

By Senator Braynon

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1                                   A bill to be entitled  
 2           An act relating to culpable negligence; providing a  
 3           short title; amending s. 784.05, F.S.; defining the  
 4           term "assault weapon"; providing that a person commits  
 5           a felony of the third degree if he or she stores or  
 6           leaves an assault weapon within the reach or easy  
 7           access of another person if that person obtains the  
 8           weapon and uses it to inflict injury or death;  
 9           providing criminal penalties; providing exceptions;  
 10          amending s. 921.0022, F.S.; conforming a cross-  
 11          reference; providing an effective date.

12  
 13 Be It Enacted by the Legislature of the State of Florida:

14  
 15           Section 1. This act may be cited as the "Officer Jose  
 16 Somohano Assault Weapons Act."

17           Section 2. Section 784.05, Florida Statutes, is amended to  
 18 read:

19           784.05 Culpable negligence.—

20           (1) As used in this section, the term:

21           (a)1. "Assault weapon" means:

22           a. A semiautomatic rifle that has the ability to accept a  
 23 detachable magazine and has at least two of the following  
 24 characteristics:

25           (I) A folding or telescoping stock;

26           (II) A pistol grip that protrudes conspicuously beneath the  
 27 action of the weapon;

28           (III) A bayonet mount;

29           (IV) A flash suppressor or threaded barrel designed to

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30 accommodate a flash suppressor; or

31 (V) A grenade launcher;

32 b. A semiautomatic shotgun that has at least two of the  
33 following characteristics:

34 (I) A folding or telescoping stock;

35 (II) A pistol grip that protrudes conspicuously beneath the  
36 action of the weapon;

37 (III) A fixed magazine capacity in excess of five rounds;

38 or

39 (IV) An ability to accept a detachable magazine;

40 c. A semiautomatic pistol that has the ability to accept a  
41 detachable magazine and has at least two of the following  
42 characteristics:

43 (I) An ammunition magazine that attaches to the pistol  
44 outside of the pistol grip;

45 (II) A threaded barrel capable of accepting a barrel  
46 extender, flash suppressor, forward handgrip, or silencer;

47 (III) A shroud that is attached to, or partially or  
48 completely encircles, the barrel and that permits the shooter to  
49 hold the firearm with the nontrigger hand without being burned;

50 (IV) A manufactured weight of 50 ounces or more when the  
51 pistol is unloaded; or

52 (V) A semiautomatic version of an automatic rifle, shotgun,  
53 or firearm; or

54 d. Any of the weapons, or functioning frames or receivers  
55 of such weapons, or copies or duplicates of such weapons, in any  
56 caliber, known as:

57 (I) Norinco, Mitchell, and Poly Technologies Avtomat  
58 Kalashnikovs, all models;

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59       (II) Action Arms Israeli Military Industries UZI and Galil;  
60       (III) Beretta Ar70 (SC-70);  
61       (IV) Colt AR-15;  
62       (V) Fabrique National FN/FAL, FN/LAR, and FNC;  
63       (VI) SWD M-10, M-11, M-11/9, and M-12;  
64       (VII) Steyr AUG;  
65       (VIII) INTRATEC TEC-9, TEC-DC9, and TEC-22; or  
66       (IX) Revolving cylinder shotguns, such as, or similar to,  
67 the Street Sweeper and Striker 12.

68       2. The term does not include a rifle, shotgun, or pistol  
69 that:

70       a. Is manually operated by bolt, pump, lever, or slide  
71 action;

72       b. Has been rendered permanently inoperable;

73       c. Is an antique firearm as defined in 18 U.S.C. s.  
74 921(a)(16);

75       d. Is a semiautomatic rifle that cannot accept a detachable  
76 magazine that holds more than five rounds of ammunition;

77       e. Is a semiautomatic shotgun that cannot hold more than  
78 five rounds of ammunition in a fixed or detachable magazine;

79       f. Is a rifle, shotgun, or pistol, or a replica or a  
80 duplicate thereof, specified in Appendix A to 18 U.S.C. s. 922  
81 as such weapon was manufactured on October 1, 1993. The mere  
82 fact that a weapon is not listed in Appendix A does not mean  
83 that such weapon is an assault weapon; or

84       g. Is a semiautomatic rifle, a semiautomatic shotgun, or a  
85 semiautomatic pistol or a weapon defined in sub-subparagraph  
86 1.d. lawfully possessed before September 14, 1994.

87       (b) "Minor" means a person 15 years of age or younger.

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88        (2)~~(1)~~ Whoever, through culpable negligence, exposes  
89 another person to personal injury commits a misdemeanor of the  
90 second degree, punishable as provided in s. 775.082 or s.  
91 775.083.

92        (3)~~(2)~~ Whoever, through culpable negligence, inflicts  
93 actual personal injury on another commits a misdemeanor of the  
94 first degree, punishable as provided in s. 775.082 or s.  
95 775.083.

96        (4)~~(3)~~ Whoever violates subsection (2)~~(1)~~ by storing or  
97 leaving a loaded firearm within the reach or easy access of a  
98 minor commits, if the minor obtains the firearm and uses it to  
99 inflict injury or death upon himself or herself or any other  
100 person, a felony of the third degree, punishable as provided in  
101 s. 775.082, s. 775.083, or s. 775.084. However, this subsection  
102 does not apply:

103        (a) If the firearm was stored or left in a securely locked  
104 box or container or in a location that ~~which~~ a reasonable person  
105 would have believed to be secure, or was securely locked with a  
106 trigger lock;

107        (b) If the minor obtains the firearm as a result of an  
108 unlawful entry by any person;

109        (c) To injuries resulting from target or sport shooting  
110 accidents or hunting accidents; or

111        (d) To members of the Armed Forces, National Guard, or  
112 State Militia, or to police or other law enforcement officers,  
113 with respect to firearm possession by a minor which occurs  
114 during or incidental to the performance of their official  
115 duties.

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117 When a any minor child is accidentally shot by another family  
118 member, an ne arrest may not shall be made pursuant to this  
119 subsection until at least prior to 7 days after the date of the  
120 shooting. With respect to the any parent or guardian of a any  
121 deceased minor, the investigating officers shall file all  
122 findings and evidence with the state attorney's office with  
123 respect to violations of this subsection. The state attorney  
124 shall evaluate the such evidence and shall take such action as  
125 he or she deems appropriate under the circumstances and may file  
126 an information against the appropriate parties.

127 ~~(4) As used in this act, the term "minor" means any person~~  
128 ~~under the age of 16.~~

129 (5) Whoever violates subsection (2) by storing or leaving  
130 an assault weapon within the reach or easy access of another  
131 person commits a felony of the third degree, punishable as  
132 provided in s. 775.082, s. 775.083, or s. 775.084, if the person  
133 obtains the assault weapon and uses it to inflict injury or  
134 death upon himself or herself or any other person. However, this  
135 subsection does not apply:

136 (a) If the assault weapon was stored or left in a securely  
137 locked box or container or in a location that a reasonable  
138 person would have believed to be secure, or was securely locked  
139 with a trigger lock;

140 (b) If the assault weapon was stolen and the owner reported  
141 the theft of the assault weapon to law enforcement authorities  
142 within 24 hours after the owner's knowledge of the theft;

143 (c) To injuries resulting from target or sport shooting  
144 accidents or hunting accidents; or

145 (d) To members of the Armed Forces, National Guard, or

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146 State Militia, or to police or other law enforcement officers,  
 147 with respect to the possession of an assault firearm which  
 148 occurs during or incidental to the performance of their official  
 149 duties.

150 Section 3. Paragraph (b) of subsection (3) of section  
 151 921.0022, Florida Statutes, is amended to read:

152 921.0022 Criminal Punishment Code; offense severity ranking  
 153 chart.-

154 (3) OFFENSE SEVERITY RANKING CHART

155 (b) LEVEL 2

156

Florida	Felony	
Statute	Degree	Description

157

379.2431 (1) (e) 3.	3rd	Possession of 11 or fewer marine turtle eggs in violation of the Marine Turtle Protection Act.
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379.2431 (1) (e) 4.	3rd	Possession of more than 11 marine turtle eggs in violation of the Marine Turtle Protection Act.
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159

403.413 (5) (c)	3rd	Dumps waste litter exceeding 500 lbs. in weight or 100 cubic feet in volume or any quantity for commercial purposes, or hazardous waste.
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160

517.07 (2)	3rd	Failure to furnish a prospectus meeting requirements.
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161

590.28(1) 3rd Intentional burning of lands.

162

784.05 (4) ~~(3)~~ 3rd Storing or leaving a loaded firearm within reach of minor who uses it to inflict injury or death.

163

787.04(1) 3rd In violation of court order, take, entice, etc., minor beyond state limits.

164

806.13(1)(b)3. 3rd Criminal mischief; damage \$1,000 or more to public communication or any other public service.

165

810.061(2) 3rd Impairing or impeding telephone or power to a dwelling; facilitating or furthering burglary.

166

810.09(2)(e) 3rd Trespassing on posted commercial horticulture property.

167

812.014(2)(c)1. 3rd Grand theft, 3rd degree; \$300 or more but less than \$5,000.

168

812.014(2)(d) 3rd Grand theft, 3rd degree; \$100 or more but less than \$300, taken from unenclosed curtilage of dwelling.

169

812.015(7) 3rd Possession, use, or attempted use of an

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antishoplifting or inventory control  
device countermeasure.

170

817.234(1)(a)2. 3rd False statement in support of insurance  
claim.

171

817.481(3)(a) 3rd Obtain credit or purchase with false,  
expired, counterfeit, etc., credit card,  
value over \$300.

172

817.52(3) 3rd Failure to redeliver hired vehicle.

173

817.54 3rd With intent to defraud, obtain mortgage  
note, etc., by false representation.

174

817.60(5) 3rd Dealing in credit cards of another.

175

817.60(6)(a) 3rd Forgery; purchase goods, services with  
false card.

176

817.61 3rd Fraudulent use of credit cards over \$100  
or more within 6 months.

177

826.04 3rd Knowingly marries or has sexual  
intercourse with person to whom related.

178

831.01 3rd Forgery.

179

831.02 3rd Uttering forged instrument; utters or

