

By Senator Joyner

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1                   A bill to be entitled  
2           An act relating to sale or transfer of firearms at gun  
3           shows; amending s. 790.001, F.S.; providing  
4           definitions; creating s. 790.0653, F.S.; prohibiting  
5           any person other than a licensed dealer from being a  
6           gun show vendor; prohibiting the sale or transfer of a  
7           weapon at a gun show unless a licensed dealer is a  
8           party to the transaction; providing criminal  
9           penalties; amending ss. 790.06, 790.115, 790.145,  
10          790.1612, 810.095, and. 921.0024, F.S.; conforming  
11          cross-references; providing an effective date.  
12

13 Be It Enacted by the Legislature of the State of Florida:  
14

15           Section 1. Section 790.001, Florida Statutes, is reordered  
16           and amended to read:

17           790.001 Definitions.—As used in this chapter, except where  
18           the context otherwise requires:

19           (2)~~(1)~~ "Antique firearm" means any firearm manufactured in  
20           or before 1918, (including any matchlock, flintlock, percussion  
21           cap, or similar early type of ignition system), or replica  
22           thereof, whether actually manufactured before or after the year  
23           1918, and also any firearm using fixed ammunition manufactured  
24           in or before 1918, for which ammunition is no longer  
25           manufactured in the United States and is not readily available  
26           in the ordinary channels of commercial trade.

27           (3)~~(2)~~ "Concealed firearm" means any firearm, as defined in  
28           subsection (9)~~(6)~~, which is carried on or about a person in such  
29           a manner as to conceal the firearm from the ordinary sight of

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30 another person.

31 (4)~~(3)~~ (a) "Concealed weapon" means any dirk, metallic  
32 knuckles, slungshot, billie, tear gas gun, chemical weapon or  
33 device, or other deadly weapon carried on or about a person in  
34 such a manner as to conceal the weapon from the ordinary sight  
35 of another person.

36 (b) "Tear gas gun" or "chemical weapon or device" means any  
37 weapon of such nature, except a device known as a "self-defense  
38 chemical spray." "Self-defense chemical spray" means a device  
39 carried solely for purposes of lawful self-defense that is  
40 compact in size, designed to be carried on or about the person,  
41 and contains not more than two ounces of chemical.

42 (6)~~(4)~~ "Destructive device" means any bomb, grenade, mine,  
43 rocket, missile, pipebomb, or similar device containing an  
44 explosive, incendiary, or poison gas and includes any frangible  
45 container filled with an explosive, incendiary, explosive gas,  
46 or expanding gas, which is designed or so constructed as to  
47 explode by such filler and is capable of causing bodily harm or  
48 property damage; any combination of parts either designed or  
49 intended for use in converting any device into a destructive  
50 device and from which a destructive device may be readily  
51 assembled; any device declared a destructive device by the  
52 Bureau of Alcohol, Tobacco, and Firearms; any type of weapon  
53 which will, is designed to, or may readily be converted to expel  
54 a projectile by the action of any explosive and which has a  
55 barrel with a bore of one-half inch or more in diameter; and  
56 ammunition for such destructive devices, but not including  
57 shotgun shells or any other ammunition designed for use in a  
58 firearm other than a destructive device. "Destructive device"

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59 does not include:

60 (a) A device which is not designed, redesigned, used, or  
61 intended for use as a weapon;

62 (b) Any device, although originally designed as a weapon,  
63 which is redesigned so that it may be used solely as a  
64 signaling, line-throwing, safety, or similar device;

65 (c) Any shotgun other than a short-barreled shotgun; or

66 (d) Any nonautomatic rifle (other than a short-barreled  
67 rifle) generally recognized or particularly suitable for use for  
68 the hunting of big game.

69 (8)~~(5)~~ "Explosive" means any chemical compound or mixture  
70 that has the property of yielding readily to combustion or  
71 oxidation upon application of heat, flame, or shock, including  
72 but not limited to dynamite, nitroglycerin, trinitrotoluene, or  
73 ammonium nitrate when combined with other ingredients to form an  
74 explosive mixture, blasting caps, and detonators; but not  
75 including:

76 (a) Shotgun shells, cartridges, or ammunition for firearms;

77 (b) Fireworks as defined in s. 791.01;

78 (c) Smokeless propellant powder or small arms ammunition  
79 primers, if possessed, purchased, sold, transported, or used in  
80 compliance with s. 552.241;

81 (d) Black powder in quantities not to exceed that  
82 authorized by chapter 552, or by any rules adopted thereunder by  
83 the Department of Financial Services, when used for, or intended  
84 to be used for, the manufacture of target and sporting  
85 ammunition or for use in muzzle-loading flint or percussion  
86 weapons.

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88 The exclusions contained in paragraphs (a)-(d) do not apply to  
89 the term "explosive" as used in the definition of "firearm" in  
90 subsection (9)~~(6)~~.

91 (9)~~(6)~~ "Firearm" means any weapon (including a starter gun)  
92 which will, is designed to, or may readily be converted to expel  
93 a projectile by the action of an explosive; the frame or  
94 receiver of any such weapon; any firearm muffler or firearm  
95 silencer; any destructive device; or any machine gun. The term  
96 "firearm" does not include an antique firearm unless the antique  
97 firearm is used in the commission of a crime.

98 (10) "Gun show" means an event or function that is  
99 sponsored to facilitate, in whole or in part, the purchase,  
100 sale, offer for sale, or collection of firearms at which not  
101 less than three gun show vendors exhibit, sell, offer for sale,  
102 transfer, or exchange firearms. The term includes the entire  
103 premises provided for the gun show, including, but not limited  
104 to, parking areas for the gun show.

105 (11) "Gun show vendor" means a licensed dealer who  
106 exhibits, sells, offers for sale, transfers, or exchanges any  
107 firearm at a gun show, regardless of whether the dealer arranges  
108 with a gun show promoter for a fixed location from which to  
109 exhibit, sell, offer for sale, transfer, or exchange any  
110 firearm.

111 (12)~~(7)~~ "Indictment" means an indictment or an information  
112 in any court under which a crime punishable by imprisonment for  
113 a term exceeding 1 year may be prosecuted.

114 (13)~~(8)~~ "Law enforcement officer" means:

115 (a) All officers or employees of the United States or the  
116 State of Florida, or any agency, commission, department, board,

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117 division, municipality, or subdivision thereof, who have  
118 authority to make arrests;

119 (b) Officers or employees of the United States or the State  
120 of Florida, or any agency, commission, department, board,  
121 division, municipality, or subdivision thereof, duly authorized  
122 to carry a concealed weapon;

123 (c) Members of the Armed Forces of the United States, the  
124 organized reserves, state militia, or Florida National Guard,  
125 when on duty, when preparing themselves for, or going to or  
126 from, military duty, or under orders;

127 (d) An employee of the state prisons or correctional  
128 systems who has been so designated by the Department of  
129 Corrections or by a warden of an institution;

130 (e) All peace officers;

131 (f) All state attorneys and United States attorneys and  
132 their respective assistants and investigators.

133 (14)~~(9)~~ "Machine gun" means any firearm, as defined herein,  
134 which shoots, or is designed to shoot, automatically more than  
135 one shot, without manually reloading, by a single function of  
136 the trigger.

137 (17)~~(10)~~ "Short-barreled shotgun" means a shotgun having  
138 one or more barrels less than 18 inches in length and any weapon  
139 made from a shotgun (whether by alteration, modification, or  
140 otherwise) if such weapon as modified has an overall length of  
141 less than 26 inches.

142 (18)~~(11)~~ "Short-barreled rifle" means a rifle having one or  
143 more barrels less than 16 inches in length and any weapon made  
144 from a rifle (whether by alteration, modification, or otherwise)  
145 if such weapon as modified has an overall length of less than 26

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146 inches.

147 (19)~~(12)~~ "Slungshot" means a small mass of metal, stone,  
148 sand, or similar material fixed on a flexible handle, strap, or  
149 the like, used as a weapon.

150 (21)~~(13)~~ "Weapon" means any dirk, knife, metallic knuckles,  
151 slungshot, billie, tear gas gun, chemical weapon or device, or  
152 other deadly weapon except a firearm or a common pocketknife,  
153 plastic knife, or blunt-bladed table knife.

154 (7)~~(14)~~ "Electric weapon or device" means any device which,  
155 through the application or use of electrical current, is  
156 designed, redesigned, used, or intended to be used for offensive  
157 or defensive purposes, the destruction of life, or the  
158 infliction of injury.

159 (5)~~(15)~~ "Dart-firing stun gun" means any device having one  
160 or more darts that are capable of delivering an electrical  
161 current.

162 (15)~~(16)~~ "Readily accessible for immediate use" means that  
163 a firearm or other weapon is carried on the person or within  
164 such close proximity and in such a manner that it can be  
165 retrieved and used as easily and quickly as if carried on the  
166 person.

167 (16)~~(17)~~ "Securely encased" means in a glove compartment,  
168 whether or not locked; snapped in a holster; in a gun case,  
169 whether or not locked; in a zippered gun case; or in a closed  
170 box or container which requires a lid or cover to be opened for  
171 access.

172 (20)~~(18)~~ "Sterile area" means the area of an airport to  
173 which access is controlled by the inspection of persons and  
174 property in accordance with federally approved airport security

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175 programs.

176 (1)~~(19)~~ "Ammunition" means an object consisting of all of  
177 the following:

178 (a) A fixed metallic or nonmetallic hull or casing  
179 containing a primer.

180 (b) One or more projectiles, one or more bullets, or shot.

181 (c) Gunpowder.  
182

183 All of the specified components must be present for an object to  
184 be ammunition.

185 Section 2. Section 790.0653, Florida Statutes, is created  
186 to read:

187 790.0653 Gun shows.—

188 (1) A person must be a licensed dealer to be a gun show  
189 vendor. A gun show vendor must be a party to any sale, transfer,  
190 or exchange of a weapon at a gun show.

191 (2) A person who violates subsection (1) commits a felony  
192 of the third degree, punishable as provided in s. 775.082, s.  
193 775.083, or s. 775.084.

194 Section 3. Subsection (1) of section 790.06, Florida  
195 Statutes, is amended to read:

196 790.06 License to carry concealed weapon or firearm.—

197 (1) The Department of Agriculture and Consumer Services is  
198 authorized to issue licenses to carry concealed weapons or  
199 concealed firearms to persons qualified as provided in this  
200 section. Each such license must bear a color photograph of the  
201 licensee. For the purposes of this section, concealed weapons or  
202 concealed firearms are defined as a handgun, electronic weapon  
203 or device, tear gas gun, knife, or billie, but the term does not

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204 include a machine gun as defined in s. 790.001~~(9)~~. Such licenses  
205 shall be valid throughout the state for a period of 7 years from  
206 the date of issuance. Any person in compliance with the terms of  
207 such license may carry a concealed weapon or concealed firearm  
208 notwithstanding the provisions of s. 790.01. The licensee must  
209 carry the license, together with valid identification, at all  
210 times in which the licensee is in actual possession of a  
211 concealed weapon or firearm and must display both the license  
212 and proper identification upon demand by a law enforcement  
213 officer. Violations of the provisions of this subsection shall  
214 constitute a noncriminal violation with a penalty of \$25,  
215 payable to the clerk of the court.

216 Section 4. Subsection (1) and paragraphs (a) and (b) of  
217 subsection (2) of section 790.115, Florida Statutes, are amended  
218 to read:

219 790.115 Possessing or discharging weapons or firearms at a  
220 school-sponsored event or on school property prohibited;  
221 penalties; exceptions.-

222 (1) A person who exhibits any sword, sword cane, firearm,  
223 electric weapon or device, destructive device, or other weapon  
224 as defined in s. 790.001~~(13)~~, including a razor blade, box  
225 cutter, or common pocketknife, except as authorized in support  
226 of school-sanctioned activities, in the presence of one or more  
227 persons in a rude, careless, angry, or threatening manner and  
228 not in lawful self-defense, at a school-sponsored event or on  
229 the grounds or facilities of any school, school bus, or school  
230 bus stop, or within 1,000 feet of the real property that  
231 comprises a public or private elementary school, middle school,  
232 or secondary school, during school hours or during the time of a



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233 sanctioned school activity, commits a felony of the third  
234 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
235 775.084. This subsection does not apply to the exhibition of a  
236 firearm or weapon on private real property within 1,000 feet of  
237 a school by the owner of such property or by a person whose  
238 presence on such property has been authorized, licensed, or  
239 invited by the owner.

240 (2) (a) A person shall not possess any firearm, electric  
241 weapon or device, destructive device, or other weapon as defined  
242 in s. 790.001(~~13~~), including a razor blade or box cutter, except  
243 as authorized in support of school-sanctioned activities, at a  
244 school-sponsored event or on the property of any school, school  
245 bus, or school bus stop; however, a person may carry a firearm:

246 1. In a case to a firearms program, class or function which  
247 has been approved in advance by the principal or chief  
248 administrative officer of the school as a program or class to  
249 which firearms could be carried;

250 2. In a case to a career center having a firearms training  
251 range; or

252 3. In a vehicle pursuant to s. 790.25(5); except that  
253 school districts may adopt written and published policies that  
254 waive the exception in this subparagraph for purposes of student  
255 and campus parking privileges.

256  
257 For the purposes of this section, "school" means any preschool,  
258 elementary school, middle school, junior high school, secondary  
259 school, career center, or postsecondary school, whether public  
260 or nonpublic.

261 (b) A person who willfully and knowingly possesses any

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262 electric weapon or device, destructive device, or other weapon  
263 as defined in s. 790.001~~(13)~~, including a razor blade or box  
264 cutter, except as authorized in support of school-sanctioned  
265 activities, in violation of this subsection commits a felony of  
266 the third degree, punishable as provided in s. 775.082, s.  
267 775.083, or s. 775.084.

268 Section 5. Subsection (1) of section 790.145, Florida  
269 Statutes, is amended to read:

270 790.145 Crimes in pharmacies; possession of weapons;  
271 penalties.—

272 (1) Unless otherwise provided by law, any person who is in  
273 possession of a concealed "firearm," as defined in s.  
274 790.001~~(6)~~, or a "destructive device," as defined in s.  
275 790.001~~(4)~~, within the premises of a "pharmacy," as defined in  
276 chapter 465, commits ~~is guilty of~~ a felony of the third degree,  
277 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

278 Section 6. Section 790.1612, Florida Statutes, is amended  
279 to read:

280 790.1612 Authorization for governmental manufacture,  
281 possession, and use of destructive devices.—The governing body  
282 of any municipality or county and the Division of State Fire  
283 Marshal of the Department of Financial Services have the power  
284 to authorize the manufacture, possession, and use of destructive  
285 devices as defined in s. 790.001~~(4)~~.

286 Section 7. Subsection (1) of section 810.095, Florida  
287 Statutes, is amended to read:

288 810.095 Trespass on school property with firearm or other  
289 weapon prohibited.—

290 (1) It is a felony of the third degree, punishable as

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291 provided in s. 775.082, s. 775.083, or s. 775.084, for a person  
292 who is trespassing upon school property to bring onto, or to  
293 possess on, such school property any weapon as defined in s.  
294 790.001~~(13)~~ or any firearm.

295 Section 8. Paragraph (b) of subsection (1) of section  
296 921.0024, Florida Statutes, is amended to read:

297 921.0024 Criminal Punishment Code; worksheet computations;  
298 scoresheets.-

299 (1)

300 (b) WORKSHEET KEY:

301  
302 Legal status points are assessed when any form of legal status  
303 existed at the time the offender committed an offense before the  
304 court for sentencing. Four (4) sentence points are assessed for  
305 an offender's legal status.

306  
307 Community sanction violation points are assessed when a  
308 community sanction violation is before the court for sentencing.  
309 Six (6) sentence points are assessed for each community sanction  
310 violation and each successive community sanction violation,  
311 unless any of the following apply:

312 1. If the community sanction violation includes a new  
313 felony conviction before the sentencing court, twelve (12)  
314 community sanction violation points are assessed for the  
315 violation, and for each successive community sanction violation  
316 involving a new felony conviction.

317 2. If the community sanction violation is committed by a  
318 violent felony offender of special concern as defined in s.  
319 948.06:

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320 a. Twelve (12) community sanction violation points are  
321 assessed for the violation and for each successive violation of  
322 felony probation or community control where:

323 (I) The violation does not include a new felony conviction;  
324 and

325 (II) The community sanction violation is not based solely  
326 on the probationer or offender's failure to pay costs or fines  
327 or make restitution payments.

328 b. Twenty-four (24) community sanction violation points are  
329 assessed for the violation and for each successive violation of  
330 felony probation or community control where the violation  
331 includes a new felony conviction.

332

333 Multiple counts of community sanction violations before the  
334 sentencing court shall not be a basis for multiplying the  
335 assessment of community sanction violation points.

336

337 Prior serious felony points: If the offender has a primary  
338 offense or any additional offense ranked in level 8, level 9, or  
339 level 10, and one or more prior serious felonies, a single  
340 assessment of thirty (30) points shall be added. For purposes of  
341 this section, a prior serious felony is an offense in the  
342 offender's prior record that is ranked in level 8, level 9, or  
343 level 10 under s. 921.0022 or s. 921.0023 and for which the  
344 offender is serving a sentence of confinement, supervision, or  
345 other sanction or for which the offender's date of release from  
346 confinement, supervision, or other sanction, whichever is later,  
347 is within 3 years before the date the primary offense or any  
348 additional offense was committed.

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349

350 Prior capital felony points: If the offender has one or more  
351 prior capital felonies in the offender's criminal record, points  
352 shall be added to the subtotal sentence points of the offender  
353 equal to twice the number of points the offender receives for  
354 the primary offense and any additional offense. A prior capital  
355 felony in the offender's criminal record is a previous capital  
356 felony offense for which the offender has entered a plea of nolo  
357 contendere or guilty or has been found guilty; or a felony in  
358 another jurisdiction which is a capital felony in that  
359 jurisdiction, or would be a capital felony if the offense were  
360 committed in this state.

361

362 Possession of a firearm, semiautomatic firearm, or machine gun:  
363 If the offender is convicted of committing or attempting to  
364 commit any felony other than those enumerated in s. 775.087(2)  
365 while having in his or her possession: a firearm as defined in  
366 s. 790.001~~(6)~~, an additional eighteen (18) sentence points are  
367 assessed; or if the offender is convicted of committing or  
368 attempting to commit any felony other than those enumerated in  
369 s. 775.087(3) while having in his or her possession a  
370 semiautomatic firearm as defined in s. 775.087(3) or a machine  
371 gun as defined in s. 790.001~~(9)~~, an additional twenty-five (25)  
372 sentence points are assessed.

373

374 Sentencing multipliers:

375

376 Drug trafficking: If the primary offense is drug trafficking  
377 under s. 893.135, the subtotal sentence points are multiplied,

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378 at the discretion of the court, for a level 7 or level 8  
379 offense, by 1.5. The state attorney may move the sentencing  
380 court to reduce or suspend the sentence of a person convicted of  
381 a level 7 or level 8 offense, if the offender provides  
382 substantial assistance as described in s. 893.135(4).

383

384 Law enforcement protection: If the primary offense is a  
385 violation of the Law Enforcement Protection Act under s.  
386 775.0823(2), (3), or (4), the subtotal sentence points are  
387 multiplied by 2.5. If the primary offense is a violation of s.  
388 775.0823(5), (6), (7), (8), or (9), the subtotal sentence points  
389 are multiplied by 2.0. If the primary offense is a violation of  
390 s. 784.07(3) or s. 775.0875(1), or of the Law Enforcement  
391 Protection Act under s. 775.0823(10) or (11), the subtotal  
392 sentence points are multiplied by 1.5.

393

394 Grand theft of a motor vehicle: If the primary offense is grand  
395 theft of the third degree involving a motor vehicle and in the  
396 offender's prior record, there are three or more grand thefts of  
397 the third degree involving a motor vehicle, the subtotal  
398 sentence points are multiplied by 1.5.

399

400 Offense related to a criminal gang: If the offender is convicted  
401 of the primary offense and committed that offense for the  
402 purpose of benefiting, promoting, or furthering the interests of  
403 a criminal gang as prohibited under s. 874.04, the subtotal  
404 sentence points are multiplied by 1.5.

405

406 Domestic violence in the presence of a child: If the offender is

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407 convicted of the primary offense and the primary offense is a  
408 crime of domestic violence, as defined in s. 741.28, which was  
409 committed in the presence of a child under 16 years of age who  
410 is a family or household member as defined in s. 741.28(3) with  
411 the victim or perpetrator, the subtotal sentence points are  
412 multiplied by 1.5.

413 Section 9. This act shall take effect October 1, 2013.