Senator Farmer moved the following:

Senate Amendment to Substitute Amendment (726990) (with title amendment)

Between lines 301 and 302 insert:

Section 9. Effective January 1, 2019, section 790.30, Florida Statutes, is created to read:

790.30 Large-capacity magazines.—
(1) DEFINITIONS.—As used in this section, the term:
(a) “Large-capacity magazine” means any ammunition feeding device with the capacity to accept more than 10 rounds, or any
conversion kit, part, or combination of parts from which such a
device can be assembled if those parts are in the possession or
under the control of the same person, but does not include any
of the following:

1. A feeding device that has been permanently altered so
that it cannot accommodate more than 7 rounds;
2. A .22 caliber tube ammunition feeding device; or
3. A tubular magazine that is contained in a lever-action
firearm.

(b) “Licensed gun dealer” means a person who has a federal
firearms license.

(2) SALE OR TRANSFER.—

(a) A person may not import into the state or, within this
state, distribute, transport, sell, keep for sale, offer or
expose for sale, or give a large-capacity magazine. Except as
provided in paragraph (b), any person who violates this
paragraph commits a felony of the third degree, punishable as
provided in s. 775.082, s. 775.083, or s. 775.084, with a
mandatory minimum term of imprisonment of 2 years.

(b) A person may not transfer, sell, or give a large-
capacity magazine to a person under 18 years of age. Any person
who violates this paragraph commits a felony of the second
degree, punishable as provided in s. 775.082, s. 775.083, or s.
775.084, with a mandatory minimum term of imprisonment of 6
years.

(c) Paragraph (a) does not apply to:

1. The sale of large-capacity magazines to the Department
of Law Enforcement, to a law enforcement agency as defined in s.
934.02, to the Department of Corrections, or to the military,
air, or naval forces of this state or the United States for use in the discharge of their official duties.

2. A person who is the executor or administrator of an estate that includes a large-capacity magazine for which a certificate of possession has been issued under subsection (4) which is disposed of as authorized by the probate court, if the disposition is otherwise authorized under this section.

3. The transfer by bequest or intestate succession of a large-capacity magazine for which a certificate of possession has been issued under subsection (4).

(3) POSSESSION.—

(a) Except as provided in subsection (5) or otherwise provided in this section or authorized by any other law, a person may not, within this state, possess a large-capacity magazine. Any person who violates this paragraph commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, with a mandatory minimum term of imprisonment of 1 year.

(b) Paragraph (a) does not apply to the possession of a large-capacity magazine by a member or employee of the Department of Law Enforcement, a law enforcement agency as defined in s. 934.02, the Department of Corrections, or the military, air, or naval forces of this state or of the United States for use in the discharge of his or her official duties; nor does this section prohibit the possession or use of a large-capacity magazine by a sworn member of one of these agencies when on duty and the use is within the scope of his or her duties.

(c) Paragraph (a) does not apply to the possession of a
large-capacity magazine by any person before July 1, 2019, if all of the following are applicable:

1. The person is eligible to apply for a certificate of possession for the large-capacity magazine by July 1, 2019;
2. The person lawfully possessed the large-capacity magazine before October 1, 2018; and
3. The person is otherwise in compliance with this section and the applicable requirements of this chapter for possession of a firearm.

(d) Paragraph (a) does not apply to a person who is the executor or administrator of an estate that includes a large-capacity magazine for which a certificate of possession has been issued under subsection (4), if the large-capacity magazine is possessed at a place set forth in subparagraph (4)(c)1. or as authorized by the probate court.

(4) CERTIFICATE OF POSSESSION.—
(a) Any person who lawfully possesses a large-capacity magazine before October 1, 2018, shall apply by October 1, 2019, or, if such person is a member of the military or naval forces of this state or of the United States and cannot apply by October 1, 2019, because he or she is or was on official duty outside this state, shall apply within 90 days after returning to the state, to the Department of Law Enforcement for a certificate of possession with respect to such large-capacity magazine. The certificate must contain a description of the large-capacity magazine which identifies the large-capacity magazine uniquely, including all identification marks; the full name, address, date of birth, and thumbprint of the owner; and any other information as the department may deem appropriate.
The department shall adopt rules no later than January 1, 2019, to establish procedures with respect to the application for, and issuance of, certificates of possession under this section.

(b) 1. A large-capacity magazine lawfully possessed in accordance with this section may not be sold or transferred on or after January 1, 2019, to any person within this state other than to a licensed gun dealer, as provided in subsection (5), or by a bequest or intestate succession.

2. A person who obtains title to a large-capacity magazine for which a certificate of possession has been issued under this subsection shall, within 90 days after obtaining title, apply to the Department of Law Enforcement for a certificate of possession, render the large-capacity magazine permanently inoperable, sell the large-capacity magazine to a licensed gun dealer, or remove the large-capacity magazine from the state.

3. A person who moves into the state and who is in lawful possession of a large-capacity magazine, shall, within 90 days, either render the large-capacity magazine permanently inoperable, sell the large-capacity magazine to a licensed gun dealer, or remove the large-capacity magazine from this state, unless the person is a member of the military, air, or naval forces of this state or of the United States, is in lawful possession of a large-capacity magazine, and has been transferred into the state after October 1, 2019.

(c) A person who has been issued a certificate of possession for a large-capacity magazine under this subsection may possess it only if the person is:

1. At the residence, the place of business, or any other property owned by that person, or on a property owned by another
person with the owner’s express permission;

2. On the premises of a target range of a public or private club or organization organized for the purpose of practicing shooting at targets;

3. On a target range that holds a regulatory or business license for the purpose of practicing shooting at that target range;

4. On the premises of a licensed shooting club;

5. Attending an exhibition, display, or educational project on firearms which is sponsored by, conducted under the auspices of, or approved by a law enforcement agency or a nationally or state-recognized entity that fosters proficiency in, or promotes education about, firearms; or

6. Transporting the large-capacity magazine between any of the places mentioned in this paragraph, or from or to any licensed gun dealer for servicing or repair pursuant to paragraph (7)(b), provided the large-capacity magazine is transported as required by subsection (7).

(5) CERTIFICATE OF TRANSFER.—If an owner of a large-capacity magazine sells or transfers the magazine to a licensed gun dealer, he or she shall, at the time of delivery of the magazine, execute a certificate of transfer and cause the certificate to be mailed or delivered to the Department of Law Enforcement. The certificate must contain:

(a) The date of sale or transfer.

(b) The name and address of the seller or transferor and the licensed gun dealer and their social security numbers or driver license numbers.

(c) The licensed gun dealer’s federal firearms license
number.  

(d) Any other information the Department of Law Enforcement prescribes.

The licensed gun dealer shall present his or her driver license or social security card and federal firearms license to the seller or transferor for inspection at the time of purchase or transfer. The Department of Law Enforcement shall maintain a file of all certificates of transfer at its headquarters.

(6) RELINQUISHMENT.—An individual may arrange in advance to relinquish a large-capacity magazine to a law enforcement agency as defined in s. 934.02 or the Department of Law Enforcement. The large-capacity magazine shall be transported in accordance with subsection (7).

(7) TRANSPORTATION.—

(a) A licensed gun dealer who lawfully purchases for resale a large-capacity magazine under this section may transport the large-capacity magazine between licensed gun dealers or out of this state, but a person may not carry a large-capacity magazine concealed from public view, unless such large-capacity magazine is kept in the trunk of such vehicle or in a case or other container that is inaccessible to the operator of or any passenger in such vehicle. Any person who violates this paragraph commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Any licensed gun dealer may display the large-capacity magazine at any gun show or sell it to a resident outside this state.

(b) Any licensed gun dealer may transfer possession of any large-capacity magazine received pursuant to paragraph (a) to a
gunsmith for purposes of accomplishing service or repair of the
same. Transfers are permissible only to a gunsmith who is:

1. In the licensed gun dealer’s employ; or
2. Contracted by the licensed gun dealer for gunsmithing
services, provided the gunsmith holds a dealer’s license issued
pursuant to chapter 44 of Title 18 the United States Code, 18
U.S.C. ss. 921 et seq., and the regulations issued pursuant
thereto.

(8) CIRCUMSTANCES IN WHICH MANUFACTURE OR TRANSPORTATION
NOT PROHIBITED.—This section does not prohibit any person, firm,
or corporation engaged in the business of manufacturing large-
capacity magazines in this state from manufacturing or
transporting large-capacity magazines in this state for sale
within this state in accordance with subparagraph (2)(c)1. or
for sale outside this state.

(9) EXCEPTION.—This section does not apply to any magazine
modified to render it permanently inoperable.

Section 10. Effective January 1, 2019, paragraph (a) of
subsection (3) of section 775.087, Florida Statutes, is amended
to read:

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

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

a. Murder;
b. Sexual battery;
c. Robbery;
d. Burglary;
e. Arson;

f. Aggravated battery;

g. Kidnapping;

h. Escape;

i. Sale, manufacture, delivery, or intent to sell, manufacture, or deliver any controlled substance;

j. Aircraft piracy;

k. Aggravated child abuse;

l. Aggravated abuse of an elderly person or disabled adult;

m. Unlawful throwing, placing, or discharging of a destructive device or bomb;

n. Carjacking;

o. Home-invasion robbery;

p. Aggravated stalking; or

q. Trafficking in cannabis, trafficking in cocaine, capital importation of cocaine, trafficking in illegal drugs, capital importation of illegal drugs, trafficking in phencyclidine, capital importation of phencyclidine, trafficking in methaqualone, capital importation of methaqualone, trafficking in amphetamine, capital importation of amphetamine, trafficking in flunitrazepam, trafficking in gamma-hydroxybutyric acid (GHB), trafficking in 1,4-Butanediol, trafficking in Phenethylamines, or other violation of s. 893.135(1);

and during the commission of the offense, such person possessed a semiautomatic firearm and its high-capacity detachable box magazine, or a large-capacity magazine as defined in s. 790.30, or a machine gun as defined in s. 790.001, shall be sentenced to a minimum term of imprisonment of 15 years.
2. Any person who is convicted of a felony or an attempt to commit a felony listed in subparagraph (a)1., regardless of whether the use of a weapon is an element of the felony, and during the course of the commission of the felony such person discharged a semiautomatic firearm and its high-capacity box magazine, or a large-capacity magazine as defined in s. 790.30, or a “machine gun” as defined in s. 790.001 shall be sentenced to a minimum term of imprisonment of 20 years.

3. Any person who is convicted of a felony or an attempt to commit a felony listed in subparagraph (a)1., regardless of whether the use of a weapon is an element of the felony, and during the course of the commission of the felony such person discharged a semiautomatic firearm and its high-capacity box magazine, or a large-capacity magazine as defined in s. 790.30, or a “machine gun” as defined in s. 790.001 and, as the result of the discharge, death or great bodily harm was inflicted upon any person, the convicted person shall be sentenced to a minimum term of imprisonment of not less than 25 years and not more than a term of imprisonment of life in prison.

Section 11. For the purpose of incorporating the amendment made by this act to section 775.087, Florida Statutes, in a reference thereto, section 27.366, Florida Statutes, is reenacted to read:

27.366 Legislative intent and policy in cases meeting criteria of s. 775.087(2) and (3).—It is the intent of the Legislature that convicted criminal offenders who meet the criteria in s. 775.087(2) and (3) be sentenced to the minimum mandatory prison terms provided therein. It is the intent of the Legislature to establish zero tolerance of criminals who use,
threaten to use, or avail themselves of firearms in order to commit crimes and thereby demonstrate their lack of value for human life. It is also the intent of the Legislature that prosecutors should appropriately exercise their discretion in those cases in which the offenders’ possession of the firearm is incidental to the commission of a crime and not used in furtherance of the crime, used in order to commit the crime, or used in preparation to commit the crime. For every case in which the offender meets the criteria in this act and does not receive the mandatory minimum prison sentence, the state attorney must explain the sentencing deviation in writing and place such explanation in the case file maintained by the state attorney.

Section 12. For the purpose of incorporating the amendment made by this act to section 775.087, Florida Statutes, in a reference thereto, paragraph (b) of subsection (1) of section 921.0024, Florida Statutes, is reenacted to read:

921.0024 Criminal Punishment Code; worksheet computations; scoresheets.—

(1)

(b) WORKSHEET KEY:

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

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

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

2. If the community sanction violation is committed by a violent felony offender of special concern as defined in s. 948.06:
   a. Twelve (12) community sanction violation points are assessed for the violation and for each successive violation of felony probation or community control where:
      I. The violation does not include a new felony conviction;
      and
      II. The community sanction violation is not based solely on the probationer or offender’s failure to pay costs or fines or make restitution payments.
   b. Twenty-four (24) community sanction violation points are assessed for the violation and for each successive violation of felony probation or community control where the violation includes a new felony conviction.

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

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

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

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

Sentencing multipliers:

Drug trafficking: If the primary offense is drug trafficking under s. 893.135, the subtotal sentence points are multiplied, at the discretion of the court, for a level 7 or level 8 offense, by 1.5. The state attorney may move the sentencing court to reduce or suspend the sentence of a person convicted of a level 7 or level 8 offense, if the offender provides substantial assistance as described in s. 893.135(4).

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

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

Offense related to a criminal gang: If the offender is convicted of the primary offense and committed that offense for the purpose of benefiting, promoting, or furthering the interests of a criminal gang as defined in s. 874.03, the subtotal sentence points are multiplied by 1.5. If applying the multiplier results in the lowest permissible sentence exceeding the statutory maximum sentence for the primary offense under chapter 775, the court may not apply the multiplier and must sentence the defendant to the statutory maximum sentence.

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

Adult-on-minor sex offense: If the offender was 18 years of age or older and the victim was younger than 18 years of age at the time the offender committed the primary offense, and if the primary offense was an offense committed on or after October 1, 2014, and is a violation of s. 787.01(2) or s. 787.02(2), if the violation involved a victim who was a minor and, in the course of committing that violation, the defendant committed a sexual battery under chapter 794 or a lewd act under s. 800.04 or s.
847.0135(5) against the minor; s. 787.01(3)(a)2. or 3.; s. 787.02(3)(a)2. or 3.; s. 794.011, excluding s. 794.011(10); s. 800.04; or s. 847.0135(5), the subtotal sentence points are multiplied by 2.0. If applying the multiplier results in the lowest permissible sentence exceeding the statutory maximum sentence for the primary offense under chapter 775, the court may not apply the multiplier and must sentence the defendant to the statutory maximum sentence.

Section 13. For the purpose of incorporating the amendment made by this act to section 775.087, Florida Statutes, in a reference thereto, paragraph (b) of subsection (3) of section 947.146, Florida Statutes, is reenacted to read:

947.146 Control Release Authority.—

(3) Within 120 days prior to the date the state correctional system is projected pursuant to s. 216.136 to exceed 99 percent of total capacity, the authority shall determine eligibility for and establish a control release date for an appropriate number of parole ineligible inmates committed to the department and incarcerated within the state who have been determined by the authority to be eligible for discretionary early release pursuant to this section. In establishing control release dates, it is the intent of the Legislature that the authority prioritize consideration of eligible inmates closest to their tentative release date. The authority shall rely upon commitment data on the offender information system maintained by the department to initially identify inmates who are to be reviewed for control release consideration. The authority may use a method of objective risk assessment in determining if an eligible inmate should be
released. Such assessment shall be a part of the department’s
management information system. However, the authority shall have
sole responsibility for determining control release eligibility,
establishing a control release date, and effectuating the
release of a sufficient number of inmates to maintain the inmate
population between 99 percent and 100 percent of total capacity.
Inmates who are ineligible for control release are inmates who:

(b) Are serving the mandatory minimum portion of a sentence
enhanced under s. 775.087(2) or (3), or s. 784.07(3);

In making control release eligibility determinations under this
subsection, the authority may rely on any document leading to or
generated during the course of the criminal proceedings,
including, but not limited to, any presentence or postsentence
investigation or any information contained in arrest reports
relating to circumstances of the offense.

------------------ T I T L E A M E N D M E N T ------------------

And the title is amended as follows:
Between lines 2273 and 2274
insert:
creating s. 790.30, F.S.; defining terms; prohibiting
the sale or transfer of a large-capacity magazine;
提供 criminal penalties; providing exceptions to
the prohibition; prohibiting possession of a large-
capacity magazine; providing criminal penalties;
providing exceptions to the prohibition; requiring a
person who lawfully possessed such a magazine before a
specified date to obtain a certificate of possession; providing requirements for the certificate; requiring the Department of Law Enforcement to adopt rules by a certain date; limiting transfers of large-capacity magazines represented by such certificates as of a specified date; providing conditions for continued possession of such magazines; requiring certificates of transfer for the sale or transfer of such magazines; requiring that the department maintain records of such sales or transfers; providing for relinquishment of large-capacity magazines to law enforcement agencies or the department; providing requirements for transportation of large-capacity magazines; providing criminal penalties for violations; specifying circumstances in which the manufacture or transportation of large-capacity magazines is not prohibited; exempting permanently inoperable magazines from all such provisions; amending s. 775.087, F.S.; providing enhanced criminal penalties for certain offenses committed by persons with a large-capacity magazine; reenacting ss. 27.366, 921.0024(1)(b), and 947.146(3)(b), F.S., relating to legislative intent and policy in certain cases, the Criminal Punishment Code worksheet key, and the Control Release Authority, respectively, to incorporate the amendment made to s. 775.087, F.S., in references thereto;