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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
12/05/2017	.	
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	.	
	.	

The Committee on Judiciary (Steube) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 790.053, Florida Statutes, is amended to
read:

790.053 Open carrying of weapons.—

(1) Except as otherwise provided by law and in subsection
(2), it is unlawful for any person to openly carry on or about
his or her person any firearm or electric weapon or device. ~~It~~
~~is not a violation of this section for a person licensed to~~



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12 ~~carry a concealed firearm as provided in s. 790.06(1), and who~~
13 ~~is lawfully carrying a firearm in a concealed manner, to briefly~~
14 ~~and openly display the firearm to the ordinary sight of another~~
15 ~~person, unless the firearm is intentionally displayed in an~~
16 ~~angry or threatening manner, not in necessary self-defense.~~

17 (2) A person may openly carry, for purposes of lawful self-
18 defense:

19 (a) A self-defense chemical spray.

20 (b) A nonlethal stun gun or dart-firing stun gun or other
21 nonlethal electric weapon or device that is designed solely for
22 defensive purposes.

23 (3) (a) A ~~Any~~ person violating this section who is not
24 licensed under s. 790.06 commits a misdemeanor of the second
25 degree, punishable as provided in s. 775.082 or s. 775.083.

26 (b) A person violating this section who is licensed under
27 s. 790.06 commits:

28 1. A noncriminal violation with a penalty of:

29 a. Two hundred and fifty dollars, payable to the clerk of
30 the court, for a first violation; or

31 b. Five hundred dollars, payable to the clerk of the court,
32 for a second violation.

33 2. A misdemeanor of the second degree, punishable as
34 provided in s. 775.082 or s. 775.083, for a third or subsequent
35 violation.

36 Section 2. Subsection (1) and paragraph (a) of subsection
37 (12) of section 790.06, Florida Statutes, are amended, present
38 subsection (17) of that section is redesignated as subsection
39 (18), and a new subsection (17) is added to that section, to
40 read:



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41 790.06 License to carry concealed weapon or firearm.-
42 (1) The Department of Agriculture and Consumer Services is
43 authorized to issue licenses to carry concealed weapons or
44 concealed firearms to persons qualified as provided in this
45 section. Each such license must bear a color photograph of the
46 licensee. For the purposes of this section, concealed weapons or
47 concealed firearms are defined as a handgun, electronic weapon
48 or device, tear gas gun, knife, or billie, but the term does not
49 include a machine gun as defined in s. 790.001(9). Such licenses
50 are ~~shall be~~ valid throughout the state for a period of 7 years
51 after ~~from~~ the date of issuance. Any person in compliance with
52 the terms of such license may carry a concealed weapon or
53 concealed firearm notwithstanding ~~the provisions of~~ s. 790.01.
54 The licensee must carry the license, together with valid
55 identification, at all times in which the licensee is in actual
56 possession of a concealed weapon or firearm and must display
57 both the license and proper identification upon demand by a law
58 enforcement officer. A person licensed to carry a concealed
59 firearm under this section whose firearm becomes openly
60 displayed to the ordinary sight of another person does not
61 violate s. 790.053 and may not be arrested or charged with a
62 noncriminal or criminal violation of s. 790.053. Violations of
63 ~~the provisions of~~ this subsection ~~shall~~ constitute a noncriminal
64 violation with a penalty of \$25, payable to the clerk of the
65 court.
66 (12) (a) A license issued under this section does not
67 authorize any person to openly carry a handgun or carry a
68 concealed weapon or firearm into:
69 1. Any place of nuisance as defined in s. 823.05;



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- 70 2. Any police, sheriff, or highway patrol station;
71 3. Any detention facility, prison, or jail;
72 4. Any courthouse, except when a licensee approaches
73 security or management personnel upon arrival at a courthouse
74 and notifies them of the presence of the weapon or firearm and
75 follows the security or management personnel's instructions for
76 temporarily surrendering the weapon or firearm to the security
77 or management personnel, who shall store the weapon or firearm
78 in a locker, safe, or other secure location and return the
79 weapon or firearm to the licensee when he or she is exiting the
80 courthouse;
81 5. Any courtroom, except that nothing in this section would
82 preclude a judge from carrying a concealed weapon or determining
83 who will carry a concealed weapon in his or her courtroom;
84 6. Any polling place;
85 7. Any meeting of the governing body of a county, public
86 school district, municipality, or special district;
87 8. Any meeting of the Legislature or a committee thereof;
88 9. Any school, college, or professional athletic event not
89 related to firearms;
90 10. Any elementary or secondary school facility or
91 administration building;
92 11. Any career center;
93 12. Any portion of an establishment licensed to dispense
94 alcoholic beverages for consumption on the premises, which
95 portion of the establishment is primarily devoted to such
96 purpose;
97 13. Any college or university facility unless the licensee
98 is a registered student, employee, or faculty member of such



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99 college or university and the weapon is a stun gun or nonlethal
100 electric weapon or device designed solely for defensive purposes
101 and the weapon does not fire a dart or projectile;

102 14. The inside of the passenger terminal and sterile area
103 of any airport, provided that no person shall be prohibited from
104 carrying any legal firearm into the terminal, which firearm is
105 encased for shipment for purposes of checking such firearm as
106 baggage to be lawfully transported on any aircraft; or

107 15. Any place where the carrying of firearms is prohibited
108 by federal law.

109 (17) (a) As used in this section, the term "courthouse"
110 means a building the primary purpose of which is to house
111 judicial chambers or to hold trials, hearings, or oral arguments
112 before a judge. The term also includes a portion of any other
113 building if the portion:

114 1. Is conspicuously marked as a courthouse at each public
115 entrance; and

116 2. Has as its primary purpose the housing of judicial
117 chambers or the holding of trials, hearings, or oral arguments
118 before a judge.

119 (b) A local ordinance, administrative rule, administrative
120 order, or regulation in conflict with the definition of the term
121 "courthouse" in paragraph (a) or the rights set forth under
122 subparagraph (12) (a)4. is preempted to the Legislature under s.
123 790.33. The person, justice, judge, county, agency,
124 municipality, district, or other entity that enacts or causes to
125 be enforced a local ordinance, administrative rule,
126 administrative order, or regulation that is preempted is subject
127 to the penalties set forth in s. 790.33, including, but not



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128 limited to, civil fines and removal from office by the Governor.

129 Section 3. Paragraph (a) of subsection (1) of section
130 790.065, Florida Statutes, is amended, and present subsections
131 (4) through (13) of that section are redesignated as subsections
132 (5) through (14), respectively, a new subsection (4) is added to
133 that section, and present paragraph (a) of subsection (4) and
134 present paragraphs (b) and (c) of subsection (12) are
135 republished, to read:

136 790.065 Sale and delivery of firearms.—

137 (1) (a) A licensed importer, licensed manufacturer, or
138 licensed dealer may not sell or deliver from her or his
139 inventory at her or his licensed premises any firearm to another
140 person, other than a licensed importer, licensed manufacturer,
141 licensed dealer, or licensed collector, until she or he has:

142 1. Obtained a completed form from the potential buyer or
143 transferee, which form shall have been ~~promulgated by the~~
144 ~~Department of Law Enforcement~~ and provided by the licensed
145 importer, licensed manufacturer, or licensed dealer, which must
146 ~~shall~~ include the name, date of birth, gender, and race, ~~and~~
147 ~~social security number or other identification number~~ of the
148 such potential buyer or transferee and questions about the
149 buyer's criminal history and other information relating to the
150 potential buyer or transferee's eligibility to purchase a
151 firearm, and has inspected proper identification including an
152 identification containing a photograph of the potential buyer or
153 transferee.

154 2. Collected a fee from the potential buyer for processing
155 the criminal history check of the potential buyer. The fee shall
156 be established by the Department of Law Enforcement and may not



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157 exceed \$8 per transaction. The Department of Law Enforcement may
158 reduce, or suspend collection of, the fee to reflect payment
159 received from the Federal Government applied to the cost of
160 maintaining the criminal history check system established by
161 this section as a means of facilitating or supplementing the
162 National Instant Criminal Background Check System. The
163 Department of Law Enforcement shall, by rule, establish
164 procedures for the fees to be transmitted by the licensee to the
165 Department of Law Enforcement. All such fees shall be deposited
166 into the Department of Law Enforcement Operating Trust Fund, but
167 shall be segregated from all other funds deposited into such
168 trust fund and must be accounted for separately. Such segregated
169 funds must not be used for any purpose other than the operation
170 of the criminal history checks required by this section. The
171 Department of Law Enforcement, each year prior to February 1,
172 shall make a full accounting of all receipts and expenditures of
173 such funds to the President of the Senate, the Speaker of the
174 House of Representatives, the majority and minority leaders of
175 each house of the Legislature, and the chairs of the
176 appropriations committees of each house of the Legislature. In
177 the event that the cumulative amount of funds collected exceeds
178 the cumulative amount of expenditures by more than \$2.5 million,
179 excess funds may be used for the purpose of purchasing soft body
180 armor for law enforcement officers.

181 3. Requested, by means of a toll-free telephone call, the
182 Department of Law Enforcement to conduct a check of the
183 information as reported and reflected in the Florida Crime
184 Information Center and National Crime Information Center systems
185 as of the date of the request.



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186 4. Received a unique approval number for that inquiry from
187 the Department of Law Enforcement, and recorded the date and
188 such number on the consent form.

189 (4) (a) In any case in which records reviewed pursuant to
190 subsection (2) indicate that the potential buyer or transferee
191 is prohibited from having in her or his care, custody,
192 possession, or control a firearm under state or federal law and
193 the potential transfer, sale, or purchase has received a
194 nonapproval number, the Department of Law Enforcement shall send
195 notice of the nonapproval to the federal or state correctional,
196 law enforcement, prosecutorial, and other relevant criminal
197 justice agencies having jurisdiction in the county where the
198 attempted transfer or purchase was made.

199 (b) The Department of Law Enforcement shall, for each
200 county, identify appropriate federal or state correctional, law
201 enforcement, prosecutorial, and other criminal justice agencies
202 to receive the notice described in paragraph (a).

203 (c) The notice described in paragraph (a) must include the
204 identity of the potential buyer or transferee, the identity of
205 the licensee who made the inquiry, the date and time when a
206 nonapproval number was issued, the prohibiting criteria for the
207 nonapproval, and the location where the attempted purchase or
208 transfer occurred.

209 (d) The Department of Law Enforcement shall make the notice
210 described in paragraph (a) within 1 week after issuance of the
211 nonapproval number, and may aggregate any notices required
212 pursuant to paragraph (a) and issue them together within the
213 required timeframe, except that a notice may be delayed for as
214 long as necessary to avoid compromising an ongoing



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215 investigation.

216 (e) The Department of Law Enforcement may make the notice
217 required pursuant to paragraph (a) in any form, including, but
218 not limited to, by oral or written communication or by
219 electronic means.

220 (f) If a nonapproval is reversed on appeal, the Department
221 of Law Enforcement shall send a notice of the reversal to each
222 agency notified of the nonapproval. The notice of reversal must
223 be made in writing or in an electronic format and must clearly
224 identify the potential buyer or transferee whose nonapproval was
225 reversed.

226 (5) ~~(4)~~ (a) Any records containing any of the information set
227 forth in subsection (1) pertaining to a buyer or transferee who
228 is not found to be prohibited from receipt or transfer of a
229 firearm by reason of Florida and federal law which records are
230 created by the Department of Law Enforcement to conduct the
231 criminal history record check shall be confidential and exempt
232 from the provisions of s. 119.07(1) and may not be disclosed by
233 the Department of Law Enforcement or any officer or employee
234 thereof to any person or to another agency. The Department of
235 Law Enforcement shall destroy any such records forthwith after
236 it communicates the approval and nonapproval numbers to the
237 licensee and, in any event, such records shall be destroyed
238 within 48 hours after the day of the response to the licensee's
239 request.

240 (13) ~~(12)~~

241 (b) Any licensed importer, licensed manufacturer, or
242 licensed dealer who violates the provisions of subsection (1)
243 commits a felony of the third degree punishable as provided in



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244 s. 775.082 or s. 775.083.

245 (c) Any employee or agency of a licensed importer, licensed
246 manufacturer, or licensed dealer who violates the provisions of
247 subsection (1) commits a felony of the third degree punishable
248 as provided in s. 775.082 or s. 775.083.

249 Section 4. Subsection (3) of subsection 790.115, Florida
250 Statutes, is amended to read:

251 790.115 Possessing or discharging weapons or firearms at a
252 school-sponsored event or on school property prohibited;
253 penalties; exceptions.—

254 (3)(a) This section does not apply to any law enforcement
255 officer as defined in s. 943.10(1), (2), (3), (4), (6), (7),
256 (8), (9), or (14).

257 (b) This section and s. 790.06(12)(a)10., 11., and 13. do
258 not prohibit a person who is licensed under s. 790.06 from
259 carrying a concealed weapon or concealed firearm on private
260 school property if a religious institution, as defined in s.
261 496.404, is located on the property.

262 Section 5. The Legislature of the State of Florida urges
263 the United States Congress and the President of the United
264 States of America, Donald J. Trump, to instruct the United
265 States Bureau of Alcohol, Tobacco, Firearms and Explosives to
266 revisit and review all previous rulings relating to bump stocks
267 and issue a clarifying ruling and a national policy that will
268 apply uniformly to all states.

269 Section 6. Paragraph (e) of subsection (3) of section
270 790.335, Florida Statutes, is amended to read:

271 790.335 Prohibition of registration of firearms; electronic
272 records.—



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273 (3) EXCEPTIONS.—The provisions of this section shall not
274 apply to:

275 (e)1. Records kept pursuant to the recordkeeping provisions
276 of s. 790.065; however, nothing in this section shall be
277 construed to authorize the public release or inspection of
278 records that are made confidential and exempt from the
279 provisions of s. 119.07(1) by s. 790.065(5) (a) ~~s. 790.065(4) (a)~~.

280 2. Nothing in this paragraph shall be construed to allow
281 the maintaining of records containing the names of purchasers or
282 transferees who receive unique approval numbers or the
283 maintaining of records of firearm transactions.

284 Section 7. For the purpose of incorporating the amendment
285 made by this act to section 790.053, Florida Statutes, in a
286 reference thereto, paragraph (b) of subsection (3) of section
287 943.051, Florida Statutes, is reenacted to read:

288 943.051 Criminal justice information; collection and
289 storage; fingerprinting.—

290 (3)

291 (b) A minor who is charged with or found to have committed
292 the following offenses shall be fingerprinted and the
293 fingerprints shall be submitted electronically to the
294 department, unless the minor is issued a civil citation pursuant
295 to s. 985.12:

296 1. Assault, as defined in s. 784.011.

297 2. Battery, as defined in s. 784.03.

298 3. Carrying a concealed weapon, as defined in s. 790.01(1).

299 4. Unlawful use of destructive devices or bombs, as defined
300 in s. 790.1615(1).

301 5. Neglect of a child, as defined in s. 827.03(1) (e).



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302 6. Assault or battery on a law enforcement officer, a
303 firefighter, or other specified officers, as defined in s.
304 784.07(2)(a) and (b).

305 7. Open carrying of a weapon, as defined in s. 790.053.

306 8. Exposure of sexual organs, as defined in s. 800.03.

307 9. Unlawful possession of a firearm, as defined in s.
308 790.22(5).

309 10. Petit theft, as defined in s. 812.014(3).

310 11. Cruelty to animals, as defined in s. 828.12(1).

311 12. Arson, as defined in s. 806.031(1).

312 13. Unlawful possession or discharge of a weapon or firearm
313 at a school-sponsored event or on school property, as provided
314 in s. 790.115.

315 Section 8. For the purpose of incorporating the amendment
316 made by this act to section 790.053, Florida Statutes, in a
317 reference thereto, paragraph (b) of subsection (1) of section
318 985.11, Florida Statutes, is reenacted to read:

319 985.11 Fingerprinting and photographing.—

320 (1)

321 (b) Unless the child is issued a civil citation or is
322 participating in a similar diversion program pursuant to s.
323 985.12, a child who is charged with or found to have committed
324 one of the following offenses shall be fingerprinted, and the
325 fingerprints shall be submitted to the Department of Law
326 Enforcement as provided in s. 943.051(3)(b):

327 1. Assault, as defined in s. 784.011.

328 2. Battery, as defined in s. 784.03.

329 3. Carrying a concealed weapon, as defined in s. 790.01(1).

330 4. Unlawful use of destructive devices or bombs, as defined



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331 in s. 790.1615(1).

332 5. Neglect of a child, as defined in s. 827.03(1)(e).

333 6. Assault on a law enforcement officer, a firefighter, or
334 other specified officers, as defined in s. 784.07(2)(a).

335 7. Open carrying of a weapon, as defined in s. 790.053.

336 8. Exposure of sexual organs, as defined in s. 800.03.

337 9. Unlawful possession of a firearm, as defined in s.
338 790.22(5).

339 10. Petit theft, as defined in s. 812.014.

340 11. Cruelty to animals, as defined in s. 828.12(1).

341 12. Arson, resulting in bodily harm to a firefighter, as
342 defined in s. 806.031(1).

343 13. Unlawful possession or discharge of a weapon or firearm
344 at a school-sponsored event or on school property as defined in
345 s. 790.115.

346

347 A law enforcement agency may fingerprint and photograph a child
348 taken into custody upon probable cause that such child has
349 committed any other violation of law, as the agency deems
350 appropriate. Such fingerprint records and photographs shall be
351 retained by the law enforcement agency in a separate file, and
352 these records and all copies thereof must be marked "Juvenile
353 Confidential." These records are not available for public
354 disclosure and inspection under s. 119.07(1) except as provided
355 in ss. 943.053 and 985.04(2), but shall be available to other
356 law enforcement agencies, criminal justice agencies, state
357 attorneys, the courts, the child, the parents or legal
358 custodians of the child, their attorneys, and any other person
359 authorized by the court to have access to such records. In



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360 addition, such records may be submitted to the Department of Law
361 Enforcement for inclusion in the state criminal history records
362 and used by criminal justice agencies for criminal justice
363 purposes. These records may, in the discretion of the court, be
364 open to inspection by anyone upon a showing of cause. The
365 fingerprint and photograph records shall be produced in the
366 court whenever directed by the court. Any photograph taken
367 pursuant to this section may be shown by a law enforcement
368 officer to any victim or witness of a crime for the purpose of
369 identifying the person who committed such crime.

370 Section 9. This act shall take effect July 1, 2018.

371
372 ===== T I T L E A M E N D M E N T =====

373 And the title is amended as follows:

374 Delete everything before the enacting clause
375 and insert:

376 A bill to be entitled
377 An act relating to weapons and firearms; amending s.
378 790.053, F.S.; deleting a statement of applicability
379 relating to violations of carrying a concealed weapon
380 or firearm; providing civil penalties applicable to a
381 person licensed to carry a concealed weapon or firearm
382 for a first or second violation of specified
383 provisions relating to openly carrying certain
384 weapons; making a fine payable to the clerk of the
385 court; amending s. 790.06, F.S.; providing that a
386 person licensed to carry a concealed weapon or firearm
387 does not violate a certain provision if the firearm
388 becomes openly displayed; authorizing a concealed



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389 weapons or concealed firearms licensee to temporarily
390 surrender a weapon or firearm if the licensee
391 approaches courthouse security or management personnel
392 upon arrival at the courthouse and follows their
393 instructions; defining the term "courthouse";
394 preempting to the Legislature certain ordinances,
395 rules, orders, and regulations that conflict with that
396 definition or with certain rights; subjecting the
397 persons or entities responsible for enacting, or
398 causing the enforcement of, preempted ordinances,
399 rules, orders, and regulations to specified penalties;
400 amending s. 790.065, F.S.; requiring the Department of
401 Law Enforcement to include on a standard form certain
402 questions concerning a potential firearm buyer's
403 criminal history or other information relating to the
404 person's eligibility to make a firearm purchase;
405 requiring the department to notify law enforcement
406 officials when a potential sale or transfer receives a
407 nonapproval number and when a nonapproval is reversed
408 on appeal; providing requirements for such notices;
409 amending s. 790.115, F.S.; providing that a person
410 licensed to carry a concealed weapon or concealed
411 firearm is not prohibited by specified laws from such
412 carrying on the property of certain institutions;
413 urging the United States Congress and the President of
414 the United States to instruct the United States Bureau
415 of Alcohol, Tobacco, Firearms and Explosives to
416 revisit and review its rulings relating to bump
417 stocks; amending s. 790.335, F.S.; conforming a cross-



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418 reference; reenacting ss. 943.051(3)(b) and
419 985.11(1)(b), F.S., both relating to fingerprinting of
420 a minor for violating specified provisions, to
421 incorporate the amendment made to s. 790.053, F.S., in
422 references thereto; providing an effective date.