar agency of another state;

89 2. Completion of any National Rifle Association firearms
90 safety or training course;

91 3. Completion of any firearms safety or training course or
92 class available to the general public offered by a law
93 enforcement, junior college, college, or private or public
94 institution or organization or firearms training school,
95 utilizing instructors certified by the National Rifle
96 Association, Criminal Justice Standards and Training Commission,
97 or the Department of Agriculture and Consumer Services;

98 4. Completion of any law enforcement firearms safety or
99 training course or class offered for security guards,
100 investigators, special deputies, or any division or subdivision
101 of law enforcement or security enforcement;

102 5. Presents evidence of equivalent experience with a
103 firearm through participation in organized shooting competition
104 or military service;

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

108 7. Completion of any firearms training or safety course or
109 class conducted by a state-certified or National Rifle
110 Association certified firearms instructor;

111

112 A photocopy of a certificate of completion of any of the courses
113 or classes; or an affidavit from the instructor, school, club,
114 organization, or group that conducted or taught said course or
115 class attesting to the completion of the course or class by the
116 applicant; or a copy of any document which shows completion of

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117 | the course or class or evidences participation in firearms
118 | competition shall constitute evidence of qualification under this
119 | paragraph; any person who conducts a course pursuant to
120 | subparagraph 2., subparagraph 3., or subparagraph 7., or who, as
121 | an instructor, attests to the completion of such courses, must
122 | maintain records certifying that he or she observed the student
123 | safely handle and discharge the firearm;

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

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

133 | (k) Has not had adjudication of guilt withheld or
134 | imposition of sentence suspended on any felony or misdemeanor
135 | crime of domestic violence unless 3 years have elapsed since
136 | probation or any other conditions set by the court have been
137 | fulfilled, or the record has been sealed or expunged;

138 | (l) Has not been issued an injunction that is currently in
139 | force and effect and that restrains the applicant from committing
140 | acts of domestic violence or acts of repeat violence; and

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

143 | (3) The Department of Agriculture and Consumer Services
144 | shall deny a license if the applicant has been found guilty of,
145 | had adjudication of guilt withheld for, or had imposition of

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146 sentence suspended for one or more crimes of violence
147 constituting a misdemeanor, unless 3 years have elapsed since
148 probation or any other conditions set by the court have been
149 fulfilled or the record has been sealed or expunged. A license is
150 revoked ~~The Department of Agriculture and Consumer Services shall~~
151 ~~revoke a license~~ if the licensee has been found guilty of, had
152 adjudication of guilt withheld for, or had imposition of sentence
153 suspended for one or more crimes of violence within the preceding
154 3 years. A license is suspended and the department shall, upon
155 notification by a law enforcement agency, a court, or the ~~Florida~~
156 Department of Law Enforcement and subsequent written
157 verification, suspend ~~a license or~~ the processing of an
158 application for a license if the licensee or applicant is
159 arrested or formally charged with a crime that would disqualify
160 such person from having a license under this section, until final
161 disposition of the case resulting in the filing of a nolle
162 prosequi, no information, or no true bill by the prosecuting
163 authority, until an acquittal, or until the case is dismissed by
164 a court of competent jurisdiction. A license shall be suspended
165 and the department shall suspend ~~a license or~~ the processing of
166 an application for a license if the licensee or applicant is
167 issued an injunction that restrains the licensee or applicant
168 from committing acts of domestic violence or acts of repeat
169 violence. A license is suspended until successful completion by
170 the licensee of any term of community supervision imposed by a
171 court of competent jurisdiction for any crime that would
172 disqualify such person from having a license under this section.

173 (4) The application shall be completed, under oath, on a
174 form promulgated by the Department of Agriculture and Consumer

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175 Services and shall include:

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

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

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

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

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

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

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

191 (b) A nonrefundable license fee not to exceed \$85, if he or
192 she has not previously been issued a statewide license, or a
193 nonrefundable license fee not to exceed \$70 for renewal of a
194 statewide license. Costs for processing the set of fingerprints
195 as required in paragraph (c) shall be borne by the applicant.
196 However, an individual holding an active certification from the
197 Criminal Justice Standards and Training Commission as a "law
198 enforcement officer," "correctional officer," or "correctional
199 probation officer" as defined in s. 943.10(1), (2), (3), (6),
200 (7), (8), or (9) is exempt from the licensing requirements of
201 this section. If any individual holding an active certification
202 from the Criminal Justice Standards and Training Commission as a
203 "law enforcement officer," a "correctional officer," or a

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204 "correctional probation officer" as defined in s. 943.10(1), (2),
205 (3), (6), (7), (8), or (9) wishes to receive a concealed weapons
206 or firearms license, such person is exempt from the background
207 investigation and all background investigation fees, but shall
208 pay the current license fees regularly required to be paid by
209 nonexempt applicants. Further, a law enforcement officer, a
210 correctional officer, or a correctional probation officer as
211 defined in s. 943.10(1), (2), or (3) is exempt from the required
212 fees and background investigation for a period of 1 year
213 subsequent to the date of retirement of said officer as a law
214 enforcement officer, a correctional officer, or a correctional
215 probation officer.

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

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

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

223 (6)(a) The Department of Agriculture and Consumer Services,
224 upon receipt of the items listed in subsection (5), shall forward
225 the full set of fingerprints of the applicant to the Department
226 of Law Enforcement for state and federal processing, provided the
227 federal service is available, to be processed for any criminal
228 justice information as defined in s. 943.045. The cost of
229 processing such fingerprints shall be payable to the Department
230 of Law Enforcement by the Department of Agriculture and Consumer
231 Services.

232 (b) The sheriff's office shall provide fingerprinting

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233 service if requested by the applicant and may charge a fee not to
234 exceed \$5 for this service.

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

238 1. Issue the license; or

239 2. Deny the application based solely on the ground that the
240 applicant fails to qualify under the criteria listed in
241 subsection (2) or subsection (3). If the Department of
242 Agriculture and Consumer Services denies the application, it
243 shall notify the applicant in writing, stating the ground for
244 denial and informing the applicant of any right to a hearing
245 pursuant to chapter 120.

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

251 (d) In the event a legible set of fingerprints, as
252 determined by the Department of Agriculture and Consumer Services
253 or the Federal Bureau of Investigation, cannot be obtained after
254 two attempts, the Department of Agriculture and Consumer Services
255 shall determine eligibility based upon the name checks conducted
256 by the ~~Florida~~ Department of Law Enforcement.

257 (e) A consular security official of a foreign government
258 that maintains diplomatic relations and treaties of commerce,
259 friendship, and navigation with the United States and is
260 certified as such by the foreign government and by the
261 appropriate embassy in this country must be issued a license

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262 | within 20 days after the date of the receipt of a completed
263 | application, certification document, color photograph as
264 | specified in paragraph (5) (e), and a nonrefundable license fee of
265 | \$300. Consular security official licenses shall be valid for 1
266 | year and may be renewed upon completion of the application
267 | process as provided in this section.

268 | (7) The Department of Agriculture and Consumer Services
269 | shall maintain an automated listing of licenseholders and
270 | pertinent information, and such information shall be available
271 | online, upon request, at all times to all law enforcement
272 | agencies through the Florida Crime Information Center.

273 | (8) Within 30 days after the changing of a permanent
274 | address, or within 30 days after having a license lost or
275 | destroyed, the licensee shall notify the Department of
276 | Agriculture and Consumer Services of such change. Failure to
277 | notify the Department of Agriculture and Consumer Services
278 | pursuant to the provisions of this subsection shall constitute a
279 | noncriminal violation with a penalty of \$25.

280 | (9) In the event that a concealed weapon or firearm license
281 | is lost or destroyed, the license shall be automatically invalid,
282 | and the person to whom the same was issued may, upon payment of
283 | \$15 to the Department of Agriculture and Consumer Services,
284 | obtain a duplicate, or substitute thereof, upon furnishing a
285 | notarized statement to the Department of Agriculture and Consumer
286 | Services that such license has been lost or destroyed.

287 | (10) A license issued under this section is ~~shall be~~
288 | suspended pursuant to the preceding subsections or revoked,
289 | notwithstanding any provision to the contrary in pursuant to
290 | chapter 120 if the licensee:

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

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

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

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

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

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

308 (g) Is adjudicated an incapacitated person under s.
309 744.331, or similar laws of any other state; or

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

312 (11) A licensee may request an administrative hearing to
313 review a suspension or revocation under this section. The hearing
314 must be held in accordance with the provisions of chapter 120 and
315 s. 120.57.

316 (12)~~(11)~~(a) No less than 90 days before the expiration date
317 of the license, the Department of Agriculture and Consumer
318 Services shall mail to each licensee a written notice of the
319 expiration and a renewal form prescribed by the Department of

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320 Agriculture and Consumer Services. The licensee must renew his or
321 her license on or before the expiration date by filing with the
322 Department of Agriculture and Consumer Services the renewal form
323 containing a notarized affidavit stating that the licensee
324 remains qualified pursuant to the criteria specified in
325 subsections (2) and (3), a color photograph as specified in
326 paragraph (5)(e), and the required renewal fee. Out-of-state
327 residents must also submit a completed fingerprint card and
328 fingerprint processing fee. The license shall be renewed upon
329 receipt of the completed renewal form, color photograph,
330 appropriate payment of fees, and, if applicable, a completed
331 fingerprint card. Additionally, a licensee who fails to file a
332 renewal application on or before its expiration date must renew
333 his or her license by paying a late fee of \$15. A license may not
334 be renewed 180 days or more after its expiration date, and such a
335 license is deemed to be permanently expired. A person whose
336 license has been permanently expired may reapply for licensure;
337 however, an application for licensure and fees under subsection
338 (5) must be submitted, and a background investigation shall be
339 conducted pursuant to this section. A person who knowingly files
340 false information under this subsection is subject to criminal
341 prosecution under s. 837.06.

342 (b) A license issued to a servicemember, as defined in s.
343 250.01, is subject to paragraph (a); however, such a license does
344 not expire while the servicemember is serving on military orders
345 that have taken him or her over 35 miles from his or her
346 residence and shall be extended, as provided in this paragraph,
347 for up to 180 days after his or her return to such residence. If
348 the license renewal requirements in paragraph (a) are met within

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349 | the 180-day extension period, the servicemember may not be
350 | charged any additional costs, such as, but not limited to, late
351 | fees or delinquency fees, above the normal license fees. The
352 | servicemember must present to the Department of Agriculture and
353 | Consumer Services a copy of his or her official military orders
354 | or a written verification from the member's commanding officer
355 | before the end of the 180-day period in order to qualify for the
356 | extension.

357 | (13)~~(12)~~ No license issued pursuant to this section shall
358 | authorize any person to carry a concealed weapon or firearm into
359 | any place of nuisance as defined in s. 823.05; any police,
360 | sheriff, or highway patrol station; any detention facility,
361 | prison, or jail; any courthouse; any courtroom, except that
362 | nothing in this section would preclude a judge from carrying a
363 | concealed weapon or determining who will carry a concealed weapon
364 | in his or her courtroom; any polling place; any meeting of the
365 | governing body of a county, public school district, municipality,
366 | or special district; any meeting of the Legislature or a
367 | committee thereof; any school, college, or professional athletic
368 | event not related to firearms; any school administration
369 | building; any portion of an establishment licensed to dispense
370 | alcoholic beverages for consumption on the premises, which
371 | portion of the establishment is primarily devoted to such
372 | purpose; any elementary or secondary school facility; any career
373 | center; any college or university facility unless the licensee is
374 | a registered student, employee, or faculty member of such college
375 | or university and the weapon is a stun gun or nonlethal electric
376 | weapon or device designed solely for defensive purposes and the
377 | weapon does not fire a dart or projectile; inside the passenger

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378 terminal and sterile area of any airport, provided that no person
379 shall be prohibited from carrying any legal firearm into the
380 terminal, which firearm is encased for shipment for purposes of
381 checking such firearm as baggage to be lawfully transported on
382 any aircraft; or any place where the carrying of firearms is
383 prohibited by federal law. Any person who willfully violates any
384 provision of this subsection commits a misdemeanor of the second
385 degree, punishable as provided in s. 775.082 or s. 775.083.

386 (14)~~(13)~~ All moneys collected by the department pursuant to
387 this section shall be deposited in the Division of Licensing
388 Trust Fund, and the Legislature shall appropriate from the fund
389 those amounts deemed necessary to administer the provisions of
390 this section. All revenues collected, less those costs determined
391 by the Department of Agriculture and Consumer Services to be
392 nonrecurring or one-time costs, shall be deferred over the 3-year
393 licensure period. Notwithstanding the provisions of s. 493.6117,
394 all moneys collected pursuant to this section shall not revert to
395 the General Revenue Fund; however, this shall not abrogate the
396 requirement for payment of the service charge imposed pursuant to
397 chapter 215.

398 (15)~~(14)~~ All funds received by the sheriff pursuant to the
399 provisions of this section shall be deposited into the general
400 revenue fund of the county and shall be budgeted to the sheriff.

401 (16)~~(15)~~ The Legislature finds as a matter of public policy
402 and fact that it is necessary to provide statewide uniform
403 standards for issuing licenses to carry concealed weapons and
404 firearms for self-defense and finds it necessary to occupy the
405 field of regulation of the bearing of concealed weapons or
406 firearms for self-defense to ensure that no honest, law-abiding

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407 | person who qualifies under the provisions of this section is
408 | subjectively or arbitrarily denied his or her rights. The
409 | Department of Agriculture and Consumer Services shall implement
410 | and administer the provisions of this section. The Legislature
411 | does not delegate to the Department of Agriculture and Consumer
412 | Services the authority to regulate or restrict the issuing of
413 | licenses provided for in this section, beyond those provisions
414 | contained in this section. Subjective or arbitrary actions or
415 | rules which encumber the issuing process by placing burdens on
416 | the applicant beyond those sworn statements and specified
417 | documents detailed in this section or which create restrictions
418 | beyond those specified in this section are in conflict with the
419 | intent of this section and are prohibited. This section shall be
420 | liberally construed to carry out the constitutional right to bear
421 | arms for self-defense. This section is supplemental and
422 | additional to existing rights to bear arms, and nothing in this
423 | section shall impair or diminish such rights.

424 | ~~(17)~~~~(16)~~ The Department of Agriculture and Consumer
425 | Services shall maintain statistical information on the number of
426 | licenses issued, revoked, suspended, and denied.

427 | ~~(18)~~~~(17)~~ As amended by chapter 87-24, Laws of Florida, this
428 | section shall be known and may be cited as the "Jack Hagler Self
429 | Defense Act."

430 | Section 2. Paragraph (e) of subsection (2) of section
431 | 790.115, Florida Statutes, is amended to read:

432 | 790.115 Possessing or discharging weapons or firearms at a
433 | school-sponsored event or on school property prohibited;
434 | penalties; exceptions.--

435 | (2)

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436 (e) The penalties of this subsection shall not apply to
437 persons licensed under s. 790.06. Persons licensed under s.
438 790.06 shall be punished as provided in s. 790.06(13) ~~s.~~
439 ~~790.06(12)~~, except that a licenseholder who unlawfully discharges
440 a weapon or firearm on school property as prohibited by this
441 subsection commits a felony of the second degree, punishable as
442 provided in s. 775.082, s. 775.083, or s. 775.084.

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

445 903.047 Conditions of pretrial release.--

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

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

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

453 (c) At the request of the prosecuting authority, surrender
454 to the clerk of the court a license to carry a concealed weapon
455 if the defendant is arrested for any crime that would require the
456 Department of Agriculture and Consumer Services to deny that
457 license under s. 790.06(3) or suspend or revoke that license
458 under s. 790.06(10) and pursuant to chapter 120. The clerk shall,
459 upon receipt, destroy the surrendered license. The Comprehensive
460 Case Information System, as provided in s. 28.24(12)(e)1., shall
461 develop a report of licensees who have surrendered their licenses
462 under this section. This report shall be submitted to the
463 department at least monthly.

464 ~~(d)-(e)~~ Comply with all conditions of pretrial release.

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Section 4. This act shall take effect upon becoming a law.