

STORAGE NAME: h1349a.leps
DATE: April 16, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
LAW ENFORCEMENT AND PUBLIC SAFETY
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 1349
RELATING TO: Firearms Obtained by Minors
SPONSOR(S): Representative Betancourt
STATUTE(S) AFFECTED: ss. 784.05 and 921.0012. F.S.
COMPANION BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) LAW ENFORCEMENT AND PUBLIC SAFETY YEAS 6 NAYS 1
- (2)
- (3)
- (4)
- (5)

I. SUMMARY:

This bill defines the offense of storing or leaving a loaded firearm within the reach or easy access of a minor, where the firearm is obtained and taken to school by the minor. This offense is a first-degree misdemeanor. The bill provides for several exceptions, as follows:

- (1) where the firearm was stored in a securely locked box in a location which a reasonable person would have believed to be secure, or the weapon was securely locked with a trigger lock,
- (2) if the minor obtains the firearm as a result of an unlawful entry by any person, and
- (3) to members of the Armed Forces, National Guard, or State Militia, or to police or other law enforcement officers, with respect to firearm possession by a minor which occurs during or incidental to the performance of their official duties.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Currently, Subsection 784.05(3), Florida Statutes, makes it a crime to store or leave a loaded firearm within the reach or easy access of a minor, if the minor obtains the firearm *and uses it to inflict injury or death upon himself or any other person*. This offense is punishable as a third degree felony. Exceptions are provided where (1) the firearm was stored in a securely locked box or was locked with a trigger lock, (2) if the minor obtains the firearm as a result of an unlawful entry, (3) where the injuries result from target or sport shooting accidents, or hunting accidents, and (4) to members of the Armed Forces, National Guard, or State Militia, or to police or other law enforcement officers, with respect to firearm possession by a minor which occurs during or incidental to the performance of their official duties.

B. EFFECT OF PROPOSED CHANGES:

The proposed bill makes it a crime to leave a loaded firearm within reach or easy access of a minor *if the minor obtains the firearm and takes it to a public or private elementary or secondary school*. There is no requirement that the minor use the firearm and inflict injury or death, for criminal liability to attach. The crime is punishable as a first degree misdemeanor.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

STORAGE NAME: h1349a.leps

DATE: April 16, 1997

PAGE 3

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

Not applicable.

(2) what is the cost of such responsibility at the new level/agency?

Not applicable.

(3) how is the new agency accountable to the people governed?

Not applicable.

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

The bill imposes greater responsibility on adults to preclude child access to firearms.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

Not applicable.

- (2) Who makes the decisions?

Not applicable.

- (3) Are private alternatives permitted?

Not applicable.

- (4) Are families required to participate in a program?

Not applicable.

- (5) Are families penalized for not participating in a program?

Not applicable.

- b. Does the bill directly affect the legal rights and obligations between family members?

To the extent it requires adults to keep firearms out of reach and access by their children.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

- (1) parents and guardians?

Not applicable.

- (2) service providers?

Not applicable.

- (3) government employees/agencies?

Not applicable.

D. SECTION-BY-SECTION RESEARCH:

Section 1: Amends Section 784.05, Florida Statutes, to provide for criminal liability where a person leaves a loaded firearm within the reach or easy access of a minor, and the minor obtains the firearm and takes it to a public or private elementary or secondary school.

Section 2: Reenacts the sentencing guidelines levels and corrects the statutory reference to the offense storing or leaving a loaded firearm within reach or easy access of a minor, where death or injury results. The level remains at a third degree felony, but the statutory reference is changed from Subsection (3) to Subsection (4), as the result of the insertion of the new misdemeanor offense.

Section 3: Provides for an effective date of October 1, 1997.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

STORAGE NAME: h1349a.leps

DATE: April 16, 1997

PAGE 7

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 15, 1997, the Committee on Law Enforcement and Public Safety approved an amendment which adds an exception to the offense, where the firearm is securely locked with a "firearm-mounted push button combination lock."

Also, the Committee authorized a second amendment which creates an exception to the state preemption of regulation of firearms and ammunition set forth in Section 790.33, F.S., for any future ordinances adopted by a county defined in s. 125.011(1), Florida Statute, as long as the ordinance does not directly conflict with any provision of Chapter 790.

VII. SIGNATURES:

COMMITTEE ON LAW ENFORCEMENT AND PUBLIC SAFETY:

Prepared by:

Legislative Research Director:

Kurt E. Ahrendt

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