



934592

LEGISLATIVE ACTION

Senate

.

House

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Floor: NC/2R

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03/03/2018 06:07 PM

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Senator Taddeo moved the following:

Senate Amendment (with title amendment)

Between lines 409 and 410

insert:

Section 9. Section 790.33, Florida Statutes, is amended to read:

790.33 ~~Field of~~ Regulation of firearms and ammunition preempted.-

(1) It is the intent of the Legislature to set minimum statewide firearm and ammunition standards and to allow local governments, through their elected officials, to enact



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12 ordinances, regulations, or rules that fit the unique makeup and
13 demographics of their respective communities.

14 (2) Local government officials may enact ordinances,
15 regulations, or rules that are more stringent than the laws
16 established by the Legislature which they deem appropriate for
17 their respective communities.

18 ~~(1) PREEMPTION. Except as expressly provided by the State~~
19 ~~Constitution or general law, the Legislature hereby declares~~
20 ~~that it is occupying the whole field of regulation of firearms~~
21 ~~and ammunition, including the purchase, sale, transfer,~~
22 ~~taxation, manufacture, ownership, possession, storage, and~~
23 ~~transportation thereof, to the exclusion of all existing and~~
24 ~~future county, city, town, or municipal ordinances or any~~
25 ~~administrative regulations or rules adopted by local or state~~
26 ~~government relating thereto. Any such existing ordinances,~~
27 ~~rules, or regulations are hereby declared null and void.~~

28 ~~(2) POLICY AND INTENT.—~~

29 ~~(a) It is the intent of this section to provide uniform~~
30 ~~firearms laws in the state; to declare all ordinances and~~
31 ~~regulations null and void which have been enacted by any~~
32 ~~jurisdictions other than state and federal, which regulate~~
33 ~~firearms, ammunition, or components thereof; to prohibit the~~
34 ~~enactment of any future ordinances or regulations relating to~~
35 ~~firearms, ammunition, or components thereof unless specifically~~
36 ~~authorized by this section or general law; and to require local~~
37 ~~jurisdictions to enforce state firearms laws.~~

38 ~~(b) It is further the intent of this section to deter and~~
39 ~~prevent the violation of this section and the violation of~~
40 ~~rights protected under the constitution and laws of this state~~



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41 ~~related to firearms, ammunition, or components thereof, by the~~
42 ~~abuse of official authority that occurs when enactments are~~
43 ~~passed in violation of state law or under color of local or~~
44 ~~state authority.~~

45 ~~(3) PROHIBITIONS; PENALTIES.—~~

46 ~~(a) Any person, county, agency, municipality, district, or~~
47 ~~other entity that violates the Legislature's occupation of the~~
48 ~~whole field of regulation of firearms and ammunition, as~~
49 ~~declared in subsection (1), by enacting or causing to be~~
50 ~~enforced any local ordinance or administrative rule or~~
51 ~~regulation impinging upon such exclusive occupation of the field~~
52 ~~shall be liable as set forth herein.~~

53 ~~(b) If any county, city, town, or other local government~~
54 ~~violates this section, the court shall declare the improper~~
55 ~~ordinance, regulation, or rule invalid and issue a permanent~~
56 ~~injunction against the local government prohibiting it from~~
57 ~~enforcing such ordinance, regulation, or rule. It is no defense~~
58 ~~that in enacting the ordinance, regulation, or rule the local~~
59 ~~government was acting in good faith or upon advice of counsel.~~

60 ~~(c) If the court determines that a violation was knowing~~
61 ~~and willful, the court shall assess a civil fine of up to \$5,000~~
62 ~~against the elected or appointed local government official or~~
63 ~~officials or administrative agency head under whose jurisdiction~~
64 ~~the violation occurred.~~

65 ~~(d) Except as required by applicable law, public funds may~~
66 ~~not be used to defend or reimburse the unlawful conduct of any~~
67 ~~person found to have knowingly and willfully violated this~~
68 ~~section.~~

69 ~~(e) A knowing and willful violation of any provision of~~



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70 ~~this section by a person acting in an official capacity for any~~
71 ~~entity enacting or causing to be enforced a local ordinance or~~
72 ~~administrative rule or regulation prohibited under paragraph (a)~~
73 ~~or otherwise under color of law shall be cause for termination~~
74 ~~of employment or contract or removal from office by the~~
75 ~~Governor.~~

76 ~~(f) A person or an organization whose membership is~~
77 ~~adversely affected by any ordinance, regulation, measure,~~
78 ~~directive, rule, enactment, order, or policy promulgated or~~
79 ~~caused to be enforced in violation of this section may file suit~~
80 ~~against any county, agency, municipality, district, or other~~
81 ~~entity in any court of this state having jurisdiction over any~~
82 ~~defendant to the suit for declaratory and injunctive relief and~~
83 ~~for actual damages, as limited herein, caused by the violation.~~
84 ~~A court shall award the prevailing plaintiff in any such suit:~~

85 ~~1. Reasonable attorney's fees and costs in accordance with~~
86 ~~the laws of this state, including a contingency fee multiplier,~~
87 ~~as authorized by law; and~~

88 ~~2. The actual damages incurred, but not more than \$100,000.~~

89
90 ~~Interest on the sums awarded pursuant to this subsection shall~~
91 ~~accrue at the legal rate from the date on which suit was filed.~~

92 ~~(4) EXCEPTIONS. This section does not prohibit:~~

93 ~~(a) Zoning ordinances that encompass firearms businesses~~
94 ~~along with other businesses, except that zoning ordinances that~~
95 ~~are designed for the purpose of restricting or prohibiting the~~
96 ~~sale, purchase, transfer, or manufacture of firearms or~~
97 ~~ammunition as a method of regulating firearms or ammunition are~~
98 ~~in conflict with this subsection and are prohibited;~~



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99 ~~(b) A duly organized law enforcement agency from enacting~~
100 ~~and enforcing regulations pertaining to firearms, ammunition, or~~
101 ~~firearm accessories issued to or used by peace officers in the~~
102 ~~course of their official duties;~~

103 ~~(c) Except as provided in s. 790.251, any entity subject to~~
104 ~~the prohibitions of this section from regulating or prohibiting~~
105 ~~the carrying of firearms and ammunition by an employee of the~~
106 ~~entity during and in the course of the employee's official~~
107 ~~duties;~~

108 ~~(d) A court or administrative law judge from hearing and~~
109 ~~resolving any case or controversy or issuing any opinion or~~
110 ~~order on a matter within the jurisdiction of that court or~~
111 ~~judge; or~~

112 ~~(e) The Florida Fish and Wildlife Conservation Commission~~
113 ~~from regulating the use of firearms or ammunition as a method of~~
114 ~~taking wildlife and regulating the shooting ranges managed by~~
115 ~~the commission.~~

116 ~~(5) SHORT TITLE.—As created by chapter 87-23, Laws of~~
117 ~~Florida, this section may be cited as the "Joe Carlucci Uniform~~
118 ~~Firearms Act."~~

119 Section 10. Subsection (4) of section 790.251, Florida
120 Statutes, is amended to read:

121 790.251 Protection of the right to keep and bear arms in
122 motor vehicles for self-defense and other lawful purposes;
123 prohibited acts; duty of public and private employers; immunity
124 from liability; enforcement.—

125 (4) PROHIBITED ACTS.—No public or private employer may
126 violate the constitutional rights of any customer, employee, or
127 invitee as provided in paragraphs (a)-(e):



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128 (a) No public or private employer may prohibit any
129 customer, employee, or invitee from possessing any legally owned
130 firearm when such firearm is lawfully possessed and locked
131 inside or locked to a private motor vehicle in a parking lot and
132 when the customer, employee, or invitee is lawfully in such
133 area.

134 (b) No public or private employer may violate the privacy
135 rights of a customer, employee, or invitee by verbal or written
136 inquiry regarding the presence of a firearm inside or locked to
137 a private motor vehicle in a parking lot or by an actual search
138 of a private motor vehicle in a parking lot to ascertain the
139 presence of a firearm within the vehicle. Further, no public or
140 private employer may take any action against a customer,
141 employee, or invitee based upon verbal or written statements of
142 any party concerning possession of a firearm stored inside a
143 private motor vehicle in a parking lot for lawful purposes. A
144 search of a private motor vehicle in the parking lot of a public
145 or private employer to ascertain the presence of a firearm
146 within the vehicle may only be conducted by on-duty law
147 enforcement personnel, based upon due process and must comply
148 with constitutional protections.

149 (c) No public or private employer shall condition
150 employment upon either:

151 1. The fact that an employee or prospective employee holds
152 or does not hold a license issued pursuant to s. 790.06; or

153 2. Any agreement by an employee or a prospective employee
154 that prohibits an employee from keeping a legal firearm locked
155 inside or locked to a private motor vehicle in a parking lot
156 when such firearm is kept for lawful purposes.



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157 (d) No public or private employer shall prohibit or attempt
158 to prevent any customer, employee, or invitee from entering the
159 parking lot of the employer's place of business because the
160 customer's, employee's, or invitee's private motor vehicle
161 contains a legal firearm being carried for lawful purposes, that
162 is out of sight within the customer's, employee's, or invitee's
163 private motor vehicle.

164 (e) No public or private employer may terminate the
165 employment of or otherwise discriminate against an employee, or
166 expel a customer or invitee for exercising his or her
167 constitutional right to keep and bear arms or for exercising the
168 right of self-defense as long as a firearm is never exhibited on
169 company property for any reason other than lawful defensive
170 purposes.

171
172 ~~This subsection applies to all public sector employers,~~
173 ~~including those already prohibited from regulating firearms~~
174 ~~under the provisions of s. 790.33.~~

175
176 ===== T I T L E A M E N D M E N T =====

177 And the title is amended as follows:

178 Between lines 58 and 59

179 insert:

180 amending s. 790.33, F.S.; providing legislative
181 intent; authorizing local government officials to
182 enact ordinances, regulations, or rules more stringent
183 than the laws established by the Legislature in the
184 regulation of firearms and ammunition; deleting
185 preemption provisions; deleting policy and intent



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186 provisions; deleting prohibitions on enacting certain
187 ordinances, regulations, or rules; deleting civil
188 penalties; deleting exceptions; deleting a short
189 title; amending s. 790.251, F.S.; conforming a
190 provision to changes made by the act;