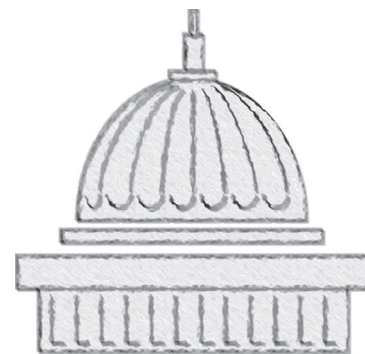


# F. NRA / ILA Firearms Laws for

# FLORIDA

(As of December, 2009)



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## A SYNOPSIS OF STATE LAWS ON PURCHASE, POSSESSION AND CARRYING OF FIREARMS.

### QUICK REFERENCE CHART

|                          | Rifles and<br>Shotguns | Handguns |
|--------------------------|------------------------|----------|
| Permit to Purchase       | No                     | No       |
| Registration of Firearms | No                     | No       |
| Licensing of Owners      | No                     | No       |
| Permit to Carry          | No                     | Yes      |

### STATE CONSTITUTIONAL PROVISION

“(a) The right of the people to keep and bear arms in defense of themselves and of the lawful authority of the state shall not be infringed, except that the manner of bearing arms may be regulated by law. (b) There shall be a mandatory period of three days, excluding weekends and legal holidays, between the purchase and delivery at retail of any handgun. For the purposes of this section, “purchase” means the transfer of money or other valuable consideration to the retailer, and “handgun” means a firearm capable of being carried and used by one hand, such as a pistol or revolver. Holders of a concealed weapon permit as prescribed in Florida law shall not be subject to the provisions of this paragraph. (c) . . . anyone violating the provisions of subsection (b) shall be guilty of a felony. (d) This restriction shall not apply to a trade in of another handgun.” Article 1, Section 8.

The legislature of the State of Florida, in a declaration of policy incorporated in its “Weapons and Firearms” statute, recognizes that adult citizens of the state retain their constitutional right to keep and bear firearms for hunting and sporting activities and for defense of self, family, home, and business and as collectibles.

### PURCHASE AND POSSESSION

No state permit is required to possess or purchase a rifle, shotgun or handgun.

It is unlawful for any convicted felon to have in his or her care, custody, control, or possession any firearm or to carry a concealed weapon unless his civil rights have been restored.

It is unlawful for the following persons to own, possess or use any firearm: drug addicts, alcoholics, mental incompetents, and vagrants.

A person may not have in his or her care, custody, possession, or control any firearm or ammunition if the person has been issued a final injunction that is currently in force and effect, restraining that person from committing acts of domestic violence.

It is unlawful to sell, give, barter, lend or transfer a firearm or other weapon other than an ordinary pocketknife to a minor less than the age of 18 without his parent’s permission, or to any person of unsound mind.

It is unlawful for any dealer to sell or transfer any firearm, pistol, Springfield rifle or other repeating rifle to a minor.

A minor less than 18 years of age may not possess a firearm, other than an unloaded firearm at his home, unless engaged in lawful activities.

No licensed gun dealer, manufacturer or importer shall sell or deliver any firearm to another person until he has obtained a completed form from the potential buyer or transferee and received approval from the Department of Law Enforcement by means of a toll-free telephone call. The Department of Law Enforcement shall destroy records of approval and non-approval

within 48 hours after its response. The fee for the instant check shall be \$8.00. Exempt from the instant check are licensed dealers, manufacturers, importers, collectors, persons with a concealed carrying license, law enforcement, correctional and correctional probation officers.

Excluding weekends and legal holidays, there is a three-day waiting period to purchase a handgun from a retail establishment. Exempt from the waiting period are concealed weapons permit holders and those trading in another handgun.

### CARRYING

Unless covered under the exceptions, it is unlawful to openly carry on or about the person any firearm, or to carry a concealed firearm on or about the person without a license.

Exceptions:

1. Persons having firearms at their home or place of business.
2. Enrolled members of clubs organized for target, skeet, or trapshooting, while at, or going to or from shooting practice.
3. Members of clubs organized for collecting antique or modern firearms while at or going to or from exhibitions.
4. Persons engaged in fishing, camping or hunting and while going to or from such activity.
5. Persons engaged in target shooting under safe conditions and in a safe place or while going to or from such place.
6. Persons who are firing weapons for target practice in a safe and secure indoor range.
7. Persons traveling by private conveyance if the weapon is securely encased, or in a public conveyance if the weapon is securely encased and not in the person’s manual possession.
8. Persons carrying a pistol unloaded and in a secure wrapper from place of purchase to their home or to a place of repair and back.
9. Persons engaged in the business of manufacturing, repairing or dealing in firearms.
10. Military, law enforcement personnel and private guards while so employed.

It is lawful to possess a concealed firearm for self-defense or other lawful purposes within the interior of a private conveyance, without a license, if the firearm is securely encased or is otherwise not readily accessible for immediate use. A firearm other than a handgun may be carried anywhere in a private conveyance when such firearm is being carried for a lawful use. This exemption does not authorize the carrying of a firearm concealed on the person. Employers may not prohibit their employees who are properly licensed under Florida law to carry a handgun, from storing any legally owned firearm inside a locked, privately-owned motor vehicle that is lawfully present in a parking lot maintained by the employer.

An application for a license to carry a handgun concealed is made to the Department of Agriculture. The license is valid for seven years and is honored throughout the state. The application shall be completed, under oath, on a form promulgated by the Department of Agriculture and shall include the applicant’s name, address, place and date of birth, race, and occupation. The initial license fee is not to exceed \$85 plus the cost of processing the fingerprint card. The renewal fee is not to exceed \$70 (fingerprint card is not required on renewal licenses). However, at the discretion of the Department of Agriculture, the fees may be lower than the statutory cap.

Fingerprinting must be conducted by a law enforcement agency of the state. The sheriff's office shall provide fingerprinting service to the applicant and may charge a fee not to exceed \$5.

The Department of Agriculture shall issue a license if the applicant:

- (a) is at least 21 and a resident of the United States;
- (b) does not suffer from a physical infirmity which prevents the safe handling of a firearm;
- (c) is not a convicted felon;
- (d) has not within a three-year period preceding submission of the application been convicted of a crime of violence or committed for drug abuse or been convicted of a minor drug offense;
- (e) has not been adjudicated guilty even with a suspended sentence for a felony or misdemeanor crime of domestic violence, unless three years has elapsed since probation or the record is sealed or expunged;
- (f) is not currently under any injunction restraining the applicant from acts of domestic violence or repeated acts of violence;
- (g) has not been adjudicated an incapacitated person, unless he has waited five years from the date of his court-ordered restoration to capacity, or been committed to a mental institution, unless he possesses a psychiatrist's certificate that he has not suffered from the disability for five years;
- (h) is not a chronic or habitual drunkard;
- (i) demonstrates competence with a firearm by a variety of means; and
- (j) states that he desires a legal means to carry a concealed weapon or firearm for lawful self-defense.

A license shall not authorize any person to carry a concealed weapon or firearm into any place of nuisance, police station, detention facility, courthouse, polling place, meeting of any state, county, municipal, or special district governing body, any school, any professional or school athletic event not related to firearms, portion of an establishment licensed to dispense alcoholic beverages for consumption on the premises, inside the sterile and passenger area of an airport, or any place where the carrying of firearms is prohibited by federal law.

The Department of Agriculture must be notified within 30 days of changing a permanent address, destruction or losing a license. A duplicate license costs \$15.00. A person must carry his license together with valid identification, such as a driver's license.

The licensing law shall be liberally construed to carry out the Constitutional right to bear arms for self-defense.

A resident of the United States who is a nonresident of Florida, may carry a concealed weapon or concealed firearm while in this state if that person is 21 years of age or older, has in his or her immediate possession a valid license to carry a concealed weapon or firearm issued by the state of their residence, and abides by the Florida laws on carrying a concealed weapon or firearm.

## ANTIQUES AND REPLICAS

Unless used in the commission of a crime, the term firearm shall not include an antique firearm. An antique firearm is any firearm manufactured in or before 1918 (including any matchlock, flintlock, percussion cap, or similar early type of ignition system) or replicas thereof, whether actually manufactured before or after the year 1918, and also any firearm using fixed ammunition manufactured in or before 1918, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

## MACHINE GUNS

The possession of a machine gun, defined as any firearm which shoots, or is designed to shoot, automatically, more than one shot without manually reloading, by a single function of the trigger, is prohibited unless lawfully owned and possessed under provisions of federal law.

## MISCELLANEOUS

Under Florida law, there is no "duty to retreat" if you are attacked in any place you have a lawful right to be. Instead, you may stand your ground and

meet force with force, including deadly force, if you reasonably believe it is necessary to prevent death or great bodily harm to yourself or others.

Use of a firearm, BB gun, air or gas-operated guns, or electric weapons or devices by a minor under the age of 16 is prohibited unless the minor is under the supervision and in the presence of an adult who is acting with the consent of the minor's parent.

Florida has mandatory sentence enhancements for any serious felony, such as murder, rape, aggravated assault, burglary or robbery, committed with a firearm. The penalty is increased if a machine gun or a semiautomatic firearm with magazine capacity of more than 20 centerfire cartridges is possessed during a serious felony or narcotics offense.

It is unlawful to knowingly discharge a firearm in any public place, or on the right of way of any paved public road, highway or street or over any road, highway, street or occupied building, except in defense of life or property, in performance of official duties or where expressly approved for hunting.

Except during the hunting season as established by law, it is unlawful to carry a firearm within the limits of a national forest area. Exempt are persons who have obtained a special permit by the county commissioners or persons traveling on state roads when the firearm is securely locked within a vehicle.

It is unlawful to have or carry a firearm in the presence of one or more persons and exhibit the firearm in a rude, careless, angry, or threatening manners, except in cases of self-defense.

The state legislature has preempted the regulation of firearms and ammunition. No political subdivision of the state may bring legal action against a firearms or ammunition manufacturer or distributor for the legal manufacture, marketing, distribution, and sale of firearms and ammunition.

Owners, operators, and users of sport shooting ranges have limited liability for the accumulation of any projectiles on their range.

It is unlawful to sell, deliver, or use to assist in the commission of a crime any bullet, which has a steel inner core, or core of equivalent hardness and truncated cone and which is designed for use in a handgun as an armor-piercing bullet.

It is unlawful to store or leave a firearm in any place within reach or easy access of a person less than 18 years of age. This provision does not apply to:

1. A firearm stored in a securely locked box or container, or in a location which a reasonable person would have believed to be secure, or securely locked with a trigger lock;
2. A minor who obtains a firearm by means of unlawful entry by any person;
3. Minors engaged in a lawful marksmanship competition or practice or other lawful recreational shooting activity;
4. Any person carrying the firearm on his or her body or within such close proximity thereto that he or she can retrieve and use it as easily and quickly as if he or she carried it on his or her body.

Whoever, through culpable negligence, stores or leaves a loaded firearm within the reach or easy access of a minor less than 16 years of age commits a felony of the third degree, if the minor obtains the firearm and uses it to inflict injury or death upon himself or herself or any other person. This subsection does not apply:

1. If the firearm was stored or left in a securely locked box or container or in a location which a reasonable person would have believed to be secure, or was securely locked with a trigger lock;
2. If the minor obtains the firearm as a result of an unlawful entry by any person;
3. To injuries resulting from target or sport shooting accidents or hunting accidents; or
4. To members of the Armed Forces, National Guard, or State Militia, or to police or other law enforcement officers, with respect to firearm possession by a minor which occurs during or incidental to the performance of their official duties.

Source: FLA. STAT. ANN. §§ 784.05; 790.001; 790.01; 790.15; 790.53; 790.06; 790.065; 790.655; 790.07; 790.10; 790.11; 790.15; 790.16; 790.17; 790.174; 790.175; 790.18; 790.19; 790.22; 790.221; 790.233; 790.235; 790.33; 790.331; and 790.333

**CAUTION:** Firearm laws are subject to frequent change and court interpretation. This summary is not intended as legal advice or restatement of law. This summary does not include federal or local laws, ordinances or regulations. For any particular situation, a licensed local attorney must be consulted for an accurate interpretation. **YOU MUST ABIDE WITH ALL LAWS: STATE, FEDERAL AND LOCAL.**

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