Florida Senate - 2006

By Senator Wilson

33-790B-06

1	A bill to be entitled
2	An act relating to imitation firearms; defining
3	the term "imitation firearm"; prohibiting the
4	sale of an imitation firearm; providing
5	exceptions; providing penalties for a person
б	who sells an imitation firearm; amending s.
7	790.07, F.S.; providing penalties for a person
8	who displays, uses, threatens, or attempts to
9	use any imitation firearm while committing or
10	attempting to commit a felony; providing an
11	effective date.
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13	Be It Enacted by the Legislature of the State of Florida:
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15	Section 1. Sale of imitation firearms prohibited;
16	penalties
17	(1) As used in this section, the term "imitation
18	firearm" means any toy qun, replica of a firearm, air-soft qun
19	that fires nonmetallic projectiles, or other device that is so
20	substantially similar in coloration and overall appearance to
21	<u>a firearm, as defined in s. 790.001, Florida Statutes, as to</u>
22	lead a reasonable person to believe that the device is a
23	firearm. As provided in the federal regulations governing
24	imitation firearms, the term does not include:
25	(a) A nonfiring collector's replica of an antique
26	firearm developed prior to 1898;
27	(b) Traditional BB, paintball, or pellet-firing air
28	guns that expel a projectile through the force of air
29	pressure; or
30	(c) A device for which a blaze orange solid plug or
31	marking is permanently affixed to the muzzle end of the barrel
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1	for a depth of at least 6 millimeters; a device for which the
2	entire exterior surface is colored white, bright red, bright
3	<u>orange, bright yellow, bright green, bright blue, bright pink,</u>
4	or bright purple, either singly or as the predominant color in
5	combination with other colors in any pattern; or a device that
6	is constructed of transparent or translucent materials that
7	permit unmistakable observation of the complete contents of
8	the device.
9	(2) A person may not sell or offer for sale within
10	this state, by mail or in any other manner, an imitation
11	firearm.
12	(3) A person may sell or offer for sale an imitation
13	firearm if the device is sold solely for purposes of:
14	(a) Export in interstate or foreign commerce;
15	(b) Lawful use in theatrical productions, including
16	motion picture, television, and stage productions;
17	(c) Use in a certified or requlated sporting event or
18	competition;
19	(d) Use in military or civil defense activities or
20	ceremonial activities; or
21	(e) Public displays authorized by public or private
22	schools.
23	(4)(a) A person who violates subsection (2) commits a
24	misdemeanor of the first degree, punishable as provided in s.
25	<u>775.082 or s. 775.083, Florida Statutes.</u>
26	(b) A person who violates subsection (2) a second or
27	subsequent time commits a felony of the third degree,
28	punishable as provided in s. 775.082 or s. 775.083, Florida
29	<u>Statutes.</u>
30	Section 2. Section 790.07, Florida Statutes, is
31	amended to read:

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CODING: Words stricken are deletions; words <u>underlined</u> are additions.

1 790.07 Persons engaged in criminal offense, having 2 weapons or imitation firearms .--3 (1) Whoever, while committing or attempting to commit 4 any felony or while under indictment, displays, uses, 5 threatens, or attempts to use any weapon or electric weapon or 6 device or carries a concealed weapon <u>commits</u> is guilty of a 7 felony of the third degree, punishable as provided in s. 8 775.082, s. 775.083, or s. 775.084. (2) Whoever, while committing or attempting to commit 9 any felony, displays, uses, threatens, or attempts to use any 10 firearm or imitation firearm, or carries a concealed firearm, 11 12 commits is quilty of a felony of the second degree, punishable 13 as provided in s. 775.082, s. 775.083, and s. 775.084. (3) The following crimes are excluded from application 14 of this section: Antitrust violations, unfair trade 15 practices, restraints of trade, nonsupport of dependents, 16 17 bigamy, or other similar offenses. (4) Whoever, having previously been convicted of a 18 violation of subsection (1) or subsection (2) and, subsequent 19 to such conviction, displays, uses, threatens, or attempts to 20 21 use any weapon, firearm, *imitation firearm*, or electric weapon 22 or device, carries a concealed weapon, or carries a concealed 23 firearm while committing or attempting to commit any felony or while under indictment commits is guilty of a felony of the 2.4 first degree, punishable as provided in s. 775.082, s. 25 775.083, or s. 775.084. Sentence may shall not be suspended or 26 27 deferred under the provisions of this subsection. 2.8 Section 3. This act shall take effect October 1, 2006. 29 30 31

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2	SENATE SUMMARY
3	Defines the term "imitation firearm." Prohibits the sale
 Provides penalties for a person who displays, uses, threatens, or attempts to use any imitation firearm 	penalties for a person who sells an imitation firearm.
	threatens, or attempts to use any imitation firearm while
6	committing or attempting to commit a felony.
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