FLORIDA CONCEALED WEAPON OR FIREARM LICENSE

Application Instructions and Chapter 790, Florida Statutes

The Florida Department of Agriculture and Consumer Services issues licenses to eligible Florida residents and non-residents, permitting them to carry a concealed weapon or firearm.

With a concealed weapon or firearm license also comes a tremendous responsibility.

Individuals who choose to arm themselves with weapons should, therefore, be armed with the most indispensable weapon of all: knowledge.

Review provisions of the law that regulate the use of weapons and firearms before choosing to carry one.

Please make every effort to exercise your lawful right safely and responsibly.

07/2016

Florida Department of Agriculture and Consumer Services
Adam H. Putnam, Commissioner

BEFORE COMPLETING A PAPER APPLICATION, READ THIS!

You can apply electronically for a Florida Concealed Weapon or Firearm License at one of the Division of Licensing's Regional Offices or at one of the authorized tax collector's offices located throughout the State of Florida. Either service is designed to allow applicants to complete the entire application process quickly and conveniently.

DO NOT COMPLETE THIS APPLICATION. At the time of your appointment, staff will assist you with completing an electronic application. Staff will also scan your fingerprints, take your photograph, and process your payment.

Information regarding both services is available on our website at www.mylicensesite.com.

APPLICATION INSTRUCTIONS

PLEASE READ THE INSTRUCTIONS ON THE FOLLOWING PAGES CAREFULLY. FAILURE TO COMPLETE THE APPLICATION IN ITS ENTIRETY IN ACCORDANCE WITH THESE INSTRUCTIONS WILL CAUSE DELAYS IN THE PROCESSING OF YOUR APPLICATION.

TYPE OR PRINT IN BLACK INK WHEN COMPLETING THE APPLICATION. PLACE LETTERS AND NUMBERS WITHIN THE DESIGNATED BOXES.

IF YOU RECEIVED THE APPLICATION PACKAGE BY MAIL, RETURN YOUR COMPLETED APPLICATION AND OTHER MATERIALS USING THE ENVELOPE INCLUDED IN THE PACKAGE. IF YOU DOWNLOADED YOUR APPLICATION, USE AN ENVELOPE THAT IS LARGE ENOUGH TO ENSURE THE APPLICATION AND OTHER REQUIRED DOCUMENTS LIE FLAT AND ARE NOT FOLDED OR CREASED.

MINIMUM ELIGIBILITY REQUIREMENTS

- **You must be at least 21 years of age unless you are a servicemember, as defined in Section 250.01, Florida Statutes, or you are a veteran of the United States Armed Forces who was discharged under honorable conditions.**
- **You must meet the CITIZENSHIP and RESIDENCY requirements set forth in the law. See the instructions for Question 5 in Section II below for further details.**
- **You must be able to provide a CERTIFICATE OF COMPLETION from a firearms training class or other acceptable training document that evidences your competency with a firearm. See the instructions for Question 6 in Section II below for further details.**
- **You must not have a DISQUALIFYING CRIMINAL RECORD or other condition that would make you ineligible for licensure.**

If you have any questions about your eligibility, you can complete the online preliminary eligibility questionnaire on our website at www.mylicensesite.com.

SECTION I APPLICANT INFORMATION

Please provide all personal identifying information requested in this section. Note the following specific instructions:

- **USE OF SOCIAL SECURITY NUMBERS:** Section 119.071(5)(a) 2, Florida Statutes, authorizes the Department of Agriculture and Consumer Services, Division of Licensing, to request social security numbers from applicants. Applicant social security numbers are maintained and used by the Division of Licensing for identification purposes, to prevent misidentification, and to facilitate the approval process by the Division. The Department of Agriculture and Consumer Services, Division of Licensing, will not disclose an applicant's social security number without consent of the applicant to anyone outside of the Department of Agriculture and Consumer Services, Division of Licensing, or as required by law. HOWEVER, SUBMISSION OF YOUR SOCIAL SECURITY NUMBER ON YOUR CONCEALED WEAPON LICENSE APPLICATION IS OPTIONAL AND VOLUNTARY. IF YOU CHOOSE NOT TO SUBMIT YOUR SOCIAL SECURITY NUMBER, IT WILL HAVE NO BEARING ON THE PROCESSING OF YOUR APPLICATION.
- **TELEPHONE NUMBER; EMAIL ADDRESS:** This information is requested to facilitate the application process should the Division need to contact you about your application. Including this information on your application is VOLUNTARY.
- **RESIDENCE ADDRESS:** You must provide a residence address. A Post Office Box is not acceptable.

MILITARY SERVICE SEEKING EXPEDITED PROCESSING:

Answer YES to this question ONLY IF:

- You are an active-duty United States military servicemember, as defined in Section 250.01, Florida Statutes; OR
- You are an honorably discharged United States veteran, as defined in Section 1.01, Florida Statutes; AND
- You are requesting expedited processing of your application.

MILITARY SERVICE SEEKING EXPEDITED PROCESSING CONTINUED:

IF you answered yes to this question and are an active-duty United States military servicemember, submit your completed application along with any of the following:

- a copy of your Common Access Card;
- a copy of your United States Uniform Services Identification Card;
- a copy of your current deployment orders.

IF you answered yes to this question and are an honorably discharged United States veteran, submit a copy of the DD Form 214 indicating honorable discharge from military service or another acceptable form of identification recognized by the Department of Veterans' Affairs establishing honorable discharge from military service.

SECTION II QUALIFYING DATA

You must provide responses to all the questions indicated in this section. Please read the detailed instructions included here for each of the 17 questions in this section.

QUESTION 1

If you answer YES to this question: Complete only Sections I and III of the application form. Submit the application with a color photograph, a fee payment in the amount of $300, and a letter of certification stating that you are a consular official engaged in security duties on behalf of your government. This letter must be written in English on embassy or consulate letterhead stationery, and it must be signed by the ambassador, the ambassador's designee, or the consul-general.

QUESTION 2

Answer YES to this question ONLY IF:

- You are CERTIFIED by the Florida Criminal Justice Standards and Training Commission as a law enforcement officer, correctional officer, or correctional probation officer as defined in ss. 943.10(1), (2), (3), (6), (7), (8), or (9), Florida Statutes; AND,
- You are CURRENTLY EMPLOYED as a law enforcement officer, correctional officer or correctional probation officer.

If you answer YES to this question: Submit your complete application along with a color photograph, a check or money order in the amount of $60 for the license fee, and an official letter on agency letterhead stating that you are currently employed with that agency as a law enforcement officer, correctional officer, or correctional probation officer. This letter must be signed by the agency head, the agency's authorized representative, or the agency's personnel officer.

QUESTION 3

Answer YES to this question ONLY IF you retired from a Florida law enforcement agency by which you were employed as a law enforcement officer, correctional officer, or correctional probation officer.

If you answer YES to this question and *retired within the year immediately preceding the date on which you are submitting your application to the Division*: submit your complete application along with a color photograph and a copy of an official document that shows the date of your retirement and the name of the public agency from which you retired. **You do not need to submit any fees.**

If you answer YES to this question and *retired more than one year ago*: submit a complete application, a fingerprint card, a color photograph, a copy of an official document that shows the date of your retirement and the name of the public agency from which you retired, and a fee payment in the amount of $72 (license fee $30 + fingerprint processing fee $42).

PLEASE NOTE: You must have actually RETIRED as a law enforcement officer, correctional officer, or correctional probation officer in order to qualify for the fee exemptions provided for in statute. Simply having been formerly employed at one time as a law enforcement officer, correctional officer, or correctional probation officer is not sufficient. Note also that Florida law does not extend this fee exemption to federal law enforcement retirees or law enforcement retirees from other states.

QUESTION 4

Section 119.071 F. S., excludes from public disclosure specified information such as home addresses, telephone numbers, social security numbers, and photographs pertaining to certain individuals. To determine whether you qualify for an exemption, you can read the complete text of the law online at **http://www.leg.state.fl.us/Statutes/**.

Answer YES to this question ONLY IF you qualify for exemption as prescribed by s. 119.071, F. S.

EVEN IF YOU DO NOT QUALIFY FOR THE EXEMPTION AS DESCRIBED ABOVE: *Section 790.0601, F.S., makes the personal identifying information of any concealed weapon licensee or applicant confidential and exempt from disclosure provisions of Florida's public records law EXCEPT IN THE FOLLOWING CONDITIONS: (1) we have the express written consent of the applicant or licensee or his/her legally authorized representative to disclose information; (2) we receive a court order showing good cause for the disclosure of that information; or (3) we receive a request from a law enforcement agency in connection with the performance of that agency's lawful duties and responsibilities.*

QUESTION 5

You must be a CITIZEN of the United States or a PERMANENT RESIDENT ALIEN and you must CURRENTLY RESIDE in this country in order to qualify for a Florida concealed weapon license. However, note the following special instructions:

- **If you are not currently residing in the United States because you are serving in the US Armed Forces:** submit a copy of your deployment documentation with your application.
- **If you are a PERMANENT RESIDENT ALIEN:** submit the documentation issued to you by the Department of Homeland Security, U. S. Citizenship and Immigration Services (USCIS) giving you permanent resident alien status.
- **If you were born outside the United States and are now a US citizen,** submit a copy of any one of the following documents with your application: a U.S. passport, a Consular Report of Birth (Form FS-240), a Certification of Report of Birth (DS-1350), a Certificate of Naturalization (Form N-550 or N-570), or a Certificate of Citizenship (Form N-560 or N-561). These various documents are issued either by the U.S. Department of State or the USCIS.

QUESTION 6

Florida law requires you to submit proof of competency with a firearm in order to qualify for a concealed weapon license. A copy of a CERTIFICATE OF COMPLETION or similar document from any of the following courses or classes is acceptable:

- any hunter education or hunter safety course approved by the Florida Fish and Wildlife Conservation Commission or a similar agency in another state;
- any National Rifle Association firearms safety or training course;
- 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, utilizing instructors certified by the National Rifle Association, the Criminal Justice Standards and Training Commission, or the Department of Agriculture and Consumer Services;
- any law enforcement firearms safety or training course or class offered for security officers, investigators, special deputies, or any division or subdivision of law enforcement or security enforcement;
- any firearms training or safety course or class conducted by a state-certified instructor or by an instructor certified by the National Rifle Association.

The copy of the training certificate/document must be clear and legible. The certificate/document must include your name, your instructor's name, your instructor's qualifications/credentials (National Rifle Association instructor, law enforcement firearms instructor, Class "K" Firearms Instructor licensed by the State of Florida, etc.), and your instructor's license/ certification number**.**

Other acceptable forms of training documentation include the following:

- documentary evidence of experience with a firearm obtained through participation in organized shooting competition;
- active-duty military personnel may submit copies of any of the following documents that confirm your experience with a firearm gained during service: military orders including call to active-duty letter; a statement of military service signed by, or at the direction of, the adjutant, personnel officer, or commander of your unit or higher headquarters which identifies you and provides your date of entry for your current active-duty period;
- former military personnel can submit a DD Form 214 reflecting honorable discharge from military service.

PLEASE NOTE: Any National Rifle Association firearms safety or training course, 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, utilizing instructors certified by the National Rifle Association, the Criminal Justice Standards and Training Commission, the Department of Agriculture and Consumer Services, or any firearms training or safety course or class conducted by a state-certified instructor or by an instructor certified by the National Rifle Association must include live fire using a firearm and ammunition as defined in Section 790.001, Florida Statutes, in the physical presence of an instructor.

DO NOT SEND <u>ORIGINAL</u> TRAINING DOCUMENTS OR OTHER RELATED MATERIALS TO THE DIVISION.

QUESTION 7

If you have been convicted of a felony as described in section 790.23, Florida Statutes, and the felony conviction occurred within the State of Florida, your civil rights **and** firearm rights must be restored by the Florida Office of Executive Clemency in order to qualify you for a Florida concealed weapon license. Felony convictions occurring in another state require restoration of civil **and** firearm rights by the state in which the conviction occurred. If you were convicted of a felony under federal law, you must have a Presidential pardon or have been granted relief from federal firearm disabilities through the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). Please note - since 1992, the Bureau of Alcohol, Tobacco, Firearms and Explosives' annual appropriation has prohibited the expending of any funds to investigate or act upon applications for relief from Federal firearms disabilities submitted by individuals. For information on how to obtain a Presidential pardon, contact the Office of the Pardon Attorney; U.S. Department of Justice; 500 First Street, N.W.; Washington, DC 20530; www.justice.gov/pardon/.

If your civil rights and firearms rights have not been restored as described above, or if you cannot provide proof of restoration of civil rights and firearms rights, you are not eligible for a Concealed Weapon or Firearm License.

QUESTION 8

If you have had ADJUDICATION OF GUILT WITHHELD OR IMPOSITION OF SENTENCE SUSPENDED ON ANY FELONY, you are NOT ELIGIBLE for a Florida concealed weapon license unless a period of three years has elapsed since probation or any other conditions set by the court have been fulfilled (or the record has been expunged). If you answer YES to this question, you must submit a copy of the document issued by the court or probation office evidencing completion of probation or other court-imposed conditions. Alternatively, you can submit a copy of the court document ordering that the record be expunged.

QUESTION 9

If you have had ADJUDICATION OF GUILT WITHHELD OR IMPOSITION OF SENTENCE SUSPENDED ON A MISDEMEANOR CRIME OF DOMESTIC VIOLENCE, you are NOT ELIGIBLE for a Florida concealed weapon license unless a period of three years has elapsed since probation or any other conditions set by the court have been fulfilled (or the record has been expunged). If you answer YES to this question, you must submit a copy of the document issued by the court or probation office evidencing completion of probation or other court-imposed conditions. Alternatively, you can submit a copy of the court document ordering that the record be expunged.

QUESTION 10

If you have been FOUND GUILTY OF, HAD ADJUDICATION OF GUILT WITHHELD FOR, OR HAD IMPOSITION OF SENTENCE SUSPENDED FOR ONE OR MORE MISDEMEANOR CRIMES OF VIOLENCE, you are NOT ELIGIBLE for a Florida concealed weapon license unless a period of three years has elapsed since probation or any other conditions set by the court have been fulfilled (or the record has been sealed and expunged). If you answer YES to this question, you must submit a copy of the document issued by the court or probation office evidencing completion of probation or other court-imposed conditions. Alternatively, you can submit a copy of the court document ordering that the record be sealed and expunged.

QUESTION 11

If you have been CONVICTED OR FOUND GUILTY OF A MISDEMEANOR CRIME OF DOMESTIC VIOLENCE, you are NOT ELIGIBLE for a Florida concealed weapon license. Owning or possessing a firearm by one who has been convicted of a misdemeanor crime of domestic violence is also punishable under federal law §18 USC 922.

A misdemeanor *crime of domestic violence* includes any misdemeanor conviction or suspended sentence involving the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim. Examples include, but are not limited to, spouse abuse, battery/domestic violence, child abuse, assault, etc. A person shall not be considered to have been convicted if the conviction or suspended sentence has been expunged or set aside, or is an offense for which the person has been pardoned or has had civil rights restored (if the law of the convicting state provides for the loss of civil rights upon conviction of such an offense) unless the pardon, expunction, or restoration of civil rights expressly provides that the person may not possess or receive firearms.

QUESTION 12

If you have been issued an injunction that is currently in force and effect that restrains you from committing acts of domestic violence or acts of repeat violence, you are NOT ELIGIBLE for a Florida concealed weapon license. The Division will suspend the processing of your application until you submit certified court documents showing that the injunction has been dissolved or dismissed.

QUESTION 13

You are NOT ELIGIBLE for a Florida concealed weapon license if any of the following conditions applies to you: (1) you have been adjudicated incapacitated under section 744.331, F.S., or similar laws of any other state; (2) you have been committed to a mental institution in accordance with the provisions of Chapter 394, FS, or similar laws of any other state; (3) you have been adjudicated mentally defective or incompetent in any court. **Your eligibility for licensure would be restored only if you had received relief from federal firearms disabilities through the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) or relief from disabilities pursuant to Section 790.065(2)(a)4.d., Florida Statutes.**

QUESTION 14

You are NOT ELIGIBLE for a Florida concealed weapon license if you answer YES to any one of these questions pertaining to committal for controlled substance abuse, committal for alcohol abuse, or DUI conviction DURING THE THREE YEARS PRECEDING THE DATE ON WHICH YOU SUBMITTED YOUR APPLICATION.

QUESTION 15

You are NOT ELIGIBLE for licensure if you are UNDER ARREST OR CURRENTLY CHARGED with any felony, or crime punishable by imprisonment for more than one year; or any crime of violence, including crimes of domestic violence; or any crime under the provisions of Chapter 893, Florida Statutes, or similar laws of any other state relating to controlled substances. If you choose to submit an application anyway, the Division will suspend the processing of your application until the Division receives a certified court document indicating the final disposition of your case. If that court document indicates that the case did not result in a conviction or a withholding of adjudication on a disqualifying crime, the suspension will be lifted and the processing of your application will continue. If you are convicted or receive a withhold of adjudication on a disqualifying crime, your application will be denied.

QUESTION 16

The term **"fugitive from justice"** means any person who has fled from any State to avoid prosecution for a crime or to avoid giving testimony in any criminal proceeding. If you answer YES to this question or if the background check reveals that you are a fugitive from justice, the Division will suspend the processing of your application until you submit a certified copy of a court document reflecting the final disposition of your case.

QUESTION 17

You are NOT ELIGIBLE for a Florida concealed weapon license if you were discharged from military service under **DISHONORABLE CONDITIONS**.

GENERAL INFORMATION

- **FINGERPRINTS:** The law requires you to submit a COMPLETE AND LEGIBLE SET OF PRINTS. Please read the included information pertaining to fingerprint submissions. Law enforcement authorities occasionally find that fingerprints are insufficiently legible for a complete background check. If this occurs with your fingerprints, we will inform you by letter and request a second fingerprint submission from you.
- **PHOTOGRAPH:** You must also submit a PASSPORT-TYPE COLOR PHOTOGRAPH. Please refer to the included photograph instructions for details concerning the appearance of the photograph.
- **FEES**: The total fee for the Florida Concealed Weapon or Firearm License is $102. This total actually consists of two separate fees:

License Fee:	$60
Fingerprint Processing Fee:	$42

  IMPORTANT NOTE CONCERNING FEES

  - If you had your fingerprints electronically scanned at a local law enforcement agency, you do not need to remit the $42 fingerprint processing fee to the Division. Please refer to the included ELECTRONIC FINGERPRINT SUBMISSION INSTRUCTIONS.
  - If you are a CONSULAR SECURITY OFFICIAL, a $300 license fee must be submitted with your application.
  - If you are a FLORIDA LAW ENFORCEMENT OFFICER, CORRECTIONAL OFFICER, OR CORRECTIONAL PROBATION OFFICER (ACTIVE or RETIRED), refer to the instructions for QUESTION 2 and QUESTION 3 for information concerning the required fees.

  Fees must be paid with a check or money order made payable to the Florida Department of Agriculture and Consumer Services. Do not send cash. The Department will assume no liability for cash sent through the mail. Fees are nonrefundable and nontransferable.
- **FAMILIARITY WITH FLORIDA LAW: You are required by law to read and become knowledgeable of the provisions of Chapter 790, Florida Statutes, relating to weapons and firearms, prior to submitting your application for a Florida Concealed Weapon or Firearm License. A copy of Chapter 790 is included with the Application Instructions for you to read and retain in your files.**

Be sure to check your application!

Before mailing your application, please review it carefully to ensure that it is COMPLETE and ACCURATE. You should include the following items with your application.

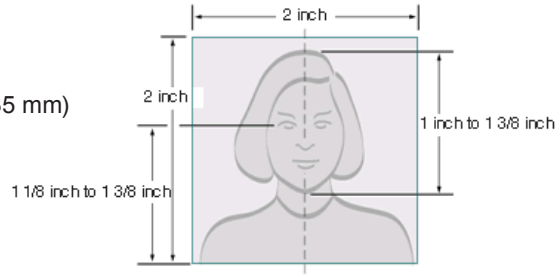
- **TRAINING DOCUMENTATION as described in the section pertaining to QUESTION 6 above**
- **CITIZENSHIP/RESIDENCY DOCUMENTATION as described in the section pertaining to QUESTION 5 above** (if applicable)
- **COURT DOCUMENTATION REFLECTING FINAL DISPOSITION OF ANY ARRESTS** (if applicable)
- **PHOTOGRAPH**
- **A COMPLETE AND LEGIBLE SET OF FINGERPRINTS OR A COPY OF YOUR RECEIPT FOR YOUR ELECTRONIC FINGERPRINT SUBMISSION**
- **A CHECK OR MONEY ORDER FOR THE APPROPRIATE FEES**

Check with your local post office to ensure the postage for your package is sufficient.

***REMINDER:** You can submit your application by mail or in person using the Fast Track Process at a Division of Licensing Regional Office or using the CW Intake System at an authorized tax collector office where staff will preview your application, scan your fingerprints, take your photograph and process your payment. For additional information, please go to our web page at www.mylicensesite.com.*

PHOTOGRAPH SPECIFICATIONS

Your photograph must be:



- In color, non-retouched.
- Printed on matte or glossy photo quality paper.
- 2 x 2 inches (51 x 51 mm) in size.
- Sized such that the head is between 1 inch and 1 3/8 inches (between 25 and 35 mm) from the bottom of the chin to the top of the head.
- Taken within the last 30 days to reflect your current appearance.
- Taken in front of a plain white or off-white background.
- Taken in full-face view directly facing the camera.
- With a neutral facial expression and both eyes open.
- Taken in clothing that you normally wear on a daily basis:
  - Uniforms, clothing that looks like a uniform, and camouflage attire should not be worn in photos except in the case of religious attire that is worn daily.
  - You may only wear a hat or head covering if you wear it daily for religious purposes. Your full face must be visible and your head covering cannot obscure your hairline or cast shadows on your face.
  - Headphones, wireless hands-free devices or similar items are not acceptable in your photo.
  - If you normally wear prescription glasses, a hearing device or similar articles, they may be worn for your photo. Glare on glasses is not acceptable in your photo.
  - Dark glasses or non-prescription glasses with tinted lenses are not acceptable unless you need them for medical reasons (a medical certificate may be required).

FINGERPRINT SUBMISSION INSTRUCTIONS

You must submit a complete and legible set of fingerprints on the FINGERPRINT CARD enclosed or by ELECTRONIC SCAN (see next page for information). If you use the enclosed card, your fingerprints must be taken at a LAW ENFORCEMENT AGENCY. Your local Florida county sheriff will provide fingerprinting service if requested and may charge a fee not to exceed $5. There may also be a charge associated with the fingerprint service provided by another law enforcement agency. Your fingerprint card will not be processed if: (1) the required information is not contained within the designated blocks; (2) a highlighter is used; (3) the card has been folded, creased, or damaged.

Read and follow these instructions carefully:

- Fingers should be washed and dried thoroughly prior to prints being taken.
- Fingerprints must be rolled using black printer's ink.
- The information you provide on the card MUST BE TYPED or PRINTED IN BLACK INK. However, please note that some spaces at the top of the fingerprint card should be left blank.
- DO NOT SIGN the fingerprint card until you are in the presence of the person who will take your fingerprints. Your signature and the name on your application and fingerprint card should match.
  1. NAM – Full name in following order LAST, FIRST, MIDDLE. Initials are not acceptable. If you have no middle name, enter NMN for MIDDLE.
  2. RESIDENCE OF PERSON FINGERPRINTED – Your RESIDENCE address.
  3. EMPLOYER AND ADDRESS – Leave this space blank. The name and address of the law enforcement agency at which you have your prints taken MUST appear on the back of the card in the blank area in the upper right corner.
  4. ALIASES AKA – If you are known, or have been known, by any other name (nickname, married name, maiden name, alias, fictitious name, etc.), list those name(s) here. Include with your application copies of any legal documents that reflect a change of name (marriage certificates, divorce decrees, court affidavits effecting a legal name change, etc.). NOTE: Failure to provide a list of your other names or to furnish documentation pertaining to a legal name change will result in delays in the processing of your application.
  5. CITIZENSHIP CTZ – Enter the country of which you are a citizen (U.S., Cuba, Canada, etc.)
  6. ARMED FORCES NO. MNU – Enter your military service number if you have one.
  7. SOCIAL SECURITY NO. SOC – Section 119.071(5)(a) 2, Florida Statutes, authorizes the Department of Agriculture and Consumer Services, Division of Licensing, to obtain social security numbers from applicants. Applicant social security numbers are maintained and used by the Division of Licensing for identification purposes, to prevent misidentification, and to facilitate the approval process by the Division.
  8. HGT (height) – Use feet and inches (example: for 5'11" enter 511)
  9. DATE OF BIRTH DOB (mmddyy); PLACE OF BIRTH POB, WGT (weight) – Enter required information.
  10. You are not required to complete YOUR NO. OCA or FBI NO. FBI or MISCELLANEOUS NO. MNU.
  11. SEX, RACE, EYES, and HAIR - FBI codes are shown below. Use appropriate code for each required area on the card.

SEX	RACE		EYE COLOR		HAIR COLOR	
M = Male	W = White	A = Asian or Oriental	BLK = Black	GRY = Gray	BLK = Black	WHI = White
F = Female	B = Black	U = Other or Unknown	BLU = Blue	GRN = Green	BRO = Brown	BAL = Bald
	I = American Indian or Alaskan Native		BRO = Brown	HAZ = Hazel	GRY = Gray	BLN = Blonde
					RED = Red	

Your fingerprint card will not be processed if: (1) the required information is not contained within the designated blocks; (2) a highlighter is used; (3) the card has been folded, creased, or damaged.

The instructions for submitting your fingerprints electronically that appear below will apply to you only if you are having your fingerprints taken by one of the county sheriffs' offices in Florida that offer electronic fingerprinting service. You should be aware that you have the option of submitting your application for a Florida concealed weapon license at one of the Division of Licensing's Regional Offices or at one of the authorized tax collector's offices located throughout the State of Florida. If you choose one of these options, staff will scan your fingerprints. Information regarding both services can be found on our website at http://mylicensesite.com.

ELECTRONIC FINGERPRINT SUBMISSION INSTRUCTIONS

The application package for the Florida Concealed Weapon or Firearm License includes a fingerprint card. However, you can have your fingerprints scanned electronically instead of submitting them on this traditional "hard card." An electronic fingerprint submission will reduce the time it takes for law enforcement authorities to complete the required criminal history background check and to return the results of that background check to us.

1. WHERE TO GO

Most of Florida's 67 county sheriffs provide electronic fingerprint scanning. Go to our web site (http://mylicensesite.com) to see if your sheriff offers the service. This site includes telephone numbers and addresses of offices where scanning is done. We suggest that you call your sheriff ahead of time to confirm office hours and availability.

2. GETTING YOUR PRINTS TAKEN

It's really very simple. A fingerprint technician will create a digital image of your prints using a fingerprint-scanning device. After your fingerprints have been scanned, you will be given a receipt. Some offices will also give you a photocopy of the scan. KEEP THESE DOCUMENTS; YOU WILL NEED THEM LATER.

3. HOW MUCH IT COSTS AND HOW TO PAY

The cost of the fingerprint scanning service is approximately $35; however, you should be aware that some sheriffs' offices might also charge a nominal service fee. There are two options for paying for the electronic scan:

- Some sheriffs' offices can accept payment by check, cash, credit card, or money order at the time you have your fingerprints scanned.
- If your sheriff's office cannot accept payment, you will need to submit payment using a secure Internet system called the Civil Workflow Control System (CWCS) developed by the Florida Department of Law Enforcement (FDLE). You can get to this site using this link: https://caps.fdle.state.fl.us. You will need your credit card and the receipt given to you by the fingerprint technician at the sheriff's office. This receipt will include a **Transaction Control Number** (a number that will begin with 70SX followed by 16 digits) and your name. Follow the instructions on the CWCS web site very carefully. **TYPE THE TRANSACTION CONTROL NUMBER AND YOUR NAME EXACTLY AS THEY APPEAR ON THE RECEIPT.** At the conclusion of your online transaction, **print a copy of the CWCS receipt screen.**

NOTE: You must submit your payment via CWCS WITHIN 30 DAYS of having your fingerprints scanned or your electronic response will be deleted from the CWCS database. If you do not submit payment within 30 days, you will need to go back to the sheriff's office to have your prints scanned again. You will then have another 30 days in which to remit payment.

4. WHAT TO SUBMIT TO THE DIVISION OF LICENSING

After you have paid for your electronic fingerprint submission, you can submit your application to the Division of Licensing. Be sure to include the following items with your application: photocopies of your fingerprint scan and all receipts (including the CWCS receipt), a photograph, training documentation and a check or money order for the $60 licensing fee. *IMPORTANT: PLEASE SUBMIT YOUR APPLICATION TO THE DIVISION OF LICENSING WITHIN 90 DAYS OF YOUR FINGERPRINT SCAN TO AVOID INCONVENIENCE AND ADDITIONAL EXPENSE.*

5. FINGERPRINT REJECTIONS

Law enforcement authorities occasionally find that fingerprints are insufficiently legible to complete a background check. When this happens, the law requires us to ask the applicant to submit a second set of fingerprints. We will send you a letter informing you of the fingerprint rejection and provide you with instructions for having your fingerprints taken again.

IT IS IMPORTANT that you submit your application and your fingerprint submissions to us in a timely manner in order to avoid additional inconvenience and expense. If we have to request a second fingerprint submission from you and we do not receive that second fingerprint submission within 180 days of your first submission, we will have no alternative but to require you to have your fingerprints scanned again AND to remit an additional fingerprint processing fee.

CHAPTER 790

WEAPONS AND FIREARMS

790.001 Definitions.
790.01 Unlicensed carrying of concealed weapons or concealed firearms.
790.015 Nonresidents who are United States citizens and hold a concealed weapons license in another state; reciprocity.
790.02 Officer to arrest without warrant and upon probable cause.
790.051 Exemption from licensing requirements; law enforcement officers.
790.052 Carrying concealed firearms; off-duty law enforcement officers.
790.053 Open carrying of weapons.
790.054 Prohibited use of self-defense weapon or device against law enforcement officer; penalties.
790.06 License to carry concealed weapon or firearm.
790.0601 Public records exemption for concealed weapons.
790.061 Judges and justices; exceptions from licensure provisions.
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790.15 Discharging firearm in public or on residential property.
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790.153 Tests for impairment or intoxication; right to refuse.
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790.157 Presumption of impairment; testing methods.
790.16 Discharging machine guns; penalty.
790.161 Making, possessing, throwing, projecting, placing, or discharging any destructive device or attempt so to do, felony; penalties.
790.1612 Authorization for governmental manufacture, possession, and use of destructive devices.
790.1615 Unlawful throwing, projecting, placing, or discharging of destructive device or bomb that results in injury to another; penalty.
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790.163 False report concerning planting a bomb, an explosive, or a weapon of mass destruction, or concerning the use of firearms in a violent manner; penalty.
790.164 False reports concerning planting a bomb, explosive, or weapon of mass destruction in, or committing arson against, state-owned property, or concerning the use of firearms in a violent manner; penalty; reward.
790.165 Planting of “hoax bomb” prohibited; penalties.
790.166 Manufacture, possession, sale, delivery, display, use, or attempted or threatened use of a weapon of mass destruction or hoax weapon of mass destruction prohibited; definitions; penalties.
790.169 Juvenile offenders; release of names and addresses.
790.17 Furnishing weapons to minors under 18 years of age or persons of unsound mind and furnishing firearms to minors under 18 years of age prohibited.
790.173 Legislative findings and intent.
790.174 Safe storage of firearms required.
790.175 Transfer or sale of firearms; required warnings; penalties.
790.18 Sale or transfer of arms to minors by dealers.
790.19 Shooting into or throwing deadly missiles into dwellings, public or private buildings, occupied or not occupied; vessels, aircraft, buses, railroad cars, streetcars, or other vehicles.
790.22 Use of BB guns, air or gas-operated guns, or electric weapons or devices by minor under 16; limitation; possession of firearms by minor under 18 prohibited; penalties.
790.221 Possession of short-barreled rifle, short-barreled shotgun, or machine gun; penalty.
790.225 Ballistic self-propelled knives; unlawful to manufacture, sell, or possess; forfeiture; penalty.

790.23 Felons and delinquents; possession of firearms, ammunition, or electric weapons or devices unlawful.
790.233 Possession of firearm or ammunition prohibited when person is subject to an injunction against committing acts of domestic violence, stalking, or cyberstalking; penalties.
790.235 Possession of firearm or ammunition by violent career criminal unlawful; penalty.
790.24 Report of medical treatment of certain wounds; penalty for failure to report.
790.25 Lawful ownership, possession, and use of firearms and other weapons.
790.251 Protection of the right to keep and bear arms in motor vehicles for self-defense and other lawful purposes; prohibited acts; duty of public and private employers; immunity from liability; enforcement.
790.256 Public service announcements.
790.27 Alteration or removal of firearm serial number or possession, sale, or delivery of firearm with serial number altered or removed prohibited; penalties.
790.29 Paramilitary training; teaching or participation prohibited.
790.31 Armor-piercing or exploding ammunition or dragon's breath shotgun shells, bolo shells, or flechette shells prohibited.
790.33 Field of regulation of firearms and ammunition preempted.
790.331 Prohibition of civil actions against firearms or ammunition manufacturers, firearms trade associations, firearms or ammunition distributors, or firearms or ammunition dealers.
790.333 Sport shooting and training range protection; liability; claims, expenses, and fees; penalties; preemption; construction.
790.335 Prohibition of registration of firearms; electronic records.
790.336 Lists, records, or registries to be destroyed.
790.338 Medical privacy concerning firearms; prohibitions; penalties; exceptions.

790.001 Definitions.—As used in this chapter, except where the context otherwise requires:

(1) "Antique firearm" means any firearm manufactured in or before 1918 (including any matchlock, flintlock, percussion cap, or similar early type of ignition system) or replica thereof, whether actually manufactured before or after the year 1918, and also any firearm using fixed ammunition manufactured in or before 1918, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(2) "Concealed firearm" means any firearm, as defined in subsection (6), which is carried on or about a person in such a manner as to conceal the firearm from the ordinary sight of another person.

(3)(a) "Concealed weapon" means any dirk, metallic knuckles, billie, tear gas gun, chemical weapon or device, or other deadly weapon carried on or about a person in such a manner as to conceal the weapon from the ordinary sight of another person.

(b) "Tear gas gun" or "chemical weapon or device" means any weapon of such nature, except a device known as a "self-defense chemical spray." "Self-defense chemical spray" means a device carried solely for purposes of lawful self-defense that is compact in size, designed to be carried on or about the person, and contains not more than two ounces of chemical.

(4) "Destructive device" means any bomb, grenade, mine, rocket, missile, pipebomb, or similar device containing an explosive, incendiary, or poison gas and includes any frangible container filled with an explosive, incendiary, explosive gas, or expanding gas, which is designed or so constructed as to explode by such filler and is capable of causing bodily harm or property damage; any combination of parts either designed or intended for use in converting any device into a destructive device and from which a destructive device may be readily assembled; any device declared a destructive device by the Bureau of Alcohol, Tobacco, and Firearms; any type of weapon which will, is designed to, or may readily be converted to expel a projectile by the action of any explosive and which has a barrel with a bore of one-half inch or more in diameter; and ammunition for such destructive devices, but not including shotgun shells or any other ammunition designed for use in a firearm other than a destructive device. "Destructive device" does not include:

(a) A device which is not designed, redesigned, used, or intended for use as a weapon;

(b) Any device, although originally designed as a weapon, which is redesigned so that it may be used solely as a signaling, line-throwing, safety, or similar device;

(c) Any shotgun other than a short-barreled shotgun; or

(d) Any nonautomatic rifle (other than a short-barreled rifle) generally recognized or particularly suitable for use for the hunting of big game.

(5) "Explosive" means any chemical compound or mixture that has the property of yielding readily to combustion or oxidation upon application of heat, flame, or shock, including but not limited to dynamite, nitroglycerin, trinitrotoluene, or ammonium nitrate when combined with other ingredients to form an explosive mixture, blasting caps, and detonators; but not including:

(a) Shotgun shells, cartridges, or ammunition for firearms;

(b) Fireworks as defined in s. 791.01;

(c) Smokeless propellant powder or small arms ammunition primers, if possessed, purchased, sold, transported, or used in compliance with s. 552.241;

(d) Black powder in quantities not to exceed that authorized by chapter 552, or by any rules adopted thereunder by the Department of Financial Services, when used for, or intended to be used for, the manufacture of target and sporting ammunition or for use in muzzle-loading flint or percussion weapons.

The exclusions contained in paragraphs (a)-(d) do not apply to the term "explosive" as used in the definition of "firearm" in subsection (6).

(6) "Firearm" means any weapon (including a starter gun) which will, is designed to, or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; any firearm muffler or firearm silencer; any destructive device; or any machine gun. The term "firearm" does not include an antique firearm unless the antique firearm is used in the commission of a crime.

(7) "Indictment" means an indictment or an information in any court under which a crime punishable by imprisonment for a term exceeding 1 year may be prosecuted.

(8) "Law enforcement officer" means:

(a) All officers or employees of the United States or the State of Florida, or any agency, commission, department, board, division, municipality, or subdivision thereof, who have authority to make arrests;

(b) Officers or employees of the United States or the State of Florida, or any agency, commission, department, board, division, municipality, or subdivision thereof, duly authorized to carry a concealed weapon;

(c) Members of the Armed Forces of the United States, the organized reserves, state militia, or Florida National Guard, when on duty, when preparing themselves for, or going to or from, military duty, or under orders;

(d) An employee of the state prisons or correctional systems who has been so designated by the Department of Corrections or by a warden of an institution;

(e) All peace officers;

(f) All state attorneys and United States attorneys and their respective assistants and investigators.

(9) "Machine gun" means any firearm, as defined herein, which shoots, or is designed to shoot, automatically more than one shot, without manually reloading, by a single function of the trigger.

(10) "Short-barreled shotgun" means a shotgun having one or more barrels less than 18 inches in length and any weapon made from a shotgun (whether by alteration, modification, or otherwise) if such weapon as modified has an overall length of less than 26 inches.

(11) "Short-barreled rifle" means a rifle having one or more barrels less than 16 inches in length and any weapon made from a rifle (whether by alteration, modification, or otherwise) if such weapon as modified has an overall length of less than 26 inches.

(12) "Slungshot" means a small mass of metal, stone, sand, or similar material fixed on a flexible handle, strap, or the like, used as a weapon.

(13) "Weapon" means any dirk, knife, metallic knuckles, slungshot, billie, tear gas gun, chemical weapon or device, or other deadly weapon except a firearm or a common pocketknife, plastic knife, or blunt-bladed table knife.

(14) "Electric weapon or device" means any device which, through the application or use of electrical current, is designed, redesigned, used, or intended to be used for offensive or defensive purposes, the destruction of life, or the infliction of injury.

(15) "Dart-firing stun gun" means any device having one or more darts that are capable of delivering an electrical current.

(16) "Readily accessible for immediate use" means that a firearm or other weapon is carried on the person or within such close proximity and in such a manner that it can be retrieved and used as easily and quickly as if carried on the person.

(17) "Securely encased" means in a glove compartment, whether or not locked; snapped in a holster; in a gun case, whether or not locked; in a zippered gun case; or in a closed box or container which requires a lid or cover to be opened for access.

(18) "Sterile area" means the area of an airport to which access is controlled by the inspection of persons and property in accordance with federally approved airport security programs.

(19) "Ammunition" means an object consisting of all of the following:

(a) A fixed metallic or nonmetallic hull or casing containing a primer.

(b) One or more projectiles, one or more bullets, or shot.

(c) Gunpowder.

All of the specified components must be present for an object to be ammunition.

History.—s. 1, ch. 69-306; ss. 13, 19, 35, ch. 69-106; ss. 1, 2, ch. 70-441; s. 32, ch. 73-334; s. 1, ch. 76-165; s. 12, ch. 77-120; s. 1, ch. 78-200; s. 19, ch. 79-3; s. 1, ch. 79-58; s. 1, ch. 80-112; s. 1, ch. 82-131; s. 162, ch. 83-216; s. 2, ch. 88-183; s. 43, ch. 88-381; s. 1, ch. 90-124; s. 1, ch. 90-176; s. 1, ch. 93-17; s. 1, ch. 97-72; s. 1202, ch. 97-102; s. 5, ch. 2000-161; s. 1904, ch. 2003-261; s. 1, ch. 2004-286; s. 1, ch. 2006-186; s. 1, ch. 2006-298; s. 2, ch. 2016-106.

790.01 Unlicensed carrying of concealed weapons or concealed firearms.—

(1) Except as provided in subsection (3), a person who is not licensed under s. 790.06 and who carries a concealed weapon or electric weapon or device on or about his or her person commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) Except as provided in subsection (3), a person who is not licensed under s. 790.06 and who carries a concealed firearm on or about his or her person commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) This section does not apply to:

(a) A person who carries a concealed weapon, or a person who may lawfully possess a firearm and who carries a concealed firearm, on or about his or her person while in the act of evacuating during a mandatory evacuation order issued during a state of emergency declared by the Governor pursuant to chapter 252 or declared by a local authority pursuant to chapter 870. As used in this subsection, the term "in the act of evacuating" means the immediate and urgent movement of a person away from the evacuation zone within 48 hours after a mandatory evacuation is ordered. The 48 hours may be extended by an order issued by the Governor.

(b) A person who carries for purposes of lawful self-defense, in a concealed manner:

1. A self-defense chemical spray.

2. A nonlethal stun gun or dart-firing stun gun or other nonlethal electric weapon or device that is designed solely for defensive purposes.

(4) This section does not preclude any prosecution for the use of an electric weapon or device, a dart-firing stun gun, or a self-defense chemical spray during the commission of any criminal offense under s. 790.07, s. 790.10, s. 790.23, or s. 790.235, or for any other criminal offense.

History.—s. 1, ch. 4929, 1901; GS 3262; RGS 5095; CGL 7197; s. 1, ch. 67-165; s. 2, ch. 69-306; s. 739, ch. 71-136; s. 2, ch. 76-165; s. 3, ch. 80-268; s. 2, ch. 92-183; s. 2, ch. 97-72; s. 1203, ch. 97-102; s. 5, ch. 2004-286; s. 2, ch. 2006-298; s. 1, ch. 2015-44.

790.015 Nonresidents who are United States citizens and hold a concealed weapons license in another state; reciprocity.—

(1) Notwithstanding s. 790.01, a nonresident of Florida may carry a concealed weapon or concealed firearm while in this state if the nonresident:

(a) Is 21 years of age or older.

(b) Has in his or her immediate possession a valid license to carry a concealed weapon or concealed firearm issued to the nonresident in his or her state of residence.

(c) Is a resident of the United States.

(2) A nonresident is subject to the same laws and restrictions with respect to carrying a concealed weapon or concealed firearm as a resident of Florida who is so licensed.

(3) If the resident of another state who is the holder of a valid license to carry a concealed weapon or concealed firearm issued in another state establishes legal residence in this state by:

(a) Registering to vote;

(b) Making a statement of domicile pursuant to s. 222.17; or

(c) Filing for homestead tax exemption on property in this state,

the license shall remain in effect for 90 days following the date on which the holder of the license establishes legal state residence.

(4) This section applies only to nonresident concealed weapon or concealed firearm licenseholders from states that honor Florida concealed weapon or concealed firearm licenses.

(5) The requirement of paragraph (1)(a) does not apply to a person who:

(a) Is a servicemember, as defined in s. 250.01; or

(b) Is a veteran of the United States Armed Forces who was discharged under honorable conditions.

History.—s. 1, ch. 99-132; s. 2, ch. 2012-108.

790.02 Officer to arrest without warrant and upon probable cause.—The carrying of a concealed weapon is declared a breach of peace, and any officer authorized to make arrests under the laws of this state may make arrests without warrant of persons violating the provisions of s. 790.01 when said officer has reasonable grounds or probable cause to believe that the offense of carrying a concealed weapon is being committed.

History.—s. 1, ch. 4929, 1901; GS 3263; RGS 5096; CGL 7198; s. 3, ch. 69-306.

790.051 Exemption from licensing requirements; law enforcement officers.—Law enforcement officers are exempt from the licensing and penal provisions of this chapter when acting at any time within the scope or course of their official duties or when acting at any time in the line of or performance of duty.

History.—s. 11, ch. 69-306.

790.052 Carrying concealed firearms; off-duty law enforcement officers.—

(1) All persons holding active certifications from the Criminal Justice Standards and Training Commission as law enforcement officers or correctional officers as defined in s. 943.10(1), (2), (6), (7), (8), or (9) shall have the right to carry, on or about their persons, concealed firearms, during off-duty hours, at the discretion of their superior officers, and may perform those law enforcement functions that they normally perform during duty hours, utilizing their weapons in a manner which is reasonably expected of on-duty officers in similar situations. However, nothing in this subsection shall be construed to limit the right of a law enforcement officer, correctional officer, or correctional probation officer to carry a concealed firearm off duty as a private citizen under the exemption provided in s. 790.06 that allows a law enforcement officer, correctional officer, or correctional probation officer as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9) to carry a concealed firearm without a concealed weapon or firearm license. The appointing or employing agency or department of an officer carrying a concealed firearm as a private citizen under s. 790.06 shall not be liable for the use of the firearm in such capacity. Nothing herein limits the authority of the appointing or employing agency or department from establishing policies limiting law enforcement officers or correctional officers from carrying concealed firearms during off-duty hours in their capacity as appointees or employees of the agency or department.

(2) The superior officer of any police department or sheriff's office or the Florida Highway Patrol, if he or she elects to direct the officers under his or her supervision to carry concealed firearms while off duty, shall file a statement with the governing body of such department of his or her instructions and requirements relating to the carrying of said firearms.

History.—ss. 1, 2, 3, ch. 72-84; s. 235, ch. 77-104; s. 23, ch. 79-8; s. 3, ch. 88-183; s. 4, ch. 95-318; s. 1204, ch. 97-102.

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

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

(a) A self-defense chemical spray.

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

(3) Any person violating this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 1, ch. 87-537; s. 173, ch. 91-224; s. 3, ch. 97-72; s. 1205, ch. 97-102; s. 3, ch. 2006-298; s. 1, ch. 2011-145.

790.054 Prohibited use of self-defense weapon or device against law enforcement officer; penalties.—A person who knowingly and willfully uses a self-defense chemical spray, a nonlethal stun gun or other nonlethal electric weapon or device, or a dart-firing stun gun against a law enforcement officer engaged in the performance of his or her duties commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 4, ch. 97-72; s. 4, ch. 2006-298.

790.06 License to carry concealed weapon or firearm.—

(1) The Department of Agriculture and Consumer Services is authorized to issue licenses to carry concealed weapons or concealed firearms to persons qualified as provided in this section. Each such license must bear a color photograph of the licensee. For the purposes of this section, concealed weapons or concealed firearms are defined as a handgun, electronic weapon or device, tear gas gun, knife, or billie, but the term does not include a machine gun as defined in s. 790.001(9). Such licenses shall be valid throughout the state for a period of 7 years from the date of issuance. Any person in compliance with the terms of such license may carry a concealed weapon or concealed firearm notwithstanding the provisions of s. 790.01. The licensee must carry the license, together with valid identification, at all times in which the licensee is in actual possession of a concealed weapon or firearm and must display both the license and proper identification upon demand by a law enforcement officer. Violations of the provisions of this subsection shall constitute a noncriminal violation with a penalty of $25, payable to the clerk of the court.

(2) The Department of Agriculture and Consumer Services shall issue a license if the applicant:

(a) Is a resident of the United States and a citizen of the United States or a permanent resident alien of the United States, as determined by the United States Bureau of Citizenship and Immigration Services, or is a consular security official of a foreign government that maintains diplomatic relations and treaties of commerce, friendship, and navigation with the United States and is certified as such by the foreign government and by the appropriate embassy in this country;

(b) Is 21 years of age or older;

(c) Does not suffer from a physical infirmity which prevents the safe handling of a weapon or firearm;

(d) Is not ineligible to possess a firearm pursuant to s. 790.23 by virtue of having been convicted of a felony;

(e) Has not been committed for the abuse of a controlled substance or been found guilty of a crime under the provisions of chapter 893 or similar laws of any other state relating to controlled substances within a 3-year period immediately preceding the date on which the application is submitted;

(f) Does not chronically and habitually use alcoholic beverages or other substances to the extent that his or her normal faculties are impaired. It shall be presumed that an applicant chronically and habitually uses alcoholic beverages or other substances to the extent that his or her normal faculties are impaired if the applicant has been committed under chapter 397 or under the provisions of former chapter 396 or has been convicted under s. 790.151 or has been deemed a habitual offender under s. 856.011(3), or has had two or more convictions under s. 316.193 or similar laws of any other state, within the 3-year period immediately preceding the date on which the application is submitted;

(g) Desires a legal means to carry a concealed weapon or firearm for lawful self-defense;

(h) Demonstrates competence with a firearm by any one of the following:

1. Completion of any hunter education or hunter safety course approved by the Fish and Wildlife Conservation Commission or a similar agency of another state;

2. Completion of any National Rifle Association firearms safety or training course;

3. 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;

4. 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;

5. Presents evidence of equivalent experience with a firearm through participation in organized shooting competition or military service;

6. Is licensed or has been 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

7. Completion of any firearms training or safety course or class conducted by a state-certified or National Rifle Association certified firearms instructor;

A photocopy of a certificate of completion of any of the courses or classes; an affidavit from the instructor, school, club, organization, or group that conducted or taught such course or class attesting to the completion of the course or class by the applicant; or a copy of any document that shows completion of the course or class or evidences participation in firearms competition shall constitute evidence of qualification under this paragraph. A person who conducts a course pursuant to subparagraph 2., subparagraph 3., or subparagraph 7., or who, as an instructor, attests to the completion of such courses, must maintain records certifying that he or she observed the student safely handle and discharge the firearm in his or her physical presence and

that the discharge of the firearm included live fire using a firearm and ammunition as defined in s. 790.001;

(i) Has not been adjudicated an incapacitated person under s. 744.331, or similar laws of any other state, unless 5 years have elapsed since the applicant's restoration to capacity by court order;

(j) Has not been committed to a mental institution under chapter 394, or similar laws of any other state, unless the applicant produces a certificate from a licensed psychiatrist that he or she has not suffered from disability for at least 5 years before the date of submission of the application;

(k) Has not had adjudication of guilt withheld or imposition of sentence suspended on any felony unless 3 years have elapsed since probation or any other conditions set by the court have been fulfilled, or expunction has occurred;

(l) Has not had adjudication of guilt withheld or imposition of sentence suspended on any 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;

(m) Has not been issued an injunction that is currently in force and effect and that restrains the applicant from committing acts of domestic violence or acts of repeat violence; and

(n) Is not prohibited from purchasing or possessing a firearm by any other provision of Florida or federal law.

(3) The Department of Agriculture and Consumer Services shall deny a license if the applicant has been found guilty of, had adjudication of guilt withheld for, or had imposition of sentence suspended for one or more crimes of violence constituting a misdemeanor, unless 3 years have elapsed since probation or any other conditions set by the court have been fulfilled or the record has been sealed or expunged. The Department of Agriculture and Consumer Services shall revoke a license if the licensee has been found guilty of, had adjudication of guilt withheld for, or had imposition of sentence suspended for one or more crimes of violence within the preceding 3 years. The department shall, upon notification by a law enforcement agency, a court, or the Florida Department of Law Enforcement and subsequent written verification, 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 under this section, until final disposition of the case. The department shall 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.

(4) The application shall be completed, under oath, on a form adopted by the Department of Agriculture and Consumer Services and shall include:

(a) The name, address, place of birth, date of birth, and race of the applicant;

(b) A statement that the applicant is in compliance with criteria contained within subsections (2) and (3);

(c) A statement that the applicant has been furnished a copy of this chapter and is knowledgeable of its provisions;

(d) A conspicuous warning that the application is executed under oath and that a false answer to any question, or the submission of any false document by the applicant, subjects the applicant to criminal prosecution under s. 837.06;

(e) A statement that the applicant desires a concealed weapon or firearms license as a means of lawful self-defense; and

(f) Directions for an applicant who is a servicemember, as defined in s. 250.01, or a veteran, as defined in s. 1.01, to request expedited processing of his or her application.

(5) The applicant shall submit to the Department of Agriculture and Consumer Services or an approved tax collector pursuant to s. 790.0625:

(a) A completed application as described in subsection (4).

(b) A nonrefundable license fee of up to $60 if he or she has not previously been issued a statewide license or of up to $50 for renewal of a statewide license. The cost of processing fingerprints as required in paragraph (c) shall be borne by the applicant. However, an individual holding an active certification from the Criminal Justice Standards and Training Commission as a law enforcement officer, correctional officer, or correctional probation officer as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9) is exempt from the licensing requirements of this section. If such individual wishes to receive a concealed weapon or firearm license, he or she is exempt from the background investigation and all background investigation fees but must pay the current license fees regularly required to be paid by nonexempt applicants. Further, a law enforcement officer, a correctional officer, or a correctional probation officer as defined in s. 943.10(1), (2), or (3) is exempt from the required fees and background investigation for 1 year after his or her retirement.

(c) A full set of fingerprints of the applicant administered by a law enforcement agency or the Division of Licensing of the Department of Agriculture and Consumer Services or an approved tax collector pursuant to s. 790.0625 together with any personal identifying information required by federal law to process fingerprints.

(d) A photocopy of a certificate, affidavit, or document as described in paragraph (2)(h).

(e) A full frontal view color photograph of the applicant taken within the preceding 30 days, in which the head, including hair, measures ⅞ of an inch wide and 1⅛ inches high.

(f) For expedited processing of an application:

1. A servicemember shall submit a copy of the Common Access Card, United States Uniformed Services Identification Card, or current deployment orders.

2. A veteran shall submit a copy of the DD Form 214, issued by the United States Department of Defense, or another acceptable form of identification as specified by the Department of Veterans' Affairs.

(6)(a) The Department of Agriculture and Consumer Services, upon receipt of the items listed in subsection (5), shall forward the full set of fingerprints of the applicant to the Department of Law Enforcement for state and federal processing, provided the federal

service is available, to be processed for any criminal justice information as defined in s. 943.045. The cost of processing such fingerprints shall be payable to the Department of Law Enforcement by the Department of Agriculture and Consumer Services.

(b) The sheriff's office shall provide fingerprinting service if requested by the applicant and may charge a fee not to exceed $5 for this service.

(c) The Department of Agriculture and Consumer Services shall, within 90 days after the date of receipt of the items listed in subsection (5):

1. Issue the license; or

2. Deny the application based solely on the ground that the applicant fails to qualify under the criteria listed in subsection (2) or subsection (3). If the Department of Agriculture and Consumer Services denies the application, it shall notify the applicant in writing, stating the ground for denial and informing the applicant of any right to a hearing pursuant to chapter 120.

3. In the event the department receives criminal history information with no final disposition on a crime which may disqualify the applicant, the time limitation prescribed by this paragraph may be suspended until receipt of the final disposition or proof of restoration of civil and firearm rights.

(d) In the event a legible set of fingerprints, as determined by the Department of Agriculture and Consumer Services or the Federal Bureau of Investigation, cannot be obtained after two attempts, the Department of Agriculture and Consumer Services shall determine eligibility based upon the name checks conducted by the Florida Department of Law Enforcement.

(e) A consular security official of a foreign government that maintains diplomatic relations and treaties of commerce, friendship, and navigation with the United States and is certified as such by the foreign government and by the appropriate embassy in this country must be issued a license within 20 days after the date of the receipt of a completed application, certification document, color photograph as specified in paragraph (5)(e), and a nonrefundable license fee of $300. Consular security official licenses shall be valid for 1 year and may be renewed upon completion of the application process as provided in this section.

(f) The Department of Agriculture and Consumer Services shall, upon receipt of a completed application and the identifying information required under paragraph (5)(f), expedite the processing of a servicemember's or a veteran's concealed weapon or firearm license application.

(7) The Department of Agriculture and Consumer Services shall maintain an automated listing of licenseholders and pertinent information, and such information shall be available online, upon request, at all times to all law enforcement agencies through the Florida Crime Information Center.

(8) Within 30 days after the changing of a permanent address, or within 30 days after having a license lost or destroyed, the licensee shall notify the Department of Agriculture and Consumer Services of such change. Failure to notify the Department of Agriculture and Consumer Services pursuant to the provisions of this subsection shall constitute a noncriminal violation with a penalty of $25.

(9) In the event that a concealed weapon or firearm license is lost or destroyed, the license shall be automatically invalid, and the person to whom the same was issued may, upon payment of $15 to the Department of Agriculture and Consumer Services, obtain a duplicate, or substitute thereof, upon furnishing a notarized statement to the Department of Agriculture and Consumer Services that such license has been lost or destroyed.

(10) A license issued under this section shall be suspended or revoked pursuant to chapter 120 if the licensee:

(a) Is found to be ineligible under the criteria set forth in subsection (2);

(b) Develops or sustains a physical infirmity which prevents the safe handling of a weapon or firearm;

(c) Is convicted of a felony which would make the licensee ineligible to possess a firearm pursuant to s. 790.23;

(d) Is found guilty of a crime under the provisions of chapter 893, or similar laws of any other state, relating to controlled substances;

(e) Is committed as a substance abuser under chapter 397, or is deemed a habitual offender under s. 856.011(3), or similar laws of any other state;

(f) Is convicted of a second violation of s. 316.193, or a similar law of another state, within 3 years after a first conviction of such section or similar law of another state, even though the first violation may have occurred before the date on which the application was submitted;

(g) Is adjudicated an incapacitated person under s. 744.331, or similar laws of any other state; or

(h) Is committed to a mental institution under chapter 394, or similar laws of any other state.

Notwithstanding s. 120.60(5), service of a notice of the suspension or revocation of a concealed weapon or firearm license must be given by either certified mail, return receipt requested, to the licensee at his or her last known mailing address furnished to the Department of Agriculture and Consumer Services, or by personal service. If a notice given by certified mail is returned as undeliverable, a second attempt must be made to provide notice to the licensee at that address, by either first-class mail in an envelope, postage prepaid, addressed to the licensee at his or her last known mailing address furnished to the department, or, if the licensee has provided an e-mail address to the department, by e-mail. Such mailing by the department constitutes notice, and any failure by the licensee to receive such notice does not stay the effective date or term of the suspension or revocation. A request for hearing must be filed with the department within 21 days after notice is received by personal delivery, or within 26 days after the date the department deposits the notice in the United States mail (21 days plus 5 days for mailing). The department shall document its attempts to provide notice, and such documentation is admissible in the courts of this state and constitutes sufficient proof that notice was given.

(11)(a) At least 90 days before the expiration date of the license, the Department of Agriculture and Consumer Services shall mail to each licensee a written notice of the expiration and a renewal form prescribed by the Department of Agriculture and Consumer Services. The licensee must renew his or her license on or before the expiration date by filing with the Department of Agriculture and Consumer Services the renewal form containing an affidavit submitted under oath and under penalty of perjury stating that the licensee remains qualified pursuant to the criteria specified in subsections (2) and (3), a color photograph as specified in paragraph (5)(e), and the required renewal fee. Out-of-state residents must also submit a complete set of fingerprints and fingerprint processing fee. The license shall be renewed upon receipt of the completed renewal form, color photograph, appropriate payment of fees, and, if applicable, fingerprints. Additionally, a licensee who fails to file a renewal application on or before its expiration date must renew his or her license by paying a late fee of $15. A license may not be renewed 180 days or more after its expiration date, and such a license is deemed to be permanently expired. A person whose license has been permanently expired may reapply for licensure; however, an application for licensure and fees under subsection (5) must be submitted, and a background investigation shall be conducted pursuant to this section. A person who knowingly files false information under this subsection is subject to criminal prosecution under s. 837.06.

(b) A license issued to a servicemember, as defined in s. 250.01, is subject to paragraph (a); however, such a license does not expire while the servicemember is serving on military orders that have taken him or her over 35 miles from his or her residence and shall be extended, as provided in this paragraph, for up to 180 days after his or her return to such residence. If the license renewal requirements in paragraph (a) are met within the 180-day extension period, the servicemember may not be charged any additional costs, such as, but not limited to, late fees or delinquency fees, above the normal license fees. The servicemember must present to the Department of Agriculture and Consumer Services a copy of his or her official military orders or a written verification from the member's commanding officer before the end of the 180-day period in order to qualify for the extension.

(12)(a) A license issued under this section does not authorize any person to openly carry a handgun or carry a concealed weapon or firearm into:

1. Any place of nuisance as defined in s. 823.05;
2. Any police, sheriff, or highway patrol station;
3. Any detention facility, prison, or jail;
4. Any courthouse;
5. Any courtroom, except that nothing in this section would preclude a judge from carrying a concealed weapon or determining who will carry a concealed weapon in his or her courtroom;
6. Any polling place;
7. Any meeting of the governing body of a county, public school district, municipality, or special district;
8. Any meeting of the Legislature or a committee thereof;
9. Any school, college, or professional athletic event not related to firearms;
10. Any elementary or secondary school facility or administration building;
11. Any career center;
12. 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;
13. Any college or university facility unless the licensee is a registered student, employee, or faculty member of such college or university and the weapon is a stun gun or nonlethal electric weapon or device designed solely for defensive purposes and the weapon does not fire a dart or projectile;
14. The inside of the passenger terminal and sterile area of any airport, provided that no person shall be prohibited from carrying any legal firearm into the terminal, which firearm is encased for shipment for purposes of checking such firearm as baggage to be lawfully transported on any aircraft; or
15. Any place where the carrying of firearms is prohibited by federal law.

(b) A person licensed under this section shall not be prohibited from carrying or storing a firearm in a vehicle for lawful purposes.

(c) This section does not modify the terms or conditions of s. 790.251(7).

(d) Any person who knowingly and willfully violates any provision of this subsection commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(13) All moneys collected by the department pursuant to this section shall be deposited in the Division of Licensing Trust Fund, and the Legislature shall appropriate from the fund those amounts deemed necessary to administer the provisions of this section. All revenues collected, less those costs determined by the Department of Agriculture and Consumer Services to be nonrecurring or one-time costs, shall be deferred over the 7-year licensure period. Notwithstanding the provisions of s. 493.6117, all moneys collected pursuant to this section shall not revert to the General Revenue Fund; however, this shall not abrogate the requirement for payment of the service charge imposed pursuant to chapter 215.

(14) All funds received by the sheriff pursuant to the provisions of this section shall be deposited into the general revenue fund of the county and shall be budgeted to the sheriff.

(15) The Legislature finds as a matter of public policy and fact that it is necessary to provide statewide uniform standards for issuing licenses to carry concealed weapons and firearms for self-defense and finds it necessary to occupy the field of regulation of the bearing of concealed weapons or firearms for self-defense to ensure that no honest, law-abiding person who qualifies under the provisions of this section is subjectively or arbitrarily denied his or her rights. The Department of Agriculture and Consumer Services shall implement and administer the provisions of this section. The Legislature does not delegate to the Department of Agriculture and Consumer Services the authority to

regulate or restrict the issuing of licenses provided for in this section, beyond those provisions contained in this section. Subjective or arbitrary actions or rules which encumber the issuing process by placing burdens on the applicant beyond those sworn statements and specified documents detailed in this section or which create restrictions beyond those specified in this section are in conflict with the intent of this section and are prohibited. This section shall be liberally construed to carry out the constitutional right to bear arms for self-defense. This section is supplemental and additional to existing rights to bear arms, and nothing in this section shall impair or diminish such rights.

(16) The Department of Agriculture and Consumer Services shall maintain statistical information on the number of licenses issued, revoked, suspended, and denied.

(17) As amended by chapter 87-24, Laws of Florida, this section shall be known and may be cited as the "Jack Hagler Self Defense Act."

History.—s. 2, ch. 4147, 1893; s. 1, ch. 5139, 1903; GS 3268; RGS 5101; CGL 7203; s. 2, ch. 76-165; s. 67, ch. 77-121; s. 1, ch. 77-302; s. 176, ch. 79-164; ss. 1, 2, ch. 87-24; s. 4, ch. 88-183; s. 2, ch. 89-60; s. 110, ch. 89-96; s. 3, ch. 90-311; s. 2, ch. 90-316; ss. 1, 7, ch. 90-364; s. 1, ch. 92-52; s. 1, ch. 92-183; s. 38, ch. 93-39; s. 52, ch. 95-196; s. 1, ch. 95-229; s. 10, ch. 95-430; s. 17, ch. 97-94; s. 1206, ch. 97-102; s. 5, ch. 98-284; s. 3, ch. 98-335; s. 228, ch. 99-245; s. 61, ch. 2000-258; s. 10, ch. 2002-295; s. 108, ch. 2003-1; s. 60, ch. 2004-357; s. 1, ch. 2006-90; s. 1, ch. 2008-105; s. 2, ch. 2011-145; s. 1, ch. 2012-144; s. 61, ch. 2013-116; s. 1, ch. 2014-205; ss. 39, 40, ch. 2016-166.

790.0601 Public records exemption for concealed weapons.—

(1) Personal identifying information of an individual who has applied for or received a license to carry a concealed weapon or firearm pursuant to s. 790.06 held by the Division of Licensing of the Department of Agriculture and Consumer Services is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the division before, on, or after the effective date of this section.

(2) Personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625 which is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the tax collector before, on, or after the effective date of this subsection.

(3) Information made confidential and exempt by this section shall be disclosed:

(a) With the express written consent of the applicant or licensee or his or her legally authorized representative.

(b) By court order upon a showing of good cause.

(c) Upon request by a law enforcement agency in connection with the performance of lawful duties, which shall include access to any automated database containing such information maintained by the Department of Agriculture and Consumer Services.

(4) Subsection (2) is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2019, unless reviewed and saved from repeal through reenactment by the Legislature.

History.—s. 1, ch. 2006-102; s. 1, ch. 2011-136; s. 1, ch. 2014-206.

790.061 Judges and justices; exceptions from licensure provisions.—A county court judge, circuit court judge, district court of appeal judge, justice of the supreme court, federal district court judge, or federal court of appeals judge serving in this state is not required to comply with the provisions of s. 790.06 in order to receive a license to carry a concealed weapon or firearm, except that any such justice or judge must comply with the provisions of s. 790.06(2)(h). The Department of Agriculture and Consumer Services shall issue a license to carry a concealed weapon or firearm to any such justice or judge upon demonstration of competence of the justice or judge pursuant to s. 790.06(2)(h).

History.—s. 2, ch. 90-311; s. 2, ch. 95-229; s. 158, ch. 2004-5.

790.062 Members and veterans of United States Armed Forces; exceptions from licensure provisions.—

(1) Notwithstanding s. 790.06(2)(b), the Department of Agriculture and Consumer Services shall issue a license to carry a concealed weapon or firearm under s. 790.06 if the applicant is otherwise qualified and:

(a) Is a servicemember, as defined in s. 250.01; or

(b) Is a veteran of the United States Armed Forces who was discharged under honorable conditions.

(2) The Department of Agriculture and Consumer Services shall accept fingerprints of an applicant under this section administered by any law enforcement agency, military provost, or other military unit charged with law enforcement duties or as otherwise provided for in s. 790.06(5)(c).

History.—s. 1, ch. 2012-108.

790.0625 Appointment of tax collectors to accept applications for a concealed weapon or firearm license; fees; penalties.—

(1) As used in this section, the term:

(a) "Department" means the Department of Agriculture and Consumer Services.

(b) "Division" means the Division of Licensing of the Department of Agriculture and Consumer Services.

(2) The department, at its discretion, may appoint tax collectors, as defined in s. 1(d) of Art. VIII of the State Constitution, to accept applications on behalf of the division for concealed weapon or firearm licenses. Such appointment shall be for specified locations that will best serve the public interest and convenience in applying for these licenses.

(3) A tax collector seeking to be appointed to accept applications for new or renewal concealed weapon or firearm licenses must submit a written request to the division stating his or her name, address, telephone number, each location within the county at which the tax collector wishes to accept applications, and other information as required by the division.

(a) Upon receipt of a written request, the division shall review it and at its discretion may decline to enter into a memorandum of understanding or, if approved, enter into a memorandum of understanding with the tax

collector to accept applications for new or renewal concealed weapon or firearm licenses on behalf of the department.

(b) The department or the division may rescind a memorandum of understanding for any reason at any time.

(4) All personal identifying information that is provided pursuant to s. 790.06 and contained in the records of a tax collector appointed under this section is confidential and exempt as provided in s. 790.0601.

(5) A tax collector appointed under this section may collect and retain a convenience fee of $22 for each new application and $12 for each renewal application and shall remit weekly to the department the license fees pursuant to s. 790.06 for deposit in the Division of Licensing Trust Fund.

(6)(a) A tax collector appointed under this section may not maintain a list or record of persons who apply for or are granted a new or renewal license to carry a concealed weapon or firearm. A violation of this paragraph is subject to s. 790.335.

(b) A person may not handle an application for a concealed weapon or firearm for a fee or compensation of any kind unless he or she has been appointed by the department to do so.

(7) A person who willfully violates this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(8) Upon receipt of a completed renewal application, a new color photograph, and appropriate payment of fees, a tax collector authorized to accept renewal applications for concealed weapon or firearm licenses under this section may, upon approval and confirmation of license issuance by the department, print and deliver a concealed weapon or firearm license to a licensee renewing his or her license at the tax collector's office.

History.—s. 2, ch. 2014-205; s. 41, ch. 2016-166.

[1]790.065 Sale and delivery of firearms.—

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

1. Obtained a completed form from the potential buyer or transferee, which form shall have been promulgated by the Department of Law Enforcement and provided by the licensed importer, licensed manufacturer, or licensed dealer, which shall include the name, date of birth, gender, race, and social security number or other identification number of such potential buyer or transferee and has inspected proper identification including an identification containing a photograph of the potential buyer or transferee.

[2]2. Collected a fee from the potential buyer for processing the criminal history check of the potential buyer. The fee shall be established by the Department of Law Enforcement and may not exceed $8 per transaction. The Department of Law Enforcement may reduce, or suspend collection of, the fee to reflect payment received from the Federal Government applied to the cost of maintaining the criminal history check system established by this section as a means of facilitating or supplementing the National Instant Criminal Background Check System. The Department of Law Enforcement shall, by rule, establish procedures for the fees to be transmitted by the licensee to the Department of Law Enforcement. All such fees shall be deposited into the Department of Law Enforcement Operating Trust Fund, but shall be segregated from all other funds deposited into such trust fund and must be accounted for separately. Such segregated funds must not be used for any purpose other than the operation of the criminal history checks required by this section. The Department of Law Enforcement, each year prior to February 1, shall make a full accounting of all receipts and expenditures of such funds to the President of the Senate, the Speaker of the House of Representatives, the majority and minority leaders of each house of the Legislature, and the chairs of the appropriations committees of each house of the Legislature. In the event that the cumulative amount of funds collected exceeds the cumulative amount of expenditures by more than $2.5 million, excess funds may be used for the purpose of purchasing soft body armor for law enforcement officers.

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

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

(b) However, if the person purchasing, or receiving delivery of, the firearm is a holder of a valid concealed weapons or firearms license pursuant to the provisions of s. 790.06 or holds an active certification from the Criminal Justice Standards and Training Commission as a "law enforcement officer," a "correctional officer," or a "correctional probation officer" as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9), this subsection does not apply.

(c) This subsection does not apply to the purchase, trade, or transfer of a rifle or shotgun by a resident of this state when the resident makes such purchase, trade, or transfer from a licensed importer, licensed manufacturer, or licensed dealer in another state.

(2) Upon receipt of a request for a criminal history record check, the Department of Law Enforcement shall, during the licensee's call or by return call, forthwith:

(a) Review any records available to determine if the potential buyer or transferee:

1. Has been convicted of a felony and is prohibited from receipt or possession of a firearm pursuant to s. 790.23;

2. Has been convicted of a misdemeanor crime of domestic violence, and therefore is prohibited from purchasing a firearm;

3. Has had adjudication of guilt withheld or imposition of sentence suspended on any felony or misdemeanor crime of domestic violence unless 3 years have

elapsed since probation or any other conditions set by the court have been fulfilled or expunction has occurred; or

4. Has been adjudicated mentally defective or has been committed to a mental institution by a court or as provided in sub-sub-subparagraph b.(II), and as a result is prohibited by state or federal law from purchasing a firearm.

a. As used in this subparagraph, "adjudicated mentally defective" means a determination by a court that a person, as a result of marked subnormal intelligence, or mental illness, incompetency, condition, or disease, is a danger to himself or herself or to others or lacks the mental capacity to contract or manage his or her own affairs. The phrase includes a judicial finding of incapacity under s. 744.331(6)(a), an acquittal by reason of insanity of a person charged with a criminal offense, and a judicial finding that a criminal defendant is not competent to stand trial.

b. As used in this subparagraph, "committed to a mental institution" means:

(I) Involuntary commitment, commitment for mental defectiveness or mental illness, and commitment for substance abuse. The phrase includes involuntary inpatient placement as defined in s. 394.467, involuntary outpatient placement as defined in s. 394.4655, involuntary assessment and stabilization under s. 397.6818, and involuntary substance abuse treatment under s. 397.6957, but does not include a person in a mental institution for observation or discharged from a mental institution based upon the initial review by the physician or a voluntary admission to a mental institution; or

(II) Notwithstanding sub-sub-subparagraph (I), voluntary admission to a mental institution for outpatient or inpatient treatment of a person who had an involuntary examination under s. 394.463, where each of the following conditions have been met:

(A) An examining physician found that the person is an imminent danger to himself or herself or others.

(B) The examining physician certified that if the person did not agree to voluntary treatment, a petition for involuntary outpatient or inpatient treatment would have been filed under s. 394.463(2)(i)4., or the examining physician certified that a petition was filed and the person subsequently agreed to voluntary treatment prior to a court hearing on the petition.

(C) Before agreeing to voluntary treatment, the person received written notice of that finding and certification, and written notice that as a result of such finding, he or she may be prohibited from purchasing a firearm, and may not be eligible to apply for or retain a concealed weapon or firearms license under s. 790.06 and the person acknowledged such notice in writing, in substantially the following form:

"I understand that the doctor who examined me believes I am a danger to myself or to others. I understand that if I do not agree to voluntary treatment, a petition will be filed in court to require me to receive involuntary treatment. I understand that if that petition is filed, I have the right to contest it. In the event a petition has been filed, I understand that I can subsequently agree to voluntary treatment prior to a court hearing. I understand that by agreeing to voluntary treatment in either of these situations, I may be prohibited from buying firearms and from applying for or retaining a concealed weapons or firearms license until I apply for and receive relief from that restriction under Florida law."

(D) A judge or a magistrate has, pursuant to sub-sub-subparagraph c.(II), reviewed the record of the finding, certification, notice, and written acknowledgment classifying the person as an imminent danger to himself or herself or others, and ordered that such record be submitted to the department.

c. In order to check for these conditions, the department shall compile and maintain an automated database of persons who are prohibited from purchasing a firearm based on court records of adjudications of mental defectiveness or commitments to mental institutions.

(I) Except as provided in sub-sub-subparagraph (II), clerks of court shall submit these records to the department within 1 month after the rendition of the adjudication or commitment. Reports shall be submitted in an automated format. The reports must, at a minimum, include the name, along with any known alias or former name, the sex, and the date of birth of the subject.

(II) For persons committed to a mental institution pursuant to sub-sub-subparagraph b.(II), within 24 hours after the person's agreement to voluntary admission, a record of the finding, certification, notice, and written acknowledgment must be filed by the administrator of the receiving or treatment facility, as defined in s. 394.455, with the clerk of the court for the county in which the involuntary examination under s. 394.463 occurred. No fee shall be charged for the filing under this sub-sub-subparagraph. The clerk must present the records to a judge or magistrate within 24 hours after receipt of the records. A judge or magistrate is required and has the lawful authority to review the records ex parte and, if the judge or magistrate determines that the record supports the classifying of the person as an imminent danger to himself or herself or others, to order that the record be submitted to the department. If a judge or magistrate orders the submittal of the record to the department, the record must be submitted to the department within 24 hours.

d. A person who has been adjudicated mentally defective or committed to a mental institution, as those terms are defined in this paragraph, may petition the court that made the adjudication or commitment, or the court that ordered that the record be submitted to the department pursuant to sub-sub-subparagraph c.(II), for relief from the firearm disabilities imposed by such adjudication or commitment. A copy of the petition shall be served on the state attorney for the county in which the person was adjudicated or committed. The state attorney may object to and present evidence relevant to the relief sought by the petition. The hearing on the petition may be open or closed as the petitioner may choose. The petitioner may present evidence and subpoena witnesses to appear at the hearing on the petition. The petitioner may confront and cross-examine

witnesses called by the state attorney. A record of the hearing shall be made by a certified court reporter or by court-approved electronic means. The court shall make written findings of fact and conclusions of law on the issues before it and issue a final order. The court shall grant the relief requested in the petition if the court finds, based on the evidence presented with respect to the petitioner's reputation, the petitioner's mental health record and, if applicable, criminal history record, the circumstances surrounding the firearm disability, and any other evidence in the record, that the petitioner will not be likely to act in a manner that is dangerous to public safety and that granting the relief would not be contrary to the public interest. If the final order denies relief, the petitioner may not petition again for relief from firearm disabilities until 1 year after the date of the final order. The petitioner may seek judicial review of a final order denying relief in the district court of appeal having jurisdiction over the court that issued the order. The review shall be conducted de novo. Relief from a firearm disability granted under this sub-subparagraph has no effect on the loss of civil rights, including firearm rights, for any reason other than the particular adjudication of mental defectiveness or commitment to a mental institution from which relief is granted.

e. Upon receipt of proper notice of relief from firearm disabilities granted under sub-subparagraph d., the department shall delete any mental health record of the person granted relief from the automated database of persons who are prohibited from purchasing a firearm based on court records of adjudications of mental defectiveness or commitments to mental institutions.

f. The department is authorized to disclose data collected pursuant to this subparagraph to agencies of the Federal Government and other states for use exclusively in determining the lawfulness of a firearm sale or transfer. The department is also authorized to disclose this data to the Department of Agriculture and Consumer Services for purposes of determining eligibility for issuance of a concealed weapons or concealed firearms license and for determining whether a basis exists for revoking or suspending a previously issued license pursuant to s. 790.06(10). When a potential buyer or transferee appeals a nonapproval based on these records, the clerks of court and mental institutions shall, upon request by the department, provide information to help determine whether the potential buyer or transferee is the same person as the subject of the record. Photographs and any other data that could confirm or negate identity must be made available to the department for such purposes, notwithstanding any other provision of state law to the contrary. Any such information that is made confidential or exempt from disclosure by law shall retain such confidential or exempt status when transferred to the department.

(b) Inform the licensee making the inquiry either that records demonstrate that the buyer or transferee is so prohibited and provide the licensee a nonapproval number, or provide the licensee with a unique approval number.

(c)1. Review any records available to it to determine whether the potential buyer or transferee has been indicted or has had an information filed against her or him for an offense that is a felony under either state or federal law, or, as mandated by federal law, has had an injunction for protection against domestic violence entered against the potential buyer or transferee under s. 741.30, has had an injunction for protection against repeat violence entered against the potential buyer or transferee under s. 784.046, or has been arrested for a dangerous crime as specified in s. 907.041(4)(a) or for any of the following enumerated offenses:

a. Criminal anarchy under ss. 876.01 and 876.02.
b. Extortion under s. 836.05.
c. Explosives violations under s. 552.22(1) and (2).
d. Controlled substances violations under chapter 893.
e. Resisting an officer with violence under s. 843.01.
f. Weapons and firearms violations under this chapter.
g. Treason under s. 876.32.
h. Assisting self-murder under s. 782.08.
i. Sabotage under s. 876.38.
j. Stalking or aggravated stalking under s. 784.048.

If the review indicates any such indictment, information, or arrest, the department shall provide to the licensee a conditional nonapproval number.

2. Within 24 working hours, the department shall determine the disposition of the indictment, information, or arrest and inform the licensee as to whether the potential buyer is prohibited from receiving or possessing a firearm. For purposes of this paragraph, "working hours" means the hours from 8 a.m. to 5 p.m. Monday through Friday, excluding legal holidays.

3. The office of the clerk of court, at no charge to the department, shall respond to any department request for data on the disposition of the indictment, information, or arrest as soon as possible, but in no event later than 8 working hours.

4. The department shall determine as quickly as possible within the allotted time period whether the potential buyer is prohibited from receiving or possessing a firearm.

5. If the potential buyer is not so prohibited, or if the department cannot determine the disposition information within the allotted time period, the department shall provide the licensee with a conditional approval number.

6. If the buyer is so prohibited, the conditional nonapproval number shall become a nonapproval number.

7. The department shall continue its attempts to obtain the disposition information and may retain a record of all approval numbers granted without sufficient disposition information. If the department later obtains disposition information which indicates:

a. That the potential buyer is not prohibited from owning a firearm, it shall treat the record of the transaction in accordance with this section; or

b. That the potential buyer is prohibited from owning a firearm, it shall immediately revoke the conditional approval number and notify local law enforcement.

8. During the time that disposition of the indictment, information, or arrest is pending and until the department is notified by the potential buyer that there has been a final disposition of the indictment, information, or arrest, the conditional nonapproval number shall remain in effect.

(3) In the event of scheduled computer downtime, electronic failure, or similar emergency beyond the control of the Department of Law Enforcement, the department shall immediately notify the licensee of the reason for, and estimated length of, such delay. After such notification, the department shall forthwith, and in no event later than the end of the next business day of the licensee, either inform the requesting licensee if its records demonstrate that the buyer or transferee is prohibited from receipt or possession of a firearm pursuant to Florida and Federal law or provide the licensee with a unique approval number. Unless notified by the end of said next business day that the buyer or transferee is so prohibited, and without regard to whether she or he has received a unique approval number, the licensee may complete the sale or transfer and shall not be deemed in violation of this section with respect to such sale or transfer.

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

(b) Notwithstanding the provisions of this subsection, the Department of Law Enforcement may maintain records of NCIC transactions to the extent required by the Federal Government, and may maintain a log of dates of requests for criminal history records checks, unique approval and nonapproval numbers, license identification numbers, and transaction numbers corresponding to such dates for a period of not longer than 2 years or as otherwise required by law.

(c) Nothing in this chapter shall be construed to allow the State of Florida to maintain records containing the names of purchasers or transferees who receive unique approval numbers or to maintain records of firearm transactions.

(d) Any officer or employee, or former officer or employee of the Department of Law Enforcement or law enforcement agency who intentionally and maliciously violates the provisions of this subsection commits a felony of the third degree punishable as provided in s. 775.082 or s. 775.083.

(5) The Department of Law Enforcement shall establish a toll-free telephone number which shall be operational 7 days a week with the exception of Christmas Day and New Year's Day, for a period of 12 hours a day beginning at 9 a.m. and ending at 9 p.m., for purposes of responding to inquiries as described in this section from licensed manufacturers, licensed importers, and licensed dealers. The Department of Law Enforcement shall employ and train such personnel as are necessary expeditiously to administer the provisions of this section.

(6) Any person who is denied the right to receive or purchase a firearm as a result of the procedures established by this section may request a criminal history records review and correction in accordance with the rules promulgated by the Department of Law Enforcement.

(7) It shall be unlawful for any licensed dealer, licensed manufacturer, or licensed importer willfully and intentionally to request criminal history record information under false pretenses, or willfully and intentionally to disseminate criminal history record information to any person other than the subject of such information. Any person convicted of a violation of this subsection commits a felony of the third degree punishable as provided in s. 775.082 or s. 775.083.

(8) The Department of Law Enforcement shall promulgate regulations to ensure the identity, confidentiality, and security of all records and data provided pursuant to this section.

(9) This section shall become effective at such time as the Department of Law Enforcement has notified all licensed importers, licensed manufacturers, and licensed dealers in writing that the procedures and toll-free number described in this section are operational. This section shall remain in effect only during such times as the procedures described in subsection (2) remain operational.

(10) A licensed importer, licensed manufacturer, or licensed dealer is not required to comply with the requirements of this section in the event of:

(a) Unavailability of telephone service at the licensed premises due to the failure of the entity which provides telephone service in the state, region, or other geographical area in which the licensee is located to provide telephone service to the premises of the licensee due to the location of said premises; or the interruption of telephone service by reason of hurricane, tornado, flood, natural disaster, or other act of God, war, invasion, insurrection, riot, or other bona fide emergency, or other reason beyond the control of the licensee; or

(b) Failure of the Department of Law Enforcement to comply with the requirements of subsections (2) and (3).

(11) Compliance with the provisions of this chapter shall be a complete defense to any claim or cause of action under the laws of any state for liability for damages arising from the importation or manufacture, or the subsequent sale or transfer to any person who has been convicted in any court of a crime punishable by imprisonment for a term exceeding 1 year, of any firearm which has been shipped or transported in interstate or foreign commerce. The Department of Law Enforcement, its agents and employees shall not be liable for any claim or cause of action under the laws

of any state for liability for damages arising from its actions in lawful compliance with this section.

(12)(a) Any potential buyer or transferee who willfully and knowingly provides false information or false or fraudulent identification commits a felony of the third degree punishable as provided in s. 775.082 or s. 775.083.

(b) Any licensed importer, licensed manufacturer, or licensed dealer who violates the provisions of subsection (1) commits a felony of the third degree punishable as provided in s. 775.082 or s. 775.083.

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

(d) Any person who knowingly acquires a firearm through purchase or transfer intended for the use of a person who is prohibited by state or federal law from possessing or receiving a firearm commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

(13) This section does not apply to employees of sheriff's offices, municipal police departments, correctional facilities or agencies, or other criminal justice or governmental agencies when the purchases or transfers are made on behalf of an employing agency for official law enforcement purposes.

History.—s. 1, ch. 89-191; s. 1, ch. 90-316; s. 4, ch. 92-183; s. 1, ch. 93-197; s. 1, ch. 94-256; s. 14, ch. 95-195; s. 8, ch. 95-430; s. 7, ch. 96-392; s. 429, ch. 96-406; s. 29, ch. 97-94; s. 1816, ch. 97-102; s. 6, ch. 98-284; ss. 8, 9, ch. 99-300; s. 1, ch. 2000-218; s. 12, ch. 2002-205; s. 3, ch. 2003-23; s. 1, ch. 2004-79; s. 1, ch. 2006-176; s. 1, ch. 2008-50; s. 1, ch. 2009-233; s. 1, ch. 2010-62; s. 4, ch. 2011-145; s. 1, ch. 2013-249; s. 11, ch. 2016-127.

[1]**Note.**—

A. Section 1, ch. 89-191, provides that "[t]his section expires on the effective date of federal law which provides access to national criminal history information and requires national criminal history checks on potential buyers or transferees on firearms."

B. Section 3, ch. 90-316, provides that "[t]his act shall not be construed to nullify the expiration of s. 790.065, Florida Statutes, provided for in chapter 89-191, Laws of Florida."

[2]**Note.**—Section 2, ch. 2009-233, provides that "[s]ection 790.065, Florida Statutes, must be reviewed by the Legislature and approved for continuation before the limit of $8 on the fee established by the Department of Law Enforcement under s. 790.065(1)(b), Florida Statutes, may be increased." Paragraph (1)(b) was redesignated as subparagraph (1)(a)2. by s. 4, ch. 2011-145.

790.0655 Purchase and delivery of handguns; mandatory waiting period; exceptions; penalties.

(1)(a) There shall be a mandatory 3-day waiting period, which shall be 3 days, excluding weekends and legal holidays, between the purchase and the delivery at retail of any handgun. "Purchase" means the transfer of money or other valuable consideration to the retailer. "Handgun" means a firearm capable of being carried and used by one hand, such as a pistol or revolver. "Retailer" means and includes every person engaged in the business of making sales at retail or for distribution, or use, or consumption, or storage to be used or consumed in this state, as defined in s. 212.02(13).

(b) Records of handgun sales must be available for inspection by any law enforcement agency, as defined in s. 934.02, during normal business hours.

(2) The 3-day waiting period shall not apply in the following circumstances:

(a) When a handgun is being purchased by a holder of a concealed weapons permit as defined in s. 790.06.

(b) To a trade-in of another handgun.

(3) It is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084:

(a) For any retailer, or any employee or agent of a retailer, to deliver a handgun before the expiration of the 3-day waiting period, subject to the exceptions provided in subsection (2).

(b) For a purchaser to obtain delivery of a handgun by fraud, false pretense, or false representation.

History.—s. 1, ch. 91-24; s. 3, ch. 92-183; s. 98, ch. 99-3.

790.07 Persons engaged in criminal offense, having weapons.—

(1) Whoever, while committing or attempting to commit any felony or while under indictment, displays, uses, threatens, or attempts to use any weapon or electric weapon or device or carries a concealed weapon is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) Whoever, while committing or attempting to commit any felony, displays, uses, threatens, or attempts to use any firearm or carries a concealed firearm is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, and s. 775.084.

(3) The following crimes are excluded from application of this section: Antitrust violations, unfair trade practices, restraints of trade, nonsupport of dependents, bigamy, or other similar offenses.

(4) Whoever, having previously been convicted of a violation of subsection (1) or subsection (2) and, subsequent to such conviction, displays, uses, threatens, or attempts to use any weapon, firearm, or electric weapon or device, carries a concealed weapon, or carries a concealed firearm while committing or attempting to commit any felony or while under indictment is guilty of a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Sentence shall not be suspended or deferred under the provisions of this subsection.

History.—s. 10, ch. 1637, 1868; RS 2423; s. 2, ch. 4124, 1893; GS 3269; RGS 5102; CGL 7204; s. 4, ch. 69-306; s. 741, ch. 71-136; s. 2, ch. 76-165; s. 2, ch. 91-223.

790.08 Taking possession of weapons and arms; reports; disposition; custody.—

(1) Every officer making an arrest under s. 790.07, or under any other law or municipal ordinance within the state, shall take possession of any weapons, electric weapons or devices, or arms mentioned in s. 790.07 found upon the person arrested and deliver them to the sheriff of the county, or the chief of police of the municipality wherein the arrest is made, who shall retain the same until after the trial of the person arrested.

(2) If the person arrested as aforesaid is convicted of violating s. 790.07, or of a similar offense under any municipal ordinance, or any other offense involving the use or attempted use of such weapons, electric weapons or devices, or arms, such weapons, electric weapons or devices, or arms shall become forfeited to the state, without any order of forfeiture being necessary, although the making of such an order shall be

deemed proper, and such weapons, electric weapons or devices, or arms shall be forthwith delivered to the sheriff by the chief of police or other person having custody thereof, and the sheriff is hereby made the custodian of such weapons, electric weapons or devices, and arms for the state.

(3) If the person arrested as aforesaid is acquitted of the offenses mentioned in subsection (2), the said weapons, electric weapons or devices, or arms taken from the person as aforesaid shall be returned to him or her; however, if he or she fails to call for or receive the same within 60 days from and after his or her acquittal or the dismissal of the charges against him or her, the same shall be delivered to the sheriff as aforesaid to be held by the sheriff as hereinafter provided. This subsection shall likewise apply to persons and their weapons, electric weapons or devices, or arms who have heretofore been acquitted or the charges against them dismissed.

(4) All such weapons, electric weapons or devices, and arms now in, or hereafter coming into, the hands of any of the peace officers of this state or any of its political subdivisions, which have been found abandoned or otherwise discarded, or left in their hands and not reclaimed by the owners shall, within 60 days, be delivered by such peace officers to the sheriff of the county aforesaid.

(5) Weapons, electric weapons or devices, and arms coming into the hands of the sheriff pursuant to subsections (3) and (4) aforesaid shall, unless reclaimed by the owner thereof within 6 months from the date the same come into the hands of the said sheriff, become forfeited to the state, and no action or proceeding for their recovery shall thereafter be maintained in this state.

(6) Weapons, electric weapons or devices, and arms coming into the hands of the sheriff as aforesaid shall be listed, kept, and held by him or her as custodian for the state. Any or all such weapons, electric weapons or devices, and arms suitable for use by the sheriff may be so used. All such weapons, electric weapons or devices, and arms not needed by the said sheriff may be loaned to any other department of the state or to any county or municipality having use for such weapons, electric weapons or devices, and arms. The sheriff shall take the receipt of such other department, county, or municipality for such weapons, electric weapons or devices, and arms loaned to them. All weapons, electric weapons or devices, and arms which are not needed or which are useless or unfit for use shall be destroyed or otherwise disposed of by the sheriff as provided in chapter 705 or as provided in the Florida Contraband Forfeiture Act. All sums received from the sale or other disposition of the said weapons, electric weapons or devices, or arms disposed of by the sheriff under chapter 705 as aforesaid shall be paid into the State Treasury for the benefit of the State School Fund and shall become a part thereof. All sums received from the sale or other disposition of any such weapons, electric weapons or devices, or arms disposed of by the sheriff under the Florida Contraband Forfeiture Act shall be disbursed as provided therein.

(7) This section does not apply to any municipality in any county having home rule under the State Constitution.

History.—s. 3, ch. 3620, 1885; RS 2424; GS 3270; RGS 5103; CGL 7205; s. 1, ch. 22049, 1943; s. 1, ch. 65-189; ss. 1, 2, 3, 4, 5, 6, 7, 8, ch. 67-523; s. 3, ch. 67-2207; ss. 20, 35, ch. 69-106; s. 2, ch. 76-165; s. 24, ch. 79-8; s. 12, ch. 80-68; s. 1, ch. 83-21; s. 17, ch. 97-93; s. 1207, ch. 97-102.

790.09 Manufacturing or selling metallic knuckles.—Whoever manufactures or causes to be manufactured or sells or exposes for sale any instrument or weapon of the kind usually known as metallic knuckles commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 11, ch. 1637, 1868; RS 2425; s. 3, ch. 4124, 1893; GS 3271; RGS 5104; CGL 7206; s. 742, ch. 71-136; s. 1, ch. 2016-106.

790.10 Improper exhibition of dangerous weapons or firearms.—If any person having or carrying any dirk, sword, sword cane, firearm, electric weapon or device, or other weapon shall, in the presence of one or more persons, exhibit the same in a rude, careless, angry, or threatening manner, not in necessary self-defense, the person so offending shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 1, ch. 4532, 1897; GS 3272; RGS 5105; CGL 7207; s. 5, ch. 69-306; s. 743, ch. 71-136; s. 2, ch. 76-165; s. 174, ch. 91-224.

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

(1) A person who exhibits any sword, sword cane, firearm, electric weapon or device, destructive device, or other weapon as defined in s. 790.001(13), including a razor blade, box cutter, or common pocketknife, except as authorized in support of school-sanctioned activities, in the presence of one or more persons in a rude, careless, angry, or threatening manner and not in lawful self-defense, at a school-sponsored event or on the grounds or facilities of any school, school bus, or school bus stop, or within 1,000 feet of the real property that comprises a public or private elementary school, middle school, or secondary school, during school hours or during the time of a sanctioned school activity, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. This subsection does not apply to the exhibition of a firearm or weapon on private real property within 1,000 feet of a school by the owner of such property or by a person whose presence on such property has been authorized, licensed, or invited by the owner.

(2)(a) A person shall not possess any firearm, electric weapon or device, destructive device, or other weapon as defined in s. 790.001(13), including a razor blade or box cutter, except as authorized in support of school-sanctioned activities, at a school-sponsored event or on the property of any school, school bus, or school bus stop; however, a person may carry a firearm:

1. In a case to a firearms program, class or function which has been approved in advance by the principal or chief administrative officer of the school as a program or class to which firearms could be carried;

2. In a case to a career center having a firearms training range; or

3. In a vehicle pursuant to s. 790.25(5); except that school districts may adopt written and published policies that waive the exception in this subparagraph for purposes of student and campus parking privileges.

For the purposes of this section, "school" means any preschool, elementary school, middle school, junior high school, secondary school, career center, or postsecondary school, whether public or nonpublic.

(b) A person who willfully and knowingly possesses any electric weapon or device, destructive device, or other weapon as defined in s. 790.001(13), including a razor blade or box cutter, except as authorized in support of school-sanctioned activities, in violation of this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c)1. A person who willfully and knowingly possesses any firearm in violation of this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. A person who stores or leaves a loaded firearm within the reach or easy access of a minor who obtains the firearm and commits a violation of subparagraph 1. commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083; except that this does not apply if the firearm was stored or left in a securely locked box or container or in a location which a reasonable person would have believed to be secure, or was securely locked with a firearm-mounted push-button combination lock or a trigger lock; if the minor obtains the firearm as a result of an unlawful entry by any person; or to members of the Armed Forces, National Guard, or State Militia, or to police or other law enforcement officers, with respect to firearm possession by a minor which occurs during or incidental to the performance of their official duties.

(d) A person who discharges any weapon or firearm while in violation of paragraph (a), unless discharged for lawful defense of himself or herself or another or for a lawful purpose, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(e) The penalties of this subsection shall not apply to persons licensed under s. 790.06. Persons licensed under s. 790.06 shall be punished as provided in s. 790.06(12), except that a licenseholder who unlawfully discharges a weapon or firearm on school property as prohibited by this subsection commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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

(4) Notwithstanding s. 985.24, s. 985.245, or s. 985.25(1), any minor under 18 years of age who is charged under this section with possessing or discharging a firearm on school property shall be detained in secure detention, unless the state attorney authorizes the release of the minor, and shall be given a probable cause hearing within 24 hours after being taken into custody. At the hearing, the court may order that the minor continue to be held in secure detention for a period of 21 days, during which time the minor shall receive medical, psychiatric, psychological, or substance abuse examinations pursuant to s. 985.18, and a written report shall be completed.

History.—s. 4, ch. 92-130; s. 11, ch. 93-230; s. 1, ch. 94-289; s. 1209, ch. 97-102; s. 20, ch. 97-234; s. 3, ch. 99-284; s. 61, ch. 2004-357; s. 112, ch. 2006-120; s. 2, ch. 2006-186.

790.145 Crimes in pharmacies; possession of weapons; penalties.—

(1) Unless otherwise provided by law, any person who is in possession of a concealed "firearm," as defined in s. 790.001(6), or a "destructive device," as defined in s. 790.001(4), within the premises of a "pharmacy," as defined in chapter 465, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) The provisions of this section do not apply:

(a) To any law enforcement officer;

(b) To any person employed and authorized by the owner, operator, or manager of a pharmacy to carry a firearm or destructive device on such premises; or

(c) To any person licensed to carry a concealed weapon.

History.—s. 1, ch. 81-278; s. 2, ch. 90-124; s. 2, ch. 90-176.

790.15 Discharging firearm in public or on residential property.—

(1) Except as provided in subsection (2) or subsection (3), any person who knowingly discharges a firearm in any public place or on the right-of-way of any paved public road, highway, or street, who knowingly discharges any firearm over the right-of-way of any paved public road, highway, or street or over any occupied premises, or who recklessly or negligently discharges a firearm outdoors on any property used primarily as the site of a dwelling as defined in s. 776.013 or zoned exclusively for residential use commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. This section does not apply to a person lawfully defending life or property or performing official duties requiring the discharge of a firearm or to a person discharging a firearm on public roads or properties expressly approved for hunting by the Fish and Wildlife Conservation Commission or Florida Forest Service.

(2) Any occupant of any vehicle who knowingly and willfully discharges any firearm from the vehicle within 1,000 feet of any person commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Any driver or owner of any vehicle, whether or not the owner of the vehicle is occupying the vehicle, who knowingly directs any other person to discharge any firearm from the vehicle commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) Any person who recreationally discharges a firearm outdoors, including target shooting, in an area that the person knows or reasonably should know is primarily residential in nature and that has a residential density of one or more dwelling units per acre, commits a misdemeanor of the first degree, punishable as

provided in s. 775.082 or s. 775.083. This subsection does not apply:

(a) To a person lawfully defending life or property or performing official duties requiring the discharge of a firearm;

(b) If, under the circumstances, the discharge does not pose a reasonably foreseeable risk to life, safety, or property; or

(c) To a person who accidentally discharges a firearm.

History.—s. 1, ch. 3289, 1881; RS 2683; GS 3626; RGS 5557; CGL 7743; s. 1, ch. 61-334; s. 745, ch. 71-136; s. 1, ch. 78-17; s. 1, ch. 89-157; s. 229, ch. 99-245; s. 77, ch. 2012-7; s. 3, ch. 2012-108; s. 1, ch. 2016-12.

790.151 Using firearm while under the influence of alcoholic beverages, chemical substances, or controlled substances; penalties.—

(1) As used in ss. 790.151-790.157, to "use a firearm" means to discharge a firearm or to have a firearm readily accessible for immediate discharge.

(2) For the purposes of this section, "readily accessible for immediate discharge" means loaded and in a person's hand.

(3) It is unlawful and punishable as provided in subsection (4) for any person who is under the influence of alcoholic beverages, any chemical substance set forth in s. 877.111, or any substance controlled under chapter 893, when affected to the extent that his or her normal faculties are impaired, to use a firearm in this state.

(4) Any person who violates subsection (3) commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(5) This section does not apply to persons exercising lawful self-defense or defense of one's property.

History.—s. 1, ch. 91-84; s. 1210, ch. 97-102.

790.153 Tests for impairment or intoxication; right to refuse.—

(1)(a) Any person who uses a firearm within this state shall submit to an approved chemical or physical breath test to determine the alcoholic content of the blood and to a urine test to detect the presence of controlled substances, if there is probable cause to believe that the person was using a firearm while under the influence of alcoholic beverages or controlled substances or that the person is lawfully arrested for any offense allegedly committed while he or she was using a firearm while under the influence of alcoholic beverages or controlled substances. The breath test shall be incidental to a lawful arrest and administered at the request of a law enforcement officer who has probable cause to believe such person was using the firearm within this state while under the influence of alcoholic beverages. The urine test shall be incidental to a lawful arrest and administered at a detention facility, mobile or otherwise, which is equipped to administer such tests at the request of a law enforcement officer who has probable cause to believe such person was using a firearm within this state while under the influence of controlled substances. The urine test shall be administered at a detention facility or any other facility, mobile or otherwise, which is equipped to administer such tests in a reasonable manner that will ensure the accuracy of the specimen and maintain the privacy of the individual involved. The administration of either test shall not preclude the administration of the other test. The refusal to submit to a chemical or physical breath or urine test upon the request of a law enforcement officer as provided in this section shall be admissible into evidence in any criminal proceeding. This section shall not hinder the taking of a mandatory blood test as outlined in s. 790.155.

(b) If the arresting officer does not request a chemical or physical test of the person arrested for any offense allegedly committed while the person was using a firearm while under the influence of alcoholic beverages or controlled substances, such person may request the arresting officer to have a chemical or physical test made of the arrested person's breath for the purpose of determining the alcoholic content of the person's blood or a chemical test of urine or blood for the purpose of determining the presence of controlled substances; and, if so requested, the arresting officer shall have the test performed.

(c) The provisions of s. 316.1932(1)(f), relating to administration of tests for determining the weight of alcohol in the defendant's blood, additional tests at the defendant's expense, availability of test information to the defendant or the defendant's attorney, and liability of medical institutions and persons administering such tests are incorporated into this act.

(2) The results of any test administered pursuant to this section for the purpose of detecting the presence of any controlled substance shall not be admissible as evidence in a criminal prosecution for the possession of a controlled substance.

(3) Notwithstanding any provision of law pertaining to the confidentiality of hospital records or other medical records, information obtained pursuant to this section shall be released to a court, prosecuting attorney, defense attorney, or law enforcement officer in connection with an alleged violation of s. 790.151 upon request for such information.

History.—s. 2, ch. 91-84; s. 1211, ch. 97-102.

790.155 Blood test for impairment or intoxication in cases of death or serious bodily injury; right to use reasonable force.—

(1)(a) Notwithstanding any recognized ability to refuse to submit to the tests provided in s. 790.153, if a law enforcement officer has probable cause to believe that a firearm used by a person under the influence of alcoholic beverages or controlled substances has caused the death or serious bodily injury of a human being, such person shall submit, upon the request of a law enforcement officer, to a test of his or her blood for the purpose of determining the alcoholic content thereof or the presence of controlled substances therein. The law enforcement officer may use reasonable force if necessary to require such person to submit to the administration of the blood test. The blood test shall be performed in a reasonable manner.

(b) The term "serious bodily injury" means a physical condition which creates a substantial risk of death, serious personal disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(2) The provisions of s. 316.1933(2), relating to blood tests for impairment or intoxication, are incorporated into this act.

(3)(a) Any criminal charge resulting from the incident giving rise to the officer's demand for testing should be tried concurrently with a charge of any violation of s. 790.151. If such charges are tried separately, the fact that such person refused, resisted, obstructed, or opposed testing shall be admissible at the trial of the criminal offense which gave rise to the demand for testing.

(b) The results of any test administered pursuant to this section for the purpose of detecting the presence of any controlled substance shall not be admissible as evidence in a criminal prosecution for the possession of a controlled substance.

(4) Notwithstanding any provision of law pertaining to the confidentiality of hospital records or other medical records, information obtained pursuant to this section shall be released to a court, prosecuting attorney, defense attorney, or law enforcement officer in connection with an alleged violation of s. 790.151 upon request for such information.

History.—s. 3, ch. 91-84; s. 1212, ch. 97-102.

790.157 Presumption of impairment; testing methods.—

(1) It is unlawful and punishable as provided in s. 790.151 for any person who is under the influence of alcoholic beverages or controlled substances, when affected to the extent that his or her normal faculties are impaired, to use a firearm in this state.

(2) Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by any person while using a firearm while under the influence of alcoholic beverages or controlled substances, when affected to the extent that his or her normal faculties were impaired or to the extent that the person was deprived of full possession of his or her normal faculties, the results of any test administered in accordance with s. 790.153 or s. 790.155 and this section shall be admissible into evidence when otherwise admissible, and the amount of alcohol in the person's blood at the time alleged, as shown by chemical analysis of the person's blood or chemical or physical analysis of the person's breath, shall give rise to the following presumptions:

(a) If there was at that time 0.05 percent or less by weight of alcohol in the person's blood, it shall be presumed that the person was not under the influence of alcoholic beverages to the extent that his or her normal faculties were impaired.

(b) If there was at that time in excess of 0.05 percent but less than 0.10 percent by weight of alcohol in the person's blood, such fact shall not give rise to any presumption that the person was or was not under the influence of alcoholic beverages to the extent that his or her normal faculties were impaired, but such fact may be considered with other competent evidence in determining whether the person was under the influence of alcoholic beverages to the extent that his or her normal faculties were impaired.

(c) If there was at that time 0.10 percent or more by weight of alcohol in the person's blood, that fact shall be prima facie evidence that the person was under the influence of alcoholic beverages to the extent that his or her normal faculties were impaired.

The percent by weight of alcohol in the blood shall be based upon grams of alcohol per 100 milliliters of blood. The foregoing provisions of this subsection shall not be construed as limiting the introduction of any other competent evidence bearing upon the question of whether the person was under the influence of alcoholic beverages to the extent that his or her normal faculties were impaired.

(3) A chemical analysis of a person's blood to determine its alcoholic content or a chemical or physical analysis of a person's breath, in order to be considered valid under the provisions of this section, must have been performed substantially in accordance with methods approved by the Florida Department of Law Enforcement and by an individual possessing a valid permit issued by the department for this purpose. Any insubstantial differences between approved techniques and actual testing procedures in an individual case shall not render the test or test results invalid. The Florida Department of Law Enforcement may approve satisfactory techniques or methods, ascertain the qualification and competence of individuals to conduct such analyses, and issue permits which shall be subject to termination or revocation in accordance with rules adopted by the department.

(4) Any person charged with using a firearm while under the influence of alcoholic beverages or controlled substances to the extent that his or her normal faculties were impaired, whether in a municipality or not, shall be entitled to trial by jury according to the Florida Rules of Criminal Procedure.

History.—s. 4, ch. 91-84; s. 1213, ch. 97-102; s. 294, ch. 99-8.

790.16 Discharging machine guns; penalty.—

(1) It is unlawful for any person to shoot or discharge any machine gun upon, across, or along any road, street, or highway in the state; upon or across any public park in the state; or in, upon, or across any public place where people are accustomed to assemble in the state. The discharge of such machine gun in, upon, or across such public street; in, upon, or across such public park; or in, upon, or across such public place, whether indoors or outdoors, including all theaters and athletic stadiums, with intent to do bodily harm to any person or with intent to do damage to property not resulting in the death of another person shall be a felony of the first degree, punishable as provided in s. 775.082. A sentence not exceeding life imprisonment is specifically authorized when great bodily harm to another or serious disruption of governmental operations results.

(2) This section shall not apply to the use of such machine guns by any United States or state militia or by any law enforcement officer while in the discharge of his or her lawful duty in suppressing riots and disorderly conduct and in preserving and protecting the public

peace or in the preservation of public property, or when said use is authorized by law.

History.—s. 1, ch. 16111, 1933; CGL 1936 Supp. 7748(1); s. 746, ch. 71-136; s. 5, ch. 72-724; s. 1, ch. 76-38; s. 1214, ch. 97-102.

790.161 Making, possessing, throwing, projecting, placing, or discharging any destructive device or attempt so to do, felony; penalties.—A person who willfully and unlawfully makes, possesses, throws, projects, places, discharges, or attempts to make, possess, throw, project, place, or discharge any destructive device:

(1) Commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.084.

(2) If the act is perpetrated with the intent to do bodily harm to any person, or with the intent to do property damage, or if the act results in a disruption of governmental operations, commerce, or the private affairs of another person, commits a felony of the second degree, punishable as provided in s. 775.082 or s. 775.084.

(3) If the act results in bodily harm to another person or in property damage, commits a felony of the first degree, punishable as provided in s. 775.082 or s. 775.084.

(4) If the act results in the death of another person, commits a capital felony, punishable as provided in s. 775.082. In the event the death penalty in a capital felony is held to be unconstitutional by the Florida Supreme Court or the United States Supreme Court, the court having jurisdiction over a person previously sentenced to death for a capital felony shall cause such person to be brought before the court, and the court shall sentence such person to life imprisonment if convicted of murder in the first degree or of a capital felony under this subsection, and such person shall be ineligible for parole. No sentence of death shall be reduced as a result of a determination that a method of execution is held to be unconstitutional under the State Constitution or the Constitution of the United States.

History.—s. 1, ch. 59-29; s. 6, ch. 69-306; s. 1, ch. 70-85; s. 747, ch. 71-136; s. 6, ch. 72-724; s. 2, ch. 76-38; s. 44, ch. 88-381; s. 3, ch. 90-124; s. 3, ch. 90-176; s. 19, ch. 93-406; s. 2, ch. 94-228; s. 3, ch. 98-3.

790.1612 Authorization for governmental manufacture, possession, and use of destructive devices.—The governing body of any municipality or county and the Division of State Fire Marshal of the Department of Financial Services have the power to authorize the manufacture, possession, and use of destructive devices as defined in s. 790.001(4).

History.—s. 6, ch. 90-124; s. 6, ch. 90-176; s. 1905, ch. 2003-261.

790.1615 Unlawful throwing, projecting, placing, or discharging of destructive device or bomb that results in injury to another; penalty.—

(1) A person who perpetrates any unlawful throwing, projecting, placing, or discharging of a destructive device or bomb that results in any bodily harm to a firefighter or any other person, regardless of intent or lack of intent to cause such harm, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) A person who perpetrates any unlawful throwing, projecting, placing, or discharging of a destructive device or bomb that results in great bodily harm, permanent disability, or permanent disfigurement to a firefighter or any other person, regardless of intent or lack of intent to cause such harm, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Upon conviction and adjudication of guilt, a person may be sentenced separately, pursuant to s. 775.021(4), for any violation of this section and for any unlawful throwing, projecting, placing, or discharging of a destructive device or bomb committed during the same criminal episode. A conviction for any unlawful throwing, projecting, placing, or discharging of a destructive device or bomb, however, is not necessary for a conviction under this section.

History.—s. 1, ch. 84-23; s. 7, ch. 90-124; s. 7, ch. 90-176.

790.162 Threat to throw, project, place, or discharge any destructive device, felony; penalty.—It is unlawful for any person to threaten to throw, project, place, or discharge any destructive device with intent to do bodily harm to any person or with intent to do damage to any property of any person, and any person convicted thereof commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 2, ch. 59-29; s. 7, ch. 69-306; s. 748, ch. 71-136; s. 45, ch. 88-381; s. 4, ch. 90-124; s. 4, ch. 90-176.

790.163 False report concerning planting a bomb, an explosive, or a weapon of mass destruction, or concerning the use of firearms in a violent manner; penalty.—

(1) It is unlawful for any person to make a false report, with intent to deceive, mislead, or otherwise misinform any person, concerning the placing or planting of any bomb, dynamite, other deadly explosive, or weapon of mass destruction as defined in s. 790.166, or concerning the use of firearms in a violent manner against a person or persons. A person who violates this subsection commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) Notwithstanding any other law, adjudication of guilt or imposition of sentence for a violation of this section may not be suspended, deferred, or withheld. However, the state attorney may move the sentencing court to reduce or suspend the sentence of any person who is convicted of a violation of this section and who provides substantial assistance in the identification, arrest, or conviction of any of his or her accomplices, accessories, coconspirators, or principals.

(3) Proof that a person accused of violating this section knowingly made a false report is prima facie evidence of the accused person's intent to deceive, mislead, or otherwise misinform any person.

(4) In addition to any other penalty provided by law with respect to any person who is convicted of a violation of this section that resulted in the mobilization or action of any law enforcement officer or any state or local agency, a person convicted of a violation of this section may be required by the court to pay restitution

for all of the costs and damages arising from the criminal conduct.

History.—s. 3, ch. 59-29; s. 749, ch. 71-136; s. 1, ch. 2002-28; s. 1, ch. 2016-156.

790.164 False reports concerning planting a bomb, explosive, or weapon of mass destruction in, or committing arson against, state-owned property, or concerning the use of firearms in a violent manner; penalty; reward.—

(1) It is unlawful for any person to make a false report, with intent to deceive, mislead, or otherwise misinform any person, concerning the placing or planting of any bomb, dynamite, other deadly explosive, or weapon of mass destruction as defined in s. 790.166, concerning any act of arson or other violence to property owned by the state or any political subdivision, or concerning the use of firearms in a violent manner against a person or persons. A person who violates this subsection commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) Notwithstanding any other law, adjudication of guilt or imposition of sentence for a violation of this section may not be suspended, deferred, or withheld. However, the state attorney may move the sentencing court to reduce or suspend the sentence of any person who is convicted of a violation of this section and who provides substantial assistance in the identification, arrest, or conviction of any of his or her accomplices, accessories, coconspirators, or principals.

(3) Proof that a person accused of violating this section knowingly made a false report is prima facie evidence of the accused person's intent to deceive, mislead, or otherwise misinform any person.

(4)(a) There shall be a $5,000 reward for the giving of information to any law enforcement agency in the state, which information leads to the arrest and conviction of any person violating the provisions of this section. Any person claiming such reward shall apply to the law enforcement agency developing the case and be paid by the Department of Law Enforcement from the deficiency fund.

(b) There shall be only one reward given for each case, regardless of how many persons are arrested and convicted in connection with the case and regardless of how many persons submit claims for the reward.

(c) The Department of Law Enforcement shall establish procedures to be used by all reward applicants, and the circuit judge in whose jurisdiction the action occurs shall review all such applications and make final determination as to those applicants entitled to receive an award.

(d) In addition to any other penalty provided by law with respect to any person who is convicted of a violation of this section that resulted in the mobilization or action of any law enforcement officer or any state or local agency, a person convicted of a violation of this section may be required by the court to pay restitution for all of the costs and damages arising from the criminal conduct.

History.—ss. 2, 2A, ch. 71-306; s. 1, ch. 76-146; s. 236, ch. 77-104; s. 25, ch. 79-8; s. 2, ch. 2002-28; s. 2, ch. 2016-156.

790.165 Planting of "hoax bomb" prohibited; penalties.—

(1) For the purposes of this section, "hoax bomb" means any device or object that by its design, construction, content, or characteristics appears to be, or to contain, or is represented to be or to contain, a destructive device or explosive as defined in this chapter, but is, in fact, an inoperative facsimile or imitation of such a destructive device or explosive, or contains no destructive device or explosive as was represented.

(2) Any person who, without lawful authority, manufactures, possesses, sells, delivers, sends, mails, displays, uses, threatens to use, attempts to use, or conspires to use, or who makes readily accessible to others, a hoax bomb commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Any person who, while committing or attempting to commit any felony, possesses, displays, or threatens to use any hoax bomb commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Notwithstanding any other law, adjudication of guilt or imposition of sentence may not be suspended, deferred, or withheld. However, the state attorney may move the sentencing court to reduce or suspend the sentence of any person who is convicted of a violation of this section and who provides substantial assistance in the identification, arrest, or conviction of any of his or her accomplices, accessories, coconspirators, or principals.

(4) Subsection (2) does not apply to any law enforcement officer, firefighter, person, or corporation licensed pursuant to chapter 493, or member of the armed forces of the United States while engaged in training or other lawful activity within the scope of his or her employment, or to any person properly authorized to test a security system, or to any security personnel, while operating within the scope of their employment, including, but not limited to, security personnel in airports and other controlled access areas, or to any member of a theatrical company or production using a hoax bomb as property during the course of a rehearsal or performance.

(5) In addition to any other penalty provided by law with respect to any person who is convicted of a violation of this section that resulted in the mobilization or action of any law enforcement officer or any state or local agency, a person convicted of a violation of this section may be required by the court to pay restitution for all of the costs and damages arising from the criminal conduct.

History.—s. 39, ch. 87-243; s. 5, ch. 90-124; s. 5, ch. 90-176; s. 20, ch. 93-406; s. 1215, ch. 97-102; s. 3, ch. 2002-28.

790.166 Manufacture, possession, sale, delivery, display, use, or attempted or threatened use of a weapon of mass destruction or hoax weapon of mass destruction prohibited; definitions; penalties.

(1) As used in this section, the term:

(a) "Weapon of mass destruction" means:

1. Any device or object that is designed or intended to cause death or serious bodily injury to any human or animal, or severe emotional or mental harm to any

human, through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors;

2. Any device or object involving a biological agent;

3. Any device or object that is designed or intended to release radiation or radioactivity at a level dangerous to human or animal life; or

4. Any biological agent, toxin, vector, or delivery system.

(b) "Hoax weapon of mass destruction" means any device or object that by its design, construction, content, or characteristics appears to be or to contain, or is represented to be, constitute, or contain, a weapon of mass destruction as defined in this section, but which is, in fact, an inoperative facsimile, imitation, counterfeit, or representation of a weapon of mass destruction which does not meet the definition of a weapon of mass destruction or which does not actually contain or constitute a weapon, biological agent, toxin, vector, or delivery system prohibited by this section.

(c) "Biological agent" means any microorganism, virus, infectious substance, or biological product that may be engineered through biotechnology, or any naturally occurring or bioengineered component of any such microorganism, virus, infectious substance, or biological product, capable of causing:

1. Death, disease, or other biological malfunction in a human, an animal, a plant, or other living organism;

2. Deterioration of food, water, equipment, supplies, or material of any kind; or

3. Deleterious alteration of the environment.

(d) "Toxin" means the toxic material of plants, animals, microorganisms, viruses, fungi, or infectious substances, or a recombinant molecule, whatever its origin or method of reproduction, including:

1. Any poisonous substance or biological product that may be engineered through biotechnology produced by a living organism; or

2. Any poisonous isomer or biological product, homolog, or derivative of such substance.

(e) "Delivery system" means:

1. Any apparatus, equipment, device, or means of delivery specifically designed to deliver or disseminate a biological agent, toxin, or vector; or

2. Any vector.

(f) "Vector" means a living organism or molecule, including a recombinant molecule or biological product that may be engineered through biotechnology, capable of carrying a biological agent or toxin to a host.

(2) A person who, without lawful authority, manufactures, possesses, sells, delivers, sends, mails, displays, uses, threatens to use, attempts to use, or conspires to use, or who makes readily accessible to others a weapon of mass destruction commits a felony of the first degree, punishable by imprisonment for a term of years not exceeding life or as provided in s. 775.082, s. 775.083, or s. 775.084, and if death results, commits a capital felony, punishable as provided in s. 775.082.

(3) Any person who, without lawful authority, manufactures, possesses, sells, delivers, mails, sends, displays, uses, threatens to use, attempts to use, or conspires to use, or who makes readily accessible to others, a hoax weapon of mass destruction commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) Any person who, while committing or attempting to commit any felony, possesses, displays, or threatens to use any hoax weapon of mass destruction commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5) Notwithstanding any other law, adjudication of guilt or imposition of sentence may not be suspended, deferred, or withheld for a violation of this section. However, the state attorney may move the sentencing court to reduce or suspend the sentence of any person who is convicted of a violation of this section and who provides substantial assistance in the identification, arrest, or conviction of any of his or her accomplices, accessories, coconspirators, or principals.

(6) Proof that a device or object described in subparagraph (1)(a)1. caused death or serious bodily injury to a human or animal through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors, is prima facie evidence that the device or object was designed or intended to cause such death or serious bodily injury. Proof that a device or object described in subparagraph (1)(a)3. released radiation or radioactivity at a level dangerous to human or animal life is prima facie evidence that the device or object was designed or intended for such release.

(7) This section does not apply to any member or employee of the Armed Forces of the United States, a federal or state governmental agency, or a private entity who is otherwise engaged in lawful activity within the scope of his or her employment, if such person is otherwise duly authorized or licensed to manufacture, possess, sell, deliver, display, or otherwise engage in activity relative to this section and if such person is in compliance with applicable federal and state law.

(8) For purposes of this section, the term "weapon of mass destruction" does not include:

(a) A device or instrument that emits or discharges smoke or an offensive, noxious, or irritant liquid, powder, gas, or chemical for the purpose of immobilizing, incapacitating, or thwarting an attack by a person or animal and that is lawfully possessed or used by a person for the purpose of self-protection or, as provided in subsection (7), is lawfully possessed or used by any member or employee of the Armed Forces of the United States, a federal or state governmental agency, or a private entity. A member or employee of a federal or state governmental agency includes, but is not limited to, a law enforcement officer, as defined in s. 784.07; a federal law enforcement officer, as defined in s. 901.1505; and an emergency service employee, as defined in s. 496.404.

(b) The liquid, powder, gas, chemical, or smoke that is emitted or discharged from a device or instrument as specified in paragraph (a).

(9) In addition to any other penalty provided by law with respect to any person who is convicted of a violation of this section that resulted in the mobilization or action of any law enforcement officer or any state or local agency, a person convicted of a violation of this section may be required by the court to pay restitution

for all of the costs and damages arising from the criminal conduct.

History.—s. 2, ch. 2000-218; s. 4, ch. 2002-28.

790.169 Juvenile offenders; release of names and addresses.—A law enforcement agency may release for publication the name and address of a child who has been convicted of any offense involving possession or use of a firearm.

History.—s. 1, ch. 93-416.

790.17 Furnishing weapons to minors under 18 years of age or persons of unsound mind and furnishing firearms to minors under 18 years of age prohibited.—

(1) A person who sells, hires, barters, lends, transfers, or gives any minor under 18 years of age any dirk, electric weapon or device, or other weapon, other than an ordinary pocketknife, without permission of the minor's parent or guardian, or sells, hires, barters, lends, transfers, or gives to any person of unsound mind an electric weapon or device or any dangerous weapon, other than an ordinary pocketknife, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2)(a) A person may not knowingly or willfully sell or transfer a firearm to a minor under 18 years of age, except that a person may transfer ownership of a firearm to a minor with permission of the parent or guardian. A person who violates this paragraph commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) The parent or guardian must maintain possession of the firearm except pursuant to s. 790.22.

History.—ss. 1, 2, ch. 3285, 1881; RS 2684; GS 3627; RGS 5558; CGL 7744; s. 1, ch. 65-187; s. 750, ch. 71-136; s. 2, ch. 76-165; s. 175, ch. 91-224; s. 2, ch. 93-416.

790.173 Legislative findings and intent.—

(1) The Legislature finds that a tragically large number of Florida children have been accidentally killed or seriously injured by negligently stored firearms; that placing firearms within the reach or easy access of children is irresponsible, encourages such accidents, and should be prohibited; and that legislative action is necessary to protect the safety of our children.

(2) It is the intent of the Legislature that adult citizens of the state retain their constitutional right to keep and bear firearms for hunting and sporting activities and for defense of self, family, home, and business and as collectibles. Nothing in this act shall be construed to reduce or limit any existing right to purchase and own firearms, or to provide authority to any state or local agency to infringe upon the privacy of any family, home, or business, except by lawful warrant.

History.—s. 1, ch. 89-534.

790.174 Safe storage of firearms required.—

(1) A person who stores or leaves, on a premise under his or her control, a loaded firearm, as defined in s. 790.001, and who knows or reasonably should know that a minor is likely to gain access to the firearm without the lawful permission of the minor's parent or the person having charge of the minor, or without the supervision required by law, shall keep the firearm in a securely locked box or container or in a location which a reasonable person would believe to be secure or shall secure it with a trigger lock, except when the person is carrying the firearm on his or her body or within such close proximity thereto that he or she can retrieve and use it as easily and quickly as if he or she carried it on his or her body.

(2) It is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, if a person violates subsection (1) by failing to store or leave a firearm in the required manner and as a result thereof a minor gains access to the firearm, without the lawful permission of the minor's parent or the person having charge of the minor, and possesses or exhibits it, without the supervision required by law:

(a) In a public place; or

(b) In a rude, careless, angry, or threatening manner in violation of s. 790.10.

This subsection does not apply if the minor obtains the firearm as a result of an unlawful entry by any person.

[1](3) As used in this act, the term "minor" means any person under the age of 16.

History.—ss. 2, 7, ch. 89-534; s. 1216, ch. 97-102.

[1]**Note.**—Also published at s. 784.05(4).

790.175 Transfer or sale of firearms; required warnings; penalties.—

(1) Upon the retail commercial sale or retail transfer of any firearm, the seller or transferor shall deliver a written warning to the purchaser or transferee, which warning states, in block letters not less than ¼ inch in height:

> "IT IS UNLAWFUL, AND PUNISHABLE BY IMPRISONMENT AND FINE, FOR ANY ADULT TO STORE OR LEAVE A FIREARM IN ANY PLACE WITHIN THE REACH OR EASY ACCESS OF A MINOR UNDER 18 YEARS OF AGE OR TO KNOWINGLY SELL OR OTHERWISE TRANSFER OWNERSHIP OR POSSESSION OF A FIREARM TO A MINOR OR A PERSON OF UNSOUND MIND."

(2) Any retail or wholesale store, shop, or sales outlet which sells firearms must conspicuously post at each purchase counter the following warning in block letters not less than 1 inch in height:

> "IT IS UNLAWFUL TO STORE OR LEAVE A FIREARM IN ANY PLACE WITHIN THE REACH OR EASY ACCESS OF A MINOR UNDER 18 YEARS OF AGE OR TO KNOWINGLY SELL OR OTHERWISE TRANSFER OWNERSHIP OR POSSESSION OF A FIREARM TO A MINOR OR A PERSON OF UNSOUND MIND."

(3) Any person or business knowingly violating a requirement to provide warning under this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.—ss. 4, 7, ch. 89-534; s. 3, ch. 93-416.

790.18 Sale or transfer of arms to minors by dealers.—It is unlawful for any dealer in arms to sell or

transfer to a minor any firearm, pistol, Springfield rifle or other repeating rifle, bowie knife or dirk knife, brass knuckles, or electric weapon or device. A person who violates this section commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 11, ch. 6421, 1913; RGS 5559; CGL 7745; s. 751, ch. 71-136; s. 2, ch. 76-165; s. 176, ch. 91-224; s. 4, ch. 93-416; s. 3, ch. 2016-106.

790.19 Shooting into or throwing deadly missiles into dwellings, public or private buildings, occupied or not occupied; vessels, aircraft, buses, railroad cars, streetcars, or other vehicles.—Whoever, wantonly or maliciously, shoots at, within, or into, or throws any missile or hurls or projects a stone or other hard substance which would produce death or great bodily harm, at, within, or in any public or private building, occupied or unoccupied, or public or private bus or any train, locomotive, railway car, caboose, cable railway car, street railway car, monorail car, or vehicle of any kind which is being used or occupied by any person, or any boat, vessel, ship, or barge lying in or plying the waters of this state, or aircraft flying through the airspace of this state shall be guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 2, ch. 3281, 1881; RS 2696; ss. 1, 2, ch. 4987, 1901; ss. 1, 2, ch. 4988, 1901; GS 3628; RGS 5560; CGL 7746; s. 1, ch. 59-458; s. 752, ch. 71-136; s. 1, ch. 74-67.

790.22 Use of BB guns, air or gas-operated guns, or electric weapons or devices by minor under 16; limitation; possession of firearms by minor under 18 prohibited; penalties.—

(1) The use for any purpose whatsoever of BB guns, air or gas-operated guns, or electric weapons or devices, by any minor under the age of 16 years is prohibited unless such use is under the supervision and in the presence of an adult who is acting with the consent of the minor's parent.

(2) Any adult responsible for the welfare of any child under the age of 16 years who knowingly permits such child to use or have in his or her possession any BB gun, air or gas-operated gun, electric weapon or device, or firearm in violation of the provisions of subsection (1) of this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(3) A minor under 18 years of age may not possess a firearm, other than an unloaded firearm at his or her home, unless:

(a) The minor is engaged in a lawful hunting activity and is:

1. At least 16 years of age; or

2. Under 16 years of age and supervised by an adult.

(b) The minor is engaged in a lawful marksmanship competition or practice or other lawful recreational shooting activity and is:

1. At least 16 years of age; or

2. Under 16 years of age and supervised by an adult who is acting with the consent of the minor's parent or guardian.

(c) The firearm is unloaded and is being transported by the minor directly to or from an event authorized in paragraph (a) or paragraph (b).

(4)(a) Any parent or guardian of a minor, or other adult responsible for the welfare of a minor, who knowingly and willfully permits the minor to possess a firearm in violation of subsection (3) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Any natural parent or adoptive parent, whether custodial or noncustodial, or any legal guardian or legal custodian of a minor, if that minor possesses a firearm in violation of subsection (3) may, if the court finds it appropriate, be required to participate in classes on parenting education which are approved by the Department of Juvenile Justice, upon the first conviction of the minor. Upon any subsequent conviction of the minor, the court may, if the court finds it appropriate, require the parent to attend further parent education classes or render community service hours together with the child.

(c) The juvenile justice circuit advisory boards or the Department of Juvenile Justice shall establish appropriate community service programs to be available to the alternative sanctions coordinators of the circuit courts in implementing this subsection. The boards or department shall propose the implementation of a community service program in each circuit, and may submit a circuit plan, to be implemented upon approval of the circuit alternative sanctions coordinator.

(d) For the purposes of this section, community service may be provided on public property as well as on private property with the expressed permission of the property owner. Any community service provided on private property is limited to such things as removal of graffiti and restoration of vandalized property.

(5)(a) A minor who violates subsection (3) commits a misdemeanor of the first degree; for a first offense, may serve a period of detention of up to 3 days in a secure detention facility; and, in addition to any other penalty provided by law, shall be required to perform 100 hours of community service; and:

1. If the minor is eligible by reason of age for a driver license or driving privilege, the court shall direct the Department of Highway Safety and Motor Vehicles to revoke or to withhold issuance of the minor's driver license or driving privilege for up to 1 year.

2. If the minor's driver license or driving privilege is under suspension or revocation for any reason, the court shall direct the Department of Highway Safety and Motor Vehicles to extend the period of suspension or revocation by an additional period of up to 1 year.

3. If the minor is ineligible by reason of age for a driver license or driving privilege, the court shall direct the Department of Highway Safety and Motor Vehicles to withhold issuance of the minor's driver license or driving privilege for up to 1 year after the date on which the minor would otherwise have become eligible.

(b) For a second or subsequent offense, a minor who violates subsection (3) commits a felony of the third degree and shall serve a period of detention of up to 15 days in a secure detention facility and shall be required to perform not less than 100 nor more than 250 hours of community service, and:

1. If the minor is eligible by reason of age for a driver license or driving privilege, the court shall direct the Department of Highway Safety and Motor Vehicles to revoke or to withhold issuance of the minor's driver license or driving privilege for up to 2 years.

2. If the minor's driver license or driving privilege is under suspension or revocation for any reason, the court shall direct the Department of Highway Safety and Motor Vehicles to extend the period of suspension or revocation by an additional period of up to 2 years.

3. If the minor is ineligible by reason of age for a driver license or driving privilege, the court shall direct the Department of Highway Safety and Motor Vehicles to withhold issuance of the minor's driver license or driving privilege for up to 2 years after the date on which the minor would otherwise have become eligible.

For the purposes of this subsection, community service shall be performed, if possible, in a manner involving a hospital emergency room or other medical environment that deals on a regular basis with trauma patients and gunshot wounds.

(6) Any firearm that is possessed or used by a minor in violation of this section shall be promptly seized by a law enforcement officer and disposed of in accordance with s. 790.08(1)-(6).

(7) The provisions of this section are supplemental to all other provisions of law relating to the possession, use, or exhibition of a firearm.

(8) Notwithstanding s. 985.24 or s. 985.25(1), if a minor is charged with an offense that involves the use or possession of a firearm, including a violation of subsection (3), or is charged for any offense during the commission of which the minor possessed a firearm, the minor shall be detained in secure detention, unless the state attorney authorizes the release of the minor, and shall be given a hearing within 24 hours after being taken into custody. At the hearing, the court may order that the minor continue to be held in secure detention in accordance with the applicable time periods specified in s. 985.26(1)-(5), if the court finds that the minor meets the criteria specified in s. 985.255, or if the court finds by clear and convincing evidence that the minor is a clear and present danger to himself or herself or the community. The Department of Juvenile Justice shall prepare a form for all minors charged under this subsection which states the period of detention and the relevant demographic information, including, but not limited to, the gender, age, and race of the minor; whether or not the minor was represented by private counsel or a public defender; the current offense; and the minor's complete prior record, including any pending cases. The form shall be provided to the judge for determining whether the minor should be continued in secure detention under this subsection. An order placing a minor in secure detention because the minor is a clear and present danger to himself or herself or the community must be in writing, must specify the need for detention and the benefits derived by the minor or the community by placing the minor in secure detention, and must include a copy of the form provided by the department.

(9) Notwithstanding s. 985.245, if the minor is found to have committed an offense that involves the use or possession of a firearm, as defined in s. 790.001, other than a violation of subsection (3), or an offense during the commission of which the minor possessed a firearm, and the minor is not committed to a residential commitment program of the Department of Juvenile Justice, in addition to any other punishment provided by law, the court shall order:

(a) For a first offense, that the minor shall serve a minimum period of detention of 15 days in a secure detention facility; and

1. Perform 100 hours of community service; and may

2. Be placed on community control or in a nonresidential commitment program.

(b) For a second or subsequent offense, that the minor shall serve a mandatory period of detention of at least 21 days in a secure detention facility; and

1. Perform not less than 100 nor more than 250 hours of community service; and may

2. Be placed on community control or in a nonresidential commitment program.

The minor shall not receive credit for time served before adjudication. For the purposes of this subsection, community service shall be performed, if possible, in a manner involving a hospital emergency room or other medical environment that deals on a regular basis with trauma patients and gunshot wounds.

(10) If a minor is found to have committed an offense under subsection (9), the court shall impose the following penalties in addition to any penalty imposed under paragraph (9)(a) or paragraph (9)(b):

(a) For a first offense:

1. If the minor is eligible by reason of age for a driver license or driving privilege, the court shall direct the Department of Highway Safety and Motor Vehicles to revoke or to withhold issuance of the minor's driver license or driving privilege for up to 1 year.

2. If the minor's driver license or driving privilege is under suspension or revocation for any reason, the court shall direct the Department of Highway Safety and Motor Vehicles to extend the period of suspension or revocation by an additional period for up to 1 year.

3. If the minor is ineligible by reason of age for a driver license or driving privilege, the court shall direct the Department of Highway Safety and Motor Vehicles to withhold issuance of the minor's driver license or driving privilege for up to 1 year after the date on which the minor would otherwise have become eligible.

(b) For a second or subsequent offense:

1. If the minor is eligible by reason of age for a driver license or driving privilege, the court shall direct the Department of Highway Safety and Motor Vehicles to revoke or to withhold issuance of the minor's driver license or driving privilege for up to 2 years.

2. If the minor's driver license or driving privilege is under suspension or revocation for any reason, the court shall direct the Department of Highway Safety and Motor Vehicles to extend the period of suspension or revocation by an additional period for up to 2 years.

3. If the minor is ineligible by reason of age for a driver license or driving privilege, the court shall direct the Department of Highway Safety and Motor Vehicles to withhold issuance of the minor's driver license or driving privilege for up to 2 years after the date on which the minor would otherwise have become eligible.

History.—ss. 1, 2, ch. 26946, 1951; s. 8, ch. 69-306; s. 753, ch. 71-136; s. 2, ch. 76-165; s. 177, ch. 91-224; s. 5, ch. 93-416; s. 29, ch. 95-267; s. 6, ch. 96-398; s. 1817, ch. 97-102; s. 32, ch. 98-136; s. 50, ch. 98-280; s. 1, ch. 99-284; s. 10, ch. 2000-135; s. 113, ch. 2006-120; s. 160, ch. 2010-102; s. 2, ch. 2013-118.

790.221 Possession of short-barreled rifle, short-barreled shotgun, or machine gun; penalty.

(1) It is unlawful for any person to own or to have in his or her care, custody, possession, or control any short-barreled rifle, short-barreled shotgun, or machine gun which is, or may readily be made, operable; but this section shall not apply to antique firearms.

(2) A person who violates this section commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Firearms in violation hereof which are lawfully owned and possessed under provisions of federal law are excepted.

History.—s. 10, ch. 69-306; s. 1, ch. 89-312; s. 21, ch. 93-406; s. 1217, ch. 97-102.

790.225 Ballistic self-propelled knives; unlawful to manufacture, sell, or possess; forfeiture; penalty.

(1) It is unlawful for any person to manufacture, display, sell, own, possess, or use a ballistic self-propelled knife which is a device that propels a knifelike blade as a projectile and which physically separates the blade from the device by means of a coil spring, elastic material, or compressed gas. A ballistic self-propelled knife is declared to be a dangerous or deadly weapon and a contraband item. It shall be subject to seizure and shall be disposed of as provided in s. 790.08(1) and (6).

(2) This section shall not apply to:

(a) Any device from which a knifelike blade opens, where such blade remains physically integrated with the device when open.

(b) Any device which propels an arrow, a bolt, or a dart by means of any common bow, compound bow, crossbow, or underwater spear gun.

(3) Any person violating the provisions of subsection (1) is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 1, ch. 85-258; s. 178, ch. 91-224; s. 1, ch. 2003-82.

790.23 Felons and delinquents; possession of firearms, ammunition, or electric weapons or devices unlawful.—

(1) It is unlawful for any person to own or to have in his or her care, custody, possession, or control any firearm, ammunition, or electric weapon or device, or to carry a concealed weapon, including a tear gas gun or chemical weapon or device, if that person has been:

(a) Convicted of a felony in the courts of this state;

(b) Found, in the courts of this state, to have committed a delinquent act that would be a felony if committed by an adult and such person is under 24 years of age;

(c) Convicted of or found to have committed a crime against the United States which is designated as a felony;

(d) Found to have committed a delinquent act in another state, territory, or country that would be a felony if committed by an adult and which was punishable by imprisonment for a term exceeding 1 year and such person is under 24 years of age; or

(e) Found guilty of an offense that is a felony in another state, territory, or country and which was punishable by imprisonment for a term exceeding 1 year.

(2) This section shall not apply to a person:

(a) Convicted of a felony whose civil rights and firearm authority have been restored.

(b) Whose criminal history record has been expunged pursuant to s. 943.0515(1)(b).

(3) Except as otherwise provided in subsection (4), any person who violates this section commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) Notwithstanding the provisions of s. 874.04, if the offense described in subsection (1) has been committed by a person who has previously qualified or currently qualifies for the penalty enhancements provided for in s. 874.04, the offense is a felony of the first degree, punishable by a term of years not exceeding life or as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—ss. 1, 2, 3, ch. 29766, 1955; s. 1, ch. 63-31; s. 9, ch. 69-306; s. 754, ch. 71-136; s. 1, ch. 71-318; s. 169, ch. 71-355; s. 2, ch. 76-165; s. 6, ch. 93-416; s. 51, ch. 98-280; s. 39, ch. 99-284; s. 2, ch. 2004-286; s. 2, ch. 2008-238; s. 1, ch. 2016-42.

790.233 Possession of firearm or ammunition prohibited when person is subject to an injunction against committing acts of domestic violence, stalking, or cyberstalking; penalties.—

(1) A person may not have in his or her care, custody, possession, or control any firearm or ammunition if the person has been issued a final injunction that is currently in force and effect, restraining that person from committing acts of domestic violence, as issued under s. 741.30 or from committing acts of stalking or cyberstalking, as issued under s. 784.0485.

(2) A person who violates subsection (1) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3) It is the intent of the Legislature that the disabilities regarding possession of firearms and ammunition are consistent with federal law. Accordingly, this section does not apply to a state or local officer as defined in s. 943.10(14), holding an active certification, who receives or possesses a firearm or ammunition for use in performing official duties on behalf of the officer's employing agency, unless otherwise prohibited by the employing agency.

History.—s. 1, ch. 98-284; s. 5, ch. 2012-153.

790.235 Possession of firearm or ammunition by violent career criminal unlawful; penalty.—

(1) Any person who meets the violent career criminal criteria under s. 775.084(1)(d), regardless of whether such person is or has previously been

sentenced as a violent career criminal, who owns or has in his or her care, custody, possession, or control any firearm, ammunition, or electric weapon or device, or carries a concealed weapon, including a tear gas gun or chemical weapon or device, commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A person convicted of a violation of this section shall be sentenced to a mandatory minimum of 15 years' imprisonment; however, if the person would be sentenced to a longer term of imprisonment under s. 775.084(4)(d), the person must be sentenced under that provision. A person convicted of a violation of this section is not eligible for any form of discretionary early release, other than pardon, executive clemency, or conditional medical release under s. 947.149.

(2) For purposes of this section, the previous felony convictions necessary to meet the violent career criminal criteria under s. 775.084(1)(d) may be convictions for felonies committed as an adult or adjudications of delinquency for felonies committed as a juvenile. In order to be counted as a prior felony for purposes of this section, the felony must have resulted in a conviction sentenced separately, or an adjudication of delinquency entered separately, prior to the current offense, and sentenced or adjudicated separately from any other felony that is to be counted as a prior felony.

(3) This section shall not apply to a person whose civil rights and firearm authority have been restored.

History.—s. 7, ch. 95-182; s. 45, ch. 96-388; s. 6, ch. 99-188; s. 1, ch. 2002-210; s. 3, ch. 2004-286.

790.24 Report of medical treatment of certain wounds; penalty for failure to report.—Any physician, nurse, or employee thereof and any employee of a hospital, sanitarium, clinic, or nursing home knowingly treating any person suffering from a gunshot wound or life-threatening injury indicating an act of violence, or receiving a request for such treatment, shall report the same immediately to the sheriff's department of the county in which said treatment is administered or request therefor received. This section does not affect any requirement that a person has to report abuse pursuant to chapter 39 or chapter 415. Any such person willfully failing to report such treatment or request therefor is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 1, ch. 59-35; s. 755, ch. 71-136; s. 1, ch. 99-235.

790.25 Lawful ownership, possession, and use of firearms and other weapons.—

(1) DECLARATION OF POLICY.—The Legislature finds as a matter of public policy and fact that it is necessary to promote firearms safety and to curb and prevent the use of firearms and other weapons in crime and by incompetent persons without prohibiting the lawful use in defense of life, home, and property, and the use by United States or state military organizations, and as otherwise now authorized by law, including the right to use and own firearms for target practice and marksmanship on target practice ranges or other lawful places, and lawful hunting and other lawful purposes.

(2) USES NOT AUTHORIZED.—

(a) This section does not authorize carrying a concealed weapon without a permit, as prohibited by ss. 790.01 and 790.02.

(b) The protections of this section do not apply to the following:

1. A person who has been adjudged mentally incompetent, who is addicted to the use of narcotics or any similar drug, or who is a habitual or chronic alcoholic, or a person using weapons or firearms in violation of ss. 790.07-790.115, 790.145-790.19, 790.22-790.24;

2. Vagrants and other undesirable persons as defined in [1]s. 856.02;

3. A person in or about a place of nuisance as defined in s. 823.05, unless such person is there for law enforcement or some other lawful purpose.

(3) LAWFUL USES.—The provisions of ss. 790.053 and 790.06 do not apply in the following instances, and, despite such sections, it is lawful for the following persons to own, possess, and lawfully use firearms and other weapons, ammunition, and supplies for lawful purposes:

(a) Members of the Militia, National Guard, Florida State Defense Force, Army, Navy, Air Force, Marine Corps, Coast Guard, organized reserves, and other armed forces of the state and of the United States, when on duty, when training or preparing themselves for military duty, or while subject to recall or mobilization;

(b) Citizens of this state subject to duty in the Armed Forces under s. 2, Art. X of the State Constitution, under chapters 250 and 251, and under federal laws, when on duty or when training or preparing themselves for military duty;

(c) Persons carrying out or training for emergency management duties under chapter 252;

(d) Sheriffs, marshals, prison or jail wardens, police officers, Florida highway patrol officers, game wardens, revenue officers, forest officials, special officers appointed under the provisions of chapter 354, and other peace and law enforcement officers and their deputies and assistants and full-time paid peace officers of other states and of the Federal Government who are carrying out official duties while in this state;

(e) Officers or employees of the state or United States duly authorized to carry a concealed weapon;

(f) Guards or messengers of common carriers, express companies, armored car carriers, mail carriers, banks, and other financial institutions, while actually employed in and about the shipment, transportation, or delivery of any money, treasure, bullion, bonds, or other thing of value within this state;

(g) Regularly enrolled members of any organization duly authorized to purchase or receive weapons from the United States or from this state, or regularly enrolled members of clubs organized for target, skeet, or trap shooting, while at or going to or from shooting practice; or regularly enrolled members of clubs organized for modern or antique firearms collecting, while such members are at or going to or from their collectors' gun shows, conventions, or exhibits;

(h) A person engaged in fishing, camping, or lawful hunting or going to or returning from a fishing, camping, or lawful hunting expedition;

(i) A person engaged in the business of manufacturing, repairing, or dealing in firearms, or the agent or representative of any such person while engaged in the lawful course of such business;

(j) A person firing weapons for testing or target practice under safe conditions and in a safe place not prohibited by law or going to or from such place;

(k) A person firing weapons in a safe and secure indoor range for testing and target practice;

(l) A person traveling by private conveyance when the weapon is securely encased or in a public conveyance when the weapon is securely encased and not in the person's manual possession;

(m) A person while carrying a pistol unloaded and in a secure wrapper, concealed or otherwise, from the place of purchase to his or her home or place of business or to a place of repair or back to his or her home or place of business;

(n) A person possessing arms at his or her home or place of business;

(o) Investigators employed by the several public defenders of the state, while actually carrying out official duties, provided such investigators:

1. Are employed full time;

2. Meet the official training standards for firearms established by the Criminal Justice Standards and Training Commission as provided in s. 943.12(5) and the requirements of ss. 493.6108(1)(a) and 943.13(1)-(4); and

3. Are individually designated by an affidavit of consent signed by the employing public defender and filed with the clerk of the circuit court in the county in which the employing public defender resides.

(p) Investigators employed by the capital collateral regional counsel, while actually carrying out official duties, provided such investigators:

1. Are employed full time;

2. Meet the official training standards for firearms as established by the Criminal Justice Standards and Training Commission as provided in s. 943.12(1) and the requirements of ss. 493.6108(1)(a) and 943.13(1)-(4); and

3. Are individually designated by an affidavit of consent signed by the capital collateral regional counsel and filed with the clerk of the circuit court in the county in which the investigator is headquartered.

(4) CONSTRUCTION.—This act shall be liberally construed to carry out the declaration of policy herein and in favor of the constitutional right to keep and bear arms for lawful purposes. This act is supplemental and additional to existing rights to bear arms now guaranteed by law and decisions of the courts of Florida, and nothing herein shall impair or diminish any of such rights. This act shall supersede any law, ordinance, or regulation in conflict herewith.

(5) POSSESSION IN PRIVATE CONVEYANCE. Notwithstanding subsection (2), it is lawful and is not a violation of s. 790.01 for a person 18 years of age or older to possess a concealed firearm or other weapon for self-defense or other lawful purpose within the interior of a private conveyance, without a license, if the firearm or other weapon is securely encased or is otherwise not readily accessible for immediate use. Nothing herein contained prohibits the carrying of a legal firearm other than a handgun anywhere in a private conveyance when such firearm is being carried for a lawful use. Nothing herein contained shall be construed to authorize the carrying of a concealed firearm or other weapon on the person. This subsection shall be liberally construed in favor of the lawful use, ownership, and possession of firearms and other weapons, including lawful self-defense as provided in s. 776.012.

History.—s. 1, ch. 65-410; s. 32, ch. 69-216; s. 32, ch. 73-334; s. 2, ch. 77-302; s. 2, ch. 82-131; s. 15, ch. 83-167; ss. 45, 49, ch. 83-334; s. 32, ch. 84-258; s. 68, ch. 85-62; s. 5, ch. 85-332; s. 15, ch. 87-274; s. 2, ch. 87-537; s. 1, ch. 89-60; s. 8, ch. 90-364; s. 1, ch. 93-269; s. 7, ch. 93-416; s. 89, ch. 95-211; s. 1218, ch. 97-102; s. 110, ch. 2006-1; s. 2, ch. 2006-103.

[1]**Note.**—Repealed by s. 3, ch. 72-133.

[1]790.251 Protection of the right to keep and bear arms in motor vehicles for self-defense and other lawful purposes; prohibited acts; duty of public and private employers; immunity from liability; enforcement.—

(1) SHORT TITLE.—This section may be cited as the "Preservation and Protection of the Right to Keep and Bear Arms in Motor Vehicles Act of 2008."

(2) DEFINITIONS.—As used in this section, the term:

(a) "Parking lot" means any property that is used for parking motor vehicles and is available to customers, employees, or invitees for temporary or long-term parking or storage of motor vehicles.

(b) "Motor vehicle" means any automobile, truck, minivan, sports utility vehicle, motor home, recreational vehicle, motorcycle, motor scooter, or any other vehicle operated on the roads of this state and required to be registered under state law.

(c) "Employee" means any person who possesses a valid license issued pursuant to s. 790.06 and:

1. Works for salary, wages, or other remuneration;

2. Is an independent contractor; or

3. Is a volunteer, intern, or other similar individual for an employer.

(d) "Employer" means any business that is a sole proprietorship, partnership, corporation, limited liability company, professional association, cooperative, joint venture, trust, firm, institution, or association, or public sector entity, that has employees.

(e) "Invitee" means any business invitee, including a customer or visitor, who is lawfully on the premises of a public or private employer.

As used in this section, the term "firearm" includes ammunition and accoutrements attendant to the lawful possession and use of a firearm.

(3) LEGISLATIVE INTENT; FINDINGS.—This act is intended to codify the long-standing legislative policy of the state that individual citizens have a constitutional right to keep and bear arms, that they have a constitutional right to possess and keep legally owned firearms within their motor vehicles for self-defense and other lawful purposes, and that these rights are not abrogated by virtue of a citizen becoming a customer, employee, or invitee of a business entity. It is the finding of the Legislature that a citizen's lawful possession, transportation, and secure keeping of firearms and ammunition

within his or her motor vehicle is essential to the exercise of the fundamental constitutional right to keep and bear arms and the constitutional right of self-defense. The Legislature finds that protecting and preserving these rights is essential to the exercise of freedom and individual responsibility. The Legislature further finds that no citizen can or should be required to waive or abrogate his or her right to possess and securely keep firearms and ammunition locked within his or her motor vehicle by virtue of becoming a customer, employee, or invitee of any employer or business establishment within the state, unless specifically required by state or federal law.

(4) PROHIBITED ACTS.—No public or private employer may violate the constitutional rights of any customer, employee, or invitee as provided in paragraphs (a)-(e):

(a) No public or private employer may prohibit any customer, employee, or invitee from possessing any legally owned firearm when such firearm is lawfully possessed and locked inside or locked to a private motor vehicle in a parking lot and when the customer, employee, or invitee is lawfully in such area.

(b) No public or private employer may violate the privacy rights of a customer, employee, or invitee by verbal or written inquiry regarding the presence of a firearm inside or locked to a private motor vehicle in a parking lot or by an actual search of a private motor vehicle in a parking lot to ascertain the presence of a firearm within the vehicle. Further, no public or private employer may take any action against a customer, employee, or invitee based upon verbal or written statements of any party concerning possession of a firearm stored inside a private motor vehicle in a parking lot for lawful purposes. A search of a private motor vehicle in the parking lot of a public or private employer to ascertain the presence of a firearm within the vehicle may only be conducted by on-duty law enforcement personnel, based upon due process and must comply with constitutional protections.

(c) No public or private employer shall condition employment upon either:

1. The fact that an employee or prospective employee holds or does not hold a license issued pursuant to s. 790.06; or

2. Any agreement by an employee or a prospective employee that prohibits an employee from keeping a legal firearm locked inside or locked to a private motor vehicle in a parking lot when such firearm is kept for lawful purposes.

(d) No public or private employer shall prohibit or attempt to prevent any customer, employee, or invitee from entering the parking lot of the employer's place of business because the customer's, employee's, or invitee's private motor vehicle contains a legal firearm being carried for lawful purposes, that is out of sight within the customer's, employee's, or invitee's private motor vehicle.

(e) No public or private employer may terminate the employment of or otherwise discriminate against an employee, or expel a customer or invitee for exercising his or her constitutional right to keep and bear arms or for exercising the right of self-defense as long as a firearm is never exhibited on company property for any reason other than lawful defensive purposes.

This subsection applies to all public sector employers, including those already prohibited from regulating firearms under the provisions of s. 790.33.

(5) DUTY OF CARE OF PUBLIC AND PRIVATE EMPLOYERS; IMMUNITY FROM LIABILITY.—

(a) When subject to the provisions of subsection (4), a public or private employer has no duty of care related to the actions prohibited under such subsection.

(b) A public or private employer is not liable in a civil action based on actions or inactions taken in compliance with this section. The immunity provided in this subsection does not apply to civil actions based on actions or inactions of public or private employers that are unrelated to compliance with this section.

(c) Nothing contained in this section shall be interpreted to expand any existing duty, or create any additional duty, on the part of a public or private employer, property owner, or property owner's agent.

(6) ENFORCEMENT.—The Attorney General shall enforce the protections of this act on behalf of any customer, employee, or invitee aggrieved under this act. If there is reasonable cause to believe that the aggrieved person's rights under this act have been violated by a public or private employer, the Attorney General shall commence a civil or administrative action for damages, injunctive relief and civil penalties, and such other relief as may be appropriate under the provisions of s. 760.51, or may negotiate a settlement with any employer on behalf of any person aggrieved under the act. However, nothing in this act shall prohibit the right of a person aggrieved under this act to bring a civil action for violation of rights protected under the act. In any successful action brought by a customer, employee, or invitee aggrieved under this act, the court shall award all reasonable personal costs and losses suffered by the aggrieved person as a result of the violation of rights under this act. In any action brought pursuant to this act, the court shall award all court costs and attorney's fees to the prevailing party.

(7) EXCEPTIONS.—The prohibitions in subsection (4) do not apply to:

(a) Any school property as defined and regulated under s. 790.115.

(b) Any correctional institution regulated under s. 944.47 or chapter 957.

(c) Any property where a nuclear-powered electricity generation facility is located.

(d) Property owned or leased by a public or private employer or the landlord of a public or private employer upon which are conducted substantial activities involving national defense, aerospace, or homeland security.

(e) Property owned or leased by a public or private employer or the landlord of a public or private employer upon which the primary business conducted is the manufacture, use, storage, or transportation of combustible or explosive materials regulated under state or federal law, or property owned or leased by an employer who has obtained a permit required under 18 U.S.C. s. 842 to engage in the business of importing, manufacturing, or dealing in explosive materials on such property.

(f) A motor vehicle owned, leased, or rented by a public or private employer or the landlord of a public or private employer.

(g) Any other property owned or leased by a public or private employer or the landlord of a public or private employer upon which possession of a firearm or other legal product by a customer, employee, or invitee is prohibited pursuant to any federal law, contract with a federal government entity, or general law of this state.

History.—s. 1, ch. 2008-7.

[1]**Note.**—Section 15, ch. 2011-119, provides that "[t]he amendments made to ss. 509.144 and 932.701, Florida Statutes, and the creation of s. 901.1503, Florida Statutes, by this act do not affect or impede the provisions of s. 790.251, Florida Statutes, or any other protection or right guaranteed by the Second Amendment to the United States Constitution."

790.256 Public service announcements.—The Department of Health shall prepare public service announcements for dissemination to parents throughout the state, of the provisions of chapter 93-416, Laws of Florida.

History.—s. 9, ch. 93-416; s. 295, ch. 99-8.

790.27 Alteration or removal of firearm serial number or possession, sale, or delivery of firearm with serial number altered or removed prohibited; penalties.—

(1)(a) It is unlawful for any person to knowingly alter or remove the manufacturer's or importer's serial number from a firearm with intent to disguise the true identity thereof.

(b) Any person violating paragraph (a) is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2)(a) It is unlawful for any person to knowingly sell, deliver, or possess any firearm on which the manufacturer's or importer's serial number has been unlawfully altered or removed.

(b) Any person violating paragraph (a) is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3) This section shall not apply to antique firearms.

History.—s. 2, ch. 79-58; s. 179, ch. 91-224.

790.29 Paramilitary training; teaching or participation prohibited.—

(1) This act shall be known and may be cited as the "State Antiparamilitary Training Act."

(2) As used in this section, the term "civil disorder" means a public disturbance involving acts of violence by an assemblage of three or more persons, which disturbance causes an immediate danger of, or results in, damage or injury to the property or person of any other individual within the United States.

(3)(a) Whoever teaches or demonstrates to any other person the use, application, or making of any firearm, destructive device, or technique capable of causing injury or death to persons, knowing or having reason to know or intending that the same will be unlawfully employed for use in, or in furtherance of, a civil disorder within the United States, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Whoever assembles with one or more persons for the purpose of training with, practicing with, or being instructed in the use of any firearm, destructive device, or technique capable of causing injury or death to persons, intending to unlawfully employ the same for use in, or in furtherance of, a civil disorder within the United States, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) Nothing contained in this section shall be construed to prohibit any act of a law enforcement officer which is performed in connection with the lawful performance of his or her official duties or to prohibit the training or teaching of the use of weapons to be used for hunting, recreation, competition, self-defense or the protection of one's person or property, or other lawful use.

History.—s. 1, ch. 82-5; s. 164, ch. 83-216; s. 1220, ch. 97-102.

790.31 Armor-piercing or exploding ammunition or dragon's breath shotgun shells, bolo shells, or flechette shells prohibited.—

(1) As used in this section, the term:

(a) "Armor-piercing bullet" means any bullet which has a steel inner core or core of equivalent hardness and a truncated cone and which is designed for use in a handgun as an armor-piercing or metal-piercing bullet.

(b) "Exploding bullet" means any bullet that can be fired from any firearm, if such bullet is designed or altered so as to detonate or forcibly break up through the use of an explosive or deflagrant contained wholly or partially within or attached to such bullet. The term does not include any bullet designed to expand or break up through the mechanical forces of impact alone or any signaling device or pest control device not designed to impact on any target.

(c) "Handgun" means a firearm capable of being carried and used by one hand, such as a pistol or revolver.

(d) "Dragon's breath shotgun shell" means any shotgun shell that contains exothermic pyrophoric misch metal as the projectile and that is designed for the sole purpose of throwing or spewing a flame or fireball to simulate a flamethrower.

(e) "Bolo shell" means any shell that can be fired in a firearm and that expels as projectiles two or more metal balls connected by solid metal wire.

(f) "Flechette shell" means any shell that can be fired in a firearm and that expels two or more pieces of fin-stabilized solid metal wire or two or more solid dart-type projectiles.

(2)(a) Any person who manufactures, sells, offers for sale, or delivers any armor-piercing bullet or exploding bullet, or dragon's breath shotgun shell, bolo shell, or flechette shell is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Any person who possesses an armor-piercing bullet or exploding bullet with knowledge of its armor-piercing or exploding capabilities loaded in a handgun, or who possesses a dragon's breath shotgun shell, bolo shell, or flechette shell with knowledge of its capabilities loaded in a firearm, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Any person who possesses with intent to use an armor-piercing bullet or exploding bullet or dragon's breath shotgun shell, bolo shell, or flechette shell to assist in the commission of a criminal act is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) This section does not apply to:

(a) The possession of any item described in subsection (1) by any law enforcement officer, when possessed in connection with the performance of his or her duty as a law enforcement officer, or law enforcement agency.

(b) The manufacture of items described in subsection (1) exclusively for sale or delivery to law enforcement agencies.

(c) The sale or delivery of items described in subsection (1) to law enforcement agencies.

History.—s. 1, ch. 83-253; s. 1, ch. 92-141; s. 1221, ch. 97-102.

790.33 Field of regulation of firearms and ammunition preempted.—

(1) PREEMPTION.—Except as expressly provided by the State Constitution or general law, the Legislature hereby declares that it is occupying the whole field of regulation of firearms and ammunition, including the purchase, sale, transfer, taxation, manufacture, ownership, possession, storage, and transportation thereof, to the exclusion of all existing and future county, city, town, or municipal ordinances or any administrative regulations or rules adopted by local or state government relating thereto. Any such existing ordinances, rules, or regulations are hereby declared null and void.

(2) POLICY AND INTENT.—

(a) It is the intent of this section to provide uniform firearms laws in the state; to declare all ordinances and regulations null and void which have been enacted by any jurisdictions other than state and federal, which regulate firearms, ammunition, or components thereof; to prohibit the enactment of any future ordinances or regulations relating to firearms, ammunition, or components thereof unless specifically authorized by this section or general law; and to require local jurisdictions to enforce state firearms laws.

(b) It is further the intent of this section to deter and prevent the violation of this section and the violation of rights protected under the constitution and laws of this state related to firearms, ammunition, or components thereof, by the abuse of official authority that occurs when enactments are passed in violation of state law or under color of local or state authority.

(3) PROHIBITIONS; PENALTIES.—

(a) Any person, county, agency, municipality, district, or other entity that violates the Legislature's occupation of the whole field of regulation of firearms and ammunition, as declared in subsection (1), by enacting or causing to be enforced any local ordinance or administrative rule or regulation impinging upon such exclusive occupation of the field shall be liable as set forth herein.

(b) If any county, city, town, or other local government violates this section, the court shall declare the improper ordinance, regulation, or rule invalid and issue a permanent injunction against the local government prohibiting it from enforcing such ordinance, regulation, or rule. It is no defense that in enacting the ordinance, regulation, or rule the local government was acting in good faith or upon advice of counsel.

(c) If the court determines that a violation was knowing and willful, the court shall assess a civil fine of up to $5,000 against the elected or appointed local government official or officials or administrative agency head under whose jurisdiction the violation occurred.

(d) Except as required by applicable law, public funds may not be used to defend or reimburse the unlawful conduct of any person found to have knowingly and willfully violated this section.

(e) A knowing and willful violation of any provision of this section by a person acting in an official capacity for any entity enacting or causing to be enforced a local ordinance or administrative rule or regulation prohibited under paragraph (a) or otherwise under color of law shall be cause for termination of employment or contract or removal from office by the Governor.

(f) A person or an organization whose membership is adversely affected by any ordinance, regulation, measure, directive, rule, enactment, order, or policy promulgated or caused to be enforced in violation of this section may file suit against any county, agency, municipality, district, or other entity in any court of this state having jurisdiction over any defendant to the suit for declaratory and injunctive relief and for actual damages, as limited herein, caused by the violation. A court shall award the prevailing plaintiff in any such suit:

1. Reasonable attorney's fees and costs in accordance with the laws of this state, including a contingency fee multiplier, as authorized by law; and

2. The actual damages incurred, but not more than $100,000.

Interest on the sums awarded pursuant to this subsection shall accrue at the legal rate from the date on which suit was filed.

(4) EXCEPTIONS.—This section does not prohibit:

(a) Zoning ordinances that encompass firearms businesses along with other businesses, except that zoning ordinances that are designed for the purpose of restricting or prohibiting the sale, purchase, transfer, or manufacture of firearms or ammunition as a method of regulating firearms or ammunition are in conflict with this subsection and are prohibited;

(b) A duly organized law enforcement agency from enacting and enforcing regulations pertaining to firearms, ammunition, or firearm accessories issued to or used by peace officers in the course of their official duties;

(c) Except as provided in s. 790.251, any entity subject to the prohibitions of this section from regulating or prohibiting the carrying of firearms and ammunition by an employee of the entity during and in the course of the employee's official duties;

(d) A court or administrative law judge from hearing and resolving any case or controversy or issuing any opinion or order on a matter within the jurisdiction of that court or judge; or

(e) The Florida Fish and Wildlife Conservation Commission from regulating the use of firearms or

ammunition as a method of taking wildlife and regulating the shooting ranges managed by the commission.

(5) SHORT TITLE.—As created by chapter 87-23, Laws of Florida, this section may be cited as the "Joe Carlucci Uniform Firearms Act."

History.—ss. 1, 2, 3, 4, ch. 87-23; s. 5, ch. 88-183; s. 1, ch. 2011-109.

790.331 Prohibition of civil actions against firearms or ammunition manufacturers, firearms trade associations, firearms or ammunition distributors, or firearms or ammunition dealers.—

(1) The Legislature finds and declares that the manufacture, distribution, or sale of firearms and ammunition by manufacturers, distributors, or dealers duly licensed by the appropriate federal and state authorities is a lawful activity and is not unreasonably dangerous, and further finds that the unlawful use of firearms and ammunition, rather than their lawful manufacture, distribution, or sale, is the proximate cause of injuries arising from their unlawful use.

(2) Except as permitted by this section, a legal action against a firearms or ammunition manufacturer, firearms trade association, firearms or ammunition distributor, or firearms or ammunition dealer on behalf of the state or its agencies and instrumentalities, or on behalf of a county, municipality, special district, or any other political subdivision or agency of the state, for damages, abatement, or injunctive relief resulting from or arising out of the lawful design, marketing, distribution, or sale of firearms or ammunition to the public is prohibited. However, this subsection does not preclude a natural person from bringing an action against a firearms or ammunition manufacturer, firearms trade association, firearms or ammunition distributor, or firearms or ammunition dealer for breach of a written contract, breach of an express warranty, or injuries resulting from a defect in the materials or workmanship in the manufacture of a firearm or ammunition.

(3) A county, municipality, special district, or other political subdivision or agency of the state may not sue for or recover from a firearms or ammunition manufacturer, firearms trade association, firearms or ammunition distributor, or firearms or ammunition dealer damages, abatement, or injunctive relief in any case that arises out of or results from the lawful design, marketing, distribution, or sale of firearms or ammunition to the public.

(4) This section does not prohibit an action against a firearms or ammunition manufacturer, distributor, or dealer for:

(a) Breach of contract or warranty in connection with a firearm or ammunition purchased by a county, municipality, special district, or other political subdivision or agency of the state.

(b) Injuries resulting from the malfunction of a firearm or ammunition due to a defect in design or manufacture.

(5)(a) For the purposes of this section, the potential of a firearm or ammunition to cause serious injury, damage, or death as a result of normal function does not constitute a defective condition of the product.

(b) A firearm or ammunition may not be deemed defective on the basis of its potential to cause serious injury, damage, or death when discharged legally or illegally.

(6)(a) If a civil action is brought in violation of this section, the defendant may recover all expenses resulting from such action from the governmental entity bringing such action.

(b) In any civil action where the court finds that the defendant is immune as provided in this section, the court shall award the defendant all attorney's fees, costs and compensation for loss of income, and expenses incurred as a result of such action.

(7) This section applies to any action brought on or after the effective date of this section.

History.—s. 1, ch. 2001-38.

790.333 Sport shooting and training range protection; liability; claims, expenses, and fees; penalties; preemption; construction.—

(1) LEGISLATIVE FINDINGS.—

(a) The Legislature finds that in excess of 400 sport shooting and training ranges exist on public and private lands throughout this state.

(b) These sport shooting and training ranges are widely used and enjoyed by the residents of this state and are a necessary component of the guarantees of the Second Amendment to the United States Constitution and of s. 8, Art. I of the State Constitution.

(c) Many of these ranges are used by state and local law enforcement agencies for training, practice, and regular mandatory qualification by law enforcement officers; by Fish and Wildlife Conservation Commission hunter safety instructors who teach adults and youngsters in the safe use and handling of firearms in preparation for obtaining hunting licenses; by school boards, colleges, and universities for reserve officer training corps training and activities; by school shooting teams; by Olympic competitors; and by certified instructors who teach the safe use and handling of firearms in preparation for applying for licenses to carry concealed firearms for lawful self-protection.

(d) The public policy of the State of Florida is to encourage the safe handling and operation of firearms and mandates appropriate training in the safe use and handling of firearms for persons licensed to carry concealed firearms and for persons licensed to hunt in the state. Sport shooting and training ranges throughout this state provide the location at which this important public purpose is served and at which the firearms training mandates are fulfilled.

(e) Projectiles are integral to sport shooting and training range activity and to the ownership and use of firearms.

(f) Over years of operation, projectiles have accumulated in the environment at many ranges. Whether this projectile accumulation has caused or will cause degradation of the environment or harm to human health depends on factors that are site-specific. Therefore, sport shooting and training ranges must be allowed flexibility to apply appropriate environmental management practices at ranges. The use of environmental management practices can be implemented to avoid or reduce any potential for adverse environmental impact.

(g) The Department of Environmental Protection, in collaboration with shooting range owners and operators, sport shooting organizations, law enforcement representatives, and university researchers, has developed shooting range best management practices in order to minimize any potential for any adverse environmental impact resulting from the operation of shooting ranges.

(h) Appropriate environmental management practices, when implemented where applicable, can minimize or eliminate environmental impacts associated with projectiles. Environmental management practices to maintain or to improve the condition of ranges is evolving and will continue to evolve.

(i) Unnecessary litigation and unnecessary regulation by governmental agencies of sport shooting and training ranges impairs the ability of residents of this state to ensure safe handling of firearms and to enjoy the recreational opportunities ranges provide. The cost of defending these actions is prohibitive and threatens to bankrupt and destroy the sport shooting and training range industry.

(j) The Department of Environmental Protection does not have nor has it ever had authority to force permitting requirements of part IV of chapter 403 on owners and operators of sport shooting and training ranges.

(k) The elimination of sport shooting ranges will unnecessarily impair the ability of residents of this state to exercise and practice their constitutional guarantees under the Second Amendment to the United States Constitution and under s. 8, Art. I of the State Constitution.

(2) LEGISLATIVE INTENT.—The Legislature intends to protect public and private sport shooting or training range owners, operators, users, employees, agents, contractors, customers, lenders, and insurers from lawsuits and other legal actions by the state, special purpose districts, or political subdivisions and to promote maximum flexibility for implementation of environmental management practices and of the principles of risk-based corrective action pursuant to s. 376.30701. It is also the intent of the Legislature that legal action against sport shooting and training ranges will only be a last-resort option and be available only to the department and only after all reasonable efforts to resolve disputes at shooting ranges, including compliance assistance, negotiations, and alternative dispute resolution, have been attempted.

(3) DEFINITIONS.—As used in this act:

(a) "Department" means the Department of Environmental Protection.

(b) "Operator" means any person who operates or has operated a sport shooting or training range.

(c) "Owner" means any person who owns or has owned a sport shooting or training range or any interest therein.

(d) "Projectile" means any object expelled, propelled, discharged, shot, or otherwise released from a firearm, BB gun, airgun, or similar device, including, but not limited to, gunpowder, ammunition, lead, shot, skeet, and trap targets and associated chemicals, derivatives, and constituents thereof.

(e) "Environmental management practices" includes but is not limited to Best Management Practices for Environmental Stewardship of Florida Shooting Ranges as developed by the Department of Environmental Protection. Such practices include, but are not limited to, control and containment of projectiles, prevention of the migration of projectiles and their constituents to ground and surface water, periodic removal and recycling of projectiles, and documentation of actions taken.

(f) "Environment" means the air, water, surface water, sediment, soil, and groundwater and other natural and manmade resources of this state.

(g) "User" means any person, partner, joint venture, business or social entity, or corporation, or any group of the foregoing, organized or united for a business, sport, or social purpose.

(h) "Sport shooting and training range" or "range" means any area that has been designed, or operated for the use of, firearms, rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, BB guns, airguns, or similar devices, or any other type of sport or training shooting.

(4) DUTIES.—

(a) No later than January 1, 2005, the department shall make a good faith effort to provide copies of the Best Management Practices for Environmental Stewardship of Florida Shooting Ranges to all owners or operators of sport shooting or training ranges. The department shall also provide technical assistance with implementing environmental management practices, which may include workshops, demonstrations, or other guidance, if any owner or operator of sport shooting or training ranges requests such assistance.

(b) No later than January 1, 2006, sport shooting or training range owners, operators, tenants, or occupants shall implement situation appropriate environmental management practices.

(c) If contamination is suspected or identified by any owner, operator, tenant, or occupant of sport shooting or training ranges, any owner, operator, tenant, or occupant of sport shooting or training ranges may request that the department assist with or perform contamination assessment, including, but not limited to, assistance preparing and presenting a plan to confirm the presence and extent of contamination.

(d) If contamination is suspected or identified by a third-party complaint or adjacent property sampling events, the department shall give 60 days' notice to the sport shooting or training range owner, operator, tenant, or occupant of the department's intent to enter the site for the purpose of investigating potential sources of contamination. The department may assist with or perform contamination assessment, including, but not limited to, assistance preparing and presenting a plan to confirm the presence and extent of contamination.

(e) If the department confirms contamination under paragraph (c) or paragraph (d), principles of risk-based corrective action pursuant to s. 376.30701 shall be applied to sport shooting or training ranges. Application of the minimum risk-based corrective action principles shall be the primary responsibility of the sport shooting

range or training range owner or operator for implementation, however, the department may assist in these efforts. Risk-based corrective action plans used for these cleanups shall be based upon the presumption that the sport shooting or training range is an industrial use and not a residential use and will continue to be operated as a sport shooting or training range.

(5) SPORT SHOOTING AND TRAINING RANGE PROTECTION.—

(a) Notwithstanding any other provision of law, any public or private owner, operator, employee, agent, contractor, customer, lender, insurer, or user of any sport shooting or training range located in this state shall have immunity from lawsuits and other legal actions from the state and any of its agencies, special purpose districts, or political subdivisions for any claims of any kind associated with the use, release, placement, deposition, or accumulation of any projectile in the environment, on or under that sport shooting or training range, or any other property over which the range has an easement, leasehold, or other legal right of use, if the sport shooting or training range owner or operator has made a good faith effort to comply with subsection (4).

(b) Nothing in this act is intended to impair or diminish the private property rights of owners of property adjoining a sport shooting or training range.

(c) The sport shooting and training range protections provided by this act are supplemental to any other protections provided by general law.

(6) WITHDRAWALS OF CLAIMS AND RECOVERY OF EXPENSES AND ATTORNEY'S FEES.—

(a) Within 90 days after the effective date of this act becoming law, all claims by the state and any of its agencies, special purpose districts, or political subdivisions against sport shooting or training ranges pending in any court of this state or before any administrative agency on January 1, 2004, shall be withdrawn. The termination of such cases shall have no effect on the defendant's cause of action for damages, reasonable attorney's fees, and costs.

(b) In any action filed in violation of this act after the effective date of this act, the defendant shall recover all expenses resulting from such action from the governmental body, person, or entity bringing such unlawful action.

(7) PENALTIES.—Any official, agent, or employee of a county, municipality, town, special purpose district, or other political subdivision or agent of the state, while he or she was acting in his or her official capacity and within the scope of his or her employment or office, who intentionally and maliciously violates the provisions of this section or is party to bringing an action in violation of this section commits a misdemeanor of the first degree, punishable as provided in ss. 775.082 and 775.083.

(8) PREEMPTION.—Except as expressly provided by general law, the Legislature hereby declares that it is occupying the whole field of regulation of firearms and ammunition use at sport shooting and training ranges, including the environmental effects of projectile deposition at sport shooting and training ranges.

(9) The provisions of this act shall supersede any conflicting provisions of chapter 376 or chapter 403.

(10) CONSTRUCTION.—This act shall be liberally construed to effectuate its remedial and deterrent purposes.

History.—s. 1, ch. 2004-56.

790.335 Prohibition of registration of firearms; electronic records.—

(1) LEGISLATIVE FINDINGS AND INTENT.—

(a) The Legislature finds and declares that:

1. The right of individuals to keep and bear arms is guaranteed under both the Second Amendment to the United States Constitution and s. 8, Art. I of the State Constitution.

2. A list, record, or registry of legally owned firearms or law-abiding firearm owners is not a law enforcement tool and can become an instrument for profiling, harassing, or abusing law-abiding citizens based on their choice to own a firearm and exercise their Second Amendment right to keep and bear arms as guaranteed under the United States Constitution. Further, such a list, record, or registry has the potential to fall into the wrong hands and become a shopping list for thieves.

3. A list, record, or registry of legally owned firearms or law-abiding firearm owners is not a tool for fighting terrorism, but rather is an instrument that can be used as a means to profile innocent citizens and to harass and abuse American citizens based solely on their choice to own firearms and exercise their Second Amendment right to keep and bear arms as guaranteed under the United States Constitution.

4. Law-abiding firearm owners whose names have been illegally recorded in a list, record, or registry are entitled to redress.

(b) The Legislature intends through the provisions of this section to:

1. Protect the right of individuals to keep and bear arms as guaranteed under both the Second Amendment to the United States Constitution and s. 8, Art. I of the State Constitution.

2. Protect the privacy rights of law-abiding firearm owners.

(2) PROHIBITIONS.—No state governmental agency or local government, special district, or other political subdivision or official, agent, or employee of such state or other governmental entity or any other person, public or private, shall knowingly and willfully keep or cause to be kept any list, record, or registry of privately owned firearms or any list, record, or registry of the owners of those firearms.

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

(a) Records of firearms that have been used in committing any crime.

(b) Records relating to any person who has been convicted of a crime.

(c) Records of firearms that have been reported stolen that are retained for a period not in excess of 10 days after such firearms are recovered. Official documentation recording the theft of a recovered weapon may be maintained no longer than the balance of the year entered, plus 2 years.

(d) Firearm records that must be retained by firearm dealers under federal law, including copies of such records transmitted to law enforcement agencies. However, no state governmental agency or local government, special district, or other political subdivision or official, agent, or employee of such state or other governmental entity or any other person, private or public, shall accumulate, compile, computerize, or otherwise collect or convert such written records into any form of list, registry, or database for any purpose.

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

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

(f) Firearm records, including paper pawn transaction forms and contracts on firearm transactions, required by chapters 538 and 539.

1. Electronic firearm records held pursuant to chapter 538 may only be kept by a secondhand dealer for 30 days after the date of the purchase of the firearm by the secondhand dealer.

2. Electronic firearm records held pursuant to chapter 539 may only be kept by a pawnbroker for 30 days after the expiration of the loan that is secured by a firearm or 30 days after the date of purchase of a firearm, whichever is applicable.

3. Except as required by federal law, any firearm records kept pursuant to chapter 538 or chapter 539 shall not, at any time, be electronically transferred to any public or private entity, agency, business, or enterprise, nor shall any such records be copied or transferred for purposes of accumulation of such records into lists, registries, or databases.

4. Notwithstanding subparagraph 3., secondhand dealers and pawnbrokers may electronically submit firearm transaction records to the appropriate law enforcement agencies as required by chapters 538 and 539; however, the law enforcement agencies may not electronically submit such records to any other person or entity and must destroy such records within 60 days after receipt of such records.

5. Notwithstanding subparagraph 3., secondhand dealers and pawnbrokers may electronically submit limited firearms records consisting solely of the manufacturer, model, serial number, and caliber of pawned or purchased firearms to a third-party private provider that is exclusively incorporated, exclusively owned, and exclusively operated in the United States and that restricts access to such information to only appropriate law enforcement agencies for legitimate law enforcement purposes. Such records must be destroyed within 30 days by the third-party provider. As a condition of receipt of such records, the third-party provider must agree in writing to comply with the requirements of this section. Any pawnbroker or secondhand dealer who contracts with a third-party provider other than as provided in this act or electronically transmits any records of firearms transactions to any third-party provider other than the records specifically allowed by this paragraph commits a felony of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(g) Records kept by the Department of Law Enforcement of NCIC transactions to the extent required by federal law and a log of dates of requests for criminal history record checks, unique approval and nonapproval numbers, license identification numbers, and transaction numbers corresponding to such dates.

(h) Records of an insurer that, as a condition to providing insurance against theft or loss of a firearm, identify such firearm. Such records may not be sold, commingled with records relating to other firearms, or transferred to any other person or entity. The insurer may not keep a record of such firearm more than 60 days after the policy of insurance expires or after notification by the insured that the insured is no longer the owner of such firearm.

(i) Lists of customers of a firearm dealer retained by such dealer, provided that such lists do not disclose the particular firearms purchased. Such lists, or any parts thereof, may not be sold, commingled with records relating to other firearms, or transferred to any other person or entity.

(j) Sales receipts retained by the seller of firearms or by a person providing credit for such purchase, provided that such receipts shall not serve as or be used for the creation of a database for registration of firearms.

(k) Personal records of firearms maintained by the owner of such firearms.

(l) Records maintained by a business that stores or acts as the selling agent of firearms on behalf of the lawful owner of the firearms.

(m) Membership lists of organizations comprised of firearm owners.

(n) Records maintained by an employer or contracting entity of the firearms owned by its officers, employees, or agents, if such firearms are used in the course of business performed on behalf of the employer.

(o) Records maintained pursuant to s. 790.06 by the Department of Agriculture and Consumer Services of a person who was a licensee within the prior 2 years.

(p) Records of firearms involved in criminal investigations, criminal prosecutions, criminal appeals, and postconviction motions, civil proceedings relating to the surrender or seizure of firearms including protective injunctions, Baker Act commitments, and sheriff's levies pursuant to court judgments, and voluntary surrender by the owner or custodian of the firearm.

(q) Paper documents relating to firearms involved in criminal cases, criminal investigations, and criminal prosecutions, civil proceedings relating to the surrender or seizure of firearms including protective injunctions, Baker Act commitments, and sheriff's levies pursuant to court judgments, and voluntary surrender by the owner or custodian of the firearm.

(r) Noncriminal records relating to the receipt, storage or return of firearms, including, but not limited to, records relating to firearms impounded for storage or safekeeping, receipts proving that a firearm was returned to the rightful owner and supporting records of

identification and proof of ownership, or records relating to firearms impounded pursuant to levies or court orders, provided, however, that such records shall not be compiled, sorted, or otherwise arranged into any lists, indexes, or registries of firearms or firearms owners.

(4) PENALTIES.—

(a) Any person who, or entity that, violates a provision of this section commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

(b) Except as required by the provisions of s. 16, Art. I of the State Constitution or the Sixth Amendment to the United States Constitution, no public funds shall be used to defend the unlawful conduct of any person charged with a violation of this section, unless the charges against such person are dismissed or such person is determined to be not guilty at trial. Notwithstanding this paragraph, public funds may be expended to provide the services of the office of public defender or court-appointed conflict counsel as provided by law.

(c) The governmental entity, or the designee of such governmental entity, in whose service or employ a list, record, or registry was compiled in violation of this section may be assessed a fine of not more than $5 million, if the court determines that the evidence shows that the list, record, or registry was compiled or maintained with the knowledge or complicity of the management of the governmental entity. The Attorney General may bring a civil cause of action to enforce the fines assessed under this paragraph.

(d) The state attorney in the appropriate jurisdiction shall investigate complaints of criminal violations of this section and, where evidence indicates a violation may have occurred, shall prosecute violators.

(5) ELECTRONIC RECORDS.—Secondhand dealers and pawnbrokers who electronically submit firearms transaction records to the appropriate law enforcement agencies as required by chapters 538 and 539 shall submit the name of the manufacturer and caliber information of each firearm in Florida Crime Information Center coding, and shall include the model and serial number of each firearm.

(6) CONSTRUCTION.—This section shall be construed to effectuate its remedial and deterrent purposes. This section may not be construed to grant any substantive, procedural privacy right or civil claim to any criminal defendant, and a violation of this section may not be grounds for the suppression of evidence in any criminal case.

History.—s. 1, ch. 2004-59; s. 9, ch. 2006-201; s. 1, ch. 2009-229.

790.336 Lists, records, or registries to be destroyed.—Any list, record, or registry maintained or under construction on the effective date of this act shall be destroyed, unless prohibited by law, within 60 calendar days after this act becomes law. Thereafter, failure to destroy any such list, record, or registry may result in prosecution under this act.

History.—s. 2, ch. 2004-59.

790.338 Medical privacy concerning firearms; prohibitions; penalties; exceptions.—

(1) A health care practitioner licensed under chapter 456 or a health care facility licensed under chapter 395 may not intentionally enter any disclosed information concerning firearm ownership into the patient's medical record if the practitioner knows that such information is not relevant to the patient's medical care or safety, or the safety of others.

(2) A health care practitioner licensed under chapter 456 or a health care facility licensed under chapter 395 shall respect a patient's right to privacy and should refrain from making a written inquiry or asking questions concerning the ownership of a firearm or ammunition by the patient or by a family member of the patient, or the presence of a firearm in a private home or other domicile of the patient or a family member of the patient. Notwithstanding this provision, a health care practitioner or health care facility that in good faith believes that this information is relevant to the patient's medical care or safety, or the safety of others, may make such a verbal or written inquiry.

(3) Any emergency medical technician or paramedic acting under the supervision of an emergency medical services medical director under chapter 401 may make an inquiry concerning the possession or presence of a firearm if he or she, in good faith, believes that information regarding the possession of a firearm by the patient or the presence of a firearm in the home or domicile of a patient or a patient's family member is necessary to treat a patient during the course and scope of a medical emergency or that the presence or possession of a firearm would pose an imminent danger or threat to the patient or others.

(4) A patient may decline to answer or provide any information regarding ownership of a firearm by the patient or a family member of the patient, or the presence of a firearm in the domicile of the patient or a family member of the patient. A patient's decision not to answer a question relating to the presence or ownership of a firearm does not alter existing law regarding a physician's authorization to choose his or her patients.

(5) A health care practitioner licensed under chapter 456 or a health care facility licensed under chapter 395 may not discriminate against a patient based solely upon the patient's exercise of the constitutional right to own and possess firearms or ammunition.

(6) A health care practitioner licensed under chapter 456 or a health care facility licensed under chapter 395 shall respect a patient's legal right to own or possess a firearm and should refrain from unnecessarily harassing a patient about firearm ownership during an examination.

(7) An insurer issuing any type of insurance policy pursuant to chapter 627 may not deny coverage, increase any premium, or otherwise discriminate against any insured or applicant for insurance on the basis of or upon reliance upon the lawful ownership or possession of a firearm or ammunition or the lawful use or storage of a firearm or ammunition. Nothing herein shall prevent an insurer from considering the fair market value of firearms or ammunition in the setting of premiums for scheduled personal property coverage.

(8) Violations of the provisions of subsections (1)-(4) constitute grounds for disciplinary action under ss. 456.072(2) and 395.1055.

History.—s. 1, ch. 2011-112.

CHAPTER 776

JUSTIFIABLE USE OF FORCE

776.012 Use or threatened use of force in defense of person.
776.013 Home protection; use or threatened use of deadly force; presumption of fear of death or great bodily harm.
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776.032 Immunity from criminal prosecution and civil action for justifiable use or threatened use of force.
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776.012 Use or threatened use of force in defense of person.—

(1) A person is justified in using or threatening to use force, except deadly force, against another when and to the extent that the person reasonably believes that such conduct is necessary to defend himself or herself or another against the other's imminent use of unlawful force. A person who uses or threatens to use force in accordance with this subsection does not have a duty to retreat before using or threatening to use such force.

(2) A person is justified in using or threatening to use deadly force if he or she reasonably believes that using or threatening to use such force is necessary to prevent imminent death or great bodily harm to himself or herself or another or to prevent the imminent commission of a forcible felony. A person who uses or threatens to use deadly force in accordance with this subsection does not have a duty to retreat and has the right to stand his or her ground if the person using or threatening to use the deadly force is not engaged in a criminal activity and is in a place where he or she has a right to be.

History.—s. 13, ch. 74-383; s. 1188, ch. 97-102; s. 2, ch. 2005-27; s. 3, ch. 2014-195.

776.013 Home protection; use or threatened use of deadly force; presumption of fear of death or great bodily harm.—

(1) A person is presumed to have held a reasonable fear of imminent peril of death or great bodily harm to himself or herself or another when using or threatening to use defensive force that is intended or likely to cause death or great bodily harm to another if:

(a) The person against whom the defensive force was used or threatened was in the process of unlawfully and forcefully entering, or had unlawfully and forcibly entered, a dwelling, residence, or occupied vehicle, or if that person had removed or was attempting to remove another against that person's will from the dwelling, residence, or occupied vehicle; and

(b) The person who uses or threatens to use defensive force knew or had reason to believe that an unlawful and forcible entry or unlawful and forcible act was occurring or had occurred.

(2) The presumption set forth in subsection (1) does not apply if:

(a) The person against whom the defensive force is used or threatened has the right to be in or is a lawful resident of the dwelling, residence, or vehicle, such as an owner, lessee, or titleholder, and there is not an injunction for protection from domestic violence or a written pretrial supervision order of no contact against that person; or

(b) The person or persons sought to be removed is a child or grandchild, or is otherwise in the lawful custody or under the lawful guardianship of, the person against whom the defensive force is used or threatened; or

(c) The person who uses or threatens to use defensive force is engaged in a criminal activity or is using the dwelling, residence, or occupied vehicle to further a criminal activity; or

(d) The person against whom the defensive force is used or threatened is a law enforcement officer, as defined in s. 943.10(14), who enters or attempts to enter a dwelling, residence, or vehicle in the performance of his or her official duties and the officer identified himself or herself in accordance with any applicable law or the person using or threatening to use force knew or reasonably should have known that the person entering or attempting to enter was a law enforcement officer.

(3) A person who is attacked in his or her dwelling, residence, or vehicle has no duty to retreat and has the right to stand his or her ground and use or threaten to use force, including deadly force, if he or she uses or threatens to use force in accordance with s. 776.012(1) or (2) or s. 776.031(1) or (2).

(4) A person who unlawfully and by force enters or attempts to enter a person's dwelling, residence, or occupied vehicle is presumed to be doing so with the intent to commit an unlawful act involving force or violence.

(5) As used in this section, the term:

(a) "Dwelling" means a building or conveyance of any kind, including any attached porch, whether the building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it, including a tent, and is designed to be occupied by people lodging therein at night.

(b) "Residence" means a dwelling in which a person resides either temporarily or permanently or is visiting as an invited guest.

(c) "Vehicle" means a conveyance of any kind, whether or not motorized, which is designed to transport people or property.

History.—s. 1, ch. 2005-27; s. 4, ch. 2014-195.

776.031 Use or threatened use of force in defense of property.—

(1) A person is justified in using or threatening to use force, except deadly force, against another when and to the extent that the person reasonably believes that such conduct is necessary to prevent or terminate the other's trespass on, or other tortious or criminal interference with, either real property other than a dwelling or personal property, lawfully in his or her possession or in the possession of another who is a member of his or her immediate family or household or of a person whose property he or she has a legal duty to protect. A person who uses or threatens to use force in accordance with this subsection does not have a duty to retreat before using or threatening to use such force.

(2) A person is justified in using or threatening to use deadly force only if he or she reasonably believes that such conduct is necessary to prevent the imminent commission of a forcible felony. A person who uses or threatens to use deadly force in accordance with this subsection does not have a duty to retreat and has the right to stand his or her ground if the person using or threatening to use the deadly force is not engaged in a criminal activity and is in a place where he or she has a right to be.

History.—s. 13, ch. 74-383; s. 1189, ch. 97-102; s. 3, ch. 2005-27; s. 5, ch. 2014-195.

776.032 Immunity from criminal prosecution and civil action for justifiable use or threatened use of force.—

(1) A person who uses or threatens to use force as permitted in s. 776.012, s. 776.013, or s. 776.031 is justified in such conduct and is immune from criminal prosecution and civil action for the use or threatened use of such force by the person, personal representative, or heirs of the person against whom the force was used or threatened, unless the person against whom force was used or threatened is a law enforcement officer, as defined in s. 943.10(14), who was acting in the performance of his or her official duties and the officer identified himself or herself in accordance with any applicable law or the person using or threatening to use force knew or reasonably should have known that the person was a law enforcement officer. As used in this subsection, the term "criminal prosecution" includes arresting, detaining in custody, and charging or prosecuting the defendant.

(2) A law enforcement agency may use standard procedures for investigating the use or threatened use of force as described in subsection (1), but the agency may not arrest the person for using or threatening to use force unless it determines that there is probable cause that the force that was used or threatened was unlawful.

(3) The court shall award reasonable attorney's fees, court costs, compensation for loss of income, and all expenses incurred by the defendant in defense of any civil action brought by a plaintiff if the court finds that the defendant is immune from prosecution as provided in subsection (1).

History.—s. 4, ch. 2005-27; s. 6, ch. 2014-195.

776.041 Use or threatened use of force by aggressor.—The justification described in the preceding sections of this chapter is not available to a person who:

(1) Is attempting to commit, committing, or escaping after the commission of, a forcible felony; or

(2) Initially provokes the use or threatened use of force against himself or herself, unless:

(a) Such force or threat of force is so great that the person reasonably believes that he or she is in imminent danger of death or great bodily harm and that he or she has exhausted every reasonable means to escape such danger other than the use or threatened use of force which is likely to cause death or great bodily harm to the assailant; or

(b) In good faith, the person withdraws from physical contact with the assailant and indicates clearly to the assailant that he or she desires to withdraw and terminate the use or threatened use of force, but the assailant continues or resumes the use or threatened use of force.

History.—s. 13, ch. 74-383; s. 1190, ch. 97-102; s. 7, ch. 2014-195.

776.05 Law enforcement officers; use of force in making an arrest.—A law enforcement officer, or any person whom the officer has summoned or directed to assist him or her, need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. The officer is justified in the use of any force:

(1) Which he or she reasonably believes to be necessary to defend himself or herself or another from bodily harm while making the arrest;

(2) When necessarily committed in retaking felons who have escaped; or

(3) When necessarily committed in arresting felons fleeing from justice. However, this subsection shall not constitute a defense in any civil action for damages brought for the wrongful use of deadly force unless the use of deadly force was necessary to prevent the arrest from being defeated by such flight and, when feasible, some warning had been given, and:

(a) The officer reasonably believes that the fleeing felon poses a threat of death or serious physical harm to the officer or others; or

(b) The officer reasonably believes that the fleeing felon has committed a crime involving the infliction or threatened infliction of serious physical harm to another person.

History.—s. 13, ch. 74-383; s. 1, ch. 75-64; s. 1, ch. 87-147; s. 54, ch. 88-381; s. 1191, ch. 97-102.

776.051 Use or threatened use of force in resisting arrest or making an arrest or in the execution of a legal duty; prohibition.—

(1) A person is not justified in the use or threatened use of force to resist an arrest by a law enforcement officer, or to resist a law enforcement officer who is

engaged in the execution of a legal duty, if the law enforcement officer was acting in good faith and he or she is known, or reasonably appears, to be a law enforcement officer.

(2) A law enforcement officer, or any person whom the officer has summoned or directed to assist him or her, is not justified in the use of force if the arrest or execution of a legal duty is unlawful and known by him or her to be unlawful.

History.—s. 13, ch. 74-383; s. 1192, ch. 97-102; s. 1, ch. 2008-67; s. 8, ch. 2014-195.

776.06 Deadly force by a law enforcement or correctional officer.—

(1) As applied to a law enforcement officer or correctional officer acting in the performance of his or her official duties, the term "deadly force" means force that is likely to cause death or great bodily harm and includes, but is not limited to:

(a) The firing of a firearm in the direction of the person to be arrested, even though no intent exists to kill or inflict great bodily harm; and

(b) The firing of a firearm at a vehicle in which the person to be arrested is riding.

(2)(a) The term "deadly force" does not include the discharge of a firearm by a law enforcement officer or correctional officer during and within the scope of his or her official duties which is loaded with a less-lethal munition. As used in this subsection, the term "less-lethal munition" means a projectile that is designed to stun, temporarily incapacitate, or cause temporary discomfort to a person without penetrating the person's body.

(b) A law enforcement officer or a correctional officer is not liable in any civil or criminal action arising out of the use of any less-lethal munition in good faith during and within the scope of his or her official duties.

History.—s. 13, ch. 74-383; s. 1, ch. 99-272; s. 9, ch. 2014-195.

776.07 Use of force to prevent escape.—

(1) A law enforcement officer or other person who has an arrested person in his or her custody is justified in the use of any force which he or she reasonably believes to be necessary to prevent the escape of the arrested person from custody.

(2) A correctional officer or other law enforcement officer is justified in the use of force, including deadly force, which he or she reasonably believes to be necessary to prevent the escape from a penal institution of a person whom the officer reasonably believes to be lawfully detained in such institution under sentence for an offense or awaiting trial or commitment for an offense.

History.—s. 13, ch. 74-383; s. 7, ch. 95-283; s. 1193, ch. 97-102.

776.08 Forcible felony.—"Forcible felony" means treason; murder; manslaughter; sexual battery; carjacking; home-invasion robbery; robbery; burglary; arson; kidnapping; aggravated assault; aggravated battery; aggravated stalking; aircraft piracy; unlawful throwing, placing, or discharging of a destructive device or bomb; and any other felony which involves the use or threat of physical force or violence against any individual.

History.—s. 13, ch. 74-383; s. 4, ch. 75-298; s. 289, ch. 79-400; s. 5, ch. 93-212; s. 10, ch. 95-195.

776.085 Defense to civil action for damages; party convicted of forcible or attempted forcible felony.—

(1) It shall be a defense to any action for damages for personal injury or wrongful death, or for injury to property, that such action arose from injury sustained by a participant during the commission or attempted commission of a forcible felony. The defense authorized by this section shall be established by evidence that the participant has been convicted of such forcible felony or attempted forcible felony, or by proof of the commission of such crime or attempted crime by a preponderance of the evidence.

(2) For the purposes of this section, the term "forcible felony" shall have the same meaning as in s. 776.08.

(3) Any civil action in which the defense recognized by this section is raised shall be stayed by the court on the motion of the civil defendant during the pendency of any criminal action which forms the basis for the defense, unless the court finds that a conviction in the criminal action would not form a valid defense under this section.

(4) In any civil action where a party prevails based on the defense created by this section:

(a) The losing party, if convicted of and incarcerated for the crime or attempted crime, shall, as determined by the court, lose any privileges provided by the correctional facility, including, but not limited to:

1. Canteen purchases;
2. Telephone access;
3. Outdoor exercise;
4. Use of the library; and
5. Visitation.

(b) The court shall award a reasonable attorney's fee to be paid to the prevailing party in equal amounts by the losing party and the losing party's attorney; however, the losing party's attorney is not personally responsible if he or she has acted in good faith, based on the representations of his or her client. If the losing party is incarcerated for the crime or attempted crime and has insufficient assets to cover payment of the costs of the action and the award of fees pursuant to this paragraph, the party shall, as determined by the court, be required to pay by deduction from any payments the prisoner receives while incarcerated.

(c) If the losing party is incarcerated for the crime or attempted crime, the court shall issue a written order containing its findings and ruling pursuant to paragraphs (a) and (b) and shall direct that a certified copy be forwarded to the appropriate correctional institution or facility.

History.—s. 1, ch. 87-187; s. 72, ch. 96-388.

776.09 Retention of records pertaining to persons found to be acting in lawful self-defense; expunction of criminal history records.—

(1) Whenever the state attorney or statewide prosecutor dismisses an information, indictment, or other charging document, or decides not to file an information, indictment, or other charging document because of a finding that the person accused acted in lawful self-defense pursuant to the provisions related to the

justifiable use of force in this chapter, that finding shall be documented in writing and retained in the files of the state attorney or statewide prosecutor.

(2) Whenever a court dismisses an information, indictment, or other charging document because of a finding that the person accused acted in lawful self-defense pursuant to the provisions related to the justifiable use of force in this chapter, that finding shall be recorded in an order or memorandum, which shall be retained in the court's records.

(3) Under either condition described in subsection (1) or subsection (2), the person accused may apply for a certificate of eligibility to expunge the associated criminal history record, pursuant to s. 943.0585(5), notwithstanding the eligibility requirements prescribed in s. 943.0585(1)(b) or (2).

History.—s. 10, ch. 2014-195.