

HB 163

2016

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; providing that a person or entity who  
13          infringes on specified rights of an individual may be  
14          subject to liability under specified provisions;  
15          providing an exception; providing that certain persons  
16          and entities have no immunity; amending s. 790.25,  
17          F.S.; revising legislative findings concerning the  
18          possession and carrying of weapons and firearms;  
19          revising provisions concerning the construction of  
20          provisions; providing an effective date.

21  
22   Be It Enacted by the Legislature of the State of Florida:

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

26           776.00111 Construction.—The judiciary shall employ strict

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

34 Section 2. Section 790.02, Florida Statutes, is amended to  
35 read:

36 790.02 Officer to arrest without warrant and upon probable  
37 cause.—The unlicensed carrying of a concealed weapon is declared  
38 a breach of peace, and any officer authorized to make arrests  
39 under the laws of this state may make arrests without warrant of  
40 persons violating ~~the provisions of~~ s. 790.01 when said officer  
41 has ~~reasonable grounds or~~ probable cause to believe that the  
42 offense of unlicensed carrying of a concealed weapon is being  
43 committed.

44 Section 3. Section 790.053, Florida Statutes, is amended  
45 to read:

46 790.053 Open carrying of weapons.—

47 (1) A person licensed to carry a concealed firearm or  
48 weapon pursuant to this chapter may openly carry such firearm or  
49 weapon; however, except as otherwise provided by law and in  
50 subsection (2), it is unlawful for any other person to openly  
51 carry on or about his or her person a ~~any~~ firearm or electric  
52 weapon or device. ~~It is not a violation of this section for a~~

53 ~~person licensed to carry a concealed firearm as provided in s.~~  
54 ~~790.06(1), and who is lawfully carrying a firearm in a concealed~~  
55 ~~manner, to briefly and openly display the firearm to the~~  
56 ~~ordinary sight of another person, unless the firearm is~~  
57 ~~intentionally displayed in an angry or threatening manner, not~~  
58 ~~in necessary self-defense.~~

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

61 (a) A self-defense chemical spray.

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

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

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

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

78 790.25 Lawful ownership, possession, and use of firearms

79 and other weapons.—

80 (1) DECLARATION OF POLICY.—The Legislature finds as a  
81 matter of public policy and fact that the possession and  
82 carrying of weapons and firearms by law-abiding individuals for  
83 lawful purposes, including self-defense, enhances public safety  
84 and that it is necessary to promote firearms safety and to curb  
85 and prevent the use of firearms and other weapons in crime and  
86 by incompetent persons without prohibiting the lawful use in  
87 defense of life, home, and property, and the use by United  
88 States or state military organizations, and as otherwise now  
89 authorized by law, including the right to use and own firearms  
90 for target practice and marksmanship on target practice ranges  
91 or other lawful places, and lawful hunting and other lawful  
92 purposes.

93 (4) CONSTRUCTION.—The judiciary shall construe this act in  
94 conjunction with the right to bear arms or defend one's self as  
95 provided in chapter 776. The right to bear arms and defend one's  
96 self is a fundamental and individual right that exists in any  
97 place that a person has the right to be, subject only to  
98 exceptionally and narrowly tailored restrictions that employ the  
99 least possible restriction on the right in order to achieve a  
100 compelling government interest. This act shall be liberally  
101 construed to carry out the declaration of policy herein and in  
102 favor of the constitutional right to keep and bear arms for  
103 lawful purposes. This act is supplemental and additional to  
104 existing rights to bear arms now guaranteed by law and decisions

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105 | of the courts of Florida, and nothing herein shall impair or  
106 | diminish any of such rights. This act shall supersede any law,  
107 | ordinance, or regulation in conflict herewith.

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