

**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.)

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Prepared By: The Professional Staff of the Committee on Criminal Justice

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BILL: SB 544

INTRODUCER: Senator Simpson and others

SUBJECT: Licensure to Carry a Concealed Weapon or Firearm

DATE: January 24, 2014

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Cannon	CJ	<b>Pre-meeting</b>
2.			AG	
3.			CA	

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**I. Summary:**

SB 544 creates a new section of law within Chapter 790, F.S., to allow the Department of Agriculture and Consumer Services to appoint county tax collectors for the purpose of accepting and forwarding to the Department applications for concealed weapon or firearm licenses or renewals. It is the Department's responsibility to issue concealed weapon and firearm licenses to qualified applicants.<sup>1</sup>

County tax collectors who are interested in the appointment by the Department will submit a request for appointment. Upon approval of the tax collector's qualifications by the Department, the Division of Licensing then has the discretion to enter into a Memorandum of Understanding (MOU) with the tax collector. Both the Department and the Division have the authority to rescind the MOU.

All personal identifying information provided for the license or renewal that is contained in a tax collector's records as a result of the MOU is given confidential and exempt status by the linked bill, SB 546.

The bill makes no changes to eligibility criteria or license application requirements.

**II. Present Situation:**

**Issuance of Concealed Weapons or Firearm Licenses**

The Department of Agriculture and Consumer Services (DACS) is responsible for issuing concealed weapon and firearm licenses to those applicants who qualify.<sup>2</sup> During fiscal year 2012-2013, DACS received 96,840 new license applications and 2,153 applications for license

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<sup>1</sup> s. 790.061(1), F.S.

<sup>2</sup> *Id.*

renewal.<sup>3</sup> During the same time period, DACS issued 99,606 new concealed weapon licenses and 2,239 renewals.<sup>4</sup> As of the end of FY 2012-2013, there were 1,098,458 valid Florida concealed weapon licenses.<sup>5</sup>

### **Concealed Weapon License Application Requirements**

To obtain a concealed weapons license, a person must complete, under oath, an application that includes:

- The name, address, place and date of birth, race, and occupation of the applicant;
- A full frontal view color photograph of the applicant which must be taken within the preceding 30 days;
- A statement that the applicant has been furnished with a copy of ch. 790, F.S., relating to weapons and firearms and is knowledgeable of its provisions;
- A warning that the application is executed under oath with penalties for falsifying or substituting false documents;
- A statement that the applicant desires a concealed weapon or firearms license as a means of lawful self-defense;
- A full set of fingerprints;
- Documented proof of completion of a firearms safety and training course; and
- A nonrefundable license fee no greater than \$70 for a new license or no greater than \$60 for a renewal.<sup>6</sup>

There is an additional fee for processing the fingerprints, typically \$42. According to information provided by DACS, \$42 is the fee payable to the Florida Department of Law Enforcement (FDLE). A portion of the \$42 covers fees paid by FDLE to the FBI for assistance in completing the required background check.<sup>7</sup> Sheriff's offices are statutorily authorized to collect \$5 for fingerprinting services.<sup>8</sup>

Section 790.06(6)(c), F.S., requires DACS to either issue the license or deny its issuance and notify the applicant within 90 days of receiving a completed application. DACS is typically meeting this requirement except under circumstances explained on the link to "Frequently Asked Questions on the DACS" webpage. The most common reasons for delay and the DACS response to those issues are explained as follows:

- if we find that your application is incomplete for some reason (a missing answer to a question; check made out for the wrong amount; no firearms training documentation; etc.), we will notify

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<sup>3</sup> Applications and Dispositions by County, July 1, 2012-June 30, 2013. Statistic found at [www.freshfromflorida.com](http://www.freshfromflorida.com), last visited January 15, 2014.

<sup>4</sup> Summary Report, October 1987-June 2014. [www.freshfromflorida.com](http://www.freshfromflorida.com), last visited January 15, 2014.

<sup>5</sup> Number of Valid Florida Concealed Licenses Since Program Inception. [www.freshfromflorida.com](http://www.freshfromflorida.com), last visited January 15, 2014.

<sup>6</sup> s. 790.06(1)-(5), F.S.

<sup>7</sup> E-mail correspondence with DACS, January 16, 2014.

<sup>8</sup> s. 790.06(6)(b), F.S.

you by letter of this problem and request that you provide us with the missing information or documentation;

- if law enforcement authorities determine that your fingerprints are insufficiently legible to complete a proper background check, we will send you a letter requesting a second fingerprint submission as required by law. If your second fingerprint submission is also deemed illegible, we can then ask the FBI to conduct a name-based background check.
- if the background check results we receive from law enforcement authorities reflect a potentially disqualifying crime without a final disposition, we will send you a letter requesting that you provide us with court documents indicating the final disposition.<sup>9</sup>

DACS has made a “Fast Track Processing” system available to applicants in 8 regional offices.<sup>10</sup> During an appointment, the applicant can fill out and submit the application, have their fingerprints scanned electronically, have their picture taken and make their payment. Staff reviews the application for completeness at the regional office before it is submitted to the DACS Division of Licensing for final processing. Renewal CW licenses require far less documentation and therefore can be completed much faster either via a regional office or mail in. In fact, if a renewal is done in one of the eight regional offices, with few exceptions, the limited processing work can be done onsite and the renewal license is issued to the waiting applicant.<sup>11</sup>

### **County Tax Collector Authority**

Article VIII, Section 1(d) of the Florida Constitution provides that Tax Collectors are elected County Officers. The tax collector is the county officer charged with the collection of ad valorem taxes levied by the county, the school board, any special taxing districts within the county, and all municipalities within the county.<sup>12</sup> County tax collections are supervised by the state Department of Revenue.<sup>13</sup> Tax collectors may appoint deputies to act on their behalf in carrying out the duties prescribed by law.<sup>14</sup>

Several state agencies and departments are currently authorized to enter into agreements with county tax collectors for various purposes. Some examples that are similar to the arrangement with DACS contemplated by the bill include:

- The Department of State may appoint a county tax collector as an agent to accept applications for licenses or license renewals or other similar registrations.<sup>15</sup>

<sup>9</sup> Frequently Asked Questions, Concealed Weapon or Firearm License website, [www.freshfromflorida.com](http://www.freshfromflorida.com); last visited January 16, 2014.

<sup>10</sup> The regional offices are located in Fort Walton Beach, Jacksonville, Doral, Orlando, Punta Gorda, Tallahassee, Tampa, and West Palm Beach. Regional Office Locations, [www.freshfromflorida.com](http://www.freshfromflorida.com); last Visited January 15, 2014.

<sup>11</sup> Fast Track Processing; [www.freshfromflorida.com](http://www.freshfromflorida.com); last visited January 15, 2014; Senate Fiscal Note from Department of Agriculture, transmitted January 23, 2014.

<sup>12</sup> s. 192.001(4), F.S.

<sup>13</sup> See generally Ch. 195, F.S.; s. 197.603, F.S.

<sup>14</sup> s. 197.103, F.S.

<sup>15</sup> s. 288.037, F.S.

- The Department of Highway Safety and Motor Vehicles (DHSMV) authorizes tax collectors to act as agents of the department in matters of motor vehicle registration. DHSMV has statutory authority to install The Florida Real Time Vehicle Information System in the tax collectors offices to facilitate the agency relationship.<sup>16</sup>
- DHSMV also has a statutory mandate to enter interagency agreements with county tax collectors to issue driver licenses, identification cards, and vessel registrations.<sup>17</sup>
- The county tax collectors may sell licenses for game hunting and fishing, as authorized by statute and the Fish and Wildlife Conservation Commission.<sup>18</sup>
- The Department of Business and Professional Regulation (DBPR) may enter into an agreement with county tax collectors to act as the department's agent to accept applications for licenses or renewals of licenses to practice professions that fall within DBPR jurisdiction.<sup>19</sup>

### III. Effect of Proposed Changes:

SB 544 creates a new section of law within Chapter 790, F.S., to allow the Department of Agriculture and Consumer Services (DACS) to appoint elected county tax collectors for the purpose of accepting and forwarding to DACS applications for concealed weapon or firearm licenses or renewals on behalf of the Division of Licensing (the Division).

County tax collectors who are interested in the appointment by DACS will submit a request to the Division. The Division then has the discretion to enter into a Memorandum of Understanding (MOU) with the tax collector. Both the DACS and the Division have the authority to rescind the MOU.

All personal identifying information provided for the license or renewal that is contained in a tax collector's records as a result of the MOU is given confidential and exempt status by the linked bill, SB 546.

Appointed tax collectors may not maintain a list of persons who apply for or receive a new or renewal concealed weapon or firearm license. Maintaining such a list makes the person subject to the provisions of s. 790.335, F.S.<sup>20</sup>

A tax collector appointed under the provisions of the bill is entitled to charge the applicant a convenience fee in the amount of \$22 for accepting new license applications and \$12 for accepting each renewal application. License fees collected by the tax collector are to be remitted to DACS weekly.

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<sup>16</sup> s. 320.03, F.S.

<sup>17</sup> s. 322.135, F.S., s. 328.73, F.S.

<sup>18</sup> s. 379.352, F.S.

<sup>19</sup> s. 455.213, F.S.

<sup>20</sup> Section 790.335, F.S., states: "PROHIBITIONS.—No state governmental agency or local government, special district, or other political subdivision or official, agent, or employee of such state or other governmental entity or any other person, public or private, shall knowingly and willfully keep or cause to be kept any list, record, or registry of privately owned firearms or any list, record, or registry of the owners of those firearms." Such conduct is subject to third degree felony penalties and a \$5 million dollar fine.

The bill authorizes tax collectors approved for appointment under newly-created s. 790.0625 to administer fingerprints for license applicants.

The bill prohibits persons who are not appointed by DACS from handling applications for any fee or compensation.

The bill creates a second degree misdemeanor for willful violations of newly-created s. 790.0625.

The bill makes no changes to eligibility criteria or license application requirements.

#### **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:

The citizen who chooses to avail him or herself of the concealed weapon or firearm license application service the tax collector provides will be charged a \$22 convenience fee for the service.

C. Government Sector Impact:

DACS estimates that an indeterminate amount of additional revenue will be generated and paid into the Division of Licensing Trust Fund from additional tax collector offices receiving and initially processing concealed weapon and firearm license applications.

Notwithstanding any additional license revenue generated from tax collector participation as contemplated in this bill, current and future concealed weapon and firearm license application revenue from DAC's existing license program received and deposited into the Division of Licensing Trust Fund is sufficient to cover the costs of administering the provisions of this bill.

DACS currently plans to provide one \$15,000 electronic fingerprint scanner to each tax collector appointed. The annual maintenance and future replacement of the scanner will be the responsibility of the tax collector. Additional equipment required for each tax collector office includes a minimum of two personal computers, a camera and document imaging scanner, among other equipment costing approximately \$3,000 for a minimum set up. This minimum equipment set up would be the tax collector's responsibility under the MOU.

Network connectivity to transmit applicant information will be provided via a standard connection available to all state agencies. This connection is currently in place in tax collector locations where driver licenses and motor vehicle tags are issued. No additional cost would be incurred and the data transmission would be encrypted via this secure network.<sup>21</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 790.06 of the Florida Statutes.  
This bill creates section 790.0625 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.

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

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<sup>21</sup> The information appearing in the Government Sector Impact section of this Bill Analysis originated with the Department of Agriculture and Consumer Services, Division of Licensing; see Senate Fiscal Note, received January 23, 2014.