

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 543
SPONSOR(S): Roberson
TIED BILLS:

Licensure to Carry a Concealed Weapon or Firearm

IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Agribusiness</u>	_____	<u>Kaiser</u>	<u>Reese</u>
2) <u>Environment & Natural Resources Council</u>	_____	_____	_____
3) <u>Policy & Budget Council</u>	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

Currently, in the criteria to obtain a concealed weapons/firearms license (license), the "waiting" period after committing certain infractions (controlled substance abuse, alcohol abuse and adjudication of a felony or misdemeanor in crimes of domestic violence) or being committed for substance abuse is 3 years preceding application for a license. The bill changes the "waiting" period for those infractions to 5 years preceding application for a license.

The Department of Agriculture and Consumer Services (department) is required to suspend the license, upon notification by the appropriate party, of a person arrested or formally charged with a qualifying crime until the final disposition of the case. The bill provides for the license to be reinstated once the charges are dismissed or the case is dropped by the state attorney's office, the Office of the Statewide Prosecution or a court of competent jurisdiction.

The bill corrects a technical error in the statutes to reflect that concealed weapons/firearms licenses are issued for a period of 5 years rather than 3 years.

The bill's fiscal impact to state government is \$262,312 in FY 2008-09, \$150,327 in FY 2009-10 and \$152,858 in FY 2010-11. The effective date of this legislation is October 1, 2008.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government: According to the Department of Agriculture and Consumer Services (department), 2 new FTEs will be required to carry out the duties associated with the changes in this legislation.

Promote personal responsibility: The bill advocates for the surrender or suspension of a concealed weapons license for persons arrested or formally charged with a crime disqualifying the person from having a license. The suspension is effective until such time as the charges are dismissed or the lawsuit is dropped.

B. EFFECT OF PROPOSED CHANGES:

The department is responsible for issuing licenses to carry concealed weapons/firearms.¹ To obtain a concealed weapons/firearms license (license), the applicant must meet the following criteria:

- Prove residency in the United States or status as a consular security official of a foreign government;
- Be 21 years of age or older;
- Be free of any ailments or infirmities preventing the safe handling of a weapon/firearm;
- Is not ineligible to possess a firearm pursuant to s. 790.23, F.S.²;
- Has not been committed for abuse of a controlled substance or found guilty of a crime relating to a controlled substance in the 3-year period preceding application;
- Does not chronically and habitually use alcoholic beverages or has had two or more convictions relating to the abuse of alcoholic beverages within the 3-year period preceding application;
- Desires a legal means to carry a concealed weapon/firearm for lawful self-defense;
- Demonstrates competence with a firearm through various prescribed methods;
- Has not been adjudicated as an incapacitated person within the 5-year period preceding application;
- Has not been committed to a mental institution unless applicant has a certificate from licensed psychiatrist stating he/she has not suffered from disability within the 5-year period preceding application;
- Has not had adjudication of guilt withheld or imposition of sentence suspended on any felony or misdemeanor crime of domestic violence within the 3-year period preceding application or other conditions set by the court have been fulfilled or the record has been sealed or expunged;
- Has not been issued an injunction that is currently in force and effect and that restrains the applicant from committing acts of domestic violence or acts of repeat violence; and
- Is not prohibited from purchasing or possessing a firearm by any other provision of Florida or federal law.

Currently, in the criteria to obtain a license, the “waiting” period after committing certain infractions (controlled substance abuse, alcohol abuse and adjudication of a felony or misdemeanor crime of domestic violence) or being committed for substance abuse is 3 years preceding application. The bill changes the “waiting” period for those infractions to 5 years preceding application for a license.

The department is required to suspend the license, upon notification by the appropriate party, of a person arrested or formally charged with a qualifying crime until the final disposition of the case. The

¹ Section 790.06(2), F.S.

² Ineligible to own or possess a firearm due to having been convicted of committing a felony.

bill provides for the license to be reinstated once the charges are dismissed or the case is dropped by the state attorney's office, the Office of the Statewide Prosecution or a court of competent jurisdiction.

The law currently calls for the suspension or revocation of a license if the licensee is convicted of a second violation of driving under the influence³ within 3 years of a previous conviction. This applies even if the first violation occurred prior to the date on which the application was submitted. The bill provides for the suspension or revocation to occur for second convictions within 5 years of a previous conviction.

And finally, the bill corrects a technical error in the statutes. Concealed weapons/firearms licenses are issued for a period of 5 years. Section 790.06(13), F.S., is amended to reflect the 5-year term.

C. SECTION DIRECTORY:

Section 1: Amending s. 790.06, F.S., revising conditions for issuance of a concealed firearms license; revising conditions for suspension or revocation of a concealed firearms license; and, making a technical correction relating to the length of a concealed firearms license.

Section 2: Providing an effective date of October 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
None

2. Expenditures:

	FY 08-09	FY 09-10	FY 10-11
Recurring:			
Salaries/Benefits			
1 Senior Attorney	\$ 86,140	\$ 87,862	\$ 89,620
1 Compliance Officer	37,905	38,663	39,436
Expenses			
1 Professional expense package	6,700	6,700	6,700
1 Support expense package	5,426	5,426	5,426
2 Human resources allocations	<u>796</u>	<u>796</u>	<u>796</u>
 Total Recurring Costs (Licensing Trust Fund)	 \$136,967	 \$139,447	 \$141,978
Non-recurring:			
Expenses			
Print/mail replacement applications/manuals	\$100,000		
1 Professional expense package	3,388		
1 Support expense package	2,947		
OCO			
1 Professional	1,000		
1 Support	1,000		
AGMIC – software application	<u>6,130</u>		

³ Section 790.06(10), F.S.

Total Non-recurring Costs (Licensing Trust Fund)	\$114,465		
Non-Operating Costs			
Administrative overhead	\$ 10,880	\$ 10,880	\$ 10,880
Total Non-operating Costs (General Inspection TF)	<u>10,880</u>	<u>10,880</u>	<u>10,880</u>
Total Costs	<u>\$262,312</u>	<u>\$150,327</u>	<u>\$152,858</u>

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

The department states that the concealed weapons permit application, which includes questions pertaining to the time frames specified under s. 790.06, F.S., and the application instruction pamphlets, which provide guidance to the applicant on how to complete the application and include a copy of Chapter 790, F.S., will have to be revised. These revisions will require printing a minimum of 100,000 of the concealed weapons/firearms application forms and application instruction pamphlets to be distributed to sheriffs' offices, police departments, firearm instructors, and other entities to replace the current forms they have in stock.

Upon passage of this legislation, the department also foresees an increase in the number of applications denied and administrative actions taken by the department for criminal history changes. The increase will require one additional compliance officer and one additional attorney for handling the increase in denials and administrative complaints. There will be an increase in legal challenges from applicants and licensees whose applications/licenses are suspended in cases where the final disposition results in a verdict of not guilty. The department further states that with the increase in denials and administrative actions, there will be an increase in the number of telephone calls and emails which may require one additional support staff position.

And lastly, the department states that if the proposed changes are retroactive, current license holders will need to be checked for the additional two years included in the legislation, requiring two additional attorney positions for reviewing criminal history activity in addition to two additional compliance officers for processing the administrative actions.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect municipal or county government.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

The department expresses a concern regarding the drafting of subsection (3) of the bill. As the bill is currently written, it is implied, but not formally stated, that a verdict of not guilty would result in the reversal of the suspension of the concealed weapons license.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

N/A