

IN THE CIRCUIT COURT, FOURTH  
JUDICIAL CIRCUIT, IN AND FOR  
DUVAL COUNTY, FLORIDA

CASE NO.: 16-2011-CA-8012  
DIVISION: CV-G

FLORIDA CARRY, INC., and  
ALEXANDRIA LAINEZ,

Plaintiffs,

v.

UNIVERSITY OF NORTH FLORIDA, and  
JOHN DELANEY,

Defendants.

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**ORDER DENYING MOTION FOR TEMPORARY INJUNCTION**

THIS CAUSE came before the Court on Plaintiffs' Motion for Temporary Injunction. Florida Carry, Inc., and Alexandria Lainez ("Plaintiffs") have sued University of North Florida ("UNF") and its President, John Delaney ("President Delaney") (collectively, "Defendants"), alleging violations of Section 790.33, Florida Statutes, which declares the Legislature's occupation of the field of firearms regulation. Ms. Lainez is a student at UNF and a member of Florida Carry, Inc., a firearms owner advocacy group. Plaintiffs allege that Defendants violated Section 790.33 by publishing a Student Handbook and a Student Code of Conduct that prohibit students from possessing firearms on campus without any exception for firearms in private conveyances. Defendants assert that Florida law expressly permits universities to regulate firearms on university property.

Plaintiffs request a temporary injunction:

- a. Prohibiting the Defendants from enforcing, for the duration of this case, any rules or regulations presently existing or subsequently enacted, regarding the

possession of a weapon or firearm in a vehicle by any person otherwise lawfully entitled to possess a weapon or firearm in their private vehicle.

b. Prohibiting the Defendants from punishing in any way, through prosecution or administrative or academic discipline, any student for otherwise lawful possession of a weapon or firearm in a private conveyance, if such conduct occurred while an injunction was in effect.

"[A] preliminary injunction is an extraordinary remedy which should be granted sparingly." *Hadi v. Liberty Behavioral Health Corp.*, 927 So. 2d 34, 38 (Fla. 1st DCA 2006). A petitioner seeking a temporary injunction must establish four elements: "a substantial likelihood of success on the merits; lack of an adequate remedy at law; irreparable harm absent the entry of an injunction; and that injunctive relief will serve the public interest." *Liberty Counsel v. Fla. Bar Bd. of Governors*, 12 So. 3d 183, 186 n.7 (Fla. 2009) (quoting *Reform Party of Fla. v. Black*, 885 So. 2d 303, 305 (Fla. 2004)). As set forth below, Plaintiffs have not established that they are substantially likely to succeed on the merits. Thus, the Court need not consider the other three elements required to obtain a temporary injunction.

Section 790.33, upon which Plaintiffs rely, preempts local or administrative regulation of firearms "[e]xcept as expressly provided by the State Constitution or general law." Fla. Stat. § 790.33(1) (2011). Section 790.251 generally forbids employers from prohibiting firearms storage in private conveyances, but expressly provides an exception for "any school property as defined and regulated under s. 790.115." Fla. Stat. § 790.251(7)(a) (2011). Section 790.115 does not define "school property", but defines "school" as "any preschool, elementary school, middle school, junior high school, secondary school, career center, or postsecondary school, whether public or non-private." Fla. Stat. § 790.115 (2011) (emphasis added). UNF is a postsecondary school. Thus, UNF's power to regulate the possession of firearms in private conveyances located on its property has been expressly provided by the Legislature.

Plaintiffs argue that Section 790.115 does not apply to UNF, because it refers to "school districts" and, according to Plaintiffs, UNF is not a "school district." Plaintiffs urge the Court to interpret school districts to mean public school districts, as defined in the Florida Constitution. *See Fla. Const. Art IV, Section 9* (describing the role of school districts in Florida's public school system). Section 790.115 does not provide a definition of "school district", nor refer to the Florida Constitution. However, in the very next sentence after Section 790.115 mentions "school districts", the statute defines "school" to include schools from preschool through postsecondary "whether public or nonpublic." Fla. Stat. § 790.115 (2011). Applying Plaintiffs' definition of "school district" to Section 790.115 would permit only public schools to regulate firearms on their property and frustrate the clearly expressed intent of the Legislature to cover all schools "whether public or private". *See Blinn v. Fla. Dep't. of Transp.*, 781 So. 2d 1103, 1107 (Fla. 1st DCA 2000) ("Where the literal language of the statute is in conflict with the stated legislative policy of the act, the court will not give the language its literal interpretation 'when to do so would lead to an unreasonable conclusion or defeat legislative intent or result in a manifest incongruity.'")

To the extent that Section 790.251 is ambiguous, the legislative history bolsters the Court's conclusion that universities are covered by the "school property" exception. *See Am. Home Assur. Co. v. Plaza Materials Corp.*, 908 So. 2d 360, 369 (Fla. 2005) ("[L]egislative history ... is a basic and invaluable tool of statutory construction"). For example, when Senator Joyner had a question about the intent of this part of the bill, she understandably directed her specific question to the sponsor of the bill, and got the following answer:

Senator Joyner: Thank you, Mr. President. Senator Peaden, the prohibitions list first school property and my question is, does school property include colleges, *universities*, law schools, community colleges and any other institutions of higher learning?

Mr. President: Senator Peaden.

Senator Peaden: (*Unintelligible*). It is my understanding that the definition in the statute of schools all of these are covered for this particular bill.

*Preservation and Protection of the Right to Keep and Bear Arms in Motor Vehicles: Second Reading and Debate on SB 1130*, at 1:56:02-1:56:34 P.M. (Fla. Apr. 3, 2008) (emphasis added). Further:

Senator Deutch: Thank you, Mr. President. Mr. President, just for purposes of clarification, and members of the Senate, school as it is defined in Section 790.115 means any preschool, elementary school, middle school, junior high school, secondary school, career center, or *postsecondary school*, whether public or non public. *Under the bill as drafted, all of those schools are exempt from this statute.*

*Preservation and Protection of the Right to Keep and Bear Arms in Motor Vehicles: Second Reading and Debate on SB 1130*, at 2:00:11- 2:00:45 PM (Fla. Apr. 3, 2008) (emphasis added).

And, finally:

Senator Deutch: Thank you Mr. President. For the record the statute that Senator Peaden refers to clearly does not include preschools, child care centers are not included in the definition of schools so members if you vote against this amendment, you'll be making the decision to protect the kids in our K-12 *and universities* while choosing to put the safety of our kids in our preschools those are perhaps the most vulnerable kids that we drop off in the morning and pick up after work putting in jeopardy the safety of those kids. Please understand that as we vote on this amendment.

*Preservation and Protection of the Right to Keep and Bear Arms in Motor Vehicles: Second Reading and Debate on SB 1130*, at 1:44:22-1:44:50 P.M. (Fla. Apr. 3, 2008) (emphasis added).

Section 790.251's legislative history clearly demonstrates that the Legislature's intended to permit universities such as UNF to regulate firearms storage in private conveyances located on their property. The Court must interpret Section 790.251 to accomplish, rather than defeat, the Legislature's purpose. *See Dennis v. State*, 51 So. 3d 456, 461 (Fla. 2010).

For the foregoing reasons, it is hereby **ORDERED AND ADJUDGED**

1. Plaintiffs' Motion for Temporary Injunction is **Denied**.

**DONE AND ORDERED** in Chambers at Jacksonville, Duval County, FL, this \_\_\_\_ day  
of March, 2012.

*s/Lawrence P. Haddock*  
LAWRENCE P. HADDOCK  
Circuit Court Judge

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