

By Senator Polsky

30-00014-23

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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 by which adults and minors may 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 is found to have failed to  
17      properly secure or store a firearm resulting in a  
18      minor gaining access to the weapon; amending s.  
19      790.175, F.S.; conforming provisions to changes made  
20      by the act; requiring the seller or transferor of a  
21      firearm to provide each purchaser or transferee with  
22      specified information; providing an exception;  
23      providing immunity for certain providers of  
24      information; providing criminal penalties; amending s.  
25      921.0022, F.S.; conforming a cross-reference and a  
26      provision to changes made by the act; reenacting s.  
27      409.175(5)(g), F.S., relating to rules of the  
28      Department of Children and Families requiring the  
29      adoption of a form used by child-placing agencies, to

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30 incorporate the amendment made to s. 790.174, F.S., in  
31 a reference thereto; providing an effective date.  
32

33 Be It Enacted by the Legislature of the State of Florida:  
34

35 Section 1. Section 784.05, Florida Statutes, is amended to  
36 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 (2) Whoever, through culpable negligence, inflicts actual  
42 personal injury on another commits a misdemeanor of the first  
43 degree, punishable as provided in s. 775.082 or s. 775.083.

44 (3) (a) Except as provided in paragraph (b):

45 1. An adult who stores or leaves ~~Whoever violates~~  
46 ~~subsection (1) by storing or leaving~~ a loaded firearm within the  
47 reach or easy access of a minor ~~commits~~, if the minor obtains  
48 the firearm and uses it to inflict injury or death upon himself  
49 or herself or any other person, commits a felony of the third  
50 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
51 775.084.

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

58 (b) However, This subsection does not apply:

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

63        2.~~(b)~~ If the minor obtains the firearm as a result of an  
64 unlawful entry by any person;

65        3.~~(c)~~ To injuries resulting from target or sport shooting  
66 accidents or hunting accidents; or

67        4.~~(d)~~ To members of the Armed Forces, National Guard, or  
68 State Militia, or to police or other law enforcement officers,  
69 with respect to firearm possession by a minor which occurs  
70 during or incidental to the performance of their official  
71 duties.

72

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

83        (4) As used in this section ~~act~~, the term "minor" means a  
84 any person younger than 18 years of age ~~under the age of 16.~~

85        Section 2. Paragraph (c) of subsection (2) of section  
86 790.115, Florida Statutes, is amended to read:

87        790.115 Possessing or discharging weapons or firearms at a

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88 school-sponsored event or on school property prohibited;  
89 penalties; exceptions.-

90 (2)

91 (c)1. A person who willfully and knowingly possesses any  
92 firearm in violation of this subsection commits a felony of the  
93 third degree, punishable as provided in s. 775.082, s. 775.083,  
94 or s. 775.084.

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

110 Section 3. Section 790.174, Florida Statutes, is amended to  
111 read:

112 790.174 Safe storage of firearms required.-

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

115 (2) A person who stores or leaves, on a premise under his  
116 or her control, a loaded firearm, as defined in s. 790.001, and

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117 who knows or reasonably should know that a minor is likely to  
118 gain access to the firearm without the lawful permission of the  
119 minor's parent or guardian or the person having charge of the  
120 minor, or without the supervision required by law, shall keep  
121 the firearm in a securely locked box or container ~~or in a~~  
122 ~~location which a reasonable person would believe to be secure~~ or  
123 shall secure it with a firearm locking mechanism ~~trigger lock~~,  
124 except when the person is carrying the firearm on his or her  
125 body or within such close proximity thereto that he or she can  
126 retrieve and use it as easily and quickly as if he or she  
127 carried it on his or her body.

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

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

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

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

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

143

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

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

148 Section 4. Section 790.175, Florida Statutes, is amended to  
149 read:

150 790.175 Transfer or sale of firearms; required warnings and  
151 information; penalties.—

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

156  
157 "IT IS UNLAWFUL, AND PUNISHABLE BY IMPRISONMENT AND FINE, ~~FOR~~  
158 ~~ANY ADULT~~ TO STORE OR LEAVE A FIREARM IN AN UNSAFE MANNER IN ANY  
159 PLACE WITHIN THE REACH OR EASY ACCESS OF A MINOR UNDER 18 YEARS  
160 OF AGE OR TO KNOWINGLY SELL OR OTHERWISE TRANSFER OWNERSHIP OR  
161 POSSESSION OF A FIREARM TO A MINOR OR A PERSON OF UNSOUND MIND."  
162

163 (2) Any retail or wholesale store, shop, or sales outlet  
164 which sells firearms must conspicuously post at each purchase  
165 counter the following warning in block letters not less than 1  
166 inch in height:

167  
168 "IT IS UNLAWFUL TO STORE OR LEAVE A FIREARM IN AN UNSAFE MANNER  
169 IN ANY PLACE WITHIN THE REACH OR EASY ACCESS OF A MINOR UNDER 18  
170 YEARS OF AGE OR TO KNOWINGLY SELL OR OTHERWISE TRANSFER  
171 OWNERSHIP OR POSSESSION OF A FIREARM TO A MINOR OR A PERSON OF  
172 UNSOUND MIND."  
173

174 (3) (a) At the time of the retail commercial sale or the

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175 retail transfer of any firearm, the seller or transferor shall  
176 comply with all of the following:

177 1. Provide each purchaser or transferee with a basic  
178 firearm safety brochure. Such brochure must be produced by a  
179 national nonprofit membership organization that provides a  
180 comprehensive voluntary safety program, including the training  
181 of individuals in the safe handling and use of firearms, or by  
182 another comparable nonprofit organization, and must contain all  
183 of the following information relating to firearms:

184 a. Rules for the safe handling, storage, and use of  
185 firearms;

186 b. Nomenclature and descriptions of various types of  
187 firearms;

188 c. Responsibilities of firearm ownership; and

189 d. The following information developed by the Department of  
190 Law Enforcement:

191 (I) A list of locations at which handguns are prohibited;  
192 and

193 (II) Information concerning the use of handguns for self-  
194 defense;

195 2. Offer to demonstrate to the purchaser the use of a  
196 firearm locking mechanism; and

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

199 (b) The brochure required to be provided under paragraph  
200 (a) need not be supplied by the firearm dealer if the firearm  
201 manufacturer provides a basic firearm safety brochure with the  
202 firearm.

203 (c) The dealer may collect a charge for the brochure which

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204 may not exceed the dealer's cost in obtaining the brochure.

205 (d) Organizations that produce basic firearm safety  
 206 brochures for distribution to firearm dealers for subsequent  
 207 distribution to purchasers of firearms under this section and  
 208 firearm dealers are not liable for injuries resulting from the  
 209 accidental discharge of nondefective firearms purchased from any  
 210 dealer.

211 (4) Any person or business that knowingly violates  
 212 subsection (1) or subsection (2) or that violates subsection (3)  
 213 ~~violating a requirement to provide warning under this section~~  
 214 commits a misdemeanor of the second degree, punishable as  
 215 provided in s. 775.082 or s. 775.083.

216 Section 5. Paragraph (b) of subsection (3) of section  
 217 921.0022, Florida Statutes, is amended to read:

218 921.0022 Criminal Punishment Code; offense severity ranking  
 219 chart.—

220 (3) OFFENSE SEVERITY RANKING CHART

221 (b) LEVEL 2

222

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

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of the Marine Turtle Protection Act.

225

403.413(6)(c) 3rd Dumps waste litter exceeding 500 lbs. in weight or 100 cubic feet in volume or any quantity for commercial purposes, or hazardous waste.

226

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

227

590.28(1) 3rd Intentional burning of lands.

228

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

229

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

230

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

231

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

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public service.

232

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

233

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

234

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

235

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

236

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

237

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

238

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

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insurance claim.

239

817.481 (3) (a)

3rd

Obtain credit or purchase with false, expired, counterfeit, etc., credit card, value over \$300.

240

817.52 (3)

3rd

Failure to redeliver hired vehicle.

241

817.54

3rd

With intent to defraud, obtain mortgage note, etc., by false representation.

242

817.60 (5)

3rd

Dealing in credit cards of another.

243

817.60 (6) (a)

3rd

Forgery; purchase goods, services with false card.

244

817.61

3rd

Fraudulent use of credit cards over \$100 or more within 6 months.

245

826.04

3rd

Knowingly marries or has sexual intercourse with person to whom related.

246

831.01

3rd

Forgery.



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(2)(c)10., (3), or (4) drugs  
other than cannabis.

255

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

256

257            Section 6. For the purpose of incorporating the amendment  
258 made by this act to section 790.174, Florida Statutes, in a  
259 reference thereto, paragraph (g) of subsection (5) of section  
260 409.175, Florida Statutes, is reenacted to read:

261            409.175 Licensure of family foster homes, residential  
262 child-caring agencies, and child-placing agencies; public  
263 records exemption.—

264            (5) The department shall adopt and amend rules for the  
265 levels of licensed care associated with the licensure of family  
266 foster homes, residential child-caring agencies, and child-  
267 placing agencies. The rules may include criteria to approve  
268 waivers to licensing requirements when applying for a child-  
269 specific license.

270            (g) The department’s rules shall include adoption of a form  
271 to be used by child-placing agencies during an adoption home  
272 study that requires all prospective adoptive applicants to  
273 acknowledge in writing the receipt of a document containing  
274 solely and exclusively the language provided for in s. 790.174  
275 verbatim.

276            Section 7. This act shall take effect October 1, 2023.