

A bill to be entitled

An act relating to the field of regulation of firearms and ammunition preempted; amending Section 790.33, F.S., to provide for an exemption to allow a municipality to regulate, by ordinance, the sale of firearms and ammunition on property owned by the municipality; providing for severability; and providing an effective date.

Section 1. Section 790.33, Florida Statutes, entitled "Field of regulation of firearms and ammunition preempted" is hereby amended, to read as follows:

(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, taxation, manufacture, ownership, possession, storage, and transportation thereof, to the exclusion of all existing and future county, city, town, or municipal ordinances or any administrative regulations or rules adopted by local or state government relating thereto. Any such existing ordinances, rules, or regulations are hereby declared null and void.

(2) POLICY AND INTENT.—

(a) It is the intent of this section to provide uniform firearms laws in the state; to declare all ordinances and regulations null and void which have been enacted by any jurisdictions other than state and federal, which regulate firearms, ammunition, or components thereof; to prohibit the enactment of any future ordinances or regulations

31 relating to firearms, ammunition, or components thereof
32 unless specifically authorized by this section or general
33 law; and to require local jurisdictions to enforce state
34 firearms laws.

35 (b) It is further the intent of this section to deter and
36 prevent the violation of this section and the violation of
37 rights protected under the constitution and laws of this
38 state related to firearms, ammunition, or components
39 thereof, by the abuse of official authority that occurs
40 when enactments are passed in violation of state law or
41 under color of local or state authority.

42 (3) PROHIBITIONS; PENALTIES.—

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

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

58 (c) If the court determines that a violation was knowing
59 and willful, the court shall assess a civil fine of up to
60 \$5,000 against the elected or appointed local government

61 official or officials or administrative agency head under
62 whose jurisdiction the violation occurred.

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

67 (e) A knowing and willful violation of any provision of
68 this section by a person acting in an official capacity for
69 any entity enacting or causing to be enforced a local
70 ordinance or administrative rule or regulation prohibited
71 under paragraph (a) or otherwise under color of law shall
72 be cause for termination of employment or contract or
73 removal from office by the Governor.

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

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

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

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

91 (4) EXCEPTIONS.—This section does not prohibit:

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

99 (b) A duly organized law enforcement agency from enacting
100 and enforcing regulations pertaining to firearms,
101 ammunition, or firearm accessories issued to or used by
102 peace officers in the 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
105 prohibiting the carrying of firearms and ammunition by an
106 employee of the entity during and in the course of the
107 employee's official 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
114 method of taking wildlife and regulating the shooting
115 ranges managed by the commission.

116 (f) A municipality from adopting an ordinance that
117 regulates the sale of firearms or ammunition on property
118 that is owned by that municipality.

119 (5) SHORT TITLE.—As created by chapter 87-23, Laws of
120 Florida, this section may be cited as the "Joe Carlucci

121 BILL

2020

122 Uniform Firearms Act."

123 Section 2. Severability. -- In case any one or more of the
124 sections or provisions of this act or the application of such
125 sections or provisions to any situation, circumstances, or person
126 shall for any reason be held to be unconstitutional, such
127 unconstitutionality shall not affect any other sections or
128 provisions of this act or the application of such sections or
129 provisions to any other situation, circumstances, or person, and
130 it is intended that this law shall be construed and applied as if
131 such section or provision had not been included herein for any
132 unconstitutional application.

133 Section 3. This act shall take effect July 1, 2020.

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