

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 527 Possession of Ammunition by Felons and Delinquents
SPONSOR(S): Gelber and others
TIED BILLS: None **IDEN./SIM. BILLS:** SB 1768

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Criminal Justice (Sub)	6 Y, 0 N	Cole	De La Paz
2) Public Safety & Crime Prevention	19 Y, 0 N	Cole	De la Paz
3) Public Safety Appropriations Subcommittee	7 Y, 0 N	Davis	DeBeaugrine
4) Appropriations			
5)			

SUMMARY ANALYSIS

Currently, convicted felons and certain juvenile delinquents are prohibited from possessing firearms and electric weapons. There is no prohibition against them possessing ammunition, however. The bill creates a definition for the word "ammunition," and makes it a second degree felony for a convicted felon or juvenile delinquent to have ammunition in his or her possession. It also makes it a first degree felony for a violent, career criminal to have ammunition in his or her possession. The bill adds the offense of "possession of ammunition" to the offense severity ranking chart.

The fiscal impact of this bill is indeterminate, but appears to be insignificant.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0527d.ap.doc
DATE: April 16, 2004

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

B. EFFECT OF PROPOSED CHANGES:

Section 790.23, F.S., makes it unlawful for any person to own or have in his or her care, custody, possession, or control any firearm or to carry a concealed weapon if that person has been convicted of a felony, has committed a delinquent act that would be a felony and is under 24 years of age, or has been convicted of a federal felony. Current law does not prevent these individuals from possessing ammunition. In 1998, the Florida Legislature created s. 790.233, F.S., preventing persons under a final injunction for protection from possessing firearms or ammunition. Federal law also currently prohibits convicted felons from possessing firearms or ammunition.¹

HB 527 makes it a second degree felony for a convicted felon or juvenile delinquent to possess ammunition. The bill also makes it a first degree felony for a convicted, violent, career criminal to possess ammunition. The bill allows possession of ammunition to be charged if a convicted felon or juvenile delinquent is in possession of a loaded firearm or merely in possession of ammunition. The charge can be a secondary charge to possession of a firearm by a convicted felon or juvenile delinquent, or it can be a primary charge if a suspect is in possession of ammunition.

C. SECTION DIRECTORY:

Section 1: Amends s. 790.001(19), F.S., creating a definition for “ammunition.”

Section 2: Amends s. 790.23, F.S., and s. 790.23(1), F.S., to add the word “ammunition.”

Section 3: Amends s. 790.235, F.S., and 790.235(1), F.S., to add the word “ammunition.”

Section 4: Amends s. 921.0022(3)(e), F.S., to add the word “ammunition” to the offense severity ranking chart.

Section 5: Incorporates amendments into s. 790.01, F.S.

Section 6: Provides an effective date.

¹ 18 U.S.C.A. Section 922 (d)

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Indeterminate. See fiscal comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

On March 5, 2004, the Criminal Justice Estimating Conference met and determined this bill would have an insignificant prison bed impact on the Department of Corrections.

The Department of Juvenile Justice reviewed the bill and reports its cost "is not able to be determined at this time" as "there is no historical data to indicate the true cost of the proposed legislation." The department, however, acknowledges that there could be additional pressure to place youth in residential commitment facilities.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because the bill is a criminal law.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill defines "Ammunition" as an object consisting of all of the following parts:

- a. A fixed metallic or nonmetallic hull or casing containing a primer.
- b. One or more projectiles, one or more bullets, or shot.
- c. Gunpowder.

Federal law defines "Ammunition" as ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in any firearm.²

The proposed state definition relates only to ammunition ready for immediate use. The federal definition relates to having the separate parts needed to load individual ammunition and is more broad.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.

² 18 U.S.C.A. 921(17)(A)