

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1509 Private Investigative and Security Services

SPONSOR(S): Byrd

TIED BILLS: IDEN./SIM. BILLS: SB 1018

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform Subcommittee	11 Y, 5 N	Thompson	Anstead
2) Criminal Justice & Public Safety Subcommittee	15 Y, 0 N	Padgett	Hall
3) Commerce Committee			

SUMMARY ANALYSIS

The Department of Agriculture and Consumer Services (DACCS), Division of Licensing, is responsible for the licensure and regulation of private investigation, security and recovery services, including Class “C” Private Investigator, Class “CC” Private Investigator Intern, Class “D” Security Officer, Class “M” Private Investigative/Security Agency Manager, Class “MA” Private Investigative Agency Manager, and Class “MB” Security Manager licensees. In order to carry a firearm in the course of performing their duties, the licensee must also obtain a Class “G” Statewide Firearm license.

The bill allows Class “C” Private Investigator licensees who do not have a statewide firearm license to bear a firearm if the licensee has a license to carry concealed firearms in the state.

The bill authorizes Class “C” Private Investigator, Class “CC” Private Investigator Intern, Class “D” Security Officer, Class “M” Private Investigative/Security Agency Manager, Class “MA” Private Investigative Agency Manager, and Class “MB” Security Manager licensees, who do not have a Class “G” Statewide Firearm license, to bear a firearm in the performance of their duties if they are:

- A retired law enforcement officer who served at least 10 years, separated from service in good standing, and maintains the annual firearms proficiency qualification; or
- An active law enforcement officer who maintains the annual firearms proficiency qualification required by her or his agency.

The bill authorizes Class “C” Private Investigator, Class “CC” Private Investigator Intern, Class “D” Security Officer licensees who are 21 years of age or older to carry a concealed firearm in the performance of their duties if they have been issued a Class “G” Statewide Firearm license, have a license to carry a concealed firearm, or have not been issued a Class “G” Statewide Firearm license but are a retired law enforcement officer who served at least 10 years, separated from service in good standing, and maintains the annual firearms proficiency qualification.

The bill does not appear to have a significant fiscal impact on state or local government.

The bill has an effective date of July 1, 2022.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

The Department of Agriculture and Consumer Services (DACS) supports and promotes Florida agriculture, protects the environment, safeguards consumers, and ensures the safety and wholesomeness of food.¹ The Division of Licensing (Division) within DACS administers Florida's concealed weapon licensing program² and oversees Florida's private investigative, private security, and recovery services industries.³ The Division's regulatory oversight of those services includes licensing, enforcing compliance standards, and ensuring public protection from unethical business practices and unlicensed activity.⁴

Private Investigative and Security Services

Currently, the Division offers 22 different types of private investigative, private security, and recovery services licenses and four different types of concealed weapon or firearm licenses. As of December 31, 2021, the Division had issued a total of 169,758 private investigative, private security, and recovery services licenses and 2,459,530 concealed weapon permits, to qualified applicants. The following chart provides a breakdown of the total number of each license type.⁵

License Type	License Title	Total
C	Private Investigators	6,992
CC	Private Investigator Interns	1,333
A	Private Investigative Agencies	2,627
AA	Private Investigative Agency Branch Offices	21
MA	Private Investigative Agency Managers	81
M	Private Investigative/Security Agency Managers	473
D	Security Officers	124,996
B	Security Agencies	1,836
BB	Security Agency Branch Offices	181
MB	Security Managers	1,395
AB	Security Agency/Private Investigative Agency Branch Offices	19
DS	Security Officer Schools	378
DI	Security Officer Instructors	1,705
G	Statewide Firearm Licenses	26,026
K	Firearms Instructors	617

¹ Department of Agriculture and Consumer Services, *About*, <http://www.freshfromflorida.com/About/> (last visited Feb. 8, 2022).

² S. 790.06, F.S.

³ Ch. 493, F.S.

⁴ Office of Program Policy Analysis and Government Accountability, *Government Program Summaries*, Department of Agriculture and Consumer Services Licensing, <https://oppaga.fl.gov/ProgramSummary/ProgramDetail?programNumber=4101> (last visited Feb. 8, 2022).

⁵ The Florida Department of Agriculture and Consumer Services, *Division of Licensing Statistical Reports*, <https://www.fdacs.gov/Divisions-Offices/Licensing/Statistical-Reports> (last visited Feb. 8, 2022).

E	Recovery Agents	743
EE	Recovery Agent Interns	282
R	Recovery Agencies	282
RR	Recovery Agency Branch Offices	38
MR	Recovery Agency Managers	1
RS	Recovery Agent Schools	6
RI	Recovery Agent Instructors	9
Subtotal Number of Private Investigative, Private Security, and Recovery Services Licenses		169,758
W	Concealed Weapon or Firearm	2,445,471
WJ	Concealed Weapon or Firearm/Circuit and County Judges	809
WR	Concealed Weapon or Firearm/Retired Law Enforcement and Correctional Officers	13,244
WS	Concealed Weapon or Firearm/Consular Security Official	6
Subtotal Number of Concealed Weapon Licenses		2,459,530
Total Number of Licenses		2,629,571

Licensure

To obtain any of the 22 license types under ch. 493, F.S., an applicant must complete and submit an application and meet certain requirements. Each individual, partner, or principal officer in a corporation is required to file with DACS a complete application signed and verified by the individual “under oath” as provided in s. 92.525, F.S.⁶

An applicant must:

- Be at least 18 years old;
- Be one of the following:
 - A United States citizen,
 - A permanent legal resident, or
 - A holder of a work visa from the United States Citizenship and Immigration Service;
- Have no disqualifying criminal history;
- Be of good moral character;
- Have no history of:
 - Mental illness,
 - Alcohol abuse, or
 - Substance abuse; and
- Submit an application with certain identifying information;⁷ and
- Complete 40 hours of required training and submit proof thereof to DACS.⁸

Class “C” Private Investigators

Section 493.6101, F.S., defines the following:

⁶ S. 493.6105(2), F.S.

⁷ S. 493.6105, F.S.

⁸ S. 493.6303(4)(a), F.S.

- “Private investigator” means any individual who, for consideration, advertises as providing or performs private investigation. This does not include an informant who, on a one-time or limited basis, as a result of a unique expertise, ability, vocation, or special access and who, under the direction and control of a Class “C” licensee or a Class “MA” licensee, provides information or services that would otherwise be included in the definition of private investigation.
- “Private investigative agency” means any person who, for consideration, advertises as providing or is engaged in the business of furnishing private investigations.

To become a private investigator in Florida, a Class “C” Private Investigator license is required.⁹ An applicant for the Class “C” Private Investigator license must have two years of lawfully gained, verifiable, full-time experience to qualify for the license.¹⁰ In order to carry a firearm in the course of performing such duties, the licensee must also obtain a Class “G” Statewide Firearm license in addition to the Class “C” Private Investigator license.¹¹

Class “D” Security Officers

Section 493.6101, F.S., defines the following:

- “Security officer” means any individual who, for consideration, advertises as providing or performs bodyguard services or otherwise guards persons or property; attempts to prevent theft or unlawful taking of goods, wares, and merchandise; or attempts to prevent the misappropriation or concealment of goods, wares or merchandise, money, bonds, stocks, choses in action, notes, or other documents, papers, and articles of value or procurement of the return thereof. The term also includes armored car personnel and those personnel engaged in the transportation of prisoners.¹²
- “Security agency” means any person who, for consideration, advertises as providing or is engaged in the business of furnishing security services, armored car services, or transporting prisoners.

To become an unarmed security officer in Florida, a Class “D” Private Security license is required.¹³ “Unarmed” means that no firearm shall be carried while providing security officer services regulated by ch. 493, F.S.¹⁴ An applicant for the Class “D” Private Security license must submit proof of successful completion of a minimum of 40 hours of professional training provided by a security officer school or training facility licensed by DACS.¹⁵ In order to carry a firearm in the course of performing such duties, the licensee must also obtain a Class “G” Statewide Firearm license in addition to the Class “D” Private Security license.¹⁶

Class “G” Statewide Firearm License

In order to carry a firearm in the course of performing his or her duty, the licensee must also obtain a Class “G” Statewide Firearm license.¹⁷ Specifically, only Class “C” Private Investigator, Class “CC” Private Investigator Intern, Class “D” Security Officer, Class “M” Private Investigative/Security Agency Manager, Class “MA” Private Investigative Agency Manager, or Class “MB” Security Manager licensees are permitted to bear a firearm and any such licensee who bears a firearm must also have a Class “G” Statewide Firearm license.¹⁸

⁹ S. 493.6201(5), F.S.

¹⁰ S. 493.6203, F.S.

¹¹ S. 493.6115(2), F.S.

¹² S. 493.6101(19), F.S.

¹³ S. 493.6301(5), F.S. Exceptions to the licensure requirement are listed in s. 493.6102, F.S.

¹⁴ S. 493.6101(9), F.S.

¹⁵ S. 493.6303(4)(a), F.S.

¹⁶ S. 493.6115(2), F.S.

¹⁷ S. 493.6115(2), F.S.

¹⁸ S. 493.6115(2), F.S.

An applicant for a Class “G” Statewide Firearm license must satisfy minimum training criteria for firearms established by DACS rule,¹⁹ which includes, but is not limited to, 28 hours of range and classroom training taught and administered by a Class “K” Firearms Instructor licensee; however, no more than 8 hours of such training may consist of range training.²⁰

DACS is authorized to waive the firearms training requirement if:

- The applicant provides proof that he or she is currently certified as a law enforcement officer or correctional officer pursuant to the requirements of the Criminal Justice Standards and Training Commission or has successfully completed the training required for certification within the last 12 months.
- The applicant provides proof that he or she is currently certified as a federal law enforcement officer and has received law enforcement firearms training administered by a federal law enforcement agency.
- The applicant submits a valid firearm certificate among those specified in paragraph (6)(a).²¹

Duties and Conditions

All licensed employees are prohibited from carrying or being furnished a weapon or firearm unless required in connection with their duties. In such instances, the weapon or firearm is required to be encased in view at all times, except for private investigators, private investigator interns, and security officers who are 21 years of age or older and have been issued a statewide firearm license.²²

These individuals are authorized to carry a concealed firearm in any location throughout the state while performing the following services within the scope of the license:²³

- Class “D” Security Officer licensees who are also Class “G” Statewide Firearm licensees and who are performing:
 - Limited, special assignment duties are authorized to carry their authorized firearm concealed in the conduct of such duties.
 - Bodyguard or executive protection services are authorized to carry their authorized firearm concealed **while in nonuniform**²⁴ as needed in the conduct of such services.²⁵

Concealed Carry

Unless exempted, a person may not carry a concealed firearm or weapon in public without a license issued by DACS.²⁶ The licensing scheme requires DACS to issue a license to any applicant that meets statutory criteria,²⁷ which includes that the person:

- Is a resident and a citizen of the United States or a permanent resident alien of the United States, or is an eligible consular security official;
- Is 21 years of age or older;
- Does not suffer from a physical infirmity that prevents the safe handling of a weapon or firearm;
- Is not ineligible to possess a firearm because of a felony conviction;
- Has not been committed for abusing a controlled substance;
- Has not been found guilty of a crime relating to a controlled substance within a three-year waiting period immediately preceding the application date;
- Does not chronically and habitually use alcoholic beverages or other substances to the extent that his or her normal faculties are impaired;

¹⁹ R. 1.132, F.A.C.

²⁰ S. 493.6105(5), F.S.

²¹ *Id.*

²² S. 493.6115(3), F.S.

²³ S. 493.6115(4), F.S.

²⁴ S. 493.6305, F.S., relating to uniforms, required wear, and exceptions allows Class “D” licensees to perform duties regulated under this chapter in nonuniform status on a limited special assignment basis, and only when duty circumstances or special requirements of the client necessitate such dress.

²⁵ S. 493.6305(3) and (4), F.S.

²⁶ S. 790.01, F.S.

²⁷ S. 790.06(2), F.S.

- Desires the legal means to carry a concealed weapon or firearm for lawful self-defense;
- Demonstrates competency in the use of a firearm;
- Has not been, or is deemed not to have been, adjudicated an incapacitated person in a guardianship proceeding;
- Has not been, or is deemed not to have been, committed to a mental institution;
- Has not had adjudication of guilt withheld or imposition of sentence suspended on any felony, or any misdemeanor crime of domestic violence, unless three years have elapsed since probation or any other conditions set by the court have been fulfilled, or expunction has occurred;
- Has not been issued an injunction that is currently in force and effect restraining the applicant from committing acts of domestic violence or acts of repeat violence; and
- Is not prohibited from purchasing or possessing a firearm by any other provision of law.
 - For example, federal law prohibits a person convicted of misdemeanor domestic violence from purchasing a firearm,²⁸ so a person convicted of misdemeanor domestic violence is ineligible for a license to carry a concealed firearm or weapon in Florida.

An applicant for a concealed firearm license may demonstrate competence with a firearm as required by s. 790.06(2)(h), F.S., by any of the following:

- Completion of any hunter education or hunter safety course approved by the Fish and Wildlife Conservation Commission or a similar agency of another state;
- Completion of any National Rifle Association firearms safety or training course;
- Completion of any firearms safety or training course or class available to the general public offered by a law enforcement agency, junior college, college, or private or public institution or organization or firearms training school, using instructors certified by the National Rifle Association, Criminal Justice Standards and Training Commission, or the Department of Agriculture and Consumer Services;
- Completion of any law enforcement firearms safety or training course or class offered for security guards, investigators, special deputies, or any division or subdivision of a law enforcement agency or security enforcement;
- Presenting evidence of equivalent experience with a firearm through participation in organized shooting competition or military service;
- Being licensed or having been formally licensed to carry a firearm in this state or a county or municipality of this state, unless such license has been revoked for cause; or
- Completion of any firearms training or safety course or class conducted by a state-certified or National Rifle Association certified firearms instructor.

Effect of the Bill

The bill allows private investigator licensees who do not have a statewide firearm license to bear a firearm if the licensee has a license to carry concealed firearms issued pursuant to s. 790.06, F.S.

The bill authorizes Class “C” Private Investigator, Class “CC” Private Investigator Intern, Class “D” Security Officer, Class “M” Private Investigative/Security Agency Manager, Class “MA” Private Investigative Agency Manager, or Class “MB” Security Manager licensees who do not have a statewide firearm license to bear a firearm in the performance of her or his duties if they are:

- A retired law enforcement officer who:
 - Separated from service in good standing;
 - Before such separation, served as a law enforcement officer for at least 10 years; and
 - Maintains her or his annual firearms proficiency qualification pursuant to the federal Law Enforcement Officers Safety Act, may bear a firearm in the performance of her or his duties; or
- An active law enforcement officer who maintains the annual firearms proficiency qualification required by her or his agency.

The bill authorizes Class “C” Private Investigator, Class “CC” Private Investigator Intern, Class “D” Security Officer licensees who are 21 years of age or older to carry a concealed firearm in the performance of their duties, if they:

- Have been issued a Class “G” Statewide Firearm license;
- Have a license to carry a concealed firearm; or
- Have not been issued a Class “G” Statewide Firearm license but are a retired law enforcement officer who:
 - Separated from service in good standing;
 - Before such separation, served as a law enforcement officer for at least 10 years; and
 - Maintains her or his annual firearms proficiency qualification pursuant to the federal Law Enforcement Officers Safety Act, may bear a firearm in the performance of her or his duties.

The bill revises the provision that allows Class “D” Security Officer licensees who have a Class “G” Statewide Firearm license and who are performing limited, special assignment duties, or performing bodyguard or executive protection services, to carry their authorized firearm concealed in the conduct of such duties. The bill replaces the criteria that they have a Class “G” Statewide Firearm license to instead allow them to be a retired law enforcement officer who:

- Separated from service in good standing;
- Before such separation, served as a law enforcement officer for at least 10 years; and
- Maintains her or his annual firearms proficiency qualification pursuant to the federal Law Enforcement Officers Safety Act, may bear a firearm in the performance of her or his duties.

B. SECTION DIRECTORY:

Section 1: Amends s. 493.6115, F.S., relating to weapons and firearms.

Section 2: Amends s. 493.6305, F.S., relating to uniforms, required wear; exceptions.

Section 3: Provides an effective date of July 1, 2022.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Indeterminate. There may be a positive fiscal impact to DACS by creating an exception to the eligibility requirements for certain licensees to carry firearms. This may increase the application rate and related license fees received by DACS, but it is unknown how many applicants will qualify.

According to DACS, the projected annual revenue reductions of Class “G” Statewide Firearm licensees allowing their license to lapse equaling \$115K would be more than offset by almost \$162K of additional estimated revenue collected in the first year of enactment, from these same Class “C/CC” licensees with Class “G” Statewide Firearm licenses, purchasing Concealed Weapon licenses to replace the more expensive Class “G” Statewide Firearm license.²⁹

2. Expenditures:

Indeterminate. There may be a cost to DACS to process additional applicants for licensure.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Creating an exception to the eligibility requirements for private investigative and security industry licensees to carry firearms will likely have a positive fiscal impact on these individuals and the businesses they work for. According to DACS:

This bill would allow armed private investigators and private investigator interns to substitute a concealed weapon license for a Class "G" statewide firearms license. This replacement of a Class "G" license with a concealed weapon license would save armed private investigators and private investigator interns \$112.00 every two years by not renewing the required G license. Replacement of the two-year G license with a seven-year concealed weapon license costing \$97.00 (\$55.00 for the license and \$42.00 for the fingerprint background check) would equate to a \$294.98 cost savings over the seven-year term of a concealed weapon license. (Two-year G license costing \$112.00 divided by 2 years equals \$56.00 annual savings per year, versus seven-year concealed weapon license costing \$97.00 divided by 7 years equals an average annual cost of \$13.86 per year. The annual cost difference of \$42.14 (\$56.00 - \$13.86 = \$42.14) multiplied by 7 years equals \$294.98.)

Additional savings in training costs no longer incurred by Class "G" licensees opting to replace the G license with a concealed weapon license would be realized in the above scenario, based on required Class G firearms training that would no longer be incurred. Four hours of annual firearms training are required to renew a G license, or 28 hours of training from a Class "K" firearms instructor over the seven-year term of a concealed weapon license would no longer be incurred.³⁰

However, according to DACS, Class "K" Firearms Instructors who provide the qualifying training for the Class "G" Statewide Firearm license would likely experience a reduction in demand for their services from:³¹

- Private investigator and intern applicants; and
- The annual training required for renewing a Class "G" licensee.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

³⁰ Florida Department of Agriculture and Consumer Services, Agency Analysis of 2022 HB 1509, (Jan. 24, 2022).

³¹ *Id.*

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Other Comments

According to DACS:³²

This bill would effectively eliminate professional training requirements for armed (Class “G”) security officers and private investigators who would be exempted by virtue of holding a concealed weapon license... Class “G” license training is more professional, expansive, and rigorous whereas concealed carry training only requires a showing of competence.

There could be an increase in conflict-of-interest issues with more active law enforcement officers that carry a concealed weapon when working as private investigator or security officer... The Florida Commission on Ethics has held that such arrangements may create a continuing or frequently recurring conflict between a law enforcement officer’s private interests and the performance of his public duties.

Class “G” licenses and applications would likely decline due to the bill’s option of substituting the concealed carry license for both their professional and personal life.

In summary, the enactment of this bill would reduce enforcement jurisdiction by effectively eliminating the traditional Class “G” training and licensure requirements for those relying instead on the concealed weapon license for concealed weapon carrying on duty; and potentially increase conflict-of-interest issues among active law enforcement officers who are private investigators.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

³² *Id.*