

By Senator Polsky

29-00074-22

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1 A bill to be entitled
2 An act relating to the sale, transfer, or storage of
3 firearms; amending s. 784.05, F.S.; revising the
4 standard for adults and minors to be considered
5 criminally negligent in the storage of a firearm under
6 specified circumstances; providing criminal penalties;
7 redefining the term "minor"; conforming provisions to
8 changes made by the act; amending s. 790.115, F.S.;
9 revising an exception to the prohibition on storing or
10 leaving a loaded firearm within the reach or easy
11 access of a minor who obtains it and commits a
12 specified violation; conforming a provision to changes
13 made by the act; amending s. 790.174, F.S.; redefining
14 the term "minor"; revising requirements for the safe
15 storage of loaded firearms; providing criminal
16 penalties if a person fails to properly secure or
17 store a firearm and a minor gains access to the weapon
18 as a result; amending s. 790.175, F.S.; conforming
19 provisions to changes made by the act; requiring the
20 seller or transferor of a firearm to provide each
21 purchaser or transferee with specified information;
22 providing an exception; providing immunity for certain
23 providers of information; providing criminal
24 penalties; amending s. 921.0022, F.S.; conforming a
25 cross-reference; reenacting s. 409.175(5)(g), F.S.,
26 relating to rules of the Department of Children and
27 Families requiring the adoption of a form used by
28 child-placing agencies, to incorporate the amendment
29 made to s. 790.174, F.S., in a reference thereto;

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30 providing an effective date.

31
32 Be It Enacted by the Legislature of the State of Florida:

33
34 Section 1. Subsections (3) and (4) of section 784.05,
35 Florida Statutes, are amended, and subsection (1) of that
36 section is republished, to read:

37 784.05 Culpable negligence.—

38 (1) Whoever, through culpable negligence, exposes another
39 person to personal injury commits a misdemeanor of the second
40 degree, punishable as provided in s. 775.082 or s. 775.083.

41 (3) (a) 1. An adult who stores or leaves ~~Whoever violates~~
42 ~~subsection (1) by storing or leaving~~ a loaded firearm within the
43 reach or easy access of a minor commits, if the minor obtains
44 the firearm and uses it to inflict injury or death upon himself
45 or herself or any other person, a felony of the third degree,
46 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

47 2. A minor who violates subsection (1) by storing or
48 leaving a loaded firearm within the reach or easy access of
49 another minor commits, if the other minor obtains the firearm
50 and uses it to inflict injury or death upon himself or herself
51 or any other person, a misdemeanor of the second degree,
52 punishable as provided in s. 775.082 or s. 775.083.

53 (b) However, this subsection does not apply:

54 1. (a) If the firearm was stored or left in a securely
55 locked box or container or in a secure location ~~which a~~
56 ~~reasonable person would have believed to be secure,~~ or was
57 securely locked with a firearm locking mechanism ~~trigger lock;~~

58 2. (b) If the minor obtains the firearm as a result of an

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59 unlawful entry by any person;

60 3.~~(e)~~ To injuries resulting from target or sport shooting
61 accidents or hunting accidents; or

62 4.~~(d)~~ To members of the Armed Forces, National Guard, or
63 State Militia, or to police or other law enforcement officers,
64 with respect to firearm possession by a minor which occurs
65 during or incidental to the performance of their official
66 duties.

67
68 When any minor child is accidentally shot by another family
69 member, no arrest shall be made pursuant to this subsection
70 prior to 7 days after the date of the shooting. With respect to
71 any parent or guardian of any deceased minor, the investigating
72 officers shall file all findings and evidence with the state
73 attorney's office with respect to violations of this subsection.
74 The state attorney shall evaluate such evidence and shall take
75 such action as he or she deems appropriate under the
76 circumstances and may file an information against the
77 appropriate parties.

78 (4) As used in this section ~~act~~, the term "minor" means any
79 person under the age of 18 ~~16~~.

80 Section 2. Paragraph (c) of subsection (2) of section
81 790.115, Florida Statutes, is amended to read:

82 790.115 Possessing or discharging weapons or firearms at a
83 school-sponsored event or on school property prohibited;
84 penalties; exceptions.-

85 (2)

86 (c)1. A person who willfully and knowingly possesses any
87 firearm in violation of this subsection commits a felony of the

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88 third degree, punishable as provided in s. 775.082, s. 775.083,
89 or s. 775.084.

90 2. A person who stores or leaves a loaded firearm within
91 the reach or easy access of a minor who obtains the firearm and
92 commits a violation of subparagraph 1. commits a misdemeanor of
93 the second degree, punishable as provided in s. 775.082 or s.
94 775.083; except that this does not apply if the firearm was
95 stored or left in a securely locked box or container or in a
96 secure location ~~which a reasonable person would have believed to~~
97 ~~be secure~~, or was securely locked with a firearm-mounted push-
98 button combination lock or a firearm locking mechanism ~~trigger~~
99 ~~lock~~; if the minor obtains the firearm as a result of an
100 unlawful entry by any person; or to members of the Armed Forces,
101 National Guard, or State Militia, or to police or other law
102 enforcement officers, with respect to firearm possession by a
103 minor which occurs during or incidental to the performance of
104 their official duties.

105 Section 3. Section 790.174, Florida Statutes, is amended to
106 read:

107 790.174 Safe storage of firearms required.-

108 (1) As used in this section, the term "minor" means a
109 person younger than 18 years of age.

110 (2) ~~(1)~~ A person who stores or leaves, on a premise under
111 his or her control, a loaded firearm, as defined in s. 790.001,
112 and who knows or reasonably should know that a minor is likely
113 to gain access to the firearm without the lawful permission of
114 the minor's parent or guardian or the person having charge of
115 the minor, or without the supervision required by law, shall
116 keep the firearm in a securely locked box or container ~~or in a~~

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117 ~~location which a reasonable person would believe to be secure or~~
118 shall secure it with a firearm locking mechanism ~~trigger lock,~~
119 except when the person is carrying the firearm on his or her
120 body or within such close proximity thereto that he or she can
121 retrieve and use it as easily and quickly as if he or she
122 carried it on his or her body.

123 ~~(3)(2)~~ It is a misdemeanor of the second degree, punishable
124 as provided in s. 775.082 or s. 775.083, if a person violates
125 subsection (2) ~~(1)~~ by failing to store or leave a firearm in the
126 required manner and as a result thereof a minor gains access to
127 the firearm, without the lawful permission of the minor's parent
128 or guardian or the person having charge of the minor, and
129 possesses or exhibits it, without the supervision required by
130 law:

131 (a) In a public place; ~~or~~

132 (b) In a rude, careless, angry, or threatening manner in
133 violation of s. 790.10;

134 (c) During the commission of any violation of law; or

135 (d) When great bodily harm or injury occurs, unless the
136 bodily harm or injury is a result of the firearm's use for
137 lawful self-defense or defense of another person.

138
139 This subsection does not apply if the minor obtains the firearm
140 as a result of an unlawful entry by any person.

141 ~~(3) As used in this act, the term "minor" means any person~~
142 ~~under the age of 16.~~

143 Section 4. Section 790.175, Florida Statutes, is amended to
144 read:

145 790.175 Transfer or sale of firearms; required warnings and

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146 information; penalties.-

147 (1) Upon the retail commercial sale or retail transfer of
148 any firearm, the seller or transferor shall deliver a written
149 warning to the purchaser or transferee, which warning states, in
150 block letters not less than 1/4 inch in height:

151
152 "IT IS UNLAWFUL, AND PUNISHABLE BY IMPRISONMENT AND FINE, ~~FOR~~
153 ~~ANY ADULT~~ TO STORE OR LEAVE A FIREARM IN AN UNSAFE MANNER IN ANY
154 PLACE WITHIN THE REACH OR EASY ACCESS OF A MINOR UNDER 18 YEARS
155 OF AGE OR TO KNOWINGLY SELL OR OTHERWISE TRANSFER OWNERSHIP OR
156 POSSESSION OF A FIREARM TO A MINOR OR A PERSON OF UNSOUND MIND."

157
158 (2) Any retail or wholesale store, shop, or sales outlet
159 which sells firearms must conspicuously post at each purchase
160 counter the following warning in block letters not less than 1
161 inch in height:

162
163 "IT IS UNLAWFUL TO STORE OR LEAVE A FIREARM IN AN UNSAFE MANNER
164 IN ANY PLACE WITHIN THE REACH OR EASY ACCESS OF A MINOR UNDER 18
165 YEARS OF AGE OR TO KNOWINGLY SELL OR OTHERWISE TRANSFER
166 OWNERSHIP OR POSSESSION OF A FIREARM TO A MINOR OR A PERSON OF
167 UNSOUND MIND."

168
169 (3) (a) At the retail commercial sale or retail transfer of
170 any firearm, the seller or transferor shall comply with all of
171 the following:

172 1. Provide each purchaser or transferee with a basic
173 firearm safety brochure. Such brochure must be produced by a
174 national nonprofit membership organization that provides a

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175 comprehensive voluntary safety program, including the training
176 of individuals in the safe handling and use of firearms, or by
177 another comparable nonprofit organization, and must contain all
178 of the following information relating to firearms:

- 179 a. Rules for safe handling, storage, and use of firearms;
- 180 b. Nomenclature and descriptions of various types of
181 firearms;
- 182 c. Responsibilities of firearm ownership; and
- 183 d. The following information developed by the Department of
184 Law Enforcement:
 - 185 (I) A list of locations at which handguns are prohibited;
186 and
 - 187 (II) Information concerning the use of handguns for self-
188 defense.

189 2. Offer to demonstrate to the purchaser the use of a
190 firearm locking mechanism.

191 3. Post in a conspicuous place information relating to the
192 availability of known local voluntary firearm safety programs.

- 193 (b) The brochure required under paragraph (a) need not be
194 supplied by the firearm dealer if the firearm manufacturer
195 provides a basic firearm safety brochure with the firearm.
- 196 (c) The dealer may collect a charge for the brochure which
197 may not be greater than the dealer's cost to obtain the
198 brochure.
- 199 (d) Organizations that produce basic firearm safety
200 brochures for distribution to firearm dealers for subsequent
201 distribution to purchasers of firearms under this section and
202 firearm dealers are not liable for injuries resulting from the
203 accidental discharge of nondefective firearms purchased from any

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204 dealer.

205 (4)~~(3)~~ Any person or business knowingly violating a
 206 requirement to provide a warning as required by ~~under~~ this
 207 section or failing to comply with subsection (3) commits a
 208 misdemeanor of the second degree, punishable as provided in s.
 209 775.082 or s. 775.083.

210 Section 5. Paragraph (b) of subsection (3) of section
 211 921.0022, Florida Statutes, is amended to read:

212 921.0022 Criminal Punishment Code; offense severity ranking
 213 chart.-

214 (3) OFFENSE SEVERITY RANKING CHART

215 (b) LEVEL 2

216

Florida Statute	Felony Degree	Description
379.2431 (1) (e) 3.	3rd	Possession of 11 or fewer marine turtle eggs in violation of the Marine Turtle Protection Act.
379.2431 (1) (e) 4.	3rd	Possession of more than 11 marine turtle eggs in violation of the Marine Turtle Protection Act.
403.413 (6) (c)	3rd	Dumps waste litter exceeding 500 lbs. in weight or 100 cubic feet in volume or any quantity

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for commercial purposes, or
hazardous waste.

220

517.07(2) 3rd Failure to furnish a prospectus
meeting requirements.

221

590.28(1) 3rd Intentional burning of lands.

222

784.03(3) 3rd Battery during a riot or an
aggravated riot.

223

784.05(3)(a)1. 3rd Adult storing or leaving a
~~784.05(3)~~ loaded firearm within reach of
minor who uses it to inflict
injury or death.

224

787.04(1) 3rd In violation of court order,
take, entice, etc., minor
beyond state limits.

225

806.13(1)(b)3. 3rd Criminal mischief; damage
\$1,000 or more to public
communication or any other
public service.

226

806.13(3) 3rd Criminal mischief; damage of
\$200 or more to a memorial or
historic property.

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810.061(2) 3rd Impairing or impeding telephone
or power to a dwelling;
facilitating or furthering
burglary.

229

810.09(2)(e) 3rd Trespassing on posted
commercial horticulture
property.

230

812.014(2)(c)1. 3rd Grand theft, 3rd degree; \$750
or more but less than \$5,000.

231

812.014(2)(d) 3rd Grand theft, 3rd degree; \$100
or more but less than \$750,
taken from unenclosed curtilage
of dwelling.

232

812.015(7) 3rd Possession, use, or attempted
use of an antishoplifting or
inventory control device
countermeasure.

233

817.234(1)(a)2. 3rd False statement in support of
insurance claim.

817.481(3)(a) 3rd Obtain credit or purchase with
false, expired, counterfeit,
etc., credit card, value over
\$300.

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234	817.52 (3)	3rd	Failure to redeliver hired vehicle.
235	817.54	3rd	With intent to defraud, obtain mortgage note, etc., by false representation.
236	817.60 (5)	3rd	Dealing in credit cards of another.
237	817.60 (6) (a)	3rd	Forgery; purchase goods, services with false card.
238	817.61	3rd	Fraudulent use of credit cards over \$100 or more within 6 months.
239	826.04	3rd	Knowingly marries or has sexual intercourse with person to whom related.
240	831.01	3rd	Forgery.
241	831.02	3rd	Uttering forged instrument; utters or publishes alteration with intent to defraud.
242	831.07	3rd	Forging bank bills, checks,

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drafts, or promissory notes.

243

831.08 3rd Possessing 10 or more forged notes, bills, checks, or drafts.

244

831.09 3rd Uttering forged notes, bills, checks, drafts, or promissory notes.

245

831.11 3rd Bringing into the state forged bank bills, checks, drafts, or notes.

246

832.05 (3) (a) 3rd Cashing or depositing item with intent to defraud.

247

843.08 3rd False personation.

248

893.13 (2) (a) 2. 3rd Purchase of any s. 893.03 (1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 6., (2) (c) 7., (2) (c) 8., (2) (c) 9., (2) (c) 10., (3), or (4) drugs other than cannabis.

249

893.147 (2) 3rd Manufacture or delivery of drug paraphernalia.

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251 Section 6. For the purpose of incorporating the amendment
252 made by this act to section 790.174, Florida Statutes, in a
253 reference thereto, paragraph (g) of subsection (5) of section
254 409.175, Florida Statutes, is reenacted to read:

255 409.175 Licensure of family foster homes, residential
256 child-caring agencies, and child-placing agencies; public
257 records exemption.—

258 (5) The department shall adopt and amend rules for the
259 levels of licensed care associated with the licensure of family
260 foster homes, residential child-caring agencies, and child-
261 placing agencies. The rules may include criteria to approve
262 waivers to licensing requirements when applying for a child-
263 specific license.

264 (g) The department's rules shall include adoption of a form
265 to be used by child-placing agencies during an adoption home
266 study that requires all prospective adoptive applicants to
267 acknowledge in writing the receipt of a document containing
268 solely and exclusively the language provided for in s. 790.174
269 verbatim.

270 Section 7. This act shall take effect October 1, 2022.