

By the Committee on Criminal Justice; and Senator Gaetz

591-00895-16

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1                   A bill to be entitled  
2       An act relating to weapons and firearms; creating s.  
3       776.00111, F.S.; providing for construction of  
4       statutes that implicate the right to bear arms or  
5       engage in self-defense; amending s. 790.02, F.S.;  
6       specifying that a law enforcement officer may arrest a  
7       person for the unlicensed carrying of a concealed  
8       weapon only upon probable cause that such a violation  
9       is being committed; amending s. 790.053, F.S.;  
10      providing that a person licensed to carry a concealed  
11      firearm or weapon may also openly carry such firearm  
12      or weapon as long as such person is in compliance with  
13      specified provisions; providing that a person or  
14      entity who infringes on specified rights of an  
15      individual may be subject to liability under specified  
16      provisions; providing an exception; providing that  
17      certain persons and entities have no immunity;  
18      amending s. 790.25, F.S.; revising legislative  
19      findings concerning the possession and carrying of  
20      weapons and firearms; revising provisions concerning  
21      the construction of provisions; providing an effective  
22      date.

23  
24 Be It Enacted by the Legislature of the State of Florida:

25  
26       Section 1. Section 776.00111, Florida Statutes, is created  
27 to read:

28       776.00111 Construction.—The judiciary shall employ strict  
29 scrutiny in reviewing any statute that implicates the right to

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30 bear arms or defend one's self pursuant to this chapter. The  
31 right to bear arms is a fundamental and individual right that  
32 exists in any place that a person has the right to be, subject  
33 only to exceptionally and narrowly tailored restrictions that  
34 employ the least possible restriction on the right in order to  
35 achieve a compelling government interest.

36 Section 2. Section 790.02, Florida Statutes, is amended to  
37 read:

38 790.02 Officer to arrest without warrant and upon probable  
39 cause.—The unlicensed carrying of a concealed weapon is declared  
40 a breach of peace, and any officer authorized to make arrests  
41 under the laws of this state may make arrests without warrant of  
42 persons violating ~~the provisions of~~ s. 790.01 when said officer  
43 has ~~reasonable grounds or~~ probable cause to believe that the  
44 offense of unlicensed carrying of a concealed weapon is being  
45 committed.

46 Section 3. Section 790.053, Florida Statutes, is amended to  
47 read:

48 790.053 Open carrying of weapons.—

49 (1) Subject to ss. 790.06 and 790.10, a person licensed to  
50 carry a concealed firearm or weapon pursuant to this chapter may  
51 openly carry such firearm or weapon; however, except as  
52 otherwise provided by law and in subsection (2), it is unlawful  
53 for any other person to openly carry on or about his or her  
54 person a any firearm or electric weapon or device. ~~It is not a~~  
55 violation of this section for a person licensed to carry a  
56 concealed firearm as provided in s. 790.06(1), and who is  
57 lawfully carrying a firearm in a concealed manner, to briefly  
58 and openly display the firearm to the ordinary sight of another

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59 ~~person, unless the firearm is intentionally displayed in an~~  
60 ~~angry or threatening manner, not in necessary self-defense.~~

61 (2) A person may openly carry, for purposes of lawful self-  
62 defense:

63 (a) A self-defense chemical spray.

64 (b) A nonlethal stun gun or dart-firing stun gun or other  
65 nonlethal electric weapon or device that is designed solely for  
66 defensive purposes.

67 (3) Any person violating this section commits a misdemeanor  
68 of the second degree, punishable as provided in s. 775.082 or s.  
69 775.083.

70 (4) Unless probable cause exists to believe that a crime  
71 has been committed by an individual, any person or entity  
72 infringing upon the rights conferred on that individual by this  
73 chapter, chapter 776, s. 8, Art. I of the State Constitution, or  
74 the Second Amendment to the United States Constitution is liable  
75 pursuant to s. 790.33(3)(c), (d), (e), and (f). Notwithstanding  
76 any other law, no immunity shall apply to persons infringing on  
77 such rights in violation of this subsection.

78 Section 4. Subsections (1) and (4) of section 790.25,  
79 Florida Statutes, are amended to read:

80 790.25 Lawful ownership, possession, and use of firearms  
81 and other weapons.—

82 (1) DECLARATION OF POLICY.—The Legislature finds as a  
83 matter of public policy and fact that the possession and  
84 carrying of weapons and firearms by law-abiding individuals for  
85 lawful purposes, including self-defense, enhances public safety  
86 and that it is necessary to promote firearms safety and to curb  
87 and prevent the use of firearms and other weapons in crime and

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88 by incompetent persons without prohibiting the lawful use in  
89 defense of life, home, and property, and the use by United  
90 States or state military organizations, and as otherwise now  
91 authorized by law, including the right to use and own firearms  
92 for target practice and marksmanship on target practice ranges  
93 or other lawful places, and lawful hunting and other lawful  
94 purposes.

95 (4) CONSTRUCTION.—The judiciary shall construe this act in  
96 conjunction with the right to bear arms or defend one's self as  
97 provided in chapter 776. The right to bear arms and defend one's  
98 self is a fundamental and individual right that exists in any  
99 place that a person has the right to be, subject only to  
100 exceptionally and narrowly tailored restrictions that employ the  
101 least possible restriction on the right in order to achieve a  
102 compelling government interest. This act shall be liberally  
103 construed to carry out the declaration of policy herein and in  
104 favor of the constitutional right to keep and bear arms for  
105 lawful purposes. This act is supplemental and additional to  
106 existing rights to bear arms now guaranteed by law and decisions  
107 of the courts of Florida, and nothing herein shall impair or  
108 diminish any of such rights. This act shall supersede any law,  
109 ordinance, or regulation in conflict herewith.

110 Section 5. This act shall take effect upon becoming a law.