

10.2 [OPEN CARRYING OF A HANDGUN] [OR][CARRYING A CONCEALED WEAPON OR FIREARM] IN A PROHIBITED PLACE

§ 790.06(12), Fla. Stat.

To prove the crime of [Open Carrying of a Handgun] [or] [Carrying a Concealed Weapon or Firearm] in a Prohibited Place, the State must prove the following element beyond a reasonable doubt:

1. (Defendant) **knowingly and willfully [openly carried a handgun] [or] [carried a concealed firearm or weapon] in**

Give as applicable.

a place of nuisance.

a police, sheriff, or highway patrol station.

a detention facility, prison, or jail.

a courthouse.

a courtroom.

a polling place.

a meeting of the governing body of a county, public school district, municipality, or special district.

a meeting of the Legislature or a committee thereof.

a school, college, or professional athletic event not related to firearms.

an elementary or secondary school facility or administration building.

a career center.

any portion of an establishment licensed to dispense alcoholic beverages for consumption on the premises, which portion of the establishment is primarily devoted to such purpose.

a college or university facility.

the inside of the passenger terminal and sterile area of any airport, provided that no person shall be prohibited from carrying any legal firearm into the terminal, which firearm is encased for shipment for purposes of checking such firearm as baggage to be lawfully transported on any aircraft.

a place where the carrying of firearms is prohibited by federal law.

“Willfully” means intentionally and purposely.

Use the definitions below if Open Carrying of a Handgun in a Prohibited Place is charged. § 790.001, Fla. Stat.

“Handgun” means a firearm capable of being carried and used by one hand, such as a pistol or revolver.

“Firearm” means any weapon [including a starter gun] which will, is designed to, or may readily be converted to expel a projectile by the action of an explosive [or] [the frame or receiver of any such weapon] [any firearm muffler or firearm silencer] [any destructive device] [any machine gun]. “Machine gun” and “destructive device” are defined in § 790.001, Fla. Stat.

Use the definitions below if Carrying a Concealed Weapon or Firearm in a Prohibited Place is charged. § 790.06(1), Fla. Stat.

“Concealed weapon or firearm” means a handgun, electric weapon or device, tear gas gun, knife, or billie, but does not include a machine gun. “Electric weapon or device” and “tear gas gun” are defined in § 790.001, Fla. Stat.

“Concealed” means the weapon or firearm was carried on or about a person in such a manner such that it could not be seen from the ordinary sight of another person. The term “on or about [his] [her] person” means physically on the person or readily accessible to [him] [her]. The term “ordinary sight of another person” means the casual and ordinary observation of another in the normal associations of life.

Lesser Included Offense

[OPEN CARRYING OF A HANDGUN] [OR] [CARRYING A CONCEALED WEAPON OR FIREARM] IN A PROHIBITED PLACE —790.06(12)

CATEGORY ONE	CATEGORY TWO	FLA. STAT.	INS. NO.
	Attempt	777.04(1)	5.1

Comments

As of October 2025, it was not clear that § 790.06(12)(a), Fla. Stat., creates a crime because the statute merely states that a license issued under Chapter 790 does not authorize a person to openly carry a handgun or carry a concealed weapon or concealed firearm into certain places. The statute does not say “It is unlawful for a person to openly carry a handgun or carry a concealed weapon or concealed firearm into ...” nor does it say “A person who openly carries a handgun or carries a concealed weapon or concealed firearm into is guilty of a second degree misdemeanor. The Committee on Standard Jury Instructions in Criminal Cases drafted this instruction for the benefit of judges who believe the scheme in § 790.06(12)(a) and (12)(d), Fla. Stat., creates a crime.

If a “place of nuisance” is alleged, the court should adopt a definition from § 823.05, Fla. Stat. Additional definitions might be appropriate depending on the prohibited place that is alleged.

As of October 2025, it was unclear whether the exceptions for concealed weapons/firearms in courtrooms (§ 790.06(12)(a)5., Fla. Stat.) and college/university facilities (§ 790.06(12)(a)13., Fla. Stat.) are affirmative defenses. A special instruction will be needed if an exception is at issue.

This instruction was adopted on April 3, 2020, and amended on December 15, 2023, and on November 13, 2025.