

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Criminal Justice Committee

BILL: SB 998

INTRODUCER: Senator Negron and others

SUBJECT: Concealed Weapons or Firearms

DATE: January 11, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Fleming</u>	<u>Carter</u>	<u>MS</u>	Favorable
2.	<u>Cellon</u>	<u>Cannon</u>	<u>CJ</u>	Pre-Meeting
3.	_____	_____	<u>BC</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Current law requires that a Florida resident must be at least 21 years of age in order to be eligible to obtain a concealed weapons license. The bill amends the concealed weapons license law to allow Florida resident military servicemembers and honorably discharged veterans who are under the age of 21, and are otherwise qualified, to be issued a concealed weapons license.

The bill also allows nonresident military servicemembers and honorably discharged veterans under the age of 21, who hold a concealed weapons license from another state which honors Florida’s concealed weapons license, to exercise the same concealed weapons license rights available to Florida resident concealed weapons licensees.

The bill creates section 790.062 of the Florida Statutes, and amends section 790.015 of the Florida Statutes.

The bill provides that the act will take effect upon becoming law.

II. Present Situation:

Issuance of Concealed Weapon Licenses

The Department of Agriculture and Consumer Services (department) is statutorily authorized to issue licenses to carry concealed weapons and firearms.¹ Concealed weapons or concealed firearms are defined as a handgun, electronic weapon or device, tear gas gun, knife, or billie but

¹ s. 790.06(1), F.S.

not a machine gun for purposes of the licensure law.² An applicant must provide identifying information, including fingerprints, to the department for processing prior to the issuance of a concealed-carry license.

The department examines a number of criteria in determining whether an applicant meets the statutory conditions for issuance of a concealed carry license. The age of the applicant is among the criteria the department examines. An applicant must be 21 years of age or older in order to obtain a concealed-carry license in Florida.³

Additional statutory conditions for issuance of a concealed carry license require that an applicant:

- Be a resident of the United States and a citizen of the United States or a permanent resident alien of the United States, as determined by the United States Bureau of Citizenship and Immigration Services, or is a consular security official of a foreign government that maintains diplomatic relations and treaties of commerce, friendship, and navigation with the United States and is certified as such by the foreign government and by the appropriate embassy in this country;
- Not suffer from a physical infirmity that prevents the safe handling of a weapon or firearm;
- Not be ineligible to possess a firearm pursuant to s. 790.23, F.S., by virtue of having been convicted of a felony;
- Not have been committed for the abuse of a controlled substance or been found guilty of a crime under the provisions of ch. 893, F.S., or similar laws of any other state relating to controlled substances within a three-year period immediately preceding the date on which the application is submitted;
- Does not chronically and habitually use alcoholic beverages or other substances to the extent that his or her normal faculties are impaired. It shall be presumed that an applicant chronically and habitually uses alcoholic beverages or other substances to the extent that his or her normal faculties are impaired if the applicant has been committed under ch. 397, F.S., or under the provisions of former ch. 396, F.S., or has been convicted under s. 790.151, F.S., or has been deemed a habitual offender under s. 856.011(3), F.S., or has had two or more convictions under s. 316.193, F.S., or similar laws of any other state, within the three-year period immediately preceding the date on which the application is submitted;
- Has not been adjudicated an incapacitated person under s. 744.331, F.S., or similar laws of any other state, unless five years have elapsed since the applicant's restoration to capacity by court order;
- Has not been committed to a mental institution under ch. 394, F.S., or similar laws of any other state, unless the applicant produces a certificate from a licensed psychiatrist that he or she has not suffered from disability for at least five years prior to the date of submission of the application;
- Has not had adjudication of guilt withheld or imposition of sentence suspended on any felony or misdemeanor crime of domestic violence unless three years have elapsed since probation or any other conditions set by the court have been fulfilled, or the record has been sealed or expunged;

² *Id.*

³ s. 790.06(1)(b), F.S.

- 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.⁴

Concealed Carry Reciprocity

The state of Florida practices reciprocity with 35 other states which allows concealed weapon licensees from those participating states to carry their concealed weapons in Florida.

Accordingly, those states must also recognize and honor concealed weapon licenses issued by the state of Florida.⁵

Section 790.015(1), F.S., provides that a U.S. resident who is a Florida nonresident may carry a concealed weapon or firearm in Florida if the nonresident:

- Is at least 21 years of age; and
- Has in his or her immediate possession a valid license to carry a concealed weapon or concealed firearm issued to the nonresident in his or her state of residence.⁶

The concealed carry reciprocity provisions only apply to nonresident concealed weapon or concealed firearm licensees from states that honor Florida concealed weapon or concealed firearm licenses.⁷ Additionally, such nonresident licensees are subject to the same laws and restrictions with respect to carrying a concealed weapon or concealed firearm as a resident of Florida who is so licensed.⁸

Active Duty Military and Veterans Under 21 Years of Age

According to data provided by the Florida Department of Military Affairs, as of November 30, 2011 there were a total of 5,608 active duty service members under the age of twenty-one assigned to units in Florida. The data for November 30, 2011 also shows that there were a total of 2,579 National Guard and Reserve members assigned to Florida units.⁹

Data provided by the Florida Department of Veterans' Affairs indicates that on September 30, 2010 there were an estimated 407 military veterans in Florida who were under the age of twenty and 18,036 between 20 and 24 years of age. It is not possible to determine from the data provided how many of the 20-24 year age group are 20 or 21 years old, the persons to whom the bill may apply. The veteran population numbers do not indicate how many of those veterans were honorably discharged.¹⁰

⁴ s. 790.06(2), F.S.

⁵ See, http://licgweb.doacs.state.fl.us/news/concealed_carry.html for more information on states that recognize Florida's concealed weapons license.

⁶ s. 790.015(1), F.S.

⁷ s. 790.015(3), F.S.

⁸ s. 790.015(2), F.S.

⁹ Data on file with the Senate Military Affairs, Space, and Domestic Security Committee.

¹⁰ *Id.*

III. Effect of Proposed Changes:

Section 1 creates s. 790.062, F.S., to allow Florida resident military servicemembers and honorably discharged veterans who are under the age of 21, and are otherwise qualified, to be issued a concealed weapon or firearm license. The bill also requires the department to accept background check fingerprints for military concealed weapon license applicants which have been prepared by military law enforcement officials.

Section 2 amends s. 790.015, F.S., to allow Florida nonresident military servicemembers and honorably discharged veterans under the age of 21, who hold a concealed weapon license from another state which honors Florida's concealed weapon license, to exercise the same concealed weapon license rights available to Florida resident concealed weapon licensees.

Section 3 provides that the act shall take effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The provisions of this bill may result in potential increased economic activity from increased sales of firearms to previously ineligible concealed weapon or firearm licensees. This would particularly be applicable for merchants in areas with a significant military presence.

C. Government Sector Impact:

The department anticipates some increase in the volume of concealed weapon license application revenue from 18 to 20 year old military servicemembers and honorably

discharged veteran applicants based on the provisions in the bill. The amount of the increased revenue is indeterminate.¹¹

The department also anticipates some increase in the volume of concealed weapon license applications, which would result in increases in hard copy applications, forms, background checks, and other variable costs. However, all such costs would be entirely satisfied by the applicable license fees. These increased costs are indeterminate at this time.¹²

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

¹¹ Florida Department of Agriculture and Consumer Services, *Senate Bill 998 Analysis* (December 6, 2011) (on file with the Senate Military Affairs, Space, and Domestic Security Committee).

¹² *Id.*