



764102

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
04/18/2011	.	
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The Committee on Rules (Negron) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 790.33, Florida Statutes, is amended to
read:

790.33 Field of regulation of firearms and ammunition
preempted.—

(1) PREEMPTION.—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,



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14 taxation, manufacture, ownership, possession, storage, and
15 transportation thereof, to the exclusion of all existing and
16 future county, city, town, or municipal ordinances or any
17 administrative regulations or rules adopted by local or state
18 government relating thereto. Any such existing ordinances,
19 rules, or regulations are hereby declared null and void. ~~This~~
20 ~~subsection shall not affect zoning ordinances which encompass~~
21 ~~firearms businesses along with other businesses. Zoning~~
22 ~~ordinances which are designed for the purpose of restricting or~~
23 ~~prohibiting the sale, purchase, transfer, or manufacture of~~
24 ~~firearms or ammunition as a method of regulating firearms or~~
25 ~~ammunition are in conflict with this subsection and are~~
26 ~~prohibited.~~

27 ~~(2) LIMITED EXCEPTION; COUNTY WAITING-PERIOD ORDINANCES.—~~

28 ~~(a) Any county may have the option to adopt a waiting-~~
29 ~~period ordinance requiring a waiting period of up to, but not to~~
30 ~~exceed, 3 working days between the purchase and delivery of a~~
31 ~~handgun. For purposes of this subsection, "purchase" means~~
32 ~~payment of deposit, payment in full, or notification of intent~~
33 ~~to purchase. Adoption of a waiting-period ordinance, by any~~
34 ~~county, shall require a majority vote of the county commission~~
35 ~~on votes on waiting-period ordinances. This exception is limited~~
36 ~~solely to individual counties and is limited to the provisions~~
37 ~~and restrictions contained in this subsection.~~

38 ~~(b) Ordinances authorized by this subsection shall apply to~~
39 ~~all sales of handguns to individuals by a retail establishment~~
40 ~~except those sales to individuals exempted in this subsection.~~
41 ~~For purposes of this subsection, "retail establishment" means a~~
42 ~~gun shop, sporting goods store, pawn shop, hardware store,~~



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43 ~~department store, discount store, bait or tackle shop, or any~~
44 ~~other store or shop that offers handguns for walk-in retail sale~~
45 ~~but does not include gun collectors shows or exhibits, or gun~~
46 ~~shows.~~

47 ~~(c) Ordinances authorized by this subsection shall not~~
48 ~~require any reporting or notification to any source outside the~~
49 ~~retail establishment, but records of handgun sales must be~~
50 ~~available for inspection, during normal business hours, by any~~
51 ~~law enforcement agency as defined in s. 934.02.~~

52 ~~(d) The following shall be exempt from any waiting period:~~

53 ~~1. Individuals who are licensed to carry concealed firearms~~
54 ~~under the provisions of s. 790.06 or who are licensed to carry~~
55 ~~concealed firearms under any other provision of state law and~~
56 ~~who show a valid license;~~

57 ~~2. Individuals who already lawfully own another firearm and~~
58 ~~who show a sales receipt for another firearm; who are known to~~
59 ~~own another firearm through a prior purchase from the retail~~
60 ~~establishment; or who have another firearm for trade-in;~~

61 ~~3. A law enforcement or correctional officer as defined in~~
62 ~~s. 943.10;~~

63 ~~4. A law enforcement agency as defined in s. 934.02;~~

64 ~~5. Sales or transactions between dealers or between~~
65 ~~distributors or between dealers and distributors who have~~
66 ~~current federal firearms licenses; or~~

67 ~~6. Any individual who has been threatened or whose family~~
68 ~~has been threatened with death or bodily injury, provided the~~
69 ~~individual may lawfully possess a firearm and provided such~~
70 ~~threat has been duly reported to local law enforcement.~~

71 ~~(2)(3) POLICY AND INTENT.-~~



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72 (a) It is the intent of this section to provide uniform
73 firearms laws in the state; to declare all ordinances and
74 regulations null and void which have been enacted by any
75 jurisdictions other than state and federal, which regulate
76 firearms, ammunition, or components thereof; to prohibit the
77 enactment of any future ordinances or regulations relating to
78 firearms, ammunition, or components thereof unless specifically
79 authorized by this section or general law; and to require local
80 jurisdictions to enforce state firearms laws.

81 (b) It is further the intent of this section to deter and
82 prevent the violation of this section and the violation of
83 rights protected under the constitution and laws of this state
84 related to firearms, ammunition, or components thereof, by the
85 abuse of official authority that occurs when enactments are
86 passed in violation of state law or under color of local or
87 state authority.

88 (3) PROHIBITIONS; PENALTIES.-

89 (a) Any person, county, agency, municipality, district, or
90 other entity that violates the Legislature's occupation of the
91 whole field of regulation of firearms and ammunition, as
92 declared in subsection (1), by enacting or causing to be
93 enforced any local ordinance or administrative rule or
94 regulation shall be liable as set forth herein.

95 (b) If any county, city, town, or other local government
96 violates this section, the court shall declare the improper
97 ordinance, regulation, or rule invalid and issue a permanent
98 injunction against the local government prohibiting it from
99 enforcing such ordinance, regulation, or rule. It is no defense
100 that in enacting the ordinance, regulation, or rule the local



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101 government was acting in good faith or upon advice of counsel.

102 (c) If the court determines that a violation was knowing
103 and willful, the court shall assess a civil fine of up to \$5,000
104 against the elected or appointed local government official or
105 officials or administrative agency head under whose jurisdiction
106 the violation occurred.

107 (d) Except as required by s. 16, Art. I of the State
108 Constitution or the Sixth Amendment to the United States
109 Constitution, public funds may not be used to defend the
110 unlawful conduct of any person charged with a knowing and
111 willful violation of this section.

112 (e) A knowing and willful violation of any provision of
113 this section by a person acting in an official capacity for any
114 entity enacting or causing to be enforced a local ordinance or
115 administrative rule or regulation prohibited under paragraph (a)
116 or otherwise under color of law shall be cause for termination
117 of employment or contract or removal from office by the
118 Governor.

119 (f) A person or an organization whose membership is
120 adversely affected by any ordinance, regulation, measure,
121 directive, rule, enactment, order, or policy promulgated or
122 caused to be enforced in violation of this section may file suit
123 against any county, agency, municipality, district, or other
124 entity in any court of this state having jurisdiction over any
125 defendant to the suit for declaratory and injunctive relief and
126 for all actual damages attributable to the violation. A court
127 shall award the prevailing plaintiff in any such suit:

128 1. Reasonable attorneys' fees and costs in accordance with
129 the laws of this state, including a contingency fee multiplier,



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130 as authorized by law; and
131 2. The actual damages incurred, but not more than \$100,000.
132
133 Interest on the sums awarded pursuant to this subsection shall
134 accrue at the legal rate per annum from the date on which suit
135 was filed.
136 (4) EXCEPTIONS.—This section does not prohibit:
137 (a) Zoning ordinances that encompass firearms businesses
138 along with other businesses, except that zoning ordinances that
139 are designed for the purpose of restricting or prohibiting the
140 sale, purchase, transfer, or manufacture of firearms or
141 ammunition as a method of regulating firearms or ammunition are
142 in conflict with this subsection and are prohibited;
143 (b) A duly organized law enforcement agency from enacting
144 and enforcing regulations pertaining to firearms, ammunition, or
145 firearm accessories issued to or used by peace officers in the
146 course of their official duties;
147 (c) Except as provided in s. 790.251, any entity subject to
148 the prohibitions of this section from regulating or prohibiting
149 the carrying of firearms and ammunition by an employee of the
150 entity during and in the course of the employee's official
151 duties;
152 (d) A court or administrative law judge from hearing and
153 resolving any case or controversy or issuing any opinion or
154 order on a matter within the jurisdiction of that court or
155 judge; or
156 (e) The Florida Fish and Wildlife Conservation Commission
157 from regulating the use of firearms or ammunition as a method of
158 taking wildlife and regulating the shooting ranges managed by



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159 the commission.

160 (5) ~~(b)~~ SHORT TITLE.—As created by chapter 87-23, Laws of
161 Florida, this section ~~shall be known and~~ may be cited as the
162 “Joe Carlucci Uniform Firearms Act.”

163 Section 2. This act shall take effect October 1, 2011.

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165

166 ===== T I T L E A M E N D M E N T =====

167 And the title is amended as follows:

168 Delete everything before the enacting clause
169 and insert:

170

A bill to be entitled

171

An act relating to the regulation of firearms and
172 ammunition; amending s. 790.33, F.S.; clarifying and
173 reorganizing provisions that preempt to the state the
174 entire field of regulation of firearms; prohibiting
175 the violation of the Legislature’s occupation of the
176 whole field of regulation of firearms and ammunition
177 by the enactment or causation of enforcement of any
178 local ordinance or administrative rule or regulation;
179 providing additional intent of the section;
180 eliminating provisions authorizing counties to adopt
181 an ordinance requiring a waiting period between the
182 purchase and delivery of a handgun; providing
183 injunctive relief from the enforcement of an invalid
184 ordinance, regulation, or rule; providing a civil
185 penalty for knowing and willful violation of
186 prohibitions; providing that public funds may not be
187 used to defend the unlawful conduct of any person



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188 charged with a knowing and willful violation of the
189 section; providing for termination of employment or
190 contract or removal from office of a person acting in
191 an official capacity who knowingly and willfully
192 violates any provision of the section; providing for
193 declaratory and injunctive relief for specified
194 persons or organizations; providing for specified
195 damages and interest; providing exceptions to
196 prohibitions of the section; providing an effective
197 date.