

By Senator Joyner

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1 A bill to be entitled
2 An act relating to assault weapons and magazines;
3 creating s. 790.222, F.S.; defining terms; prohibiting
4 a person from manufacturing, importing, possessing,
5 purchasing, selling, or transferring any assault
6 weapon or large-capacity magazine; providing
7 exceptions; providing criminal penalties; requiring an
8 officer who makes an arrest for a violation of this
9 act or for any offense involving the use or attempted
10 use of an assault weapon or large-capacity magazine to
11 take possession of the assault weapon or large-
12 capacity magazine and to retain the assault weapon or
13 magazine until disposition of the charge for which the
14 person was arrested; providing for disposition of the
15 assault weapon or large-capacity magazine after the
16 person is convicted or acquitted; providing for the
17 legal disposition of an assault weapon or large-
18 capacity magazine after specified dates; providing a
19 procedure for a person to voluntarily surrender an
20 assault weapon or large-capacity magazine; providing a
21 procedure for notice to a local or state law
22 enforcement agency of the person's intention to
23 surrender the assault weapon or large-capacity
24 magazine; providing for the registration of the
25 assault weapon or large-capacity magazine under
26 certain circumstances; requiring the Department of Law
27 Enforcement to provide every county sheriff with the
28 training and forms necessary to perform background
29 checks and register assault weapons and large-capacity

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30 magazines with the department; requiring a registered
31 owner of an assault weapon or large-capacity magazine
32 to annually renew the registration; requiring a
33 registered owner of an assault weapon or large-
34 capacity magazine to report loss or theft to the
35 appropriate law enforcement agency within a certain
36 timeframe; requiring each licensed firearm dealer to
37 conspicuously post at each purchase counter a warning
38 in block letters which provides adequate notice of the
39 time periods and criminal penalties contained in this
40 section for compliance with the act; amending s.
41 775.087, F.S.; increasing criminal penalties for the
42 possession or use of an assault weapon during the
43 commission of certain specified offenses; providing
44 for severability; providing an effective date.

45
46 Be It Enacted by the Legislature of the State of Florida:

47
48 Section 1. Effective July 1, 2013, section 790.222, Florida
49 Statutes, is created to read:

50 790.222 Assault weapons and magazines; restrictions on
51 transfer and possession.-

52 (1) DEFINITIONS.-As used in this section, the term:

53 (a) "Assault weapon" means:

54 1. A semiautomatic rifle that has the capacity to accept a
55 detachable magazine and has one or more of the following:

56 a. A pistol grip or thumbhole stock.

57 b. Any feature capable of functioning as a protruding grip
58 that can be held by the nontrigger hand.

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- 59 c. A folding or telescoping stock.
- 60 d. A shroud that is attached to the barrel, or that
61 partially or completely encircles the barrel, allowing the
62 bearer to hold the firearm with the nontrigger hand without
63 being burned, but excluding a slide that encloses the barrel.
- 64 2. A semiautomatic pistol, or any semiautomatic, centerfire
65 or rimfire rifle with a fixed magazine, which has the capacity
66 to accept more than 10 rounds of ammunition.
- 67 3. A semiautomatic pistol that has the capacity to accept a
68 detachable magazine and has one or more of the following:
- 69 a. Any feature capable of functioning as a protruding grip
70 that can be held by the nontrigger hand.
- 71 b. A folding, telescoping, or thumbhole stock.
- 72 c. A shroud that is attached to the barrel, or that
73 partially or completely encircles the barrel, allowing the
74 bearer to hold the firearm with the nontrigger hand without
75 being burned, but excluding a slide that encloses the barrel.
- 76 d. The capacity to accept a detachable magazine at any
77 location outside the pistol grip.
- 78 4. A semiautomatic shotgun that has one or more of the
79 following:
- 80 a. A pistol grip or thumbhole stock.
- 81 b. Any feature capable of functioning as a protruding grip
82 that can be held by the nontrigger hand.
- 83 c. A folding or telescoping stock.
- 84 d. A fixed magazine capacity in excess of five rounds.
- 85 e. The capacity to accept a detachable magazine.
- 86 5. A shotgun with a revolving cylinder.
- 87 6. A conversion kit, part, or combination of parts from

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88 which an assault weapon can be assembled if the kit, part, or
89 combination of parts is in the possession or under the control
90 of the same person.

91
92 The term "assault weapon" does not include a firearm that has
93 been made permanently inoperable or an antique firearm as
94 defined in s. 790.001.

95 (b) "Department" means the Florida Department of Law
96 Enforcement.

97 (c) "Detachable magazine" means an ammunition feeding
98 device that can be loaded or unloaded while detached from a
99 firearm and readily inserted into a firearm.

100 (d) "Fixed magazine" means an ammunition feeding device
101 contained in, or permanently attached to, a firearm in such a
102 manner that the device cannot be removed without disassembly of
103 the firearm action.

104 (e) "Large-capacity magazine" means an ammunition feeding
105 device having the capacity to accept more than 10 rounds, or a
106 conversion kit, part, or combination of parts from which such a
107 device can be assembled if the kit, part, or combination of
108 parts is in the possession or under the control of the same
109 person. The term does not include any of the following:

110 1. A feeding device that has been permanently altered so
111 that it cannot accommodate more than 10 rounds.

112 2. A .22 caliber tube ammunition feeding device.

113 3. A tubular magazine that is contained in a lever-action
114 firearm.

115 (2) PROHIBITION.—Notwithstanding any other law to the
116 contrary, a person may not manufacture, import, possess,

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117 purchase, sell, or transfer any assault weapon or large-capacity
118 magazine, as defined in this section, except as specifically
119 authorized in subsection (3) or subsection (6).

120 (3) EXCEPTIONS TO THE PROHIBITION.—Subsection (2) does not
121 apply to:

122 (a) A person who is employed by a federal, state, county,
123 or municipal law enforcement agency or a correctional agency for
124 use in the performance of the person's lawful duties.

125 (b) A person who is a member of the Armed Forces of the
126 United States, the organized reserves, or the Florida National
127 Guard while on official military duty, in authorized training
128 for official military duty, or subject to recall or mobilization
129 and under order to possess an assault weapon or large-capacity
130 magazine.

131 (c) A firearm manufacturer or dealer who is properly
132 licensed under federal law to supply assault weapons or large-
133 capacity magazines to any branch of the Armed Forces of the
134 United States or to a law enforcement agency in this state.

135 (d) A licensed firearm dealer who sells a lawfully
136 possessed assault weapon or large-capacity magazine to a
137 licensed firearm dealer in another state.

138 (4) PENALTIES.—A person who knowingly violates subsection
139 (2) commits a felony of the second degree, punishable as
140 provided in s. 775.082, s. 775.083, or s. 775.084.

141 (5) SEIZURE AND FORFEITURE OF ASSAULT WEAPONS.—

142 (a) An officer who makes an arrest for a violation of
143 subsection (2) or for any offense involving the use or attempted
144 use of an assault weapon or large-capacity magazine shall take
145 possession of the assault weapon or large-capacity magazine and

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146 retain it until after disposition of the charge for which the
147 person is arrested.

148 (b) If the person arrested is convicted or found guilty,
149 regardless of adjudication, of a violation of subsection (2) or
150 an offense involving the use or attempted use of an assault
151 weapon or large-capacity magazine, the seized assault weapon or
152 large-capacity magazine is forfeited to the state, with or
153 without an order of forfeiture, and must be destroyed as
154 provided in paragraph (d).

155 (c) If the person arrested is acquitted of the charge of
156 violating subsection (2) or an offense involving the use or
157 attempted use of an assault weapon or large-capacity magazine,
158 the seized assault weapon or large-capacity magazine:

159 1. Must be returned to the person upon order of the court
160 if the person demonstrates lawful ownership or possession of the
161 assault weapon or large-capacity magazine in accordance with
162 state and federal law.

163 2. Is forfeited to the state, with or without an order of
164 forfeiture, and must be destroyed as provided in paragraph (d)
165 if the person fails to demonstrate to the court lawful ownership
166 or possession of the assault weapon or large-capacity magazine
167 in accordance with state and federal law within 10 days after
168 acquittal or dismissal of the charges.

169 (d) An assault weapon or large-capacity magazine that is
170 forfeited to the state must be destroyed by the agency that has
171 possession of the weapon or large-capacity magazine within 60
172 days after the date it is forfeited to the state.

173 (6) GRACE PERIODS.—A grace period from the prohibition on
174 the transfer or possession of an assault weapon or large-

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175 capacity magazine as provided under (2) applies in the following
176 cases:

177 (a) Any person who has lawful possession of an assault
178 weapon or large-capacity magazine in this state before July 1,
179 2013, has until December 31, 2013 to:

180 1. Lawfully transfer the assault weapon or large-capacity
181 magazine to a person outside this state or to an agency that may
182 lawfully possess an assault weapon or large-capacity magazine;

183 2. Have the assault weapon or magazine modified to render
184 it permanently inoperable; or

185 3. Take other action, as provided under (8), to ensure that
186 continued possession of the assault weapon or large-capacity
187 magazine is not in violation of state or federal law.

188 (b) A person who comes into lawful possession of a lawfully
189 held assault weapon or large-capacity magazine on or after July
190 1, 2013, has 120 days after the date of obtaining possession of
191 the assault weapon or large-capacity magazine to:

192 1. Lawfully transfer the assault weapon or large-capacity
193 magazine to a person outside this state or to an agency that may
194 lawfully possess an assault weapon or large-capacity magazine;

195 2. Have the assault weapon or large-capacity magazine
196 modified to render it permanently inoperable; or

197 3. Take other action to ensure that continued possession of
198 the assault weapon or large-capacity magazine is not in
199 violation of state or federal law.

200
201 As used in this paragraph, the term "come into lawful possession
202 of a lawfully held assault weapon or large-capacity magazine"
203 means obtaining an assault weapon or large-capacity magazine

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204 through an estate, a gift, a bequest, or an inheritance.

205 (7) VOLUNTARY SURRENDER OF AN ASSAULT WEAPON OR LARGE-
206 CAPACITY MAGAZINE.-

207 (a) A person who voluntarily surrenders an unlawfully
208 possessed assault weapon or large-capacity magazine in
209 accordance with this subsection to a local or state law
210 enforcement agency after giving the agency written notice of the
211 intention to surrender the weapon or magazine and the date and
212 time of the intended surrender does not commit unlawful
213 possession of the weapon or magazine. However, if, after notice
214 has been given but before the weapon or magazine is surrendered,
215 the person uses or attempts to use the weapon or magazine in
216 committing a crime, the person may be charged and prosecuted for
217 unlawful possession of the weapon or magazine.

218 (b) The notice must specify the type of assault weapon or
219 large-capacity magazine to be surrendered and the time, place,
220 and date of the surrender. The date of surrender may not be more
221 than 1 week after the date the notice is given.

222 (c) The assault weapon or large-capacity magazine must be
223 transported and surrendered unloaded and in a secured manner so
224 that it is not readily accessible for use.

225 (d) Upon the request of the person surrendering an assault
226 weapon or large-capacity magazine, the law enforcement agency
227 receiving the weapon or magazine shall issue a receipt for the
228 weapon or magazine. In surrendering the weapon or magazine, the
229 person releases any claim of ownership in or title to the weapon
230 or magazine, agrees to the forfeiture of the weapon or magazine
231 to the state, and agrees for the weapon or magazine to be
232 destroyed as provided in paragraph (5) (d).

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233 (8) REGISTRATION OF ASSAULT WEAPONS OR LARGE-CAPACITY
234 MAGAZINES IN CIRCULATION BEFORE JULY 1, 2013; FUTURE
235 COMPLIANCE.-

236 (a) Notwithstanding ss. 790.335 and 790.336, a person who
237 is in lawful possession of an assault weapon or large-capacity
238 magazine before July 1, 2013, has until December 31, 2013 to do
239 the following without being subject to criminal prosecution for
240 possession of the weapon or magazine:

241 1. Unless the person is currently prohibited by law from
242 possessing a firearm, immediately register the assault weapon in
243 his or her possession, with no more than three large-capacity
244 magazines, with the department, through the person's local
245 sheriff, and dispose of any remaining large-capacity magazines
246 in his or her possession by any method listed in paragraph
247 (6) (a); and

248 2. Submit to a background check conducted by the department
249 by providing the information necessary under s. 790.065 to
250 confirm that he or she is not a prohibited purchaser under 18
251 U.S.C. s. 922 or any other applicable state law.

252 (b) A registered owner of an assault weapon or large-
253 capacity magazine shall annually renew the registration, subject
254 to the completion of a new background check.

255 (c) A registered owner shall report the loss or theft of a
256 registered assault weapon or large-capacity magazine to the
257 appropriate law enforcement agency within 48 hours after the
258 discovery of the loss or theft.

259 (9) FUNCTIONS OF THE DEPARTMENT.-

260 (a) The Department of Law Enforcement shall provide every
261 person so asking with the forms necessary for the person to

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262 complete the required registration procedures, including the
263 requisite background checks, and information on the safe use of
264 firearms.

265 (b) The department shall provide every county sheriff with
266 the training and forms necessary to register assault weapons and
267 large-capacity magazines with the department. Registration
268 information must include the make, model, description, caliber,
269 and serial number and the results of the registered owner's
270 background check.

271 (10) NOTICE TO BE POSTED.—A licensed firearm dealer must
272 conspicuously post at each purchase counter a warning in block
273 letters of at least 1 inch in height which provides adequate
274 notice of the time periods applicable for grace periods and
275 registrations of assault weapons and large-capacity magazines
276 and for the criminal penalties contained in this section.

277 Section 2. Subsection (3) of section 775.087, Florida
278 Statutes, is amended to read:

279 775.087 Possession or use of weapon; aggravated battery;
280 felony reclassification; minimum sentence.—

281 (3) (a) 1. Any person who is convicted of a felony or an
282 attempt to commit a felony, regardless of whether the use of a
283 firearm is an element of the felony, and the conviction was for:

- 284 a. Murder;
- 285 b. Sexual battery;
- 286 c. Robbery;
- 287 d. Burglary;
- 288 e. Arson;
- 289 f. Aggravated assault;
- 290 g. Aggravated battery;

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- 291 h. Kidnapping;
- 292 i. Escape;
- 293 j. Sale, manufacture, delivery, or intent to sell,
294 manufacture, or deliver any controlled substance;
- 295 k. Aircraft piracy;
- 296 l. Aggravated child abuse;
- 297 m. Aggravated abuse of an elderly person or disabled adult;
- 298 n. Unlawful throwing, placing, or discharging of a
299 destructive device or bomb;
- 300 o. Carjacking;
- 301 p. Home-invasion robbery;
- 302 q. Aggravated stalking; or
- 303 r. Trafficking in cannabis, trafficking in cocaine, capital
304 importation of cocaine, trafficking in illegal drugs, capital
305 importation of illegal drugs, trafficking in phencyclidine,
306 capital importation of phencyclidine, trafficking in
307 methaqualone, capital importation of methaqualone, trafficking
308 in amphetamine, capital importation of amphetamine, trafficking
309 in flunitrazepam, trafficking in gamma-hydroxybutyric acid
310 (GHB), trafficking in 1,4-Butanediol, trafficking in
311 Phenethylamines, or other violation of s. 893.135(1);
312
- 313 and during the commission of the offense, the ~~such~~ person
314 possessed a semiautomatic firearm or an assault weapon, as
315 defined in s. 790.222, and ~~its high-capacity detachable box~~
316 magazine, or a machine gun, as defined in s. 790.001, shall be
317 sentenced to a minimum term of imprisonment of 20 ~~15~~ years.
- 318 2. Any person who is convicted of a felony or an attempt to
319 commit a felony listed in subparagraph (a)1., regardless of

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320 whether the use of a weapon is an element of the felony, and
321 during the course of the commission of the felony ~~the such~~
322 person discharged an assault weapon as defined in s. 790.222, a
323 semiautomatic firearm as defined in s. 790.222, ~~and its high-~~
324 ~~capacity box magazine~~ or a machine gun ~~"machine gun"~~ as defined
325 in s. 790.001 shall be sentenced to a minimum term of
326 imprisonment of 25 ~~20~~ years.

327 3. Any person who is convicted of a felony or an attempt to
328 commit a felony listed in subparagraph (a)1., regardless of
329 whether the use of a weapon is an element of the felony, and
330 during the course of the commission of the felony such person
331 discharged an assault weapon as defined in s. 790.222, a
332 semiautomatic firearm as defined in s. 790.001, ~~and its high-~~
333 ~~capacity box magazine~~ or a machine gun ~~"machine gun"~~ as defined
334 in s. 790.001 and, as the result of the discharge, death or
335 great bodily harm was inflicted upon any person, the convicted
336 person shall be sentenced to a minimum term of imprisonment of
337 not less than 25 years and not more than a term of imprisonment
338 of life in prison.

339 Section 3. If any provision of this act or its application
340 to any person or circumstance is held invalid, the invalidity
341 does not affect other provisions or applications of the act
342 which can be given effect without the invalid provision or
343 application, and to this end the provisions of this act are
344 severable.

345 Section 4. This act shall take effect July 1, 2013.