

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 Committee on Appropriations

BILL: CS/CS/SB 544

INTRODUCER: Appropriations Committee; Agriculture Committee; and Senator Simpson and others

SUBJECT: Licensure to Carry a Concealed Weapon or Firearm

DATE: April 11, 2014

REVISED: 4/16/14

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Cellon</u>	<u>Cannon</u>	<u>CJ</u>	Favorable
2. <u>Akhavein</u>	<u>Becker</u>	<u>AG</u>	Fav/CS
3. <u>White</u>	<u>Yeatman</u>	<u>CA</u>	Favorable
4. <u>Blizzard</u>	<u>Kynoch</u>	<u>AP</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 544 authorizes the Department of Agriculture and Consumer Services (department) to appoint county tax collectors to accept new and renewal concealed weapon or firearm license applications. Under the bill, applicant information will be electronically input and transmitted for processing to the department's Division of Licensing (division) in Tallahassee. Licenses would be issued by the division by mail. The bill requires county tax collectors seeking appointment to submit a written request to the division. Upon approval of the request, the bill authorizes the division to enter into a Memorandum of Understanding (MOU) with the tax collector on behalf of the department.

The bill authorizes appointed tax collectors to collect and retain fees for accepting new and renewal concealed weapon or firearm licenses. Revenue received for license applications submitted to the tax collector offices will be deposited into the Division of Licensing Trust Fund within the department. All personal identifying information provided for the license or renewal that is contained in a tax collector's records as a result of the MOU is made confidential and exempt as provided in s. 790.0601, F.S. A related bill, CS/SB 546, amends s. 790.0601, F.S., to provide that such information is confidential and exempt from s. 119.07(1), F.S., and Art. I, s. 24 of the Florida Constitution.

The bill provides 11 positions and \$842,111 to the department from the Division of Licensing Trust Fund to implement the provisions in this act.

II. Present Situation:

The department is responsible for issuing concealed weapon and firearm licenses to those applicants who qualify.¹ As of the end of Fiscal Year 2012-2013, there were 1,115,981 valid Florida concealed weapon licenses.² During Fiscal Year 2012-2013, the department received 204,288 new license applications, 60,293 applications for license renewal, issued 192,026 new concealed weapon licenses, and 59,856 renewals.³ During Fiscal Year 2013-2014, the department received 107,666 new license applications, 2,172 applications for license renewal, issued 109,971 new concealed weapon licenses and 2,265 renewals.⁴

Concealed Weapon License Application Requirements

To obtain a concealed weapons license, a person must complete, under oath, an application that includes:

- The name, address, place and date of birth, race, and occupation of the applicant;
- A full frontal view color photograph of the applicant which must be taken within the preceding 30 days;
- A statement that the applicant has been furnished with a copy of ch. 790, F.S., relating to weapons and firearms and is knowledgeable of its provisions;
- A warning that the application is executed under oath with penalties for falsifying or substituting false documents;
- A statement that the applicant desires a concealed weapon or firearms license as a means of lawful self-defense;
- A full set of fingerprints;
- Documented proof of completion of a firearms safety and training course; and
- A nonrefundable license fee no greater than \$70 for a new license or no greater than \$60 for a renewal license.⁵

There is an additional fee for processing the fingerprints, typically \$42. According to information provided by the department, \$42 is the fee payable to the Florida Department of Law Enforcement (FDLE). A portion of the \$42 covers fees paid by the FDLE to the Federal Bureau of Investigation for assistance in completing the required background check.⁶ Sheriff's offices are statutorily authorized to collect \$5 for fingerprinting services.⁷

Section 790.06(6)(c), F.S., requires the department to either issue the license or deny its issuance and notify the applicant within 90 days of receiving a completed application. The most common reasons for delay and the department response to those issues are explained as follows:⁸

¹ *Id.*

² DACS, *Concealed Weapon or Firearm License Reports*, <http://www.freshfromflorida.com/Divisions-Offices/Licensing/Concealed-Weapon-License/Statistical-Reports> (last visited Feb. 25 10, 2014).

³ *Id.*

⁴ *Id.*

⁵ Section 790.06(1)-(5), F.S.

⁶ E-mail correspondence with the Department of Agriculture and Consumer Services (Jan. 16, 2014).

⁷ Section 790.06(6)(b), F.S.

⁸ DACS, *Frequently Asked Questions*, <http://www.freshfromflorida.com/Divisions-Offices/Licensing/Frequently-Asked-Questions> (last visited Feb. 25, 2014).

- An incomplete application. The department will notify the applicant by letter of the deficiencies and request the missing information or documentation.
- Law enforcement authorities determine fingerprints are insufficiently legible to complete a proper background check. The department will request a second fingerprint submission as required by law. If the second fingerprint submission is also deemed illegible, the department may ask the Federal Bureau of Investigation to conduct a name-based background check.
- The background check results received from law enforcement authorities reflect a potentially disqualifying crime without a final disposition. The department will request court documents indicating the final disposition.

The department has a “Fast Track Processing” system available to applicants in eight regional offices.⁹ During an appointment, the applicant may fill out and submit the application, be fingerprinted, photographed, and make payment. The application is reviewed and submitted to the division headquarters for final processing. Renewal concealed weapon licenses require less documentation and can be completed faster via a regional office or mail in. Renewals completed in one of the eight regional offices, with few exceptions, may require limited processing and may be issued onsite to the waiting applicant.¹⁰

County Tax Collector Authority

Article VIII, Section 1(d) of the Florida Constitution provides that tax collectors are elected county officers. The tax collector is the county officer charged with the collection of ad valorem taxes levied by the county, the school board, any special taxing districts within the county, and all municipalities within the county.¹¹ County tax collections are supervised by the state Department of Revenue.¹² Tax collectors may appoint deputies to act on their behalf in carrying out the duties prescribed by law.¹³

Several state agencies and departments are currently authorized to enter into agreements with county tax collectors for various purposes. Some examples that are similar to the arrangement with the department contemplated by the bill include:

- The Department of State may appoint a county tax collector as an agent to accept applications for licenses or license renewals or other similar registrations.¹⁴
- The Department of Highway Safety and Motor Vehicles (DHSMV) authorizes tax collectors to act as agents of the department in matters of motor vehicle registration. The DHSMV has statutory authority to install The Florida Real Time Vehicle Information System in the tax collectors offices to facilitate the agency relationship.¹⁵
- The DHSMV also has a statutory mandate to enter interagency agreements with county tax collectors to issue driver licenses, identification cards, and vessel registrations.¹⁶

⁹ The regional offices are located in Fort Walton Beach, Jacksonville, Doral, Orlando, Punta Gorda, Tallahassee, Tampa, and West Palm Beach. DACS, *Regional Office Locations*, www.freshfromflorida.com (last visited Feb. 25, 2014).

¹⁰ DACS, *Fast Track Processing*, www.freshfromflorida.com (last visited Feb. 25, 2014).

¹¹ Section 192.001(4), F.S.

¹² See generally Ch. 195, F.S.; s. 197.603, F.S.

¹³ Section 197.103, F.S.

¹⁴ Section 288.037, F.S.

¹⁵ Section 320.03, F.S.

¹⁶ Section 322.135, F.S., s. 328.73, F.S.

- The county tax collectors may sell licenses for game hunting and fishing, as authorized by statute and the Fish and Wildlife Conservation Commission.¹⁷
- The Department of Business and Professional Regulation (DBPR) may enter into an agreement with county tax collectors to act as the department's agent to accept applications for licenses or renewals of licenses to practice professions that fall within the DBPR jurisdiction.¹⁸

III. Effect of Proposed Changes:

Section 1 amends s. 790.06, F.S., to authorize the department to appoint any of Florida's 64 elected tax collectors to accept new and renewal concealed weapon or firearm license applications.

Section 2 creates s. 790.0625, F.S., to allow the department to appoint elected county tax collectors to accept applications on behalf of the Division of Licensing for concealed weapon or firearm licenses. The applicant information will be electronically input and transmitted to the division in Tallahassee for processing and subsequent issuance by mail only.

County tax collectors interested in being appointed by the department will submit a request to the division. The division has the discretion to enter into a Memorandum of Understanding with the tax collector. Both the department and the division have the authority to rescind the MOU.

All personal identifying information provided for the license or renewal that is contained in a tax collector's records as a result of the MOU is made confidential and exempt as provided in s. 790.0601, F.S. A related bill, CS/SB 546, amends s. 790.0601, F.S., to provide that such information is confidential and exempt from s. 119.07(1), F.S., and Art. I, s. 24 of the Florida Constitution.

Appointed tax collectors may not maintain a list of persons who apply for or receive a new or renewal concealed weapon or firearm license. Maintaining such a list makes the person subject to the provisions of s. 790.335, F.S.¹⁹

A tax collector appointed under the provisions of the bill is entitled to charge the applicant a convenience fee in the amount of \$22 for accepting new license applications and \$12 for accepting each renewal application. License fees collected by a tax collector must be remitted to the department weekly.

The bill authorizes tax collectors approved for appointment under newly-created s. 790.0625, F.S., to administer fingerprints for license applicants.

¹⁷ Section 379.352, F.S.

¹⁸ Section 455.213, F.S.

¹⁹ Section 790.335, F.S., states: "PROHIBITIONS.—No state governmental agency or local government, special district, or other political subdivision or official, agent, or employee of such state or other governmental entity or any other person, public or private, shall knowingly and willfully keep or cause to be kept any list, record, or registry of privately owned firearms or any list, record, or registry of the owners of those firearms." Such conduct is subject to third degree felony penalties and a \$5 million dollar fine.

The bill prohibits persons who are not appointed by the department from handling applications for any fee or compensation.

The bill creates a second degree misdemeanor for willful violations of newly-created s. 790.0625, F.S.

Section 3 appropriates 11 positions and \$842,111 from the Division of Licensing Trust Fund to the department for the 2014-2015 fiscal year to implement the provisions of the bill.

Section 4 provides that this act shall take effect July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

The bill provides that “all personal identifying information that is provided pursuant to s. 790.06 and contained in the records of a tax collector” is “confidential and exempt as provided in s. 790.0601.” Section 790.0601, F.S., provides that personal identifying information of an individual who has applied for or received a license to carry a concealed weapon or firearm pursuant to s. 790.06, F.S., held by the division is confidential and exempt from s. 119.07(1), F.S., and Art. I, s. 24 of the Florida Constitution. Art. I, s. 24, of the Florida Constitution requires that legislation to create an exemption from the public records requirements of the state constitution be enacted in a separate bill which identifies the public necessity justifying the exemption. A related bill, CS/SB 256, amends s. 790.0601, F.S., and provides an exemption for such information in the records of a tax collector appointed pursuant to CS/CS/SB 544.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

CS/CS/SB 544 authorizes participating tax collectors to charge a \$22 convenience fee for a new concealed weapon or firearm license application and \$12 for a renewal application.

B. Private Sector Impact:

Currently, applicants pay \$112 when applying at Division of Licensing regional offices for new licenses and \$60 for renewal licenses. Applicants applying at tax collectors' offices will pay \$134 for a new license and \$72 for a renewal license.

C. Government Sector Impact:

Tax collectors appointed to receive new and renewal concealed weapons license applications may experience additional workload and operating costs. Currently, the number of applications that will be received by the tax collectors' offices is unknown. It is indeterminate whether the fees are sufficient or exceed the amount needed to support the tax collectors' operating costs.

The department estimates an indeterminate amount of additional revenue will be generated and paid into the Division of Licensing Trust Fund. Although the number of applications is indeterminate at this time, there will be sufficient revenue to support the additional operating costs.

For Fiscal Year 2014-2015, the bill appropriates 11 positions and \$842,111 from the Division of Licensing Trust Fund to the department to implement the provisions in this bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 790.06 of the Florida Statutes.

This bill creates section 790.0625 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Appropriations on April 10, 2014:

The CS/CS appropriates an additional \$29,000 from the Licensing Trust Fund to the Department of Agriculture and Consumer Services for the 2014-2015 fiscal year.

CS by Agriculture on February 17, 2014:

The committee substitute provides appropriations and authorizes 11 full-time positions to implement the provisions of the bill.

B. Amendments:

None.