

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Education Committee

BILL: SB 2438

INTRODUCER: Senator Haridopolos

SUBJECT: Weapons Possession/Public Schools

DATE: April 19, 2006

REVISED: 04/24/06

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Carrouth	Matthews	ED	Fav/ 1 amendment
2.		CJ	
3.			
4.			
5.			
6.			

Please see last section for Summary of Amendments

- ☐ Technical amendments were recommended
☒ Amendments were recommended
☐ Significant amendments were recommended

I. Summary:

This bill revises the definition of a weapon to exclude plastic knives or blunt-bladed knives so that a student would not commit a third-degree felony for possessing such a knife on school grounds. The bill expands the prohibition on exhibiting or brandishing certain items to include a common pocketknife, dirk, metallic knuckles, slingshot, billie, tear gas gun, chemical weapon or device, or other deadly weapon on school grounds or within 1000 feet of school real property.

This bill substantially amends the following sections of the Florida Statutes: 790.001, 790.115, and 810.095.

II. Present Situation:

Florida school districts are required under s. 1006.13(2)(a), F.S., to adopt a policy for zero tolerance for possession of a firearm or weapon at a school, at any school function, or onto any school sponsored transportation. Because the term “knife” is not presently included under the definition of “weapon,” some schools have administered varying disciplinary consequences

when students bring items such as a butter knife to school.¹ Florida courts have not uniformly defined the term “weapon” to include plastic or blunt-bladed knives.²

In addition to school district zero tolerance policies required under law, other sections of law expressly prohibit any person from possessing, displaying, or discharging certain weapons or firearms at any school, school sponsored event, school bus, or school bus stop. Violations of these provisions are third degree felonies.³

III. Effect of Proposed Changes:

This bill revises the definition of a weapon to exclude plastic knives or blunt-bladed knives so that a student would not commit a third-degree felony for possessing such a knife on school grounds. This provision is to provide for a uniform interpretation of the criminal consequences of possessing such a knife on school grounds. This provision only addresses criminal penalties for possessing such a knife.

The bill expands the prohibition on exhibiting certain items in a rude, careless, angry, or threatening manner to include a common pocketknife, dirk, metallic knuckles, slingshot, billie, tear gas gun, chemical weapon or device, or other deadly weapon on school grounds or within 1000 feet of school real property. However, the expanded list does not include plastic knives or blunt-bladed knives. Accordingly, it may be permissible under the bill to exhibit these items in a rude, careless, angry, or threatening manner without criminal sanction under this section.

Under current law, the term “weapon” excludes a firearm.⁴ Accordingly, with respect to exhibition or possession of certain weapons on school grounds or within 1000 feet of school real property, firearms are listed separately as prohibited items. The bill revises the definition of a weapon to include a firearm.⁵ This provision may be superfluous and may have unintended consequences.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹ http://www.sptimes.com/2005/10/25/Hernando/Girl_arrested_for_but.shtml (Eleven-year-old girl is arrested for bringing butter knife to school.)

² *State v. Walthour*, 876 So.2d 594 (Fla. 5th DCA 2004); *Garcia v. State*, 789 So.2d 1059 (Fla. 4th DCA 2001).

³ s. 790.115, F.S.

⁴ s. 790.001(13), F.S.

⁵ Firearms are defined in s. 790.001(6), F.S.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

VIII. Summary of Amendments:

Barcode 934576 by Education:

The amendment eliminates the list of expanded weapons under the bill for purposes of a third degree felony for exhibiting certain weapons on school grounds or within 1000 feet of school real property. The amendment also restores current law with respect to the definition of a weapon to include a firearm.

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