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Open Carry Comes to Florida

MONDAY, SEPTEMBER 22, 2025



On September 10, the First District Court of Appeal of the State of Florida struck down the Sunshine State's prohibition on open carry as a violation of the Second Amendment in the case *McDaniel v. Florida*. Enacted in 1987, the same year Florida became a Right-to-Carry state for concealed carry, the open carry statute (F.S.A. § 790.053) had provided that, with minor exceptions, "it is unlawful for any person to openly carry on or about his or her person any firearm or electric weapon or device."

The court's decision rested on the U.S. Supreme Court's ruling in the NRA-supported case *New York State Rifle & Pistol Association v. Bruen* (2022). In *Bruen*, Justice Clarence Thomas's opinion made clear that in order for a firearm regulation to survive a Second Amendment challenge, "the government must demonstrate that the regulation is consistent with this Nation's historical tradition of firearm regulation."

The court in *McDaniel* made clear “the State has failed to carry its burden to show that Florida’s Open Carry Ban is consistent with this Nation’s historical tradition of firearm regulation.” The court went on to explain,

On this record, the State has failed to carry its burden. It identifies no Founding-era law that broadly prohibited the open carry of firearms in public. Nor does it cite any historical regulation imposing a burden or justification comparable to Florida’s Open Carry Ban. At most, it has pointed to laws regulating the method or manner of carry, but those laws left intact the ability to bear arms openly for peaceable purposes. By contrast, Florida’s Open Carry Ban eliminates that option altogether and thus extends far beyond anything recognized in our historical tradition.

On September 15, Florida Attorney General James Uthmeier put out a guidance memorandum on open carry in Florida in which he explained that “the *McDaniels* decision is now the law of the State.” Demonstrating a commitment to upholding the Second Amendment rights of Floridians, Attorney General Uthmeier also made clear “We Believe the *McDaniels* decision correctly applied Second Amendment law as enunciated in *Bruen*.”

Further, Attorney General Uthmeier instructed the criminal justice system throughout the state that,

Because no Florida court will any longer be empowered to convict a defendant for violating Section 790.053(1), prudence counsels that prosecutors and law enforcement personnel should likewise refrain from arresting or prosecuting law-abiding citizens carrying firearms in a manner that is visible to others.

Gun owners should know that Florida law prohibits otherwise lawful carry in certain sensitive locations. As Attorney General Uthmeier pointed out, some of these locations can be found at F.S.A. § 790.06(12)(a). Separate firearm location restrictions can be found at F.S.A. § 790.115 (“Possessing or discharging weapons or firearms at a school-sponsored event or on school property prohibited; penalties; exceptions”) and F.S.A. § 394.458 (hospitals providing mental health services).

Moreover, F.S.A. § 790.10 prohibits brandishing, specifically, “having or carrying any... firearm... in a rude, careless, angry, or threatening manner, not in necessary self-defense.”

Readers are encouraged to examine Attorney General Uthmeier’s full open carry guidance memorandum by clicking [here](#).

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