

By Senator Altman

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1 A bill to be entitled
2 An act relating to regulation of weapons; amending s.
3 790.33, F.S.; preempting the field of regulation of
4 specified activities involving weapons to the state;
5 preempting regulation of the use of firearms, weapons,
6 and ammunition to the state; revising provisions
7 relating to the policy and intent for such
8 preemptions; revising specified prohibitions on
9 political subdivisions relating to such regulation;
10 revising penalties for violations of such provisions;
11 revising provisions relating to sanctions on certain
12 persons who violate provisions while acting in their
13 official capacity; revising provisions relating to
14 exceptions; providing applicability; providing an
15 effective date.

16
17 WHEREAS, the appellate courts of this state have ruled that
18 any regulation of the right to bear arms is the exclusive
19 province of the Legislature pursuant to Section 8 of Article I
20 of the State Constitution, NOW, THEREFORE,

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

23
24 Section 1. Section 790.33, Florida Statutes, is amended to
25 read:

26 790.33 Field of regulation of firearms, weapons, and
27 ammunition preempted.—

28 (1) PREEMPTION.—Except as expressly provided by the State
29 Constitution or general law, the Legislature hereby declares

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30 that it is occupying the whole field of regulation of firearms,
31 weapons, and ammunition, including the purchase, sale, transfer,
32 taxation, manufacture, use, ownership, possession, storage, and
33 transportation thereof, to the exclusion of all existing and
34 future county, city, town, or municipal ordinances or any
35 administrative regulations or rules adopted by local or state
36 government relating thereto. Any such existing ordinances,
37 rules, or regulations are hereby declared null and void.

38 (2) POLICY AND INTENT.—

39 (a) It is the intent of this section to provide uniform
40 firearms, weapons, and ammunition laws in the state; to declare
41 all ordinances and regulations null and void which have been
42 enacted by any jurisdictions other than state and federal, which
43 regulate firearms, weapons, ammunition, or components thereof;
44 to prohibit the enactment of any future ordinances or
45 regulations relating to firearms, weapons, ammunition, or
46 components thereof unless specifically authorized by this
47 section or general law; and to require local jurisdictions to
48 enforce state firearms, weapons, and ammunition laws.

49 (b) It is further the intent of this section to deter and
50 prevent the violation of this section and the violation of
51 rights protected under the constitution and laws of this state
52 related to firearms, weapons, and ammunition, or components
53 thereof, by the abuse of official authority that occurs when
54 enactments are passed or adopted in violation of state law or
55 under color of local or state authority.

56 (3) PROHIBITIONS; PENALTIES.—

57 (a) Any person, county, agency, municipality, district, or
58 other entity that violates the Legislature's occupation of the

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59 whole field of regulation of firearms, weapons, and ammunition,
60 as declared in subsection (1), by enacting, adopting, or causing
61 to be enforced any local ordinance or administrative rule or
62 regulation impinging upon such exclusive occupation of the field
63 shall be liable as set forth herein.

64 (b) If any county, city, town, or other local government
65 violates this section, the court shall declare the improper
66 ordinance, regulation, or rule invalid and issue a permanent
67 injunction against the local government prohibiting it from
68 enforcing or adopting such ordinance, regulation, or rule. It is
69 no defense that in enacting or adopting the ordinance,
70 regulation, or rule the local government was acting in good
71 faith or upon advice of counsel.

72 (c) If the court determines that a violation was knowing
73 and willful, the court shall assess statutory damages ~~a civil~~
74 ~~fine~~ of up to \$15,000 or actual damages incurred, whichever is
75 greater, jointly and severally, \$5,000 against the public entity
76 and the elected or appointed local government official or
77 officials or administrative agency head under whose jurisdiction
78 the violation occurred.

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

83 (e) A knowing and willful violation of any provision of
84 this section by a person acting in an official capacity for any
85 entity enacting, adopting, or causing to be enforced a local
86 ordinance or administrative rule or regulation prohibited under
87 paragraph (a) or otherwise under color of law shall constitute

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88 both malfeasance and misfeasance for purposes of s. 7, Art. IV
89 of the State Constitution and be cause for termination of
90 employment or contract ~~or removal from office by the Governor.~~

91 (f) A person or an organization whose membership is
92 adversely affected by any ordinance, regulation, measure,
93 directive, rule, enactment, order, or policy adopted ~~promulgated~~
94 or caused to be enforced in violation of this section may file
95 suit against any county, agency, municipality, district, or
96 other entity in any court of this state having jurisdiction over
97 any defendant to the suit for declaratory and injunctive relief
98 and for statutory or actual damages, as limited herein, caused
99 by the violation. A court shall award the prevailing plaintiff
100 in any such suit:

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

104 2. The statutory or actual damages incurred, ~~but not more~~
105 ~~than \$100,000.~~

106
107 Interest on the sums awarded pursuant to this subsection shall
108 accrue at the legal rate from the date on which suit was filed.

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

110 (a) Zoning ordinances that encompass firearms businesses
111 along with other businesses, except that zoning ordinances that
112 are designed for the purpose of restricting or prohibiting the
113 sale, purchase, transfer, use, or manufacture of firearms,
114 weapons, or ammunition as a method of regulating firearms,
115 weapons, or ammunition are in conflict with this subsection and
116 are prohibited;

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117 (b) A duly organized law enforcement agency from enacting
118 and enforcing regulations pertaining to firearms, weapons,
119 ammunition, or firearm accessories issued to or used by peace
120 officers in the course of their official duties;

121 (c) Except as provided in s. 790.251, any entity subject to
122 the prohibitions of this section from regulating or prohibiting
123 the carrying of firearms, weapons, and ammunition by an employee
124 of the entity during and in the course of the employee's
125 official duties;

126 (d) A court or administrative law judge from hearing and
127 resolving any case or controversy or issuing any opinion or
128 order on a matter within the jurisdiction of that court or
129 judge; or

130 (e) The Florida Fish and Wildlife Conservation Commission
131 from regulating the use of firearms, weapons, or ammunition as a
132 method of taking wildlife and regulating the shooting ranges
133 managed by the commission.

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

137 Section 2. This act shall apply to all cases pending on the
138 effective date of this act.

139 Section 3. This act shall take effect upon becoming a law.