

By Senator Steube

23-00723-17

2017644__

1 A bill to be entitled

2 An act relating to openly carrying a handgun; amending
3 s. 790.06, F.S.; authorizing a concealed weapons or
4 firearms licensee to openly carry a handgun;
5 reenacting s. 790.053(1), F.S., relating to the open
6 carrying of weapons, to incorporate the amendment made
7 to s. 790.06, F.S., in a reference thereto; providing
8 an effective date.

9
10 Be It Enacted by the Legislature of the State of Florida:

11
12 Section 1. Section 790.06, Florida Statutes, is amended to
13 read:

14 790.06 License to carry concealed weapon or firearm; open
15 carrying of handgun.—

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

23-00723-17

2017644__

33 enforcement officer. Violations of the provisions of this
34 subsection shall constitute a noncriminal violation with a
35 penalty of \$25, payable to the clerk of the court.

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

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

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

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

49 (d) Is not ineligible to possess a firearm pursuant to s.
50 790.23 by virtue of having been convicted of a felony;

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

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

23-00723-17

2017644__

62 397 or under the provisions of former chapter 396 or has been
63 convicted under s. 790.151 or has been deemed a habitual
64 offender under s. 856.011(3), or has had two or more convictions
65 under s. 316.193 or similar laws of any other state, within the
66 3-year period immediately preceding the date on which the
67 application is submitted;

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

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

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

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

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

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

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

23-00723-17

2017644__

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

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

97
98 A photocopy of a certificate of completion of any of the courses
99 or classes; an affidavit from the instructor, school, club,
100 organization, or group that conducted or taught such course or
101 class attesting to the completion of the course or class by the
102 applicant; or a copy of any document that shows completion of
103 the course or class or evidences participation in firearms
104 competition shall constitute evidence of qualification under
105 this paragraph. A person who conducts a course pursuant to
106 subparagraph 2., subparagraph 3., or subparagraph 7., or who, as
107 an instructor, attests to the completion of such courses, must
108 maintain records certifying that he or she observed the student
109 safely handle and discharge the firearm in his or her physical
110 presence and that the discharge of the firearm included live
111 fire using a firearm and ammunition as defined in s. 790.001;

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

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

23-00723-17

2017644__

120 years before the date of submission of the application;

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

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

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

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

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

23-00723-17

2017644__

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

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

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

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

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

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

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

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

177 (5) The applicant shall submit to the Department of

23-00723-17

2017644__

178 Agriculture and Consumer Services or an approved tax collector
179 pursuant to s. 790.0625:

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

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

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

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

23-00723-17

2017644__

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

210 (f) For expedited processing of an application:

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

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

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

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

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

233 1. Issue the license; or

234 2. Deny the application based solely on the ground that the
235 applicant fails to qualify under the criteria listed in

23-00723-17

2017644__

236 subsection (2) or subsection (3). If the Department of
237 Agriculture and Consumer Services denies the application, it
238 shall notify the applicant in writing, stating the ground for
239 denial and informing the applicant of any right to a hearing
240 pursuant to chapter 120.

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

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

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

264 (f) The Department of Agriculture and Consumer Services

23-00723-17

2017644__

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

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

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

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

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

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

293 (b) Develops or sustains a physical infirmity which

23-00723-17

2017644__

294 prevents the safe handling of a weapon or firearm;

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

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

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

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

308 (g) Is adjudicated an incapacitated person under s.
309 744.331, or similar laws of any other state; or

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

312

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

23-00723-17

2017644__

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

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

23-00723-17

2017644__

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

361 (b) A license issued to a servicemember, as defined in s.
362 250.01, is subject to paragraph (a); however, such a license
363 does not expire while the servicemember is serving on military
364 orders that have taken him or her over 35 miles from his or her
365 residence and shall be extended, as provided in this paragraph,
366 for up to 180 days after his or her return to such residence. If
367 the license renewal requirements in paragraph (a) are met within
368 the 180-day extension period, the servicemember may not be
369 charged any additional costs, such as, but not limited to, late
370 fees or delinquency fees, above the normal license fees. The
371 servicemember must present to the Department of Agriculture and
372 Consumer Services a copy of his or her official military orders
373 or a written verification from the member's commanding officer
374 before the end of the 180-day period in order to qualify for the
375 extension.

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

- 379 1. Any place of nuisance as defined in s. 823.05;
380 2. Any police, sheriff, or highway patrol station;

23-00723-17

2017644__

- 381 3. Any detention facility, prison, or jail;
- 382 4. Any courthouse;
- 383 5. Any courtroom, except that nothing in this section would
- 384 preclude a judge from carrying a concealed weapon or determining
- 385 who will carry a concealed weapon in his or her courtroom;
- 386 6. Any polling place;
- 387 7. Any meeting of the governing body of a county, public
- 388 school district, municipality, or special district;
- 389 8. Any meeting of the Legislature or a committee thereof;
- 390 9. Any school, college, or professional athletic event not
- 391 related to firearms;
- 392 10. Any elementary or secondary school facility or
- 393 administration building;
- 394 11. Any career center;
- 395 12. Any portion of an establishment licensed to dispense
- 396 alcoholic beverages for consumption on the premises, which
- 397 portion of the establishment is primarily devoted to such
- 398 purpose;
- 399 13. Any college or university facility unless the licensee
- 400 is a registered student, employee, or faculty member of such
- 401 college or university and the weapon is a stun gun or nonlethal
- 402 electric weapon or device designed solely for defensive purposes
- 403 and the weapon does not fire a dart or projectile;
- 404 14. The inside of the passenger terminal and sterile area
- 405 of any airport, provided that no person shall be prohibited from
- 406 carrying any legal firearm into the terminal, which firearm is
- 407 encased for shipment for purposes of checking such firearm as
- 408 baggage to be lawfully transported on any aircraft; or
- 409 15. Any place where the carrying of firearms is prohibited

23-00723-17

2017644__

410 by federal law.

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

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

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

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

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

434 (15) The Legislature finds as a matter of public policy and
435 fact that it is necessary to provide statewide uniform standards
436 for issuing licenses to carry concealed weapons and firearms for
437 self-defense and finds it necessary to occupy the field of
438 regulation of the bearing of concealed weapons or firearms for

23-00723-17

2017644__

439 self-defense to ensure that no honest, law-abiding person who
440 qualifies under the provisions of this section is subjectively
441 or arbitrarily denied his or her rights. The Department of
442 Agriculture and Consumer Services shall implement and administer
443 the provisions of this section. The Legislature does not
444 delegate to the Department of Agriculture and Consumer Services
445 the authority to regulate or restrict the issuing of licenses
446 provided for in this section, beyond those provisions contained
447 in this section. Subjective or arbitrary actions or rules which
448 encumber the issuing process by placing burdens on the applicant
449 beyond those sworn statements and specified documents detailed
450 in this section or which create restrictions beyond those
451 specified in this section are in conflict with the intent of
452 this section and are prohibited. This section shall be liberally
453 construed to carry out the constitutional right to bear arms for
454 self-defense. This section is supplemental and additional to
455 existing rights to bear arms, and nothing in this section shall
456 impair or diminish such rights.

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

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

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

467 790.053 Open carrying of weapons.—

23-00723-17

2017644__

468 (1) Except as otherwise provided by law and in subsection
469 (2), it is unlawful for any person to openly carry on or about
470 his or her person any firearm or electric weapon or device. It
471 is not a violation of this section for a person licensed to
472 carry a concealed firearm as provided in s. 790.06(1), and who
473 is lawfully carrying a firearm in a concealed manner, to briefly
474 and openly display the firearm to the ordinary sight of another
475 person, unless the firearm is intentionally displayed in an
476 angry or threatening manner, not in necessary self-defense.

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