

STORAGE NAME: h1881a.lec

DATE: April 4, 2000

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
LAW ENFORCEMENT AND CRIME PREVENTION
ANALYSIS**

BILL #: HB 1881

RELATING TO: Concealed Weapons/ Health Care Facilities

SPONSOR(S): Representative Logan

TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) LAW ENFORCEMENT AND CRIME PREVENTION YEAS 3 NAYS 6
 - (2) HEALTH CARE LICENSING AND REGULATION
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

Currently, it is illegal in the State of Florida to carry a concealed weapon or firearm, unless the person is licensed through the Department of State to carry a concealed weapon or firearm. Citizens who desire to legally carry a concealed weapon or firearm for lawful self defense must submit an application and meet all of the qualifications set forth in s. 790.06, F.S., and pay the licensing fee.

However, there are numerous restrictions placed on concealed weapons license holders. Subsection 790.06(12), F.S., prohibits concealed weapons license holders from carrying concealed weapons or firearms into certain locations, including police stations, jails, courthouses, polling places, government meetings, schools, colleges and many other locations.

HB 1881 would insert into the statute a new restrictive class of locations, falling into the definition of "any health care facility." This would include surgical centers, hospices, nursing homes, hospitals, various medical laboratories, medical equipment suppliers, alcohol and drug treatment centers, and numerous other facilities included within the definition. As with the existing restrictions, violation of the new provision would be punishable as a second degree misdemeanor.

The bill takes effect upon becoming law.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|------------------------------|------------------------------|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |

The bill would restrict the areas where those persons currently licensed to carry concealed firearms may actually carry concealed weapons.

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|------------------------------|
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Florida's concealed weapons licensing

In 1987, the Legislature created the Concealed Weapons Licensing Program in s. 790.06, F.S. The program permits the issuance of licenses to citizens who wish to carry a concealed weapon or firearm for lawful self-defense. "Weapons or firearms" are defined as "a handgun, electronic weapon or device, tear gas gun, knife, or billie (club), but the term does not include a machine gun." s. 790.06(1), F.S. A concealed firearm is "any firearm which is carried on or about a person in such a manner as to conceal the firearm from ordinary sight of another person." s. 790.001(2), F.S.

Carrying a concealed weapon or firearm without a license, improperly exhibiting a weapon or firearm, or openly carrying a weapon or firearm is prohibited. ss. 790.01, 790.10, and 790.053, F.S. It is a first degree misdemeanor to carry a weapon without a valid license and a third-degree felony to carry a firearm without a license. s. 790.01, F.S.

Citizens who desire a legal means to carry a concealed weapon or firearm for lawful self-defense are eligible for a license when they meet the qualifications under subsections (2) and (3) of s. 790.06, F.S. An applicant must meet numerous qualifications including that the applicant:

- ▶ Is a resident of the United States or is a consular security official of a foreign government;
- ▶ Is at least 21 years of age;
- ▶ Does not or has not abused alcohol or other substances;
- ▶ Is not mentally incapacitated;
- ▶ Is not ineligible to possess a firearm because of a prior felony conviction;
- ▶ Has not been convicted of a violent misdemeanor or had adjudication withheld on a felony within 3 years; and
- ▶ Demonstrates competence with a firearm.

STORAGE NAME: h1881a.lec

DATE: April 4, 2000

PAGE 3

Concealed weapons licenses are valid for 5 years, after which the license holder may apply for a renewal license. The Department of State administers the concealed weapons licensing program.

The department may impose nonrefundable license fees not exceeding \$85 and renewal fees not exceeding \$70. Currently the department is charging \$65 for the initial licensing and \$65 for the renewal. The applicant must also pay for processing the fingerprint background check, currently \$42. The department has 90 days to process the license application. s. 790.06(4), (5), and (6), F.S.

Active law enforcement officers, correctional officers, and correctional probation officers, as defined in s. 943.10(1), F.S., are exempt from the licensing requirements of s. 790.06, F.S. This includes part-time and auxiliary law enforcement officers. This means that an officer is free to carry a concealed firearm or weapon, on or off duty, without having to obtain a license. See *also* s. 790.052, F.S.

Current Limitations on Concealed Weapons License Holders

Subsection 790.06(12), F.S., currently places a number of limitations on concealed weapons license holders, which prohibit carrying a concealed weapons in many different locations. Concealed weapons license holders are not authorized to carry a concealed weapon or firearm into any place of nuisance, as defined in s. 823.05, F.S., which provides as follows:

823.05 Places declared a nuisance; may be abated and enjoined.--Whoever shall erect, establish, continue, or maintain, own or lease any building, booth, tent or place which tends to annoy the community or injure the health of the community, or become manifestly injurious to the morals or manners of the people as described in s. 823.01, or shall be frequented by the class of persons mentioned in s. 856.02, or any house or place of prostitution, assignation, lewdness or place or building where games of chance are engaged in violation of law or any place where any law of the state is violated, shall be deemed guilty of maintaining a nuisance, and the building, erection, place, tent or booth and the furniture, fixtures and contents are declared a nuisance. All such places or persons shall be abated or enjoined as provided in ss. 60.05 and 60.06.

In addition, subsection 790.06(12), F.S., indicates that a concealed weapons license holders are not authorized to carry concealed weapons in the following locations:

- (1) any police, sheriff, or highway patrol station;
- (2) any detention facility, prison, or jail;
- (3) any courthouse, any court room (excepting a judge)
- (4) any polling place;
- (5) any meeting of the governing body of a county, public school district, municipality, or special district;
- (6) any meeting of the Legislature or a committee thereof;
- (7) any school, college, or professional athletic event not related to firearms;
- (8) any school administration building;
- (9) 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;
- (10) any elementary or secondary school facility;

- (11) any area technical center;
- (12) 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;
- (13) inside the passenger terminal and sterile area of any airport; or
- (14) any place where the carrying of firearms is prohibited by federal law.

Any person who willfully violates any provision of subsection 790.06(12), F.S., commits a misdemeanor of the second degree.

C. EFFECT OF PROPOSED CHANGES:

HB 1881 would insert into the statutes an additional type of location where concealed weapons license holders would not be authorized to carry a concealed weapon or firearm, specifically any health care facility. As with the existing restrictions, violation of the new provision would be punishable as a second degree misdemeanor. The specific language inserted into the statutes provides for the exception as follows: **“any health care facility, as defined in s. 408.07(23) or its grounds.”**

Subsection 408.07(23), F.S., provides as follows:

(23) "Health care facility" means an ambulatory surgical center, a hospice, a nursing home, a hospital, a diagnostic-imaging center, a freestanding or hospital-based therapy center, a clinical laboratory, a home health agency, a cardiac catheterization laboratory, a medical equipment supplier, an alcohol or chemical dependency treatment center, a physical rehabilitation center, a lithotripsy center, an ambulatory care center, a birth center, or a nursing home component licensed under chapter 400 within a continuing care facility licensed under chapter 651.

Accordingly, this new provision encompasses far more than just hospitals. In fact, it covers a very broad range of facilities, where concealed weapons licence holders would be unable to legally carry their concealed weapons or firearms. In addition, the language **“or its grounds”** would apparently include the entire property boundaries on which the “health care facility” is situated.

HB1881 also inserts other new language into subsection 790.06(12), F.S., however, the meaning of this new language is not entirely clear. This new language would make subsection (12) read as follows: “No license issued pursuant to this section shall authorize any person to carry a concealed weapon , **nor may any person carry a concealed weapon or firearm,** into any place of nuisance...” It is, of course, already a crime for any person to carry a concealed weapon or firearm. Subsection 790.01(1) makes it a first degree misdemeanor for any person to carry a concealed weapon and subsection 790.01(2), F.S., makes it a third degree felony to carry a concealed weapon. Insertion of the new language in bold could be interpreted in the context of s. 790.06(12) to make both carrying a concealed weapon or firearm a second degree misdemeanor, which would conflict with the provisions of s. 790.01, F.S. Another possible unintended consequence of the new language in bold, would be to remove the exemption for law enforcement officers and prevent even law enforcement officers on active duty from carrying concealed firearms in any of the designated locations where concealed weapons license holders are not

STORAGE NAME: h1881a.lec

DATE: April 4, 2000

PAGE 5

authorized to carry a concealed weapon or firearm, but where law enforcement officers do carry firearms (police stations, jails courtrooms, airports, etc.).

D. SECTION-BY-SECTION ANALYSIS:

This section need be completed only in the discretion of the Committee.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

N/A

2. Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

N/A

D. FISCAL COMMENTS:

N/A

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

STORAGE NAME: h1881a.lec

DATE: April 4, 2000

PAGE 6

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

N/A

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

The new language set forth on page 1, line 16 of the bill is ambiguous in meaning and could have unintended consequences. Committee staff would suggest that the language be removed.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON LAW ENFORCEMENT AND CRIME PREVENTION:

Prepared by:

Staff Director:

Kurt E. Ahrendt

Kurt E. Ahrendt