

## **Florida Report: Open Carry Bill Passes 1st House Committee 10-6-2015**

DATE: October 6, 2015

TO: USF & NRA Members and Friends

FROM: Marion P. Hammer

USF Executive Director

NRA Past President

Today, Tuesday, October 6, 2015, the House Criminal Justice Committee held a hearing on [HB-163 by Rep. Matt Gaetz](#) *The bill PASSED by a Vote of 8-4.*

HB-163 is a bill to allow persons with a Concealed Weapons & Firearms License to carry firearms concealed or openly.

**Sheriff Wayne Ivey (Brevard)** and representatives of **Sheriff Charlie Creel (Wakulla)** expressed support for the bill at a press conference with bill sponsors **Sen. Don Gaetz and Rep. Matt Gaetz**, before the committee meeting. Among other sheriffs who have expressed support for open carry are **Sheriff Gordon Smith (Bradford) and Sheriff Chris Nocco (Pasco)**.

**Voting FOR the bill** were Republican Reps. Carlos Trujillo, Dennis Baxley, Jay Fant, Gayle Harrell, Ray Pilon, Scott Plakon, Ross Spano and Charles Van Zant.

**Voting AGAINST the bill** were Democrat Reps. Randolph Bracy, Dave Kerner and Sharon Pritchett -- Rep. Clovis Watson did not vote.

**The only Republican to vote against the bill was Chris Latvala (R-Clearwater).**

BACKGROUND:

This bill will prevent CW license holders from being charged with the crime of violating the "Open Carry" law because a concealed firearm, being legally carried, accidentally or inadvertently became visible to another person.

According to our attorneys, allowing license holders to carry openly is the only way to truly keep them from being arrested and/or prosecuted for violating the open carry ban if

firearms are accidentally and unintentionally exposed.

IT IS UNFORTUNATELY TRUE that anytime you are carrying a concealed firearm you are in danger of being charged with a crime and treated like a criminal if your firearm accidentally becomes exposed to the sight of another person and law enforcement is called.

In 2011, we attempted to fix that problem. We supported language that clearly says it is NOT a violation of the open carry ban ***"for a person licensed to carry a concealed firearm as provided in s. 790.06(1), and who is lawfully carrying a firearm in a concealed manner, to briefly and openly display the firearm to the ordinary sight of another person, unless the firearm is intentionally displayed in an angry or threatening manner, not in necessary self-defense."***

Not only did that language NOT stop the abuse. It has gotten worse.

In one case, a young man was arrested when his firearm was accidentally and unintentionally exposed. Someone saw it and called 911. It took law enforcement 5 minutes to arrive. They arrested him because they said 5 minutes wasn't brief. It didn't matter that it was accidental and unintentional. He was prosecuted and convicted.

In another case a man was arrested, and convicted because the accidental and unintentional exposure of his firearm was for only 2 minutes.

Further, it has been reported that State Attorney Angela Corey's office in Jacksonville says that exposure isn't brief, if it is more than an instantaneous glance before being covered up again.

And to make matters worse, there is a case pending on a motion for review before the Florida Supreme Court -- because a lower court didn't think a young man was dressed appropriately to hide a gun when it accidentally became visible.

Concealed Weapons License holders whose firearms are seen by others seem to be targets in some jurisdictions.

This bill will only allow persons who have a license to carry a concealed weapon or firearm to carry concealed or openly. All of the provisions of the concealed carry law apply to those who chose to carry openly. Including:

- \* You must have your license on you at all times when carrying and you must show it to a law enforcement officer who asks if you have a license.
- \* You cannot carry a long gun -- rifle or shotgun -- concealed or openly under this law.
- \* You cannot carry concealed or openly onto private property of any business or person who chooses to prohibit it.
- \* You cannot carry openly in any place where concealed carry is prohibited.