

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 Commerce and Tourism

BILL: CS/SB 1018

INTRODUCER: Commerce and Tourism Committee and Senator Burgess

SUBJECT: Private Investigative and Security Services

DATE: February 8, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harmsen	McKay	CM	Fav/CS
2.			JU	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

Currently, licensees under ch. 493, F.S., cannot carry a firearm during the course of their licensed activities unless they have a supplemental Class “G” license. CS/SB 1018 allows Class “C” and “CC” licensees to bear a firearm during the course of their licensed duties if they qualify for a newly created Class “CG” license by meeting one of the following qualifications:

- Have an active Florida concealed weapon or firearm license issued pursuant to s. 790.06, F.S.;
- Be a retired law enforcement officer who separated from employment in good standing after at least 10 years of service, and who maintains an annual firearms proficiency qualification pursuant to the Federal Law Enforcement Officers Safety Act; or
- Be an active law enforcement officer who maintains an annual firearms proficiency qualification as required by his or her employing law enforcement agency.

This provision does not alter the firearm carry limitations found in s. 790.06, F.S., or the Federal Law Enforcement Officers Safety Act. Class “CG” licensees will be required to submit to a criminal background check as part of their application with the Department of Agriculture and Consumer Services, and maintain their underlying qualification during their Class “CG” licensure.

Class “CG” licensees are subject to the following Departmental regulations during the course of their licensed activities:

- A limit of 2 guns that the licensee may carry during the course of his or her licensed activity;

- A limit on the types of guns and ammunition that he or she may use; and
- Required incident reporting to the Department after a gun is discharged by a licensee during the course of his or her licensed activity; and

The bill takes effect on July 1, 2022.

II. Present Situation:

Chapter 493 Licensees, Generally

The Division of Licensing within the Florida Department of Agriculture and Consumer Services (Department) is responsible for investigating and issuing licenses to conduct private investigative services pursuant to ch. 493, F.S. As of January 31, 2022, there are 6,983 Class “C” private investigator licensees and 1,327 Class “CC” private investigator intern licensees.¹ A ch. 493, F.S., licensee must renew his or her individual license every 2 years.

A private investigator is an individual who investigates a person for the purpose of obtaining information with reference to the following specific matters:²

- Crimes or wrongdoings against the United States or any state or territory, when operating under express authority of a governmental official;
- The identity, habits, conduct, movement, and other characteristics of any society, person, or group of persons;
- The credibility of a witness or other person;
- The whereabouts of a missing person, owner of unclaimed or escheated property, or heirs to an estate;
- The location or recovery of lost or stolen property;
- The causes and origin of fires, libel, slander, losses, accidents, damage, or injuries to real or personal property; or
- Securing evidence to be used before an investigating committee or board, or in a civil or criminal trial.

A Class “CC” private investigator intern operates at the direction and under the control of a sponsoring Class “C” private investigator licensee.³

Class “G” Statewide Firearm License

A Class “G” license is a supplemental license that permits specific licensees to carry a firearm during the course of their licensed, employment-related activity. A Class “G” license is available only to individuals who currently hold one of the following licenses: private investigator (Class

¹ Florida Department of Agriculture and Consumer Services (FDACS), Division of Licensing, *Number of Licensees by Type* (Jan. 31, 2021), https://www.fdacs.gov/content/download/82618/file/Number_of_Licensees_By_Type.pdf (last visited Feb. 4, 2022).

² Section 493.6101(16), F.S. *See also*, FDACS, *Private Investigation* (Dec. 2017), <https://licensing.freshfromflorida.com/forms/P-01721.pdf> (last visited Feb. 4, 2022).

³ Section 493.6116, F.S. *See also*, FDACS, *Class “CC” Private Investigator Intern License Requirements*, <https://www.fdacs.gov/Business-Services/Private-Investigation-Licenses/Class-CC-Private-Investigator-Intern-License-Requirements> (last visited Feb. 8, 2022).

“C”), private investigator intern (Class “CC”), security officer (Class “D”), private investigative or security agency manager (Class “M”), private investigative agency manager (Class “MA”), or security agency manager (Class “MB”).⁴ The “Class G” license must be renewed every 2 years.

Application and Training Requirements for Class “G” Licensees

An initial applicant for a Class “G” license must complete firearm training, which must include at least 28 hours of range and classroom training (range training must be limited to no more than 8 hours) that is administered by a Class “K” licensee.⁵ An applicant who was discharged within the last 12 months from service as a military officer, and has completed specific military courses is deemed to have completed a substantially similar training, and is exempt from the 28 hours of range and classroom training required for a Class “G” initial license.

Class “G” licensees must annually complete 4 hours of firearms requalification training for each caliber of firearm that he or she carries in the course of his or her duties.⁶

A Class “G” licensee is subject to a biennial statewide firearm license fee of \$112, but there is no application fee.⁷ The applicant for a Class “G” license must submit a fingerprint processing (\$42) and retention (\$10.75) fee, however—this fee is waived if the applicant has otherwise paid these fees for any other license under ch. 493, F.S., within the last 6 months.⁸

Regulation of Class “G” Licensees

A Class “G” licensee may only carry two firearms when performing his or her licensed duties. Unless the Department grants specific approval otherwise, the types of weapons a Class “G” licensee may use are limited to the following: a .38 caliber revolver; a .380 caliber or .9 mm semiautomatic pistol; a .357 caliber revolver used with .38 caliber ammunition; a .40 caliber handgun; or a .45 ACP handgun.⁹

If a Class “G” licensee discharges his or her firearm during the course of her or his duties, the licensee must file an incident report with the Department.¹⁰

Class “G” licensees are subject to penalty, ranging from a fine to the suspension or revocation of their license, for the following violations of administrative rule:¹¹

- Conviction of, or adjudication of guilt withheld, on a crime directly related to the business for which the license is held;
- Improper exhibition of a firearm;
- Careless or improper handling of a firearm resulting in a discharge;

⁴ Section 493.6115(2), F.S.

⁵ Section 493.6105(5), F.S. *See also* Fla. Admin. Code R. 5N-1.132(1)(a).

⁶ Section 493.6113(3)(b), F.S.

⁷ Fla. Admin. Code R. 5N-1.116(2)(a)6. and (2)(c). *See also*, FDACS, *Chapter 493, F.S., Renewal License Fee Schedule*, https://www.fdacs.gov/content/download/73502/file/FS493_Renewal_License_Fees.pdf (last visited Feb. 4, 2022).

⁸ Fla. Admin. Code R. 5N-1.116(3)(a).

⁹ Section 493.6115(6), F.S. *See also*, FDACS, *Approved Firearms for Class “G” License Holders*, <https://www.fdacs.gov/Business-Services/Private-Investigation-Licenses/Approved-Firearms-for-Class-G-License-Holders> (last visited Feb. 4, 2022).

¹⁰ Section 493.6115(9), F.S.

¹¹ Fla. Admin. Code R. 5N-1.113. *See also*, s. 493.6118(1), F.S.

- Firing an unjustifiable warning shot while on duty;
- Impersonating a law enforcement officer or government employee; and
- Commission of an act of violence not in the lawful protection of one's self or another.

Concealed Weapon and Firearm Licenses

Florida is a “shall issue”¹² state for applications for concealed weapon and firearm licenses.¹³ The Department must review and either issue or deny a license within 90 days of receiving an application.¹⁴ As of December 31, 2021, there were 2,445,471 concealed weapon or firearm licensees in Florida.¹⁵

The Department must deny issuance of a license, which expires after 7 years,¹⁶ if an applicant:

- Is not a citizen of the United States, permanent resident alien, or consular security official of a foreign government;
- Is not 21 years of age or older;
- Suffers from a physical infirmity which prevents the safe handling of a weapon or firearm;
- Has been convicted of a felony;
- Has been found guilty of a controlled substances crime within the previous 3 years;
- Has been committed for the abuse of a controlled substance;¹⁷
- Suffers from chronic and habitual use of alcohol or other substances to the extent that their normal faculties are impaired;¹⁸
- Does not intend to carry a concealed weapon or firearm for lawful self-defense;
- Fails to demonstrate competency with a firearm;¹⁹
- Has been adjudicated as an incapacitated person;

¹² Generally, states issue a permit, or license, to carry a concealed weapon such as a firearm on either a “shall issue,” or “may issue” basis. The key difference is that shall issue states must issue the permit or license if the applicant meets the requirements; whereas, may issue states have much more discretion to deny an application even if the applicant meets the requirements under the law. New York may deny a license, for example, if the applicant fails to demonstrate “proper cause” or lacks “good moral character” as determined by a judge reviewing the application. N.Y. Penal Law s. 400.00.

¹³ Section 790.06(2), F.S.

¹⁴ Section 790.06(6)(c), F.S.

¹⁵ FDACS, Division of Licensing, *Number of Licensees by Type* (Dec. 31, 2021),

https://www.fdacs.gov/content/download/82618/file/Number_of_Licensees_By_Type.pdf (last visited Feb. 4, 2022).

¹⁶ Section 790.06(1), F.S.

¹⁷ An applicant granted relief of firearms disabilities pursuant to s. 790.065(2)(a)4.d., F.S., after having been adjudicated mentally defective or committed to a mental institution is deemed not to be committed for the abuse of a controlled substance.

¹⁸ The law presumes that a person chronically and habitually uses alcoholic beverages or other substances to the point of impairment if the applicant has been convicted of using a firearm while under the influence of alcoholic beverages, chemical substances, or controlled substances or has been deemed a habitual offender of disorderly intoxication under s. 856.011(3), F.S., or has had two or more convictions of driving under the influence within a 3-year period preceding the date which the application is submitted. *See*, s. 790.06(2)(f), F.S.

¹⁹ There are several methods of demonstrating competency with a firearm, including completion of a hunter education or safety course approved by the Fish and Wildlife Conservation Commission, completion of any law enforcement firearms safety or training course, or completion of firearms training safety courses using instructors certified by the National Rifle Association, Criminal Justice Standards and Training Commission, or the Department of Agriculture and Consumer Services.

- Has been committed to a mental institution;²⁰
- Has had an adjudication of guilt withheld or a suspended sentence on a felony unless 3 years have elapsed since probation or any other conditions set by the court have been fulfilled, or the record has been expunged;
- Has had an adjudication of guilt withheld or an imposition of sentence suspended on a misdemeanor crime of domestic violence, unless 3 years have elapsed since probation or any other conditions set by the court have been fulfilled, or the record has been expunged;
- Has been issued an injunction that is currently in force and effect that restrains that applicant from committing acts of domestic violence or acts of repeat violence; or
- Is prohibited from purchasing or possessing a firearm by any other provision of Florida or federal law.²¹

The Department must suspend a license or the processing of an application for a license if the licensee or applicant is arrested or formally charged with a crime that would disqualify such person from having a license until final disposition of the case.²² The Department is also required to suspend a license or the processing of an application for a license if the licensee or applicant is issued an injunction that restrains the licensee or applicant from committing acts of domestic violence or acts of repeat violence.²³

Once obtained, the licensee must carry the license with valid identification at all times when the licensee is in actual possession of a concealed weapon or firearm.²⁴ According to s. 790.06(12)(a), F.S, the license, however, “does not authorize any person to carry a concealed weapon or firearm into:”

- Any place of nuisance;²⁵
- Any police, sheriff, or highway patrol station;
- Any detention facility, prison, or jail;
- Any courthouse;
- Any courtroom;²⁶
- Any polling place;
- Any meeting of the governing body of a county, public school district, municipality, or special district;
- Any meeting of the Legislature or a committee thereof;
- Any school, college, or professional athletic event not related to firearms;
- Any elementary or secondary school facility or administration building;
- Any career center;

²⁰An applicant who has been granted relief from firearms disabilities pursuant to s. 790.065(2)(a)4.d., F.S., after having been adjudicated mentally defective or committed to a mental institution is deemed not to have been committed in a mental institution.

²¹ Section 790.06(2)(n), F.S.

²² Section 790.06(3), F.S.

²³ *Id.*

²⁴ Section 790.06(1), F.S.

²⁵ See s. 823.05, F.S., for an extensive description of places of nuisance.

²⁶ However, judges may carry a concealed weapon and allow others to do so within their courtroom. Section 790.06(12)(a)5., F.S.

- Any portion of an establishment licensed to dispense alcoholic beverages for consumption on the premises, which portion of the establishment is primarily devoted to such purpose;
- Any college or university facility;²⁷
- The inside of the passenger terminal and sterile area of any airport; or
- Any place where the carrying of firearms is prohibited by federal law.²⁸

Law Enforcement Officers Safety Act

The federal Law Enforcement Officers Safety Act (LEOSA) allows qualified law enforcement officers and qualified retired law enforcement officers to carry a concealed firearm in any jurisdiction in the United States, regardless of local laws to the contrary, with certain exceptions.²⁹ LEOSA does not supersede a private individual's right to restrict possession of a concealed firearm on his or her property, nor does it override a state or local government's restriction on the possession of firearms on state or local government property.

A qualified law enforcement officer is a current employee of a governmental agency who:³⁰

- Is authorized to engage in or supervise the prevention, detection, investigation, or prosecution of the incarceration of any person for a violation of law who also has statutory powers of arrest or apprehension;
- Is authorized by his or her employing agency to carry a firearm;
- Is not subject to any disciplinary action by his or her employing agency;
- Meets the qualifying standards established by his or her employing agency to use a firearm;
- Is not under the influence of alcohol or other intoxicating substances; and
- Is not prohibited by Federal law from receiving a firearm.

A qualified retired law enforcement officer is an individual who:³¹

- Separated from service in good standing from the public agency that employed him or her as a law enforcement officer;
- Was authorized to engage in or supervise the prevention, detection, investigation, or prosecution of the incarceration of any person for a violation of law and also had statutory powers of arrest or apprehension;
- Served for an aggregate 10 years or more as a law enforcement officer prior to his or her separation, or separated after an applicable probationary period of service due to a service-connected disability;
- Has met the firearms training standards applicable to active law enforcement officers within the last 12 months;

²⁷ However, a "student, employee, or faculty member" may carry a stun gun or nonlethal electric weapon designed for defensive purposes as long as the weapon does not fire a dart or projectile.

²⁸ Section 790.06(12)(a)1.-15., F.S.

²⁹ 18 U.S.C. §926 and 926C. *See also*, Florida Department of Law Enforcement, Thomas Kirwin, *H.R. 218 (The Law Enforcement Officers Safety Act) and S. 1132 (The Law Enforcement Safety Act Improvements Act of 2010) and 2013 Amendment By National Defense Authorization Act (NDAA) for Fiscal Year 2013, Public Law 112-239 (H.R. 4310), §1089 Summary and Overview* (Feb. 2015), <https://www.fdle.state.fl.us/OGC/Documents/Legal-Bulletins/2015-1-HR218Bulletin.aspx> (last visited Feb. 4, 2022).

³⁰ 18 U.S.C. §926(c).

³¹ 18 U.S.C. §926C(c).

- Has not been found by a medical professional to be unqualified for reasons relating to mental health;
- Is not under the influence of alcohol or other intoxicating substances; and
- Is not prohibited by Federal law from receiving a firearm.

Florida's Criminal Justice Standards and Training Commission has approved a statewide minimum firearms proficiency qualification course that serves as the minimum qualifications required to carry a firearm under LEOSA (although individual agencies can enhance their standards above this minimum requirement at their discretion).³² The qualifications require that a candidate achieve at least 32 out of 40 rounds in a range test.³³

III. Effect of Proposed Changes:

SB 1018 creates a Class "CG" license to allow individuals who hold either a Class "C" or a Class "CC" license, and who otherwise qualify for the Class "CG" license, to carry a firearm during the course of their licensed duties.

A Class "CG" applicant must qualify for the license by maintaining an active:

- Florida concealed weapon or firearm license issued pursuant to s. 790.06, F.S.;
- Federal law Enforcement Officers Safety Act annual firearms proficiency qualification, if the applicant is a retired law enforcement officer who separated from employment in good standing after at least 10 years of service; or
- Annual firearms proficiency qualification required by his or her employing law enforcement agency.

A Class "CG" licensee is not required to complete additional qualification or renewal training to qualify for her or his license. However, the Class "CG" license remains in effect only during the period the applicant is employed as a Class "C" or Class "CC" licensee and during which he or she keeps the underlying qualification for the Class "CG" license active.

Similar to Class "G" licensees, a Class "CG" licensee is subject to Departmental regulations, including:

- A limit on the number and type of firearms the licensee may carry during the course of her or his licensed duties;
- Required reporting if the licensee discharges a firearm during her or his licensed duties; and
- Administrative suspension or revocation of the license if the licensee is arrested for, or charged with specific firearms-related crimes.

This provision does not alter the firearm carry limitations found in s. 790.06, F.S., or the Federal Law Enforcement Officers Safety Act. Class "CG" licensees will be required to submit an application to the Department of Agriculture and Consumer Services, undergo a criminal background check, and maintain their underlying qualification during their licensure.

³² Florida Department of Law Enforcement, Thomas Kirwin, *supra* note 31 at 7.

³³ See, Florida Department of Law Enforcement, *Law Enforcement officer Firearms Qualifications Standard, Form CJSTC 86A*, <http://www.fdle.state.fl.us/CJSTC/Documents/Rules-Forms/Table-1-Forms/PDFs/CJSTC-86A.aspx> (last visited Feb. 4, 2022). See also, Fla. Admin. Code R. 11B-27.00212.

The bill takes effect on July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Class “C” and Class “CC” licensees will not be required to complete or pay for initial and renewal training relating to the Class “G” license in order to carry a firearm during their licensed duties.

C. Government Sector Impact:

The Department will likely see a decrease in the number of individuals who seek a class “G” license, and therefore will collect fewer Class “G” license fees.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 493.6115 and 493.6305 of the Florida Statutes.

IX. Additional Information:

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

CS by Commerce and Tourism on February 7, 2022:

- Creates the Class “CG” license, for which applicants qualify if they maintain an active maintaining an active:
 - Florida concealed weapon or firearm license;
 - Federal law Enforcement Officers Safety Act annual firearms proficiency qualification, if the applicant is a retired law enforcement officer who separated from employment in good standing after at least 10 years of service; or
 - Annual firearms proficiency qualification required by his or her employing law enforcement agency.
- Subjects Class “CG” licensees to many of the same regulations as Class “G” licensees, but does not require Class “CG” licensees to perform initial or renewal training to qualify for licensure; and
- Removes reference to Class “D” Security Officer licensees.

- B. **Amendments:**

None.