

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 6005 Possession of Firearms on School Property

SPONSOR(S): Byrd and others

TIED BILLS: IDEN./SIM. **BILLS:** SB 996

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|----------------------------------|-----------|---------|--|
| 1) Criminal Justice Subcommittee | 10 Y, 3 N | Padgett | Hall |
| 2) Education Committee | | | |
| 3) Judiciary Committee | | | |

SUMMARY ANALYSIS

Subject to certain exceptions, both Florida and federal laws prohibit possession of firearms on school property. Florida allows a person over 18 to possess a firearm on school property if the concealed firearm (i.e. handgun) is within a vehicle and securely encased or not readily available for immediate use. A long gun can be carried anywhere in the vehicle if it is being used for a lawful purpose. A school district may adopt a written policy which waives the exception for purposes of student and campus parking privileges.

HB 6005 restores the right of certain individuals to store a firearm in a vehicle on school property. Under the bill, a school district can prohibit a student from storing a firearm inside a vehicle on school property, but can no longer prohibit anyone else who may be on school property, such as employees or parents, from storing firearms inside their vehicles. The bill does not change the prohibition against carrying a firearm into a school facility or school-sponsored event.

The bill does not appear to have a fiscal impact on state or local governments.

The bill provides an effective date of July 1, 2019.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Firearms on School Property

Despite being licensed, a licensee may not carry a concealed firearm or weapon into several enumerated locations, including schools and colleges.¹ Both Florida and federal laws criminalize possession of a firearm on school property.²

Florida law

Under Florida law, possessing a firearm or weapon at a school-sponsored event or on the property of any school, school bus, or school bus stop is a third degree felony,³ punishable by up to five years imprisonment and a \$5,000 fine.⁴ A “school” is defined as any public or private preschool, elementary school, middle school, junior high school, secondary school, career center, or postsecondary school.⁵ Exceptions to the prohibition on possessing a firearm on school property include when a person carries a firearm:

- In a case to a firearms program, class, or function approved by the principal or chief administrative officer of the school;
- In a case to a firearms training range at a career center; or
- In a vehicle under certain circumstances, except that school districts may adopt written and published policies that waive the exception for purposes of student and campus parking privileges.⁶

Many school districts have waived the vehicle exception to prohibit all firearms from school board property.⁷

Federal law

Federal law prohibits possession of a firearm that has moved in or otherwise affects interstate or foreign commerce in a school zone.⁸ A person who unlawfully possesses a firearm in a school zone is subject to up to five years of incarceration in federal prison.⁹ The federal prohibition does not apply to possession of a firearm:

- On private property not part of school grounds;
- By a person licensed to possess a firearm by the state in which the school zone is located;
- That is:
 - Not loaded; and
 - Locked in a container, or a locked firearms rack that is on a motor vehicle;
- By an individual for use in a program approved by a school in the school zone;
- By an individual in accordance with a contract entered into between a school in the school zone and the individual or an employer of the individual;

¹ Ss. 790.06(12)(a)10. and 790.06(12)(a)13., F.S.

² S. 790.115(2)(a); 18 U.S.C. § 922(q)(2).

³ S. 790.115(2)(c), F.S.

⁴ Ss. 775.082 and 775.083, F.S.

⁵ S. 790.115(2)(a), F.S.

⁶ *Id.*

⁷ Palm Beach County School Board Policy 2.383, <https://www.boarddocs.com/fl/palmbeach/Board.nsf/goto?open&id=9R8NDB5A> (last visited March 7, 2019).

⁸ 18 U.S.C. § 922(q)(2)(A).

⁹ 18 U.S.C. §§ 924(1)(1)(B) and 924(4).

- By a law enforcement officer acting in his or her official capacity; or
- That is unloaded and is possessed by an individual while traversing school premises for the purpose of gaining access to public or private lands open to hunting, if entry on school premises is authorized by school authorities.¹⁰

Possession in a Vehicle

A person 18 years of age or older may keep a concealed firearm or weapon in a private vehicle without a license if the firearm is securely encased¹¹ or not readily accessible¹² for immediate use. Long guns may be carried anywhere in a vehicle if being used for a lawful purpose¹³.

Effect of Proposed Changes

HB 6005 restores the right of certain individuals to store a firearm in a vehicle on school property. Under the bill, a school district can prohibit a student from storing a firearm inside a vehicle on school property, but can no longer prohibit anyone else who may be on school property, such as employees or parents, from storing firearms inside their vehicles. The bill does not change the prohibition against carrying a firearm into a school facility or school-sponsored event.

B. SECTION DIRECTORY:

Section 1: Amends s. 790.115, F.S., relating to possessing or discharging weapons or firearms at a school-sponsored event or on school property prohibited.

Section 2: Provides an effective date of July 1, 2019.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

¹⁰ 18 U.S.C. § 922(q)(2)(B).

¹¹ "Securely encased" means in a glove compartment, whether or not locked; snapped in a holster; in a gun case, whether or not locked; in a zippered gun case; or in a closed box or container which requires a lid or cover to be opened for access. S. 790.001(17), F.S.

¹² "Readily accessible for immediate use" means that a firearm or other weapon is carried on the person or within such close proximity and in such a manner that it can be retrieved and used as easily and quickly as if carried on the person. S. 790.001(16), F.S.

¹³ e.g. hunting, traveling to or returning from a hunting trip. S. 790.25(3)(h), F.S.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES