

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: SB 1018

INTRODUCER: Senator Burgess

SUBJECT: Private Investigative and Security Services

DATE: February 4, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harmsen	McKay	CM	Pre-meeting
2.			JU	
3.			RC	

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. SB 1018 allows licensees to bear a firearm during the course of their licensed duties without a Class “G” license, if they meet one of the following qualifications:

- A private investigator has a concealed firearms license issued pursuant to s. 790.06, F.S.;
- A private investigator, private investigator intern, security officer, private investigative or security agency manager, a private investigative agency manager, or a security agency manager is a retired law enforcement officer with at least 10 years of service who has maintained his or her annual firearms proficiency qualification; or
- A private investigator, private investigator intern, security officer, private investigative or security agency manager, a private investigative agency manager, or a security agency manager is an active law enforcement officer who maintains his or her annual firearms proficiency qualification.

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 security and private investigative services pursuant to ch. 493, F.S. As of November 30, 2021, there are

124,996 Class “D” security officer licensees and 6,992 Class “C” private investigator licensees.¹ A ch. 493, F.S., licensee must renew his or her individual license every 2 years.

A security officer is an individual who advertises for, or performs: bodyguard services, personal or property protection; theft and loss prevention; armored car staffing; or transportation of prisoners.² Law enforcement officers engaged in their official duties or off-duty security activities that have been approved by appropriate superiors are not considered security officers.³ Additionally, unarmed security officers who are employed by, and perform their work entirely on the premises of either their employer’s business, a church or denominational organization, or a church cemetery are not required to be licensed as a security officer under ch. 493, F.S.⁴

A private investigator is an individual who investigates a person for the purpose of obtaining information with reference to the following specific matters:⁵

- 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.

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 “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”).⁶ The “Class G” license must be renewed every 2 years.

¹ Florida Department of Agriculture and Consumer Services (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).

² Section 493.6101(19), F.S.; *see also*, FDACS, *Private Security Licenses*, <https://www.fdacs.gov/Business-Services/Private-Security-Licenses> (last visited Feb. 4, 2022).

³ Section 493.6102(1), F.S.

⁴ Section 493.6102(4), (13), F.S.

⁵ 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).

⁶ Section 493.6115(2), F.S.

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.⁷ 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.⁸

A Class “G” licensee is subject to a biennial statewide firearm license fee of \$112, but there is no application fee.⁹ 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.¹⁰

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.¹¹

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.¹²

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:¹³

- 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;
- 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.

⁷ Section 493.6105(5), F.S. *See also* Fla. Admin. Code R. 5N-1.132(1)(a).

⁸ Section 493.6113(3)(b), F.S.

⁹ 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).

¹⁰ Fla. Admin. Code R. 5N-1.116(3)(a).

¹¹ 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).

¹² Section 493.6115(9), F.S.

¹³ Fla. Admin. Code R. 5N-1.113. *See also*, s. 493.6118(1), F.S.

Concealed Weapon and Firearm Licenses

Florida is a “shall issue”¹⁴ state for applications for concealed weapon and firearm licenses.¹⁵ The Department must review and either issue or deny a license within 90 days of receiving an application.¹⁶ As of December 31, 2021, there were 2,445,471 concealed weapon or firearm licensees in Florida.¹⁷

The Department must deny issuance of a license, which expires after 7 years,¹⁸ 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;¹⁹
- Suffers from chronic and habitual use of alcohol or other substances to the extent that their normal faculties are impaired;²⁰
- Does not intend to carry a concealed weapon or firearm for lawful self-defense;
- Fails to demonstrate competency with a firearm;²¹
- Has been adjudicated as an incapacitated person;
- Has been committed to a mental institution;²²
- 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;

¹⁴ 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.

¹⁵ Section 790.06(2), F.S.

¹⁶ Section 790.06(6)(c), F.S.

¹⁷ 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).

¹⁸ Section 790.06(1), F.S.

¹⁹ 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.

²⁰ 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.

²¹ 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.

²² An 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.

- 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.²³

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.²⁴ 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.²⁵

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.²⁶ 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;²⁷
- Any police, sheriff, or highway patrol station;
- Any detention facility, prison, or jail;
- Any courthouse;
- Any courtroom;²⁸
- 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;
- 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;²⁹
- 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.³⁰

²³ Section 790.06(2)(n), F.S.

²⁴ Section 790.06(3), F.S.

²⁵ *Id.*

²⁶ Section 790.06(1), F.S.

²⁷ *See* s. 823.05, F.S., for an extensive description of places of nuisance.

²⁸ However, judges may carry a concealed weapon and allow others to do so within their courtroom. Section 790.06(12)(a)5., F.S.

²⁹ 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.

³⁰ Section 790.06(12)(a)1.-15., F.S.

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.³¹ 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:³²

- 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:³³

- 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;
- 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

³¹ 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).

³² 18 U.S.C. §926(c).

³³ 18 U.S.C. §926C(c).

standards above this minimum requirement at their discretion).³⁴ The qualifications require that a candidate achieve at least 32 out of 40 rounds in a range test.³⁵

III. Effect of Proposed Changes:

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. The bill provides alternate qualifications for specific ch. 493, F.S., licensees to carry firearms, thereby exempting them from Class “G” licensure and regulation.

SB 1018 allows ch. 493, F.S., licensees to bear a firearm during the course of their licensed duties without a Class “G” license, if they meet one of the following qualifications:

- A private investigator (Class “C”) has a concealed firearms license issued pursuant to s. 790.06, F.S.;
- A private investigator, private investigator intern, security officer, private investigative or security agency manager, a private investigative agency manager, or a security manager is a retired law enforcement officer with at least 10 years of service who has maintained his or her annual firearms proficiency qualification; or
- A private investigator, private investigator intern, security officer, private investigative or security agency manager, a private investigative agency manager, or a security manager is an active law enforcement officer who maintains his or her annual firearms proficiency qualification.

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.

³⁴ Florida Department of Law Enforcement, Thomas Kirwin, *supra* note 31 at 7.

³⁵ 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.

E. Other Constitutional Issues:

None identified.

V. **Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Private security officers, private investigators, and other related licensed individuals and agencies will likely forgo a class “G” license in favor of a personal concealed weapon permit. The initial concealed weapon permit and its required training is less expensive than a class “G” license, and requires less frequent renewals.

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. The Department will not have grounds to regulate the carrying of firearms by licensed private security officers, private investigators, and other related licensees who do so in the course of their licensed activity without a class “G” license.

The Department projects an annual revenue reduction of \$115,000 due to those licensees who allow their Class “G” Statewide Firearm licenses to lapse and use alternate qualifications to carry a firearm instead.³⁶

VI. **Technical Deficiencies:**

The bill expands qualifications that certain ch. 493, F.S., licensees to bear a firearm during the course of their licensure to include maintenance of firearms proficiency qualification by both specific retired and active law enforcement officers. A cross-reference on line 39 refers only to the retired law enforcement officer qualification found in s. 493.6115(2)(b)2. of the bill, and omits a reference to the active law enforcement officer qualification found in s. 493.6115(2)(b)3. of the bill.

VII. **Related Issues:**

This alternate qualification scheme will likely undermine the regulations attached to the class “G” license, including:

- A limit of 2 guns that may be carried during the course of licensed activity;
- A limit on the types of guns and ammunition that may be used;
- Required incident reporting to the Department after a gun is discharged by a licensee during the course of his or her licensed activity; and

³⁶ FDACS, *SB 1018 Agency Analysis*, Jan. 24, 2022 (on file with the Committee on Commerce and Tourism).

A more stringent review of the applicant's mental health and substance abuse history at the time of application.

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 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.
