

Tab 1	SB 134 by Steube; (Identical to H 00383) Concealed Weapons or Firearms
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Tab 2	SB 152 by Steube; (Identical to H 00055) Sale of Firearms
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The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

JUDICIARY
Senator Steube, Chair
Senator Benacquisto, Vice Chair

MEETING DATE: Tuesday, November 7, 2017

TIME: 2:00—4:00 p.m.

PLACE: *Toni Jennings Committee Room, 110 Senate Office Building*

MEMBERS: Senator Steube, Chair; Senator Benacquisto, Vice Chair; Senators Bracy, Bradley, Flores, Garcia, Gibson, Mayfield, Powell, and Thurston

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 134 Steube (Identical H 383)	Concealed Weapons or Firearms; Authorizing a concealed weapons or concealed firearms licensee to temporarily surrender a weapon or firearm if the licensee approaches courthouse security or management personnel upon arrival and follows their instructions; defining the term "courthouse"; preempting certain ordinances, rules, orders, and regulations that conflict with that definition or with certain rights, etc. JU 09/13/2017 JU 11/07/2017 Temporarily Postponed GO RC	Temporarily Postponed
2	SB 152 Steube (Identical H 55)	Sale of Firearms; Requiring Department of Law Enforcement procedures to allow the payment or transmittal of processing fees for criminal history checks of potential firearms buyers by electronic means, etc. JU 11/07/2017 Fav/CS ACJ AP	Fav/CS Yeas 10 Nays 0

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Judiciary

BILL: SB 134

INTRODUCER: Senator Steube

SUBJECT: Concealed Weapons or Firearms

DATE: November 6, 2017

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Stallard	Cibula	JU	Pre-meeting
2. _____	_____	GO	_____
3. _____	_____	RC	_____

I. Summary:

SB 134 authorizes a person who has a concealed weapon or firearm license to carry a concealed weapon or firearm into a courthouse if he or she immediately notifies management or security personnel of the presence of the weapon or firearm. Then, the licensee must follow security or management personnel's instructions for removing, securing, and storing the item, or the licensee must surrender the item until the licensee is leaving the courthouse.

The bill also defines "courthouse" and states that any local ordinance, administrative rule, administrative order, or regulation that conflicts with the definition or the right to carry a weapon or firearm into a courthouse, as permitted by this bill, is preempted to the Legislature. Moreover, the bill subjects a person or entity that enacts or enforces a preempted ordinance, rule, order, or regulation to penalties including, but not limited to, fines and removal from office by the Governor.

II. Present Situation:

Concealed Carry of Weapons or Firearms

Lawful Concealed Carry of Weapons or Firearms

Chapter 790, F.S., regulates who may carry weapons or firearms and where and how these persons may carry them. In general, this chapter prohibits a person from carrying a concealed weapon or firearm unless the person has a concealed weapon or firearm license.¹

¹ See ss. 790.01 and 790.06, F.S.; *but see* s. 790.25(3), F.S., which provides that the prohibition against carrying a concealed weapon and the licensure requirement do not apply in certain circumstances.

Florida's concealed-carry-licensing scheme is set forth in s. 790.06, F.S. The license permits the concealed carry of handguns and certain non-firearm weapons.² Currently, there are roughly 1.8 million Floridians holding a standard concealed-carry license.³

To obtain a license, one must submit an application to the Department of Agriculture and Consumer Services, and the Department must grant the license to each applicant who:⁴

- 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;
- Is 21 years of age or older;
- Does not suffer from a physical infirmity that prevents the safe handling of a weapon or firearm;
- Is not ineligible to possess a firearm by virtue of having been convicted of a felony;
- Has not been committed for the abuse of a controlled substance;
- Has not been found guilty of a crime relating to controlled substances within a 3-year period immediately preceding the date on which the application is submitted;
- Does not chronically and habitually use alcoholic beverages or other substances to the extent that his or her normal faculties are impaired;
- Desires a legal means to carry a concealed weapon or firearm for lawful self-defense;
- Demonstrates competency in the use of a firearm;⁵
- Has not been, or is deemed not to have been, adjudicated an incapacitated person in a guardianship proceeding;
- Has not been, or is deemed not to have been, committed to a mental institution;
- Has not had adjudication of guilt withheld or imposition of sentence suspended on any felony, or any misdemeanor crime of domestic violence, unless 3 years have elapsed since probation or any other conditions set by the court have been fulfilled, or expunction has occurred;
- Has not been issued an injunction that is currently in force and effect which restrains the applicant from committing acts of domestic violence or acts of repeat violence; and
- Is not prohibited from purchasing or possessing a firearm by any other provision of Florida or federal law.

The licensing statute states that a license to carry a concealed weapon or firearm is “valid throughout the state,” which strongly implies that licensees may carry concealed throughout

² “For the purposes of this section, concealed firearms and concealed weapons 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” elsewhere in statute. Section 790.06(1), F.S.

³ As of October 31, 2017, 1,812,542 Floridians held a standard concealed carry license. Fla. Dept. of Ag., *Number of Licensees by Type*, http://www.freshfromflorida.com/content/download/7471/118627/Number_of_Licensees_By_Type.pdf (last visited November 3, 2017).

⁴ Section 790.06(2), F.S. On the other hand, the Department must *deny* a license to an applicant who meets any criterion set forth in s. 790.06(3), F.S.

⁵ See s. 790.06(2)(h), F.S., for the list of courses and other means of demonstrating competency, and for the required documentation that one must present to the state relative to this provision.

Florida.⁶ However, the statute also expressly states that the license “does not authorize” a licensee to carry a concealed weapon or firearm into any:⁷

- *Courthouse*;
- *Courtroom*;⁸
- Place of nuisance, such as a brothel or place where criminal gang activity takes place repeatedly;
- Police, sheriff, or highway patrol station;
- Detention facility, prison, or jail;
- Polling place;
- Meeting of the governing body of a county, public school district, municipality, or special district;
- Meeting of the Legislature or a committee of the Legislature;
- School, college, or professional athletic event not related to firearms;
- Elementary or secondary school facility or administration building;
- Career center;
- 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;
- 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;
- Airport’s passenger terminal and sterile area, 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
- Place where the carrying of firearms is prohibited by federal law.

A licensee who carries a concealed weapon or firearm into a courthouse or other prohibited place commits a second degree misdemeanor, which is punishable by up to 60 days in jail and a fine not to exceed \$500.⁹

Preemption of Regulations on Firearms and Ammunition

In 1987, the Legislature enacted legislation to provide statewide uniformity in the regulation of firearms and ammunition. This law—the Joe Carlucci Uniform Firearms Act (Act), codified as s. 790.33, F.S.—includes an express statement of its policy and intent:

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

⁶ The licensing statute expressly states that licensees are not subject to the statute that criminalizes concealed carry. The licensing statute also expressly states that the license does not authorize carrying into specific places listed in the licensing statute. Thus, the licensing statute strongly implies, though nowhere expressly states, that licensees may carry generally throughout Florida.

⁷ Section 790.06(12)(a), F.S. (Emphasis added)

⁸ “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.” Section 790.06(12)(a)5., F.S. Note that this provision does not refer to *firearms*, but only *weapons*.

⁹ Section 790.06(12)(d), F.S.; *see also* ss. 775.082(4)(b) and 775.083(1)(e), F.S.

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.¹⁰

The Act accomplished its stated purpose by “occupying the whole field of regulation of firearms and ammunition,” as stated in subsection (1) of the Act:

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 are hereby declared null and void.¹¹

Additionally, the Act requires the courts to impose civil fines of up to \$5,000 against certain government officials who willfully enact or cause an improper ordinance, regulation, or rule to be enforced. An offending government official may not use public funds to pay the fine. Moreover, he or she may be removed from office by the Governor.¹²

As exceptions to the broad preemption of the regulation of firearms and ammunition, the Act states that it does not prohibit:¹³

- Zoning ordinances that encompass firearms businesses along with other businesses, provided that they are not designed to restrict or prohibit the sale, purchase, transfer, or manufacture of firearms or ammunition;
- Regulations pertaining to firearms and ammunition issued to law enforcement agencies;
- Regulations prohibiting the carrying of firearms and ammunition by an employee of a local jurisdiction during and in the course of his or her official duties;
- 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
- The Florida Fish and Wildlife Conservation Commission’s regulation of the use of firearms or ammunition to take wildlife or on shooting ranges managed by the commission.

But even beyond these exceptions, cities and universities have attempted to regulate firearms, resulting in litigation. And while these cases have revealed that the Act has not preempted every firearm regulation, the Act has not been held to be unconstitutional.¹⁴

¹⁰ Section 790.33(2)(a), F.S.

¹¹ Section 790.33(1), F.S.

¹² Section 790.33(3), F.S.

¹³ Section 790.33(4), F.S.

¹⁴ See, e.g., *National Rifle Association v. City of South Miami*, 812 So. 2d 504 (Fla. 3d DCA 2002) (holding that a city ordinance regulating firearms was preempted by the Act); *Florida Carry, Inc. v. Univ. of Fla.*, 180 So. 3d 137 (Fla. 1st DCA 2015) (holding that the university’s prohibition of firearms in university housing, which was consistent with a statute that broadly prohibited possessing a firearm on campus, was not preempted by the Act); *Florida Carry, Inc. v. Univ. of N. Fla.*, 133 So. 3d 966 (Fla. 1st DCA 2013) (holding that the university’s prohibition on keeping a firearm in a locked vehicle on

III. Effect of Proposed Changes:

SB 134 authorizes a person who has a concealed weapon or firearm license to carry a concealed weapon or firearm into a courthouse if he or she immediately notifies management or security personnel of the presence of the weapon or firearm. Then, the licensee must:

- Follow the security or management personnel's instructions for removing, securing, and storing the weapon or firearm; or
- Temporarily surrender the weapon or firearm to the security or management personnel, who shall store the weapon or firearm in a locker, safe, or other secure location and return the weapon or firearm to the licensee when he or she is exiting the courthouse.

As such, the bill does not permit carrying a firearm past the entryway of most courthouses.¹⁵

The bill also defines “courthouse” and states that any local ordinance, administrative rule, administrative order, or regulation that conflicts with the definition or the right to carry a weapon or firearm into a courthouse is preempted to the Legislature. Moreover, the bill subjects a person or entity that enacts or enforces a preempted ordinance, rule, order, or regulation to penalties including, but not limited to, fines and removal from office by the Governor.

The bill takes effect July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The Florida Constitution requires counties to bear the “cost of construction or lease, maintenance, utilities, and security of facilities for the trial courts”¹⁶ Therefore, to the extent that money must be spent for trial courts to implement the bill—perhaps to buy a new firearm safe—the counties must bear this cost. However, any required expenditures are expected to be minimal.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

campus was preempted by the Act because such possession was authorized in statute as an exception to the general ban on possessing a firearm on campus).

¹⁵ However, some Florida courthouses have no security checkpoints at their entrances.

¹⁶ FLA. CONST. art. V, s. 14(c); *see also*, s. 29.008, F.S. (repeating the constitutional obligations of counties to fund court-related functions).

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Florida Constitution requires that “[f]unding for the state courts system . . . be provided from state revenues appropriated by general law.”¹⁷ Moreover, the Florida Statutes require that state revenues appropriated by general law be used to fund the “[c]onstruction or lease of facilities, maintenance, utilities, and security for the district courts of appeal and the Supreme Court.”¹⁸ Therefore, to the extent that money must be spent for the district courts of appeal and the Florida Supreme Court to implement the bill—perhaps to buy new firearm safes—the state must bear this cost. However, any required expenditures are expected to be minimal.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 790.06 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

¹⁷ FLA. CONST. art. V, s. 14(a).

¹⁸ Section 29.004(4), F.S.

By Senator Steube

23-00016-18

2018134__

A bill to be entitled

An act relating to concealed weapons or firearms; amending s. 790.06, F.S.; authorizing a concealed weapons or concealed firearms licensee to temporarily surrender a weapon or firearm if the licensee approaches courthouse security or management personnel upon arrival and follows their instructions; defining the term "courthouse"; preempting certain ordinances, rules, orders, and regulations that conflict with that definition or with certain rights; subjecting the persons or entities responsible for enacting, or causing the enforcement of, preempted ordinances, rules, orders, and regulations to specified penalties; providing an effective date.

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

Section 1. Present subsection (17) of section 790.06, Florida Statutes, is redesignated as subsection (18), a new subsection (17) is added to that section, and paragraph (a) of subsection (12) of that section is amended, to read:

790.06 License to carry concealed weapon or firearm.—

(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, except when a licensee approaches

Page 1 of 3

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security or management personnel upon arrival at a courthouse and notifies them of the presence of the weapon or firearm and follows the security or management personnel's instructions for removing, securing, and storing such weapon or firearm, or when the licensee temporarily surrenders such weapon or firearm to the security or management personnel, who shall store the weapon or firearm in a locker, safe, or other secure location and return the weapon or firearm to the licensee when he or she is exiting the 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

Page 2 of 3

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23-00016-18

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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.

(17)(a) As used in this section, the term "courthouse" means a building in which trials and hearings are conducted on a regular basis. If a building is used primarily for purposes other than the conduct of hearings and trials and housing judicial chambers, the term includes only that portion of the building that is primarily used for hearings and trials and judicial chambers.

(b) A local ordinance, administrative rule, administrative order, or regulation that is in conflict with the definition of the term "courthouse" in this subsection or the rights set forth under subparagraph (12)(a)4. is preempted to the Legislature under s. 790.33. The person, justice, judge, county, agency, municipality, district, or other entity that enacts or causes to be enforced a local ordinance, administrative rule, administrative order, or regulation that is preempted is subject to the penalties set forth in s. 790.33, including, but not limited to, civil fines and removal from office by the Governor.

Section 2. This act shall take effect July 1, 2018.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11-7-17
Meeting Date

134
Bill Number (if applicable)

Topic Concealed Weapons Courthouse

Amendment Barcode (if applicable)

Name Barbara DeVane

Job Title MS

Address 1625 E. Brevard St

Phone 852-251-4280

Jalohamee FL 32308
City State Zip

Email barbradevane1@yahoo.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing FL NOW (National Organization for Women)

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11/7/17

Meeting Date

SB 134

Bill Number (if applicable)

Topic Concealed Weapons

Amendment Barcode (if applicable)

Name Marty Monroe

Job Title Legislative Advocate

Address 2507 Callaway Rd Suite 102A

Phone 850 224-2545

Street

TALLAHASSEE

FL

32303

City

State

Zip

Email LNVFAdvocacy@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing League of Women Voters of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

134

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11/17/17
Meeting Date

134
Bill Number (if applicable)

Topic SB 134

Amendment Barcode (if applicable)

Name Gray Valina

Job Title Moms Demand Action Chapter Leader

Address 1183 Woodlawn Way Phone 678-860-4011
Street

Gulf Breeze FL 32563 Email Florida@moms
City State Zip Chapter Leader

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Moms Demand Action

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11-7-17

Meeting Date

SB134

Bill Number (if applicable)

Topic Guns in Courthouses

Amendment Barcode (if applicable)

Name Roy F. Blondeau Jr.

Job Title Attorney at Law

Address 6712 Buck Lake Road

Phone 850-877-9599

Street

Tallahassee

Florida

32317

City

State

Zip

Email rfbl@comcast.net

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Self and Moms Demand Action

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11/7/2017

Meeting Date

134

Bill Number (if applicable)

Topic Concealed Weapons & Firearms

Amendment Barcode (if applicable)

Name Edward G. Labrador

Job Title Legislative Counsel

Address 115 S. Andrews Avenue, Room 424

Street

Fort Lauderdale

City

FL

State

33301

Zip

Phone (561) 357-7575

Email elabrador@broward.org

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Broward County

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

134

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11-7-2017

Meeting Date

SB-134

Bill Number (if applicable)

Topic Right to Carry/Courthouses

Amendment Barcode (if applicable)

Name Marion Hammer

Job Title _____

Address P.O. Box 1387

Phone 850-222-9518

Street

Tallahassee

Florida

32302

Email _____

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing National Rifle Association of America & Unified Sportsmen of Florida

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Judiciary

BILL: CS/SB 152

INTRODUCER: Senator Steube

SUBJECT: Sale of Firearms

DATE: November 8, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Cibula	JU	Fav/CS
2.			ACJ	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 152 requires the Florida Department of Law Enforcement to provide additional payment options to licensed firearm dealers, importers, and manufactures when paying for criminal history record checks. Currently, the only payment methods authorized by administrative rule are personal checks, money orders, or cashier's checks. The bill requires FDLE to establish, by rule, procedures that permit electronic payment or transmittal by debit cards, credit cards, or electronic funds transfers, but the payment methods are not limited solely to those options.

The bill also expands how firearms dealers may submit requests to FDLE for criminal history record checks. Currently, the statutes permit a dealer to submit requests by a toll-free telephone call, but the bill now expressly allows dealers to also submit requests to FDLE by electronic means.

II. Present Situation:

Statutory Procedure for Purchasing a Firearm

Before a potential buyer may purchase a firearm from a licensed importer, manufacturer, or dealer¹ in this state, several statutory requirements must be met.

¹ Florida Administrative Rule 11C-6.009(1), *Sale and Delivery of Firearms*, uses the term "federally licensed firearm dealer" to include licensed firearm importers, licensed firearm manufacturers, and licensed firearm dealers. For ease of description in this analysis, the term "dealer" is used to also include importers and manufacturers.

- The potential buyer must first fill out a background check form² that is produced by the Federal Bureau of Alcohol, Tobacco, and Firearms.
- When the form is completed, the potential buyer must provide to the dealer a \$5 non-refundable processing fee for a criminal history check and also submit a valid government issued form of identification.
- The dealer submits the background information either in a toll-free phone call to an operator at the Florida Department of Law Enforcement Firearm Purchase Program or electronically to the program's website. The Firearm Purchase Program is operational from 9:00 a.m. to 9:00 p.m. each day of the year except Christmas and New Year's Day.
- FDLE makes a determination, based upon the criminal history background check, whether the potential buyer is eligible to purchase the firearm. FDLE must issue a transaction identification number to the dealer and a decision on whether the potential buyer is permitted to purchase a weapon. This dealer must then record that information on the buyer's background check form.³

Multiple weapons may be transferred in a single transaction. Accordingly, it is not necessary for a potential buyer to submit a separate form and pay an additional processing fee for each firearm transfer if several are made at that same time.

FDLE reports that there are currently 3,761 licensed firearm dealers in its database.⁴ Some dealers are large, interstate sporting goods stores while some are small family businesses.

The \$5 Fee for Processing a Criminal History Background Check

The statutes permit FDLE to collect a fee of no more than \$8 from the potential buyer to cover the cost of processing the criminal history check.⁵ FDLE currently charges \$5 to process the criminal history check.⁶ Procedurally, FDLE hand processes and mails licensed firearm dealers an invoice each month stating how much money is due from them. The dealer then sends a personal check, money order, or cashier's check to the Department of Revenue. There is currently no statutory authorization for a licensed dealer to pay these invoices electronically.

Criminal History Background Checks Performed in Recent Years

Between January 2 and October 29, 2017, FDLE reports that 772,891 background checks were performed. The following background checks⁷ were performed in years 2010-2016.

² U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, Firearms Transaction Record (ATF F- 4473, Revised October 2016) available at <https://www.atf.gov/file/61446/download>.

³ See s. 790.065(1)(a), F.S., and Florida Department of Law Enforcement, *Firearm Purchase Process*, available at <http://www.fdle.state.fl.us/cms/FPP/FAQs1.aspx> (last visited Nov. 2, 2017).

⁴ Email from Brenda Johnson, FDLE Office of External Affairs (Nov. 1, 2017) (on file with the Senate Committee on Judiciary).

⁵ Section 790.065(1)(a)2., F.S.

⁶ Fla. Admin. Code R. 11C-6.009.

⁷ Email attachment from Brenda Johnson, FDLE Office of External Affairs (Oct. 31, 2017) (on file with the Senate Committee on Judiciary).

Annual Background Checks Performed	
Year	Background Checks
2010	531,845
2011	606,655
2012	797,610
2013	869,560
2014	774,363
2015	885,086
2016	1,037,483

Invoices Mailed and Revenue Received

The following data is supplied by FDLE for the Firearm Purchase Program. The data shows the number of invoices mailed and the revenue returned for Fiscal Year 2016-2017.⁸

Firearm Purchase Program Invoices and Revenue - Fiscal Year 2016-2017		
Month	Invoices Mailed	Revenue Received
July	2,071	\$520,092
August	2,050	487,685
September	2,020	442,541
October	2,016	376,299
November	2,069	438,117
December	2,123	336,219
January	2,021	376,710
February	2,043	484,297
March	2,084	373,384
April	2,001	390,330
May	1,999	435,183
June	1,984	462,313
	24,481	\$5,123,170

III. Effect of Proposed Changes:

This bill authorizes licensed firearm dealers, importers, and manufacturers to electronically submit payments when paying FDLE for criminal history record checks. The payment methods and associated procedures will be established by FDLE rules, but the rules must, at a minimum, allow for payments by debit and credit cards and electronic funds transfers.

The bill also allows firearms dealers to submit requests for criminal history record checks to FDLE by electronic means, not simply by calling the toll-free phone number. FDLE currently

⁸ Email attachment from Brenda Johnson, FDLE Office of External Affairs (Oct. 31, 2017) (on file with the Senate Committee on Judiciary).

accepts the submission of electronic requests, so this statutory authorization essentially ratifies its current practice.

The bill takes effect October 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

By allowing licensed firearm dealers to pay their invoices electronically, it will save postage and paper that is currently used for checks and envelopes.

C. Government Sector Impact:

FDLE states that it will absorb the fiscal impact of this bill by diverting existing staff and resources. This reassigning of resources will result in extending existing agency project timelines. FDLE notes in its bill analysis that it will need additional time to complete the transition to accepting electronic payments and recommends that the effective date of the bill be extended to accommodate these changes.⁹ Many credit and debit card companies charge a vendor a specified percentage for completing each electronic transaction. Unless FDLE passes this convenience cost along to the dealers, FDLE might receive less money per transaction than when checks, money orders, and cashier's checks are used and no merchant fee is charged.

VI. Technical Deficiencies:

None.

⁹ Florida Department of Law Enforcement, *2018 FDLE Legislative Bill Analysis, SB 152* (Aug. 31, 2017) (on file with the Senate Committee on Judiciary).

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 790.065 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Judiciary on November 7, 2017:

The committee substitute allows firearms dealers to submit requests for criminal history record checks to FDLE by electronic means and delays the effective date of the bill by 3 months to October 1, 2017.

B. Amendments:

None.



718924

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
11/07/2017	.	
	.	
	.	
	.	

The Committee on Judiciary (Steube) recommended the following:

Senate Amendment

Delete lines 58 - 66
and insert:

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

4. Received a unique approval number for that inquiry from



718924

12 the Department of Law Enforcement, and recorded the date and
13 such number on the consent form.

14 Section 2. This act shall take effect October 1, 2018.

By Senator Steube

23-00322-18

2018152__

1 A bill to be entitled
 2 An act relating to the sale of firearms; amending s.
 3 790.065, F.S.; requiring Department of Law Enforcement
 4 procedures to allow the payment or transmittal of
 5 processing fees for criminal history checks of
 6 potential firearms buyers by electronic means;
 7 providing an effective date.
 8
 9 Be It Enacted by the Legislature of the State of Florida:
 10
 11 Section 1. Paragraph (a) of subsection (1) of section
 12 790.065, Florida Statutes, is amended to read:
 13 790.065 Sale and delivery of firearms.—
 14 (1) (a) A licensed importer, licensed manufacturer, or
 15 licensed dealer may not sell or deliver from her or his
 16 inventory at her or his licensed premises any firearm to another
 17 person, other than a licensed importer, licensed manufacturer,
 18 licensed dealer, or licensed collector, until she or he has:
 19 1. Obtained a completed form from the potential buyer or
 20 transferee, which form shall have been promulgated by the
 21 Department of Law Enforcement and provided by the licensed
 22 importer, licensed manufacturer, or licensed dealer, which shall
 23 include the name, date of birth, gender, race, and social
 24 security number or other identification number of such potential
 25 buyer or transferee and has inspected proper identification
 26 including an identification containing a photograph of the
 27 potential buyer or transferee.
 28 2. Collected a fee from the potential buyer for processing
 29 the criminal history check of the potential buyer. The fee shall

Page 1 of 3

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

23-00322-18

2018152__

30 be established by the Department of Law Enforcement and may not
 31 exceed \$8 per transaction. The Department of Law Enforcement may
 32 reduce, or suspend collection of, the fee to reflect payment
 33 received from the Federal Government applied to the cost of
 34 maintaining the criminal history check system established by
 35 this section as a means of facilitating or supplementing the
 36 National Instant Criminal Background Check System. The
 37 Department of Law Enforcement shall, by rule, establish
 38 procedures for the fees to be transmitted by the licensee to the
 39 Department of Law Enforcement. Such procedures must provide that
 40 fees may be paid or transmitted by electronic means, including,
 41 but not limited to, debit cards, credit cards, or electronic
 42 funds transfers. All such fees shall be deposited into the
 43 Department of Law Enforcement Operating Trust Fund, but shall be
 44 segregated from all other funds deposited into such trust fund
 45 and must be accounted for separately. Such segregated funds must
 46 not be used for any purpose other than the operation of the
 47 criminal history checks required by this section. The Department
 48 of Law Enforcement, each year before ~~prior to~~ February 1, shall
 49 make a full accounting of all receipts and expenditures of such
 50 funds to the President of the Senate, the Speaker of the House
 51 of Representatives, the majority and minority leaders of each
 52 house of the Legislature, and the chairs of the appropriations
 53 committees of each house of the Legislature. In the event that
 54 the cumulative amount of funds collected exceeds the cumulative
 55 amount of expenditures by more than \$2.5 million, excess funds
 56 may be used for the purpose of purchasing soft body armor for
 57 law enforcement officers.
 58 3. Requested, by means of a toll-free telephone call, the

Page 2 of 3

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

23-00322-18

2018152__

59 Department of Law Enforcement to conduct a check of the
60 information as reported and reflected in the Florida Crime
61 Information Center and National Crime Information Center systems
62 as of the date of the request.

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

66 Section 2. This act shall take effect July 1, 2018.

152

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11-7-2017

Meeting Date

SB-152

Bill Number (if applicable)

Topic Sale of Firearms/Background Check fees

Amendment Barcode (if applicable)

Name Marion Hammer

Job Title _____

Address P.O. Box 1387

Phone 850-222-9518

Street

Tallahassee

Florida

32302

City

State

Zip

Email _____

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing National Rifle Association of America & Unified Sportsmen of Florida

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

CourtSmart Tag Report

Room: EL 110

Case No.:

Type:

Caption: Senate Judiciary Committee

Judge:

Started: 11/7/2017 2:05:24 PM

Ends: 11/7/2017 2:10:32 PM Length: 00:05:09

2:05:23 PM Meeting called to order by Chair Steube
2:05:30 PM Roll call by Administrative Assistant Joyce Butler
2:05:41 PM Quorum present
2:05:50 PM Comments from Chair Steube
2:06:01 PM Senator Benacquisto moves that SB 134 Tp'd
2:06:19 PM Chair passed to Senator Benacquisto
2:06:28 PM Introduction of SB 152 by Chair Benacquisto
2:06:34 PM Explanation of SB 152, Sale of Firearms by Senator Steube
2:06:57 PM Question from Senator Powell
2:07:13 PM Response from Senator Steube
2:07:55 PM Introduction of Amendment Barcode No. 718924
2:08:00 PM Explanation of Amendment Barcode No. 718924
2:08:15 PM Comments from Chair Benacquisto
2:08:23 PM Amendment Barcode No. 718924 adopted
2:08:31 PM Speaker Marion Hammer, National Rifle Association of America & Unified Sportsmen of Florida in support
2:09:20 PM Comments from Chair Benacquisto
2:09:25 PM Closure waived by Senator Steube
2:09:30 PM Roll call on SB 152 by Administrative Assistant Joyce Butler
2:09:47 PM CS/SB 152 reported favorably
2:10:07 PM Senator Bracy vote changed from no to yes
2:10:16 PM Chair passed back to Senator Steube
2:10:19 PM Senator Benacquisto moves to adjourn