

By Senator Ring

29-00891A-13

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1 A bill to be entitled
2 An act relating to the regulation of firearms and
3 ammunition; amending s. 790.33, F.S.; providing that
4 except as otherwise expressly prohibited by the State
5 Constitution, the municipalities and counties of this
6 state may regulate the field of firearms and
7 ammunition, including the purchase, sale, transfer,
8 taxation, manufacture, ownership, possession, storage,
9 and transportation of firearms and ammunition;
10 providing an effective date.

11
12 Be It Enacted by the Legislature of the State of Florida:

13
14 Section 1. Section 790.33, Florida Statutes, is amended to
15 read:

16 790.33 Field of regulation of firearms and ammunition;
17 county and municipal ordinances preempted.-

18 ~~(1) PREEMPTION. Except as otherwise expressly prohibited~~
19 ~~provided by the State Constitution or general law, the~~
20 ~~municipalities and counties of this state may enact and enforce~~
21 ~~ordinances that regulate Legislature hereby declares that it is~~
22 ~~occupying the whole field of regulation of~~ firearms and
23 ammunition, including the purchase, sale, transfer, taxation,
24 manufacture, ownership, possession, storage, and transportation
25 thereof, ~~to the exclusion of all existing and future county,~~
26 ~~city, town, or municipal ordinances or any administrative~~
27 ~~regulations or rules adopted by local or state government~~
28 ~~relating thereto. Any such existing ordinances, rules, or~~
29 ~~regulations are hereby declared null and void.~~

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30 ~~(2) POLICY AND INTENT.—~~

31 ~~(a) It is the intent of this section to provide uniform~~
32 ~~firearms laws in the state; to declare all ordinances and~~
33 ~~regulations null and void which have been enacted by any~~
34 ~~jurisdictions other than state and federal, which regulate~~
35 ~~firearms, ammunition, or components thereof; to prohibit the~~
36 ~~enactment of any future ordinances or regulations relating to~~
37 ~~firearms, ammunition, or components thereof unless specifically~~
38 ~~authorized by this section or general law; and to require local~~
39 ~~jurisdictions to enforce state firearms laws.~~

40 ~~(b) It is further the intent of this section to deter and~~
41 ~~prevent the violation of this section and the violation of~~
42 ~~rights protected under the constitution and laws of this state~~
43 ~~related to firearms, ammunition, or components thereof, by the~~
44 ~~abuse of official authority that occurs when enactments are~~
45 ~~passed in violation of state law or under color of local or~~
46 ~~state authority.~~

47 ~~(3) PROHIBITIONS; PENALTIES.—~~

48 ~~(a) Any person, county, agency, municipality, district, or~~
49 ~~other entity that violates the Legislature's occupation of the~~
50 ~~whole field of regulation of firearms and ammunition, as~~
51 ~~declared in subsection (1), by enacting or causing to be~~
52 ~~enforced any local ordinance or administrative rule or~~
53 ~~regulation impinging upon such exclusive occupation of the field~~
54 ~~shall be liable as set forth herein.~~

55 ~~(b) If any county, city, town, or other local government~~
56 ~~violates this section, the court shall declare the improper~~
57 ~~ordinance, regulation, or rule invalid and issue a permanent~~
58 ~~injunction against the local government prohibiting it from~~

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59 ~~enforcing such ordinance, regulation, or rule. It is no defense~~
60 ~~that in enacting the ordinance, regulation, or rule the local~~
61 ~~government was acting in good faith or upon advice of counsel.~~

62 ~~(c) If the court determines that a violation was knowing~~
63 ~~and willful, the court shall assess a civil fine of up to \$5,000~~
64 ~~against the elected or appointed local government official or~~
65 ~~officials or administrative agency head under whose jurisdiction~~
66 ~~the violation occurred.~~

67 ~~(d) Except as required by applicable law, public funds may~~
68 ~~not be used to defend or reimburse the unlawful conduct of any~~
69 ~~person found to have knowingly and willfully violated this~~
70 ~~section.~~

71 ~~(e) A knowing and willful violation of any provision of~~
72 ~~this section by a person acting in an official capacity for any~~
73 ~~entity enacting or causing to be enforced a local ordinance or~~
74 ~~administrative rule or regulation prohibited under paragraph (a)~~
75 ~~or otherwise under color of law shall be cause for termination~~
76 ~~of employment or contract or removal from office by the~~
77 ~~Governor.~~

78 ~~(f) A person or an organization whose membership is~~
79 ~~adversely affected by any ordinance, regulation, measure,~~
80 ~~directive, rule, enactment, order, or policy promulgated or~~
81 ~~caused to be enforced in violation of this section may file suit~~
82 ~~against any county, agency, municipality, district, or other~~
83 ~~entity in any court of this state having jurisdiction over any~~
84 ~~defendant to the suit for declaratory and injunctive relief and~~
85 ~~for actual damages, as limited herein, caused by the violation.~~
86 ~~A court shall award the prevailing plaintiff in any such suit:~~

87 ~~1. Reasonable attorney's fees and costs in accordance with~~

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88 ~~the laws of this state, including a contingency fee multiplier,~~
89 ~~as authorized by law; and~~

90 ~~2. The actual damages incurred, but not more than \$100,000.~~

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

94 ~~(4) EXCEPTIONS. This section does not prohibit:~~

95 ~~(a) Zoning ordinances that encompass firearms businesses~~
96 ~~along with other businesses, except that zoning ordinances that~~
97 ~~are designed for the purpose of restricting or prohibiting the~~
98 ~~sale, purchase, transfer, or manufacture of firearms or~~
99 ~~ammunition as a method of regulating firearms or ammunition are~~
100 ~~in conflict with this subsection and are prohibited;~~

101 ~~(b) A duly organized law enforcement agency from enacting~~
102 ~~and enforcing regulations pertaining to firearms, ammunition, or~~
103 ~~firearm accessories issued to or used by peace officers in the~~
104 ~~course of their official duties;~~

105 ~~(c) Except as provided in s. 790.251, any entity subject to~~
106 ~~the prohibitions of this section from regulating or prohibiting~~
107 ~~the carrying of firearms and ammunition by an employee of the~~
108 ~~entity during and in the course of the employee's official~~
109 ~~duties;~~

110 ~~(d) A court or administrative law judge from hearing and~~
111 ~~resolving any case or controversy or issuing any opinion or~~
112 ~~order on a matter within the jurisdiction of that court or~~
113 ~~judge; or~~

114 ~~(e) The Florida Fish and Wildlife Conservation Commission~~
115 ~~from regulating the use of firearms or ammunition as a method of~~
116 ~~taking wildlife and regulating the shooting ranges managed by~~

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117 ~~the commission.~~

118 ~~(5) SHORT TITLE. As created by chapter 87-23, Laws of~~
119 ~~Florida, this section may be cited as the "Joe Carlucci Uniform~~
120 ~~Firearms Act."~~

121 Section 2. This act shall take effect July 1, 2013.