



604844

LEGISLATIVE ACTION

Senate	.	House
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The Committee on Rules (Negron) recommended the following:

1        **Senate** ~~Substitute for~~ **Amendment** ~~(764102)~~ **(with title**  
2 **amendment)**

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

6  
7        Section 1. Section 790.33, Florida Statutes, is amended to  
8 read:

9        790.33 Field of regulation of firearms and ammunition  
10 preempted.—

11        (1) PREEMPTION.—Except as expressly provided by the State  
12 Constitution or general law, the Legislature hereby declares  
13 that it is occupying the whole field of regulation of firearms



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14 and ammunition, including the purchase, sale, transfer,  
15 taxation, manufacture, ownership, possession, storage, and  
16 transportation thereof, to the exclusion of all existing and  
17 future county, city, town, or municipal ordinances or any  
18 administrative regulations or rules adopted by local or state  
19 government relating thereto. Any such existing ordinances,  
20 rules, or regulations are hereby declared null and void. ~~This~~  
21 ~~subsection shall not affect zoning ordinances which encompass~~  
22 ~~firearms businesses along with other businesses. Zoning~~  
23 ~~ordinances which are designed for the purpose of restricting or~~  
24 ~~prohibiting the sale, purchase, transfer, or manufacture of~~  
25 ~~firearms or ammunition as a method of regulating firearms or~~  
26 ~~ammunition are in conflict with this subsection and are~~  
27 ~~prohibited.~~

28 ~~(2) LIMITED EXCEPTION; COUNTY WAITING-PERIOD ORDINANCES.—~~

29 ~~(a) Any county may have the option to adopt a waiting-~~  
30 ~~period ordinance requiring a waiting period of up to, but not to~~  
31 ~~exceed, 3 working days between the purchase and delivery of a~~  
32 ~~handgun. For purposes of this subsection, "purchase" means~~  
33 ~~payment of deposit, payment in full, or notification of intent~~  
34 ~~to purchase. Adoption of a waiting-period ordinance, by any~~  
35 ~~county, shall require a majority vote of the county commission~~  
36 ~~on votes on waiting-period ordinances. This exception is limited~~  
37 ~~solely to individual counties and is limited to the provisions~~  
38 ~~and restrictions contained in this subsection.~~

39 ~~(b) Ordinances authorized by this subsection shall apply to~~  
40 ~~all sales of handguns to individuals by a retail establishment~~  
41 ~~except those sales to individuals exempted in this subsection.~~  
42 ~~For purposes of this subsection, "retail establishment" means a~~



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43 ~~gun shop, sporting goods store, pawn shop, hardware store,~~  
44 ~~department store, discount store, bait or tackle shop, or any~~  
45 ~~other store or shop that offers handguns for walk-in retail sale~~  
46 ~~but does not include gun collectors shows or exhibits, or gun~~  
47 ~~shows.~~

48 ~~(c) Ordinances authorized by this subsection shall not~~  
49 ~~require any reporting or notification to any source outside the~~  
50 ~~retail establishment, but records of handgun sales must be~~  
51 ~~available for inspection, during normal business hours, by any~~  
52 ~~law enforcement agency as defined in s. 934.02.~~

53 ~~(d) The following shall be exempt from any waiting period:~~

54 ~~1. Individuals who are licensed to carry concealed firearms~~  
55 ~~under the provisions of s. 790.06 or who are licensed to carry~~  
56 ~~concealed firearms under any other provision of state law and~~  
57 ~~who show a valid license;~~

58 ~~2. Individuals who already lawfully own another firearm and~~  
59 ~~who show a sales receipt for another firearm; who are known to~~  
60 ~~own another firearm through a prior purchase from the retail~~  
61 ~~establishment; or who have another firearm for trade-in;~~

62 ~~3. A law enforcement or correctional officer as defined in~~  
63 ~~s. 943.10;~~

64 ~~4. A law enforcement agency as defined in s. 934.02;~~

65 ~~5. Sales or transactions between dealers or between~~  
66 ~~distributors or between dealers and distributors who have~~  
67 ~~current federal firearms licenses; or~~

68 ~~6. Any individual who has been threatened or whose family~~  
69 ~~has been threatened with death or bodily injury, provided the~~  
70 ~~individual may lawfully possess a firearm and provided such~~  
71 ~~threat has been duly reported to local law enforcement.~~



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72            (2) ~~(3)~~ POLICY AND INTENT.—

73            (a) It is the intent of this section to provide uniform  
74 firearms laws in the state; to declare all ordinances and  
75 regulations null and void which have been enacted by any  
76 jurisdictions other than state and federal, which regulate  
77 firearms, ammunition, or components thereof; to prohibit the  
78 enactment of any future ordinances or regulations relating to  
79 firearms, ammunition, or components thereof unless specifically  
80 authorized by this section or general law; and to require local  
81 jurisdictions to enforce state firearms laws.

82            (b) It is further the intent of this section to deter and  
83 prevent the violation of this section and the violation of  
84 rights protected under the constitution and laws of this state  
85 related to firearms, ammunition, or components thereof, by the  
86 abuse of official authority that occurs when enactments are  
87 passed in violation of state law or under color of local or  
88 state authority.

89            (3) PROHIBITIONS; PENALTIES.—

90            (a) Any person, county, agency, municipality, district, or  
91 other entity that violates the Legislature's occupation of the  
92 whole field of regulation of firearms and ammunition, as  
93 declared in subsection (1), by enacting or causing to be  
94 enforced any local ordinance or administrative rule or  
95 regulation impinging upon such exclusive occupation of the field  
96 shall be liable as set forth herein.

97            (b) If any county, city, town, or other local government  
98 violates this section, the court shall declare the improper  
99 ordinance, regulation, or rule invalid and issue a permanent  
100 injunction against the local government prohibiting it from



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101 enforcing such ordinance, regulation, or rule. It is no defense  
102 that in enacting the ordinance, regulation, or rule the local  
103 government was acting in good faith or upon advice of counsel.

104 (c) If the court determines that a violation was knowing  
105 and willful, the court shall assess a civil fine of up to \$5,000  
106 against the elected or appointed local government official or  
107 officials or administrative agency head under whose jurisdiction  
108 the violation occurred.

109 (d) Except as required by applicable law, public funds may  
110 not be used to defend or reimburse the unlawful conduct of any  
111 person found to have knowingly and willfully violated this  
112 section.

113 (e) A knowing and willful violation of any provision of  
114 this section by a person acting in an official capacity for any  
115 entity enacting or causing to be enforced a local ordinance or  
116 administrative rule or regulation prohibited under paragraph (a)  
117 or otherwise under color of law shall be cause for termination  
118 of employment or contract or removal from office by the  
119 Governor.

120 (f) A person or an organization whose membership is  
121 adversely affected by any ordinance, regulation, measure,  
122 directive, rule, enactment, order, or policy promulgated or  
123 caused to be enforced in violation of this section may file suit  
124 against any county, agency, municipality, district, or other  
125 entity in any court of this state having jurisdiction over any  
126 defendant to the suit for declaratory and injunctive relief and  
127 for actual damages, as limited herein, caused by the violation.  
128 A court shall award the prevailing plaintiff in any such suit:

129 1. Reasonable attorneys' fees and costs in accordance with



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130 the laws of this state, including a contingency fee multiplier,  
131 as authorized by law; and

132 2. The actual damages incurred, but not more than \$100,000.  
133

134 Interest on the sums awarded pursuant to this subsection shall  
135 accrue at the legal rate from the date on which suit was filed.

136 (4) EXCEPTIONS.—This section does not prohibit:

137 (a) Zoning ordinances that encompass firearms businesses  
138 along with other businesses, except that zoning ordinances that  
139 are designed for the purpose of restricting or prohibiting the  
140 sale, purchase, transfer, or manufacture of firearms or  
141 ammunition as a method of regulating firearms or ammunition are  
142 in conflict with this subsection and are prohibited;

143 (b) A duly organized law enforcement agency from enacting  
144 and enforcing regulations pertaining to firearms, ammunition, or  
145 firearm accessories issued to or used by peace officers in the  
146 course of their official duties;

147 (c) Except as provided in s. 790.251, any entity subject to  
148 the prohibitions of this section from regulating or prohibiting  
149 the carrying of firearms and ammunition by an employee of the  
150 entity during and in the course of the employee's official  
151 duties;

152 (d) A court or administrative law judge from hearing and  
153 resolving any case or controversy or issuing any opinion or  
154 order on a matter within the jurisdiction of that court or  
155 judge; or

156 (e) The Florida Fish and Wildlife Conservation Commission  
157 from regulating the use of firearms or ammunition as a method of  
158 taking wildlife and regulating the shooting ranges managed by



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159 the commission.

160 (5) ~~(b)~~ SHORT TITLE.—As created by chapter 87-23, Laws of  
161 Florida, this section ~~shall be known and~~ may be cited as the  
162 “Joe Carlucci Uniform Firearms Act.”

163 Section 2. This act shall take effect October 1, 2011.

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

167 And the title is amended as follows:

168 Delete everything before the enacting clause  
169 and insert:

170 A bill to be entitled  
171 An act relating to the regulation of firearms and  
172 ammunition; amending s. 790.33, F.S.; clarifying and  
173 reorganizing provisions that preempt to the state the  
174 entire field of regulation of firearms; prohibiting  
175 the violation of the Legislature’s occupation of the  
176 whole field of regulation of firearms and ammunition  
177 by the enactment or causation of enforcement of any  
178 local ordinance or administrative rule or regulation;  
179 providing additional intent of the section;  
180 eliminating provisions authorizing counties to adopt  
181 an ordinance requiring a waiting period between the  
182 purchase and delivery of a handgun; providing  
183 injunctive relief from the enforcement of an invalid  
184 ordinance, regulation, or rule; providing a civil  
185 penalty for knowing and willful violation of  
186 prohibitions; providing that public funds may not be  
187 used to defend or reimburse the unlawful conduct of



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188 any person charged with a knowing and willful  
189 violation of the section; providing for termination of  
190 employment or contract or removal from office of a  
191 person acting in an official capacity who knowingly  
192 and willfully violates any provision of the section;  
193 providing for declaratory and injunctive relief for  
194 specified persons or organizations; providing for  
195 specified damages and interest; providing exceptions  
196 to prohibitions of the section; providing an effective  
197 date.