



245176

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/14/2011	.	
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The Committee on Criminal Justice (Evers) recommended the following:

1           **Senate Substitute for Amendment (180224) (with title**  
2 **amendment)**

3  
4           Delete everything after the enacting clause  
5 and insert:

6           Section 1. Subsection (1) of section 790.053, Florida  
7 Statutes, is amended to read:

8           790.053 Open carrying of weapons.—

9           (1) Except as otherwise provided by law and in subsection  
10 (2), it is unlawful for any person to openly carry on or about  
11 his or her person any firearm or electric weapon or device,  
12 except as provided in s. 790.06(1). It shall not be a violation



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13 of this section for a person who is licensed to carry a  
14 concealed firearm, and who is lawfully carrying it in a  
15 concealed manner, to accidentally or inadvertently display the  
16 firearm to the ordinary sight of another person so long as the  
17 firearm is not displayed in a rude, angry, or threatening  
18 manner.

19 Section 2. Subsection (1), paragraph (h) of subsection (2),  
20 paragraph (c) of subsection (5), and subsection (12) of section  
21 790.06, Florida Statutes, are amended to read:

22 790.06 License to carry concealed weapon or firearm.—

23 (1) The Department of Agriculture and Consumer Services is  
24 authorized to issue licenses to carry concealed weapons or  
25 concealed firearms to persons qualified as provided in this  
26 section. Each such license must bear a color photograph of the  
27 licensee. For the purposes of this section, concealed weapons or  
28 concealed firearms are defined as a handgun, electronic weapon  
29 or device, tear gas gun, knife, or billie, but the term does not  
30 include a machine gun as defined in s. 790.001(9). Such licenses  
31 shall be valid throughout the state for a period of 7 years from  
32 the date of issuance. Any person in compliance with the terms of  
33 such license may carry a concealed weapon or concealed firearm  
34 notwithstanding ~~the provisions of s. 790.01,~~ or may carry openly  
35 as set forth in paragraphs (a) - (c) of this subsection,  
36 notwithstanding s. 790.053. The licensee must carry the license,  
37 together with valid identification, at all times in which the  
38 licensee is in actual possession of a concealed weapon or  
39 firearm and must display both the license and proper  
40 identification upon demand by a law enforcement officer. A  
41 violation ~~Violations of the provisions~~ of this subsection shall



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42 constitute a noncriminal violation with a penalty of \$25,  
43 payable to the clerk of the court.

44 (a) Carrying openly requires that the firearm be secured by  
45 the carrier in a Level 2 security holster.

46 (b) Carrying openly requires that the carrier display his  
47 or her license to carry a concealed firearm in a clear sleeve on  
48 or near the holster in such a manner as to be visible.

49 (c) Carrying openly requires the carrier to have  
50 demonstrated competence with a firearm and firearm retention as  
51 provided in paragraph (2) (h).

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

54 (h) Demonstrates competence with a firearm and firearm  
55 retention by any one of the following:

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

59 2. Completion of any National Rifle Association firearms  
60 safety or training course;

61 3. Completion of any firearms safety or training course or  
62 class available to the general public offered by a law  
63 enforcement, junior college, college, or private or public  
64 institution or organization or firearms training school,  
65 utilizing instructors certified by the National Rifle  
66 Association, Criminal Justice Standards and Training Commission,  
67 or the Department of Agriculture and Consumer Services;

68 4. Completion of any law enforcement firearms safety or  
69 training course or class offered for security guards,  
70 investigators, special deputies, or any division or subdivision



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71 of law enforcement or security enforcement;

72 5. Presents evidence of equivalent experience with a  
73 firearm through participation in organized shooting competition  
74 or military service;

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

78 7. Completion of any firearms training or safety course or  
79 class conducted by a state-certified or National Rifle  
80 Association certified firearms instructor;

81  
82 A photocopy of a certificate of completion of any of the courses  
83 or classes; or an affidavit from the instructor, school, club,  
84 organization, or group that conducted or taught said course or  
85 class attesting to the completion of the course or class by the  
86 applicant; or a copy of any document which shows completion of  
87 the course or class or evidences participation in firearms  
88 competition shall constitute evidence of qualification under  
89 this paragraph; any person who conducts a course pursuant to  
90 subparagraph 2., subparagraph 3., or subparagraph 7., or who, as  
91 an instructor, attests to the completion of such courses, must  
92 maintain records certifying that he or she observed the student  
93 safely handle and discharge the firearm;

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

96 (c) A full set of fingerprints of the applicant  
97 administered by a law enforcement agency or the Division of  
98 Licensing of the Department of Agriculture and Consumer  
99 Services.



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100           (12) (a) A ~~No~~ license issued under ~~pursuant to~~ this section  
101 does not shall authorize any person to carry a concealed weapon  
102 or firearm into:

103           1. Any place of nuisance as defined in s. 823.05;

104           2. Any police, sheriff, or highway patrol station;

105           3. Any detention facility, prison, or jail;

106           4. Any courthouse;

107           5. Any courtroom, except that nothing in this section would  
108 preclude a judge from carrying a concealed weapon or determining  
109 who will carry a concealed weapon in his or her courtroom;

110           6. Any polling place;

111           7. Any meeting of the governing body of a county, public  
112 school district, municipality, or special district;

113           8. Any meeting of the Legislature or a committee thereof;

114           9. Any school, college, or professional athletic event not  
115 related to firearms;

116           10. Any public elementary or secondary school facility or  
117 administration building;

118           11. Any portion of an establishment licensed to dispense  
119 alcoholic beverages for consumption on the premises, which  
120 portion of the establishment is primarily devoted to such  
121 purpose; ~~any elementary or secondary school facility; any career~~  
122 ~~center; any college or university facility unless the licensee~~  
123 ~~is a registered student, employee, or faculty member of such~~  
124 ~~college or university and the weapon is a stun gun or nonlethal~~  
125 ~~electric weapon or device designed solely for defensive purposes~~  
126 ~~and the weapon does not fire a dart or projectile;~~

127           12. The inside of the passenger terminal and sterile area  
128 of any airport, provided that no person shall be prohibited from



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129 carrying any legal firearm into the terminal, which firearm is  
130 encased for shipment for purposes of checking such firearm as  
131 baggage to be lawfully transported on any aircraft; or

132 13. Any place where the carrying of firearms is prohibited  
133 by federal law.

134 (b) A person licensed under this section shall not be  
135 prohibited from carrying or storing a firearm in a vehicle for  
136 lawful purposes.

137 (c) This subsection does not modify the terms or conditions  
138 of s. 790.251(7).

139 (d) Any person who knowingly and willfully violates any  
140 provision of this subsection commits a misdemeanor of the second  
141 degree, punishable as provided in s. 775.082 or s. 775.083.

142 Section 3. Section 790.115, Florida Statutes, is amended to  
143 read:

144 790.115 Possessing or discharging weapons or firearms at a  
145 school-sponsored event or on school property prohibited;  
146 penalties; exceptions.-

147 (1) A person who exhibits any sword, sword cane, firearm,  
148 electric weapon or device, destructive device, or other weapon  
149 as defined in s. 790.001(13), including a razor blade, box  
150 cutter, or common pocketknife, except as authorized in support  
151 of school-sanctioned activities, in the presence of one or more  
152 persons in a rude, careless, angry, or threatening manner and  
153 not in lawful self-defense, at a school-sponsored event or on  
154 the grounds or facilities of any public school, school bus, or  
155 school bus stop, or within 1,000 feet of the real property that  
156 comprises a public ~~or private~~ elementary school, middle school,  
157 or secondary school, during school hours or during the time of a



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158 sanctioned school activity, commits a felony of the third  
159 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
160 775.084. This subsection does not apply to the exhibition of a  
161 firearm or weapon on private real property within 1,000 feet of  
162 a school by the owner of such property or by a person whose  
163 presence on such property has been authorized, licensed, or  
164 invited by the owner.

165 (2) (a) A person may ~~shall~~ not possess any firearm, electric  
166 weapon or device, destructive device, or other weapon as defined  
167 in s. 790.001(13), including a razor blade or box cutter, except  
168 as authorized in support of school-sanctioned activities, at a  
169 school-sponsored event or on the property of any public school,  
170 school bus, or school bus stop; however, a person may carry a  
171 firearm:

172 1. In a case to a firearms program, class, or function that  
173 ~~which~~ has been approved in advance by the principal or chief  
174 administrative officer of the school as a program or class to  
175 which firearms could be carried;

176 2. In a case to a career center having a firearms training  
177 range; or

178 3. In a vehicle pursuant to s. 790.25(5); except that  
179 school districts may adopt written and published policies that  
180 waive the exception in this subparagraph for purposes of student  
181 and campus parking privileges.

182  
183 For the purposes of this section, the term "school" means any  
184 public preschool, elementary school, middle school, junior high  
185 school, or secondary school, ~~career center, or postsecondary~~  
186 ~~school, whether public or nonpublic.~~



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187 (b) A person who willfully and knowingly possesses any  
188 electric weapon or device, destructive device, or other weapon  
189 as defined in s. 790.001(13), including a razor blade or box  
190 cutter, except as authorized in support of school-sanctioned  
191 activities, in violation of this subsection commits a felony of  
192 the third degree, punishable as provided in s. 775.082, s.  
193 775.083, or s. 775.084.

194 (c)1. A person who willfully and knowingly possesses any  
195 firearm in violation of this subsection commits a felony of the  
196 third degree, punishable as provided in s. 775.082, s. 775.083,  
197 or s. 775.084.

198 2. A person who stores or leaves a loaded firearm within  
199 the reach or easy access of a minor who obtains the firearm and  
200 commits a violation of subparagraph 1. commits a misdemeanor of  
201 the second degree, punishable as provided in s. 775.082 or s.  
202 775.083; except that this does not apply if the firearm was  
203 stored or left in a securely locked box or container or in a  
204 location which a reasonable person would have believed to be  
205 secure, or was securely locked with a firearm-mounted push-  
206 button combination lock or a trigger lock; if the minor obtains  
207 the firearm as a result of an unlawful entry by any person; or  
208 to members of the Armed Forces, National Guard, or State  
209 Militia, or to police or other law enforcement officers, with  
210 respect to firearm possession by a minor which occurs during or  
211 incidental to the performance of their official duties.

212 (d) A person who discharges any weapon or firearm while in  
213 violation of paragraph (a), unless discharged for lawful defense  
214 of himself or herself or another or for a lawful purpose,  
215 commits a felony of the second degree, punishable as provided in





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216 s. 775.082, s. 775.083, or s. 775.084.

217 (e) The penalties of this subsection do ~~shall~~ not apply to  
218 persons licensed under s. 790.06. Persons licensed under s.  
219 790.06 shall be punished as provided in s. 790.06(12), except  
220 that a licenseholder who unlawfully discharges a weapon or  
221 firearm on school property as prohibited by this subsection  
222 commits a felony of the second degree, punishable as provided in  
223 s. 775.082, s. 775.083, or s. 775.084.

224 (3) This section does not apply to any law enforcement  
225 officer as defined in s. 943.10(1), (2), (3), (4), (6), (7),  
226 (8), (9), or (14).

227 (4) Notwithstanding s. 985.24, s. 985.245, or s. 985.25(1),  
228 any minor under 18 years of age who is charged under this  
229 section with possessing or discharging a firearm on school  
230 property shall be detained in secure detention, unless the state  
231 attorney authorizes the release of the minor, and shall be given  
232 a probable cause hearing within 24 hours after being taken into  
233 custody. At the hearing, the court may order that the minor  
234 continue to be held in secure detention for a period of 21 days,  
235 during which time the minor shall receive medical, psychiatric,  
236 psychological, or substance abuse examinations pursuant to s.  
237 985.18, and a written report shall be completed.

238 Section 4. Section 790.28, Florida Statutes, is repealed.

239 Section 5. Subsection (1) of section 790.065, Florida  
240 Statutes, is amended to read:

241 790.065 Sale and delivery of firearms.—

242 (1) (a) A licensed importer, licensed manufacturer, or  
243 licensed dealer may not sell or deliver from her or his  
244 inventory at her or his licensed premises any firearm to another



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245 person, other than a licensed importer, licensed manufacturer,  
246 licensed dealer, or licensed collector, until she or he has:

247 1.~~(a)~~ Obtained a completed form from the potential buyer or  
248 transferee, which form shall have been promulgated by the  
249 Department of Law Enforcement and provided by the licensed  
250 importer, licensed manufacturer, or licensed dealer, which shall  
251 include the name, date of birth, gender, race, and social  
252 security number or other identification number of such potential  
253 buyer or transferee and has inspected proper identification  
254 including an identification containing a photograph of the  
255 potential buyer or transferee.

256 2.~~(b)~~ Collected a fee from the potential buyer for  
257 processing the criminal history check of the potential buyer.  
258 The fee shall be established by the Department of Law  
259 Enforcement and may not exceed \$8 per transaction. The  
260 Department of Law Enforcement may reduce, or suspend collection  
261 of, the fee to reflect payment received from the Federal  
262 Government applied to the cost of maintaining the criminal  
263 history check system established by this section as a means of  
264 facilitating or supplementing the National Instant Criminal  
265 Background Check System. The Department of Law Enforcement  
266 shall, by rule, establish procedures for the fees to be  
267 transmitted by the licensee to the Department of Law  
268 Enforcement. All such fees shall be deposited into the  
269 Department of Law Enforcement Operating Trust Fund, but shall be  
270 segregated from all other funds deposited into such trust fund  
271 and must be accounted for separately. Such segregated funds must  
272 not be used for any purpose other than the operation of the  
273 criminal history checks required by this section. The Department



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274 of Law Enforcement, each year prior to February 1, shall make a  
275 full accounting of all receipts and expenditures of such funds  
276 to the President of the Senate, the Speaker of the House of  
277 Representatives, the majority and minority leaders of each house  
278 of the Legislature, and the chairs of the appropriations  
279 committees of each house of the Legislature. In the event that  
280 the cumulative amount of funds collected exceeds the cumulative  
281 amount of expenditures by more than \$2.5 million, excess funds  
282 may be used for the purpose of purchasing soft body armor for  
283 law enforcement officers.

284 3.(e) Requested, by means of a toll-free telephone call,  
285 the Department of Law Enforcement to conduct a check of the  
286 information as reported and reflected in the Florida Crime  
287 Information Center and National Crime Information Center systems  
288 as of the date of the request.

289 4.(d) Received a unique approval number for that inquiry  
290 from the Department of Law Enforcement, and recorded the date  
291 and such number on the consent form.

292 (b) However, if the person purchasing, or receiving  
293 delivery of, the firearm is a holder of a valid concealed  
294 weapons or firearms license pursuant to the provisions of s.  
295 790.06 or holds an active certification from the Criminal  
296 Justice Standards and Training Commission as a "law enforcement  
297 officer," a "correctional officer," or a "correctional probation  
298 officer" as defined in s. 943.10(1), (2), (3), (6), (7), (8), or  
299 (9), ~~the provisions of~~ this subsection does ~~de~~ not apply.

300 (c) This subsection does not apply to the purchase, trade,  
301 or transfer of rifles or shotguns by a resident of this state  
302 when the resident makes such purchase, trade, or transfer from a



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303 licensed importer, licensed manufacturer, or licensed dealer in  
304 another state.

305 Section 6. This act shall take effect upon becoming a law.

306

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

308 And the title is amended as follows:

309 Delete everything before the enacting clause  
310 and insert:

311 A bill to be entitled  
312 An act relating to firearms; amending s. 790.053,  
313 F.S.; providing that person in compliance with the  
314 terms of a concealed carry license is not in violation  
315 of s. 790.053(1), F.S. when the concealed firearm is  
316 accidentally or inadvertently displayed to the  
317 ordinary sight of another person; amending s. 790.06,  
318 F.S.; providing that a person in compliance with the  
319 terms of a concealed carry license may carry openly  
320 notwithstanding specified provisions; providing for  
321 compliance to certain requirements in order to  
322 lawfully carry a firearm openly; allowing the Division  
323 of Licensing of the Department of Agriculture and  
324 Consumer Services to take fingerprints from concealed  
325 carry license applicants; limiting a prohibition on  
326 carrying a concealed weapon or firearm into an  
327 elementary or secondary school facility, career  
328 center, or college or university facility to include  
329 only a public elementary or secondary school facility  
330 or administration building; providing that concealed  
331 carry licensees shall not be prohibited from carrying



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332 or storing a firearm in a vehicle for lawful purposes;  
333 amending s. 790.115, F.S., relating to the prohibition  
334 against possessing or discharging weapons or firearms  
335 at a school-sponsored event or on school property;  
336 revising the definition of the term "school";  
337 repealing s. 790.28, F.S., relating to the purchase of  
338 rifles and shotguns in contiguous states; amending s.  
339 790.065, F.S.; providing that specified provisions do  
340 not apply to certain firearms transactions by a  
341 resident of this state which take place in another  
342 state; providing an effective date.