

IN THE CIRCUIT COURT FOR THE EIGHTH JUDICIAL CIRCUIT
IN AND FOR ALACHUA COUNTY, FLORIDA

FLORIDA CARRY, INC.,
a Florida non-profit corporation,

Plaintiff,

v.

UNIVERSITY OF FLORIDA,
a state university; and
BERNIE MACHEN, an individual,

Defendants.

Case No: 2014-CA-000104

Division: J

MOTION FOR SUMMARY JUDGMENT ON AMENDED COMPLAINT

Defendants University of Florida and Bernie Machen move for summary judgment as to all claims on the grounds set forth below. Plaintiff, Florida Carry, Inc., seeks declaratory and injunctive relief as well as statutory fines and damages against defendant University of Florida and its president, Bernie Machen. Plaintiff asserts two distinct claims:

1. Florida Carry claims that the University is violating Article I, Section 8 of the Florida Constitution and Sections 790.33, 790.25(5) and 790.06(12)(b), Florida Statutes, in connection with the possession of firearms in motor vehicles on property of the University.

2. Florida Carry claims that the University is violating Article I, Section 8 of the Florida Constitution, and Section 790.25(3)(n), Florida Statutes, in connection with possession of firearms in housing located on property of the University.

Defendants move for summary judgment in their favor on the first claim on the ground that the Court lacks subject matter jurisdiction due to the absence of an actual controversy sufficient to require a declaratory judgment. Defendants move for summary judgment as to both

claims on the ground that there are no material facts in dispute and defendants are entitled to judgment as a matter of law.

UNDISPUTED FACTS

In 1992, the Legislature enacted Section 790.115, Florida Statutes. Among other things, the law prohibits possession of a firearm “at a school-sponsored event or on the property of any school” The statute defines “school” to mean public and private schools at all levels including post-secondary schools.¹ The statute contains a number of exceptions, *e.g.*, law enforcement officers and persons authorized to possess a firearm for particular activities. One of those exceptions permits possession of a firearm in a vehicle on property of a school pursuant to Section 790.25(5), with the proviso “that school districts may adopt written and published policies that waive the exception in this subparagraph for purposes of student and campus parking privileges.”

On December 10, 2013, the First District Court of Appeal, in an *en banc* opinion, reversed a circuit court decision and held that the term “school districts” in Section 790.115 does not include postsecondary schools and that postsecondary schools cannot therefore invoke the waiver provision and prohibit possession of a firearm in a motor vehicle. *Florida Carry, Inc. v. University of North Florida*, 2013 WL 6480789 (Fla. 1st DCA 2013) [“the UNF decision”]. At the time of the UNF decision, the University had policies in place that prohibited possession of firearms anywhere on University property, including in motor vehicles, with certain exceptions. However, immediately after becoming aware of the UNF decision, the University General Counsel, Jamie Lewis Keith, began taking steps to ensure that all University personnel with

¹ Full copies of all cited statutes are attached to this motion. The prohibitions against firearms under Section 790.115(2)(a) expressly apply to “property of any school,” without limitation based on use of such property.

responsibilities relating to enforcement of University firearms policy understood the First District opinion and would comply with Florida law as interpreted by the court. [Keith Aff. ¶ 5, 6] In addition, the University's legal department and Information Technology Office began a thorough review of the University's regulations, publications and practices to ensure that they were in compliance with Florida law on firearms in vehicles as interpreted by the UNF decision. [Keith Aff. ¶ 8]

At a Presidential Cabinet meeting on December 17, 2013, one week after the UNF decision was issued, General Counsel Keith advised the University's Cabinet of Vice Presidents of the UNF decision, and the President emphasized to the Cabinet that the University would comply with the law as so interpreted. [Keith Aff. ¶ 7]

On January 7, 2014, General Counsel Keith had a telephone conversation with the Executive Director of Florida Carry. In that conversation, Keith informed the Executive Director that the University fully intends to comply, and is complying, with Florida law on firearms as interpreted by the UNF decision, had taken immediate steps to ensure that University personnel responsible for firearms enforcement were aware of the UNF decision, understood its meaning and would comply, and that the University had made, and would continue to make, clear public statements that the University intended to comply with the law. [Keith Aff. ¶¶ 3, 4]

ARGUMENT

There Is No Controversy Regarding Guns In Motor Vehicles That Requires Declaratory or Injunctive Relief

In order to establish jurisdiction, a party seeking declaratory or injunctive relief must make an adequate showing "that there is a bona fide dispute with an actual present need for judicial intervention." *Florida Homebuilders Ass'n, Inc. v. City of Tallahassee*, 15 So. 2d 612, 613 (2009); *See also Martinez v. Scanlan*, 582 So. 2d 1167 (Florida 1991). Not only has the

Plaintiff failed to demonstrate the existence of a current actual controversy concerning Florida Law permitting firearms in vehicles on property of a school, University General Counsel Keith's affidavit establishes that the University fully intends to comply and is complying with such Florida law, as interpreted by the UNF decision, and that the University has taken timely steps to ensure that its policies reflect such compliance.

The only allegations in the Amended Complaint suggesting the existence of a continuing controversy are found in paragraphs 24 and 26, in which Plaintiff cites an out-of-date footnote to the University's regulations and an out-of-date Human Resource Department guidance on workplace violence. The Keith affidavit attests to the fact that the policies reflected in those provisions have been timely revised to comply with the UNF decision and Plaintiff cannot cite any evidence to indicate that they have a reasonable fear that the University will not comply.

Plaintiff acknowledges that the University added a footnote to its firearms regulation making clear that it intends to fully comply with the UNF decision. However, Plaintiff complains that the footnote is inadequate for two reasons. First, Plaintiff states that the footnote fails to provide "a name of the decision, case number or case name, or other identifying information other than the date of the decision and the court which rendered the decision." Am. Cpt. ¶ 24. The University is not legally required to include any details of the case, only to comply with the decision, and it has made timely and conscientious efforts to ensure compliance and to publicly announce its intention to do so.

Although not required to do so, the University's footnote initially identified the case by court, subject and date, and promptly after Keith's January 7th conversation with Plaintiff's Executive Director, in a show of the University's good faith and sincere intention to identify the case and comply, the University revised its post-UNF decision footnote to add the docket

number and a reference to the defendant. [Keith Aff. ¶ 9]. Also, upon Keith's learning about the reference to firearms on campus in the Human Resource Services Department's guidance on workplace violence (which does not have the force of regulation in any event), and prior to the filing of Plaintiff's Amended Complaint, the University amended that guidance. [Keith Aff. ¶ 8].

Plaintiff also complains in paragraph 26 of the Amended Complaint, that "as of the filing of the original Complaint" the University's firearms policies that predated the UNF decision were still accessible on the University's website. Plaintiff apparently did not attempt to access the sites again prior to filing the Amended Complaint. Temporary access through local caches to superseded material, once identified, was rectified. This updating occurred within a reasonable period considering that the UNF decision was rendered on December 10, 2013 and the original Complaint was served just 36 days later, on January 15, 2014, even without considering the intervening holiday closure of the University from December 25, 2013 to January 1, 2014. In any case, plaintiffs have not and cannot produce evidence that the University is violating, or intends to violate, Florida law regarding possession of firearms in vehicles on property of the University.

The bottom line is that the University has made clear both privately and publicly that it fully intends to comply with Section 790.115(a)(2)3 (incorporating 790.25(5)) by permitting persons who meet the conditions set forth in the statute to possess firearms in their vehicles on property of the University. Despite the plaintiff's apparent desire to conjure up a controversy on the issue, a controversy simply does not exist and there is no basis or jurisdiction to render either declaratory or injunctive relief.

University Policies on the Possession of Firearms in Housing Located on University Property Complies with Florida law.

The Florida Constitution provides:

The right of the people to keep and bear arms in defense of themselves and of the lawful authority of the state shall not be infringed *except that the manner of bearing arms may be regulated by law.*

Fla. Const., Art. I, § 8 (emphasis added). Florida courts have consistently held that the italicized portion of Article I, Section 8 authorizes the Legislature to enact reasonable restrictions on the possession of firearms. *Rinzler v. Carson*, 262 So. 2d 661 (Fla. 1972); *Davis v. State*, 146 So. 2d 892 (Fla. 1962); *Robarge v. State*, 432 so. 2d 669 (Fla. 5th DCA 1983). In *Rinzler*, the Florida Supreme Court, after citing a number of cases in which firearms regulations were upheld, concluded:

In each of the four cited cases there is inherent in the holding of this Court the proposition that the right to keep and bear arms is not an absolute right, but is one which is subject to the right of the people through their legislature to enact valid police regulations to promote the health, morals, safety and general welfare of the people.

Rinzler, 252 So. 2d at 666.

Contrary to the thrust of the plaintiff's argument, the Legislature has not established a one-sided policy in which protection of the right to bear arms is made paramount to the exclusion of all other considerations. Thus, in its recent decision in *Florida Carry, Inc. v. University of North Florida*, 2013 WL at *9, the First District stated:

In regulating the manner of bearing arms, the legislature has attempted to balance this fundamental right with the safety of Florida citizens.

The statement accurately describes the Legislature's historic effort to strike this balance. In the statutory provisions cited by Plaintiff, the Legislature has indeed acted to recognize and protect the right to bear arms. But it has also acted to protect the safety and peace of mind of the public

from the misuse of firearms. The Legislature has prohibited persons from openly carrying a firearm in Florida unless otherwise expressly permitted by law, and such authorization is narrowly circumscribed. §790.053, Fla. Stat. Florida law prohibits persons from carrying concealed firearms or other weapons unless such persons have been duly licensed to carry a concealed weapon or otherwise authorized to do so by law. Even licensed persons, however, are not authorized to carry a concealed weapon in 15 categories of places in which the Legislature has deemed such restriction to be necessary to protect the public's safety and peace of mind. Among those categories are "any school, college, or professional athletic event not related to firearms" and "any college or university facility" unless the licensee and possession meet certain narrow criteria. §790.06(12)(a)9, 13.

In 1992, the Legislature enacted a more specific and comprehensive prohibition of the possession of firearms and other weapons on the property of any school, including postsecondary schools. The statute provides in pertinent part:

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

(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 wave the exception in this subparagraph for purposes of student and campus parking privileges.

For 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.

(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).

Notwithstanding the foregoing provisions, Florida Carry argues that the University is mandated by Florida law to permit students and other persons to possess firearms in dormitories and other housing located on University property. Plaintiff argues that this is required by Section 790.25(3)(n), which exempts from the provisions of Sections 790.053 and 790.06 “a person possessing arms at his or her home or place of business.” Consideration of the purpose and history of Sections 790.25 and 790.115(a)(2) and 790.25(5), and of simple logic compels a different conclusion.

Florida Carry argues that the prohibition of firearms on University property clearly set forth in Section 790.115(a)(2) is in conflict with Section 790.25(3)(n), which authorizes the possession of firearms at a person’s home. The plaintiff cites Section 790.25(4), which states “this act shall supersede any law, ordinance, or regulation in conflict herewith,” and argues that this provision trumps the prohibition of firearms on property of a school contained in Section 790.115. The plaintiff’s argument should be rejected for several reasons.

First, the Court is duty-bound to reconcile the two provisions if there is any reasonable basis for doing so. *Knowles v. Beverly Enterprises-Florida, Inc.*, 898 So. 2d 1 (Fla. 2004). In this case, the two provisions are actually not in conflict. Section 790.25(3), by its express language, amends only Section 790.053, which prohibits the open carrying of weapons, and 790.06, which provides for licensing of concealed weapons. The statute says nothing to suggest that it was intended to amend Section 790.115, which had not yet been enacted when the relevant

provision of Section 790.25 was enacted and has never been amended to do so, or to authorize the possession of weapons in University housing.

Second, Section 790.25 was initially enacted in 1965, at which time it contained the provision authorizing possession of a weapon at one's home or business. *See* s. 1, ch. 65-410. Section 790.115 was enacted twenty-seven years later in 1992 and, as the after-enacted law, is presumed to amend any earlier provision with which it conflicts. *Viering v. Florida Comm'n on Human Relations*, 128 S. 3d 967 (1st DCA 2013). The argument that Section 790.25 trumps even later-enacted laws that conflict with it, is untenable in light of the principle that a legislature cannot bind the hands of a future legislature by prohibiting amendments to statutory law. *Neu v. Miami Herald Pub. Co.*, 462 So. 2d 821 (1985). Furthermore, Section 790.115 contains a series of exceptions, none of which encompasses housing on university or other school property. The canon of statutory construction *expressio unius est exclusio alterius* holds that the expression of one thing in a statute, particularly an exception, is presumed to exclude all others. *Dobbs v. Sea Isle Hotel*, 56 So. 2d 341 (Fla. 1952). The canon has particular application in this case. Section 790.115 contains an exception expressly referencing Section 790.25(5) authorizing possession of firearms in vehicles. The Legislature's decision to cross-reference Section 790.25(5) as an exemption to the otherwise applicable prohibition of firearms on school property in Section 790.115, clearly indicates that the Legislature did not intend for the authorizations contained in Section 790.25 to apply to school property unless expressly so provided in Section 790.115.

There is an even more compelling indication that the Legislature did not intend for the home possession clause to apply on school property. At the time of its enactment, Section 790.115 contained the following exception from the prohibition of possessing firearms on property of a school:

[A] person may carry a firearm ... [i]n a vehicle pursuant to s. 790.25(5);

Thus, the Legislature expressly exempted by reference the authorization to possess firearms in vehicles contained in subsection (5) of Section 790.25, but tellingly failed to exempt the authorization for possession in one's home or place of business contained in subsection (3)(n) of the same Section 790.25. The conclusion is inescapable that the Legislature did not intend to authorize possession of firearms in dormitories and other housing located on university or other school property.

The conclusion compelled by application of fundamental rules of statutory construction is also compelled by the requirement to assume that the Legislature did not intend irrational consequences. *State v. Presidential Women's Center*, 937 So. 2d 114 (Fla. 2006). Section 790.25(3)(n) authorizes a person to possess firearms not only at person's home, but also at his or her "place of business." The consequence of plaintiff's argument would be that anyone employed to work on school property, including instructors and administrative, clerical and maintenance personnel, would be authorized to carry a firearm on school property; and this would apply to elementary and high schools as well as postsecondary schools.² Section 790.115 allows most persons to possess guns in vehicles as one of the very limited number of express exceptions to that Section's clear prohibition of the possession of guns by anyone on property of the University. Allowing students to possess guns in housing on University property and employees to possess guns almost anywhere on the property of the University would render Section 790.115 practically meaningless and is an irrational reading of this later-enacted statute.

² The place where a person is employed is included in the term "place of business" in Section 792.25(3)(n) even if the person has no proprietary interest in the business. *Brook v. State*, 999 So.2d 1093 (Fla. 5th DCA 2009); *State v. Commons*, 592 So. 2d 317 (Fla. 3d DCA 1992).

All of the foregoing considerations strongly support the conclusion that the Legislature intended to prohibit the possession of firearms on property of a university or other school except as expressly authorized in Section 790.115. By prohibiting the possession of firearms in housing located on University property, the University is not in violation of Florida law. To the contrary, it is compliant with the Legislature's express mandate that it enforce such prohibition.

S/ BARRY RICHARD
BARRY RICHARD
FLORIDA BAR NO. 105599
BRIDGET K. SMITHA
FLORIDA BAR NO. 0709581
GREENBERG TRAUIG, P.A.
101 EAST COLLEGE AVENUE
TALLAHASSEE, FL 32301
TELEPHONE: (850) 222-6891
FACSIMILE: (850) 681-0207
RICHARDB@GTLAW.COM
SMITHAB@GTLAW.COM
S: TASSINARIP@GTLAW.COM
S: ABBUHLC@GTLAW.COM

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was filed this 2nd day of

April, 2014 via the Florida ePortal, for service upon:

Eric J. Friday
Fletcher & Phillips
541 E. Monroe Street, Suite 1
Jacksonville, FL 32203
p: familylaw@fletcherandphillips.com
s: efriday@fletcherandphillips.com

Lesley McKinney
McKinney, Wilkes & Mee, PLLC
13400 S. Sutton Park Dr.
Suite 1204
Jacksonville, FL 32224
lesley@mwmfl.com

S/ BARRY RICHARD

TAL 451831163v5

AFFIDAVIT OF JAMIE LEWIS KEITH

STATE OF FLORIDA

COUNTY OF ALACHUA

BEFORE ME, the undersigned authority, on this date personally appeared Jamie Lewis Keith, who, after being by me duly sworn, deposes and says as follows:

1. I am the Vice President and General Counsel of University of Florida and have held this position since October 2006, and I am above the age of majority under Florida law.
2. On January 7, 2014, I had a telephone conversation with Sean Caranna who identified himself as the Executive Director of Florida Carry.
3. That telephone conversation is the only communication I have had--and, based on information and belief, that conversation is the only communication that my office has had--with Mr. Caranna or Florida Carry, Inc. or its representatives, until the filing of the instant lawsuit.
4. In that telephone conversation:
 - a. I informed and emphasized to Mr. Caranna throughout our conversation that the University fully intends to comply and is complying with Florida firearms and weapons statutes as interpreted by the December 10, 2013 First District Court of Appeal decision involving Florida Carry and the University of North Florida. (That decision is *Florida Carry, Inc. v. University of North Florida*, 2013 WL 6480789(12/10/2013).)
 - b. I informed Mr. Caranna that my office had met with the University's Police Chief right after the First District's decision was rendered to make sure the University Police Department was aware of the First District's decision, understood its meaning, and would comply with Florida law as determined by that decision.
 - c. I also informed Mr. Caranna that I am confident the University Police Chief understands the law as determined by the First District's decision, intends her Department to comply, and would require compliance.
 - d. I informed Mr. Caranna that the University Police Department policy on firearms on campus was the only University policy referencing firearms in vehicles, that none of the University's regulations reference firearms in vehicles, and that the Police Department policy was removed as a policy by the Police Department promptly after the First District Court of Appeal's decision.
 - e. I pointed Mr. Caranna to the footnote that the University had added to University of Florida Regulation 2.001--even though the University's regulations do not specifically reference firearms in vehicles--to make clear that the University will comply with Florida law concerning firearms in vehicles, as determined by the First District Court of Appeal's decision.
 - f. I informed Mr. Caranna that the University had also made and would continue to make public statements to the media that the University will comply with such law.

- g. Mr. Caranna never mentioned suing the University or President Machen and never referenced University housing or University housing policies.
 - h. Mr. Caranna stated that he could put his lawyer in touch with me to talk if there are any disagreements in interpretation of the firearms in vehicles statute, pointed me to some additional detail in Section 790.25(5), and said he would review the footnote with his lawyer.
5. Immediately upon the issuance and my first review of the First District Court of Appeal's decision, on December 10, 2013, I alerted senior officials, including the President, Chief of the University's Police Department, Vice President for Student Affairs, and Senior Vice President with responsibility for the Police Department.
 6. On December 11, 2013, the day after the First District Court of Appeal issued its 75-page opinion, I met with the University's Chief of Police and the Senior Vice President and Vice President who are responsible for the University's Police Department, and my office communicated with the Dean of Students office and the Vice President for Student Affairs to ensure the University's Police Department and the offices responsible for administering the University's student conduct policies and processes understood the decision and would comply with Florida law as interpreted by the First District Court of Appeal.
 7. At a Presidential Cabinet meeting on December 17, 2013, one week after that decision was issued, I advised the University's Cabinet of Vice Presidents about Florida law on firearms in vehicles as interpreted by the First District Court of Appeal and the President emphasized to the Cabinet that the University will comply with the law as so interpreted.
 8. Soon after issuance of the First District's December decision, my office and the information technology office began a thorough review of the University's regulations, publications and practices to be sure that they are in compliance with Florida law on firearms in vehicles as interpreted by the First District Court of Appeal, added the footnote to UF Regulation 2.001 to provide clarity respecting compliance, and took other appropriate steps to comply--including making a change to the Human Resource Services Department's workplace violence policy cited in plaintiff's complaint upon its coming to my office's attention. Although based on information and belief my office has completed this review, the University stands ready to take appropriate action to comply if we find any additional materials or practices that require action.
 9. Based on Mr. Caranna's pointing out some detailed language in Section 790.25(5), Florida Statutes, and even though the footnote already clearly stated that the University will comply with Florida law on firearms in vehicles as determined by the First District Court of Appeal in its December 10, 2013 decision, I inserted additional detail in the footnote to the University's regulations, which currently states:

“Intent/application: As university regulations and their implementation are subject to applicable law, the University will comply with Florida law governing firearms in vehicles under Section 790.25(5), Florida Statutes, including firearms that are securely encased or otherwise not readily accessible for immediate use in vehicles by individuals 18 years old and older, as decided by the First District Court of Appeal on December 10, 2013 (Case No. 1D12-2174).”

FURTHER AFFIANT SAYETH NOT.

Jamie Lewis Keith
Jamie Lewis Keith

SWORN TO AND SUBSCRIBED before me this 31 day of January, 2014.

Kristina M. Souza
NOTARY PUBLIC



State of Florida

My Commission Expires: 6/3/17

Personally known to me

Produced identification

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.

790.06 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, junior college, college, or private or public institution or organization or firearms training school, utilizing 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 law enforcement 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; or an affidavit from the instructor, school, club, organization, or group that conducted or taught said course or class attesting to the completion of the course or class by the applicant; or a copy of any document which shows completion of the course or class or evidences participation in firearms competition shall constitute evidence of qualification under this paragraph; any 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;

(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 prior to the date of submission of the application;

(k) Has not 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 the record has been sealed or expunged;

(l) 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

(m) 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 promulgated by the Department of Agriculture and Consumer Services and shall include:

(a) The name, address, place and date of birth, race, and occupation 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](#); and

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

(5) The applicant shall submit to the Department of Agriculture and Consumer Services:

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

(b) A nonrefundable license fee not to exceed \$70, if he or she has not previously been issued a statewide license, or a nonrefundable license fee not to exceed \$60 for renewal of a statewide license. Costs for processing the set of 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 any individual holding 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) wishes to receive a concealed weapons or firearms license, such person is exempt from the background investigation and all background investigation fees, but shall 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 a period of 1 year subsequent to the date of retirement of said officer as a law enforcement officer, a correctional officer, or a correctional probation officer.

(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.

(d) A photocopy of a certificate or an 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 7/8 of an inch wide and 1 1/8 inches high.

(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.

(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 of a previous conviction of such section, or similar law of another state, even though the first violation may have occurred prior to 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.

(11)(a) No less than 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 a notarized affidavit 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.

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 ¹s. [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.

¹Note.—Repealed by s. 3, ch. 72-133.

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.

790.115 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.