

HB 517

2011

1 A bill to be entitled
2 An act relating to firearms; amending s. 790.06, F.S.;
3 providing that a person in compliance with the terms of a
4 concealed carry license may carry openly notwithstanding
5 specified provisions; allowing the Division of Licensing
6 of the Department of Agriculture and Consumer Services to
7 take fingerprints from concealed carry license applicants;
8 limiting a prohibition on carrying a concealed weapon or
9 firearm into an elementary or secondary school facility,
10 career center, or college or university facility to
11 include only a public elementary or secondary school
12 facility or administration building; providing that
13 concealed carry licensees shall not be prohibited from
14 carrying or storing a firearm in a vehicle for lawful
15 purposes; providing that a provision limiting the scope of
16 a license to carry a concealed weapon or firearm does not
17 modify certain exceptions to prohibited acts with respect
18 to a person's right to keep and bear arms in motor
19 vehicles for certain purposes; amending s. 790.115, F.S.,
20 relating to the prohibition against possessing or
21 discharging weapons or firearms at a school-sponsored
22 event or on school property; revising the definition of
23 the term "school"; repealing s. 790.28, F.S., relating to
24 the purchase of rifles and shotguns in contiguous states;
25 amending s. 790.065, F.S.; providing that specified
26 provisions do not apply to certain firearms transactions
27 by a resident of this state that take place in another
28 state; providing applicable law; requiring a specified

HB 517

2011

29 background check for such transactions; providing an
 30 effective date.

31

32 Be It Enacted by the Legislature of the State of Florida:

33

34 Section 1. Subsection (1), paragraph (c) of subsection
 35 (5), and subsection (12) of section 790.06, Florida Statutes,
 36 are amended to read:

37 790.06 License to carry concealed weapon or firearm.—

38 (1) The Department of Agriculture and Consumer Services is
 39 authorized to issue licenses to carry concealed weapons or
 40 concealed firearms to persons qualified as provided in this
 41 section. Each such license must bear a color photograph of the
 42 licensee. For the purposes of this section, concealed weapons or
 43 concealed firearms are defined as a handgun, electronic weapon
 44 or device, tear gas gun, knife, or billie, but the term does not
 45 include a machine gun as defined in s. 790.001(9). Such licenses
 46 shall be valid throughout the state for a period of 7 years from
 47 the date of issuance. Any person in compliance with the terms of
 48 such license may carry a concealed weapon or concealed firearm
 49 notwithstanding ~~the provisions of s. 790.01~~ or may carry openly
 50 notwithstanding s. 790.053. The licensee must carry the license,
 51 together with valid identification, at all times in which the
 52 licensee is in actual possession of a concealed weapon or
 53 firearm and must display both the license and proper
 54 identification upon demand by a law enforcement officer. A
 55 violation ~~Violations of the provisions~~ of this subsection shall
 56 constitute a noncriminal violation with a penalty of \$25,

HB 517

2011

57 payable to the clerk of the court.

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

60 (c) A full set of fingerprints of the applicant
61 administered by a law enforcement agency or the Division of
62 Licensing of the Department of Agriculture and Consumer
63 Services.

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

- 67 1. Any place of nuisance as defined in s. 823.05;
- 68 2. Any police, sheriff, or highway patrol station;
- 69 3. Any detention facility, prison, or jail;
- 70 4. Any courthouse;
- 71 5. Any courtroom, except that nothing in this section
72 would preclude a judge from carrying a concealed weapon or
73 determining who will carry a concealed weapon in his or her
74 courtroom;
- 75 6. Any polling place;
- 76 7. Any meeting of the governing body of a county, public
77 school district, municipality, or special district;
- 78 8. Any meeting of the Legislature or a committee thereof;
- 79 9. Any school, college, or professional athletic event not
80 related to firearms;
- 81 10. Any public elementary or secondary school facility or
82 administration building;
- 83 11. Any portion of an establishment licensed to dispense
84 alcoholic beverages for consumption on the premises, which

HB 517

2011

85 | portion of the establishment is primarily devoted to such
 86 | ~~purpose; any elementary or secondary school facility; any career~~
 87 | ~~center; any college or university facility unless the licensee~~
 88 | ~~is a registered student, employee, or faculty member of such~~
 89 | ~~college or university and the weapon is a stun gun or nonlethal~~
 90 | ~~electric weapon or device designed solely for defensive purposes~~
 91 | ~~and the weapon does not fire a dart or projectile;~~

92 | 12. The inside of the passenger terminal and sterile area
 93 | of any airport, provided that no person shall be prohibited from
 94 | carrying any legal firearm into the terminal, which firearm is
 95 | encased for shipment for purposes of checking such firearm as
 96 | baggage to be lawfully transported on any aircraft; or

97 | 13. Any place where the carrying of firearms is prohibited
 98 | by federal law.

99 | (b) A person licensed under this section shall not be
 100 | prohibited from carrying or storing a firearm in a vehicle for
 101 | lawful purposes.

102 | (c) This subsection does not modify the terms or
 103 | conditions of s. 790.251(7).

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

107 | Section 2. Section 790.115, Florida Statutes, is amended
 108 | to read:

109 | 790.115 Possessing or discharging weapons or firearms at a
 110 | school-sponsored event or on school property prohibited;
 111 | penalties; exceptions.—

112 | (1) A person who exhibits any sword, sword cane, firearm,

HB 517

2011

113 electric weapon or device, destructive device, or other weapon
 114 as defined in s. 790.001(13), including a razor blade, box
 115 cutter, or common pocketknife, except as authorized in support
 116 of school-sanctioned activities, in the presence of one or more
 117 persons in a rude, careless, angry, or threatening manner and
 118 not in lawful self-defense, at a school-sponsored event or on
 119 the grounds or facilities of any school, school bus, or school
 120 bus stop, or within 1,000 feet of the real property that
 121 comprises a public or private elementary school, middle school,
 122 or secondary school, during school hours or during the time of a
 123 sanctioned school activity, commits a felony of the third
 124 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 125 775.084. This subsection does not apply to the exhibition of a
 126 firearm or weapon on private real property within 1,000 feet of
 127 a school by the owner of such property or by a person whose
 128 presence on such property has been authorized, licensed, or
 129 invited by the owner.

130 (2) (a) A person may ~~shall~~ not possess any firearm,
 131 electric weapon or device, destructive device, or other weapon
 132 as defined in s. 790.001(13), including a razor blade or box
 133 cutter, except as authorized in support of school-sanctioned
 134 activities, at a school-sponsored event or on the property of
 135 any school, school bus, or school bus stop; however, a person
 136 may carry a firearm:

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

HB 517

2011

141 2. In a case to a career center having a firearms training
142 range; or

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

147
148 For the purposes of this section, the term "school" means any
149 preschool, elementary school, middle school, junior high school,
150 or secondary school, ~~career center, or postsecondary school,~~
151 whether public or nonpublic.

152 (b) A person who willfully and knowingly possesses any
153 electric weapon or device, destructive device, or other weapon
154 as defined in s. 790.001(13), including a razor blade or box
155 cutter, except as authorized in support of school-sanctioned
156 activities, in violation of this subsection commits a felony of
157 the third degree, punishable as provided in s. 775.082, s.
158 775.083, or s. 775.084.

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

163 2. A person who stores or leaves a loaded firearm within
164 the reach or easy access of a minor who obtains the firearm and
165 commits a violation of subparagraph 1. commits a misdemeanor of
166 the second degree, punishable as provided in s. 775.082 or s.
167 775.083; except that this does not apply if the firearm was
168 stored or left in a securely locked box or container or in a

HB 517

2011

169 location which a reasonable person would have believed to be
 170 secure, or was securely locked with a firearm-mounted push-
 171 button combination lock or a trigger lock; if the minor obtains
 172 the firearm as a result of an unlawful entry by any person; or
 173 to members of the Armed Forces, National Guard, or State
 174 Militia, or to police or other law enforcement officers, with
 175 respect to firearm possession by a minor which occurs during or
 176 incidental to the performance of their official duties.

177 (d) A person who discharges any weapon or firearm while in
 178 violation of paragraph (a), unless discharged for lawful defense
 179 of himself or herself or another or for a lawful purpose,
 180 commits a felony of the second degree, punishable as provided in
 181 s. 775.082, s. 775.083, or s. 775.084.

182 (e) The penalties of this subsection do ~~shall~~ not apply to
 183 persons licensed under s. 790.06. Persons licensed under s.
 184 790.06 shall be punished as provided in s. 790.06(12), except
 185 that a licenseholder who unlawfully discharges a weapon or
 186 firearm on school property as prohibited by this subsection
 187 commits a felony of the second degree, punishable as provided in
 188 s. 775.082, s. 775.083, or s. 775.084.

189 (3) This section does not apply to any law enforcement
 190 officer as defined in s. 943.10(1), (2), (3), (4), (6), (7),
 191 (8), (9), or (14).

192 (4) Notwithstanding s. 985.24, s. 985.245, or s.
 193 985.25(1), any minor under 18 years of age who is charged under
 194 this section with possessing or discharging a firearm on school
 195 property shall be detained in secure detention, unless the state
 196 attorney authorizes the release of the minor, and shall be given

HB 517

2011

197 a probable cause hearing within 24 hours after being taken into
 198 custody. At the hearing, the court may order that the minor
 199 continue to be held in secure detention for a period of 21 days,
 200 during which time the minor shall receive medical, psychiatric,
 201 psychological, or substance abuse examinations pursuant to s.
 202 985.18, and a written report shall be completed.

203 Section 3. Section 790.28, Florida Statutes, is repealed.

204 Section 4. Subsection (1) of section 790.065, Florida
 205 Statutes, is amended to read:

206 790.065 Sale and delivery of firearms.—

207 (1) (a) A licensed importer, licensed manufacturer, or
 208 licensed dealer may not sell or deliver from her or his
 209 inventory at her or his licensed premises any firearm to another
 210 person, other than a licensed importer, licensed manufacturer,
 211 licensed dealer, or licensed collector, until she or he has:

212 1.(a) Obtained a completed form from the potential buyer
 213 or transferee, which form shall have been promulgated by the
 214 Department of Law Enforcement and provided by the licensed
 215 importer, licensed manufacturer, or licensed dealer, which shall
 216 include the name, date of birth, gender, race, and social
 217 security number or other identification number of such potential
 218 buyer or transferee and has inspected proper identification
 219 including an identification containing a photograph of the
 220 potential buyer or transferee.

221 2.(b) Collected a fee from the potential buyer for
 222 processing the criminal history check of the potential buyer.
 223 The fee shall be established by the Department of Law
 224 Enforcement and may not exceed \$8 per transaction. The

HB 517

2011

225 Department of Law Enforcement may reduce, or suspend collection
 226 of, the fee to reflect payment received from the Federal
 227 Government applied to the cost of maintaining the criminal
 228 history check system established by this section as a means of
 229 facilitating or supplementing the National Instant Criminal
 230 Background Check System. The Department of Law Enforcement
 231 shall, by rule, establish procedures for the fees to be
 232 transmitted by the licensee to the Department of Law
 233 Enforcement. All such fees shall be deposited into the
 234 Department of Law Enforcement Operating Trust Fund, but shall be
 235 segregated from all other funds deposited into such trust fund
 236 and must be accounted for separately. Such segregated funds must
 237 not be used for any purpose other than the operation of the
 238 criminal history checks required by this section. The Department
 239 of Law Enforcement, each year prior to February 1, shall make a
 240 full accounting of all receipts and expenditures of such funds
 241 to the President of the Senate, the Speaker of the House of
 242 Representatives, the majority and minority leaders of each house
 243 of the Legislature, and the chairs of the appropriations
 244 committees of each house of the Legislature. In the event that
 245 the cumulative amount of funds collected exceeds the cumulative
 246 amount of expenditures by more than \$2.5 million, excess funds
 247 may be used for the purpose of purchasing soft body armor for
 248 law enforcement officers.

249 3.(e) Requested, by means of a toll-free telephone call,
 250 the Department of Law Enforcement to conduct a check of the
 251 information as reported and reflected in the Florida Crime
 252 Information Center and National Crime Information Center systems

HB 517

2011

253 as of the date of the request.

254 ~~4.(d)~~ Received a unique approval number for that inquiry
255 from the Department of Law Enforcement, and recorded the date
256 and such number on the consent form.

257 (b) However, if the person purchasing, or receiving
258 delivery of, the firearm is a holder of a valid concealed
259 weapons or firearms license pursuant to the provisions of s.
260 790.06 or holds an active certification from the Criminal
261 Justice Standards and Training Commission as a "law enforcement
262 officer," a "correctional officer," or a "correctional probation
263 officer" as defined in s. 943.10(1), (2), (3), (6), (7), (8), or
264 (9), ~~the provisions of this subsection~~ does ~~de~~ not apply.

265 (c) This section does not apply to the purchase, trade, or
266 transfer of firearms by a resident of this state when the
267 resident makes such purchase, trade, or transfer in another
268 state, in which case the laws and regulations of that state and
269 the United States governing the purchase, trade, or transfer of
270 firearms shall apply. A National Instant Criminal Background
271 Check System check shall be performed prior to such purchase,
272 trade, or transfer of firearms by a resident of this state.

273 Section 5. This act shall take effect upon becoming a law.