

By Senator Steube

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1 A bill to be entitled
2 An act relating to openly carrying a handgun; amending
3 s. 790.06, F.S.; authorizing a compliant licensee to
4 openly carry a handgun; revising the list of specified
5 locations into which a licensee may not openly carry a
6 handgun or carry a concealed weapon or firearm;
7 reenacting s. 790.053(1), F.S., relating to the open
8 carrying of weapons, to incorporate the amendment made
9 to s. 790.06, F.S., in a reference thereto; providing
10 an effective date.

11
12 Be It Enacted by the Legislature of the State of Florida:

13
14 Section 1. Section 790.06, Florida Statutes, is amended to
15 read:

16 790.06 License to carry concealed weapon or firearm; open
17 carrying of handgun.—

18 (1) The Department of Agriculture and Consumer Services is
19 authorized to issue licenses to carry concealed weapons or
20 concealed firearms to persons qualified as provided in this
21 section. Each such license must bear a color photograph of the
22 licensee. For the purposes of this section, concealed weapons or
23 concealed firearms are defined as a handgun, electronic weapon
24 or device, tear gas gun, knife, or billie, but the term does not
25 include a machine gun as defined in s. 790.001(9). Such licenses
26 shall be valid throughout the state for a period of 7 years from
27 the date of issuance. Any person in compliance with the terms of
28 such license may carry a concealed weapon or concealed firearm
29 notwithstanding ~~the provisions of~~ s. 790.01 or may openly carry
30 a handgun notwithstanding s. 790.053. The licensee must carry
31 the license, together with valid identification, at all times in
32 which the licensee is in actual possession of a concealed weapon

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33 or firearm or openly carrying a handgun and must display both
34 the license and proper identification upon demand by a law
35 enforcement officer. Violations of the provisions of this
36 subsection shall constitute a noncriminal violation with a
37 penalty of \$25, payable to the clerk of the court.

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

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

48 (b) Is 21 years of age or older;

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

51 (d) Is not ineligible to possess a firearm pursuant to s.
52 790.23 by virtue of having been convicted of a felony;

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

58 (f) Does not chronically and habitually use alcoholic
59 beverages or other substances to the extent that his or her
60 normal faculties are impaired. It shall be presumed that an
61 applicant chronically and habitually uses alcoholic beverages or

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62 other substances to the extent that his or her normal faculties
63 are impaired if the applicant has been committed under chapter
64 397 or under the provisions of former chapter 396 or has been
65 convicted under s. 790.151 or has been deemed a habitual
66 offender under s. 856.011(3), or has had two or more convictions
67 under s. 316.193 or similar laws of any other state, within the
68 3-year period immediately preceding the date on which the
69 application is submitted;

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

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

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

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

79 3. Completion of any firearms safety or training course or
80 class available to the general public offered by a law
81 enforcement agency, junior college, college, or private or
82 public institution or organization or firearms training school,
83 using instructors certified by the National Rifle Association,
84 Criminal Justice Standards and Training Commission, or the
85 Department of Agriculture and Consumer Services;

86 4. Completion of any law enforcement firearms safety or
87 training course or class offered for security guards,
88 investigators, special deputies, or any division or subdivision
89 of a law enforcement agency or security enforcement;

90 5. Presents evidence of equivalent experience with a

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91 firearm through participation in organized shooting competition
92 or military service;

93 6. Is licensed or has been licensed to carry a firearm in
94 this state or a county or municipality of this state, unless
95 such license has been revoked for cause; or

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

99

100 A photocopy of a certificate of completion of any of the courses
101 or classes; an affidavit from the instructor, school, club,
102 organization, or group that conducted or taught such course or
103 class attesting to the completion of the course or class by the
104 applicant; or a copy of any document that shows completion of
105 the course or class or evidences participation in firearms
106 competition shall constitute evidence of qualification under
107 this paragraph. A person who conducts a course pursuant to
108 subparagraph 2., subparagraph 3., or subparagraph 7., or who, as
109 an instructor, attests to the completion of such courses, must
110 maintain records certifying that he or she observed the student
111 safely handle and discharge the firearm in his or her physical
112 presence and that the discharge of the firearm included live
113 fire using a firearm and ammunition as defined in s. 790.001;

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

118 (j) Has not been committed to a mental institution under
119 chapter 394, or similar laws of any other state, unless the

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120 applicant produces a certificate from a licensed psychiatrist
121 that he or she has not suffered from disability for at least 5
122 years before the date of submission of the application;

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

127 (l) Has not had adjudication of guilt withheld or
128 imposition of sentence suspended on any misdemeanor crime of
129 domestic violence unless 3 years have elapsed since probation or
130 any other conditions set by the court have been fulfilled, or
131 the record has been expunged;

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

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

138 (3) The Department of Agriculture and Consumer Services
139 shall deny a license if the applicant has been found guilty of,
140 had adjudication of guilt withheld for, or had imposition of
141 sentence suspended for one or more crimes of violence
142 constituting a misdemeanor, unless 3 years have elapsed since
143 probation or any other conditions set by the court have been
144 fulfilled or the record has been sealed or expunged. The
145 Department of Agriculture and Consumer Services shall revoke a
146 license if the licensee has been found guilty of, had
147 adjudication of guilt withheld for, or had imposition of
148 sentence suspended for one or more crimes of violence within the

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149 preceding 3 years. The department shall, upon notification by a
150 law enforcement agency, a court, or the Florida Department of
151 Law Enforcement and subsequent written verification, suspend a
152 license or the processing of an application for a license if the
153 licensee or applicant is arrested or formally charged with a
154 crime that would disqualify such person from having a license
155 under this section, until final disposition of the case. The
156 department shall suspend a license or the processing of an
157 application for a license if the licensee or applicant is issued
158 an injunction that restrains the licensee or applicant from
159 committing acts of domestic violence or acts of repeat violence.

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

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

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

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

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

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

176 (f) Directions for an applicant who is a servicemember, as
177 defined in s. 250.01, or a veteran, as defined in s. 1.01, to

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178 request expedited processing of his or her application.

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

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

183 (b) A nonrefundable license fee of up to \$60 if he or she
184 has not previously been issued a statewide license or of up to
185 \$50 for renewal of a statewide license. The cost of processing
186 fingerprints as required in paragraph (c) shall be borne by the
187 applicant. However, an individual holding an active
188 certification from the Criminal Justice Standards and Training
189 Commission as a law enforcement officer, correctional officer,
190 or correctional probation officer as defined in s. 943.10(1),
191 (2), (3), (6), (7), (8), or (9) is exempt from the licensing
192 requirements of this section. If such individual wishes to
193 receive a concealed weapon or firearm license, he or she is
194 exempt from the background investigation and all background
195 investigation fees but must pay the current license fees
196 regularly required to be paid by nonexempt applicants. Further,
197 a law enforcement officer, a correctional officer, or a
198 correctional probation officer as defined in s. 943.10(1), (2),
199 or (3) is exempt from the required fees and background
200 investigation for 1 year after his or her retirement.

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

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

209 (e) A full frontal view color photograph of the applicant
210 taken within the preceding 30 days, in which the head, including
211 hair, measures 7/8 of an inch wide and 1 1/8 inches high.

212 (f) For expedited processing of an application:

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

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

220 (6) (a) The Department of Agriculture and Consumer Services,
221 upon receipt of the items listed in subsection (5), shall
222 forward the full set of fingerprints of the applicant to the
223 Department of Law Enforcement for state and federal processing,
224 provided the federal service is available, to be processed for
225 any criminal justice information as defined in s. 943.045. The
226 cost of processing such fingerprints shall be payable to the
227 Department of Law Enforcement by the Department of Agriculture
228 and Consumer Services.

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

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

235 1. Issue the license; or

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

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

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

255 (e) A consular security official of a foreign government
256 that maintains diplomatic relations and treaties of commerce,
257 friendship, and navigation with the United States and is
258 certified as such by the foreign government and by the
259 appropriate embassy in this country must be issued a license
260 within 20 days after the date of the receipt of a completed
261 application, certification document, color photograph as
262 specified in paragraph (5)(e), and a nonrefundable license fee
263 of \$300. Consular security official licenses shall be valid for
264 1 year and may be renewed upon completion of the application

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265 process as provided in this section.

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

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

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

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

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

293 (a) Is found to be ineligible under the criteria set forth

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294 in subsection (2);

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

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

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

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

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

310 (g) Is adjudicated an incapacitated person under s.
311 744.331, or similar laws of any other state; or

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

314

315 Notwithstanding s. 120.60(5), service of a notice of the
316 suspension or revocation of a concealed weapon or firearm
317 license must be given by either certified mail, return receipt
318 requested, to the licensee at his or her last known mailing
319 address furnished to the Department of Agriculture and Consumer
320 Services, or by personal service. If a notice given by certified
321 mail is returned as undeliverable, a second attempt must be made
322 to provide notice to the licensee at that address, by either

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323 first-class mail in an envelope, postage prepaid, addressed to
324 the licensee at his or her last known mailing address furnished
325 to the department, or, if the licensee has provided an e-mail
326 address to the department, by e-mail. Such mailing by the
327 department constitutes notice, and any failure by the licensee
328 to receive such notice does not stay the effective date or term
329 of the suspension or revocation. A request for hearing must be
330 filed with the department within 21 days after notice is
331 received by personal delivery, or within 26 days after the date
332 the department deposits the notice in the United States mail (21
333 days plus 5 days for mailing). The department shall document its
334 attempts to provide notice, and such documentation is admissible
335 in the courts of this state and constitutes sufficient proof
336 that notice was given.

337 (11) (a) At least 90 days before the expiration date of the
338 license, the Department of Agriculture and Consumer Services
339 shall mail to each licensee a written notice of the expiration
340 and a renewal form prescribed by the Department of Agriculture
341 and Consumer Services. The licensee must renew his or her
342 license on or before the expiration date by filing with the
343 Department of Agriculture and Consumer Services the renewal form
344 containing an affidavit submitted under oath and under penalty
345 of perjury stating that the licensee remains qualified pursuant
346 to the criteria specified in subsections (2) and (3), a color
347 photograph as specified in paragraph (5) (e), and the required
348 renewal fee. Out-of-state residents must also submit a complete
349 set of fingerprints and fingerprint processing fee. The license
350 shall be renewed upon receipt of the completed renewal form,
351 color photograph, appropriate payment of fees, and, if

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352 applicable, fingerprints. Additionally, a licensee who fails to
353 file a renewal application on or before its expiration date must
354 renew his or her license by paying a late fee of \$15. A license
355 may not be renewed 180 days or more after its expiration date,
356 and such a license is deemed to be permanently expired. A person
357 whose license has been permanently expired may reapply for
358 licensure; however, an application for licensure and fees under
359 subsection (5) must be submitted, and a background investigation
360 shall be conducted pursuant to this section. A person who
361 knowingly files false information under this subsection is
362 subject to criminal prosecution under s. 837.06.

363 (b) A license issued to a servicemember, as defined in s.
364 250.01, is subject to paragraph (a); however, such a license
365 does not expire while the servicemember is serving on military
366 orders that have taken him or her over 35 miles from his or her
367 residence and shall be extended, as provided in this paragraph,
368 for up to 180 days after his or her return to such residence. If
369 the license renewal requirements in paragraph (a) are met within
370 the 180-day extension period, the servicemember may not be
371 charged any additional costs, such as, but not limited to, late
372 fees or delinquency fees, above the normal license fees. The
373 servicemember must present to the Department of Agriculture and
374 Consumer Services a copy of his or her official military orders
375 or a written verification from the member's commanding officer
376 before the end of the 180-day period in order to qualify for the
377 extension.

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

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- 381 1. Any place of nuisance as defined in s. 823.05;
- 382 2. Any police, sheriff, or highway patrol station;
- 383 3. Any detention facility, prison, or jail;
- 384 4. Any courthouse, except if a licensee approaches security
- 385 or management personnel upon arrival at a courthouse and
- 386 notifies such security or management personnel of the presence
- 387 of the weapon or firearm and follows the security or management
- 388 personnel's direction for removing, securing, and storing such
- 389 weapon or firearm, or if the licensee temporarily surrenders
- 390 such weapon or firearm to the security or management personnel,
- 391 who shall store the weapon or firearm in a locker, safe, or
- 392 other secure location and return the weapon or firearm to the
- 393 licensee when he or she is exiting the courthouse;
- 394 5. Any courtroom, except that nothing in this section would
- 395 preclude a judge from carrying a concealed weapon or determining
- 396 who will carry a concealed weapon in his or her courtroom;
- 397 6. Any polling place;
- 398 ~~7. Any meeting of the governing body of a county, public~~
- 399 ~~school district, municipality, or special district;~~
- 400 ~~8. Any meeting of the Legislature or a committee thereof;~~
- 401 ~~7.9.~~ Any school, college, or professional athletic event
- 402 not related to firearms;
- 403 ~~10. Any elementary or secondary school facility or~~
- 404 ~~administration building;~~
- 405 ~~11. Any career center;~~
- 406 ~~8.12.~~ Any portion of an establishment licensed to dispense
- 407 alcoholic beverages for consumption on the premises, which
- 408 portion of the establishment is primarily devoted to such
- 409 purpose;

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410 ~~13. Any college or university facility unless the licensee~~
411 ~~is a registered student, employee, or faculty member of such~~
412 ~~college or university and the weapon is a stun gun or nonlethal~~
413 ~~electric weapon or device designed solely for defensive purposes~~
414 ~~and the weapon does not fire a dart or projectile;~~

415 9.14. The inside of the ~~passenger terminal~~ and sterile area
416 of any airport, ~~provided that no person shall be prohibited from~~
417 ~~carrying any legal firearm into the terminal, which firearm is~~
418 ~~encased for shipment for purposes of checking such firearm as~~
419 ~~baggage to be lawfully transported on any aircraft; or~~

420 10.15. Any place where the carrying of firearms is
421 prohibited by federal law.

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

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

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

430 (13) All moneys collected by the department pursuant to
431 this section shall be deposited in the Division of Licensing
432 Trust Fund, and the Legislature shall appropriate from the fund
433 those amounts deemed necessary to administer the provisions of
434 this section. All revenues collected, less those costs
435 determined by the Department of Agriculture and Consumer
436 Services to be nonrecurring or one-time costs, shall be deferred
437 over the 7-year licensure period. Notwithstanding the provisions
438 of s. 493.6117, all moneys collected pursuant to this section

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439 shall not revert to the General Revenue Fund; however, this
440 shall not abrogate the requirement for payment of the service
441 charge imposed pursuant to chapter 215.

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

445 (15) The Legislature finds as a matter of public policy and
446 fact that it is necessary to provide statewide uniform standards
447 for issuing licenses to carry concealed weapons and firearms for
448 self-defense and finds it necessary to occupy the field of
449 regulation of the bearing of concealed weapons or firearms for
450 self-defense to ensure that no honest, law-abiding person who
451 qualifies under the provisions of this section is subjectively
452 or arbitrarily denied his or her rights. The Department of
453 Agriculture and Consumer Services shall implement and administer
454 the provisions of this section. The Legislature does not
455 delegate to the Department of Agriculture and Consumer Services
456 the authority to regulate or restrict the issuing of licenses
457 provided for in this section, beyond those provisions contained
458 in this section. Subjective or arbitrary actions or rules which
459 encumber the issuing process by placing burdens on the applicant
460 beyond those sworn statements and specified documents detailed
461 in this section or which create restrictions beyond those
462 specified in this section are in conflict with the intent of
463 this section and are prohibited. This section shall be liberally
464 construed to carry out the constitutional right to bear arms for
465 self-defense. This section is supplemental and additional to
466 existing rights to bear arms, and nothing in this section shall
467 impair or diminish such rights.

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

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

474 Section 2. For the purpose of incorporating the amendment
475 made by this act to section 790.06, Florida Statutes, in a
476 reference thereto, subsection (1) of section 790.053, Florida
477 Statutes, is reenacted to read:

478 790.053 Open carrying of weapons.—

479 (1) Except as otherwise provided by law and in subsection
480 (2), it is unlawful for any person to openly carry on or about
481 his or her person any firearm or electric weapon or device. It
482 is not a violation of this section for a person licensed to
483 carry a concealed firearm as provided in s. 790.06(1), and who
484 is lawfully carrying a firearm in a concealed manner, to briefly
485 and openly display the firearm to the ordinary sight of another
486 person, unless the firearm is intentionally displayed in an
487 angry or threatening manner, not in necessary self-defense.

488 Section 3. This act shall take effect July 1, 2017.