

By Representatives Stafford and Warner

1 A bill to be entitled
2 An act relating to the storage of firearms;
3 creating the "Safe Storage of Firearms for the
4 Protection of Children Act"; amending s.
5 790.001, F.S.; redefining the term "securely
6 encased" to mean a firearm that is secured with
7 an activated locking device; defining the term
8 "locking device"; providing that it is a third
9 degree felony to knowingly alter or remove a
10 locking device from a firearm without
11 authorization of the owner; providing that it
12 is a third degree felony to knowingly sell,
13 deliver, or possess a firearm if the firearm's
14 locking device has been altered or removed
15 without authorization of the owner; amending s.
16 784.05, F.S.; providing that it is not culpable
17 negligence to store or leave a loaded firearm
18 within the reach of a person under a specified
19 age, which firearm is used to inflict injury or
20 death, if the firearm was locked with a locking
21 device; amending s. 790.174, F.S.; providing
22 that a locking device may be used for the
23 purpose of lawfully storing a firearm within
24 access of a person under a specified age;
25 amending s. 790.175, F.S.; requiring a licensed
26 dealer to advise a potential buyer of a handgun
27 of the availability of a locking device that
28 renders the handgun inoperable; requiring that
29 the dealer provide the potential buyer the
30 opportunity to purchase a locking device at the
31 time of the sale; providing an effective date.

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WHEREAS, children and teens are responsible for over 10,000 accidental shootings each year, and

WHEREAS, firearms cause 25 percent of all deaths to teens between the ages of 15 and 19, and

WHEREAS, the Center for Disease Control reports that over 1 million children come home from school to a home with no adult supervision but which has a loaded and unlocked firearm, and

WHEREAS, the Center for Disease Control reports that the rate of children killed by firearms in the United States is nearly 12 times higher than in 25 other industrialized countries combined, and

WHEREAS, a national survey indicated that 59 percent of children in grades 6 through 12 said they knew where to get a firearm if they wanted one, and

WHEREAS, the Legislature seeks to encourage the use of technologies that would result in storing firearms in a safe and responsible manner, and

WHEREAS, this act does not reduce or limit the right to purchase and own firearms, and

WHEREAS, the Legislature does not intend to infringe upon the right of the public to keep and bear firearms for hunting and sporting activities and for the defense of one's self, family, home, or business, NOW, THEREFORE,

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

Section 1. This act may be cited as the "Safe Storage of Firearms for the Protection of Children Act."

1 Section 2. Subsection (16) of section 790.001, Florida
2 Statutes, is amended, and subsection (18) is added to that
3 section, to read:

4 790.001 Definitions.--The following words and phrases,
5 when used in this chapter, shall, for the purposes of this
6 chapter, have the meanings respectively ascribed to them in
7 this chapter, except where the context otherwise requires:

8 (16) "Securely encased" means in a glove compartment,
9 whether or not locked; snapped in a holster; in a gun case,
10 whether or not locked; in a zippered gun case; ~~or~~ in a closed
11 box or container that which requires a lid or cover to be
12 opened for access; or secured with an activated locking
13 device.

14 (18) "Locking device" means a device that when
15 installed on a firearm and secured by means of a key or a
16 mechanically or electronically operated combination lock
17 prevents the firearm from being discharged without first
18 deactivating or removing the device by means of a key or a
19 mechanically or electronically operated combination lock. The
20 term includes, but is not limited to, a push-button
21 combination lock mounted on a firearm or mounted on the
22 magazine of a firearm.

23 Section 3. (1) A person may not knowingly alter or
24 remove a locking device from a firearm unless authorized to do
25 so by the owner of the firearm.

26 (2) A person may not knowingly sell, deliver, or
27 possess a firearm if the locking device has been altered or
28 removed without the authorization of the owner of the firearm.

29 (3) A person who violates this section commits a
30 felony of the third degree, punishable as provided in section
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1 775.082, section 775.083, or section 775.084, Florida
2 Statutes.

3 Section 4. Section 784.05, Florida Statutes, is
4 amended to read:

5 784.05 Culpable negligence.--

6 (1) Whoever, through culpable negligence, exposes
7 another person to personal injury commits a misdemeanor of the
8 second degree, punishable as provided in s. 775.082 or s.
9 775.083.

10 (2) Whoever, through culpable negligence, inflicts
11 actual personal injury on another commits a misdemeanor of the
12 first degree, punishable as provided in s. 775.082 or s.
13 775.083.

14 (3) Whoever violates subsection (1) by storing or
15 leaving a loaded firearm within the reach or easy access of a
16 minor commits, if the minor obtains the firearm and uses it to
17 inflict injury or death upon himself or any other person, a
18 felony of the third degree, punishable as provided in s.
19 775.082, s. 775.083, or s. 775.084. However, this subsection
20 does not apply:

21 (a) If the firearm was stored or left in a securely
22 locked box or container or in a location that ~~which~~ a
23 reasonable person would have believed to be secure, or was
24 securely locked with a trigger lock or a locking device;

25 (b) If the minor obtains the firearm as a result of an
26 unlawful entry by any person;

27 (c) To injuries resulting from target or sport
28 shooting accidents or hunting accidents; or

29 (d) To members of the Armed Forces, National Guard, or
30 State Militia, or to police or other law enforcement officers,
31 with respect to firearm possession by a minor which occurs

1 during or incidental to the performance of their official
2 duties.

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4 When any minor child is accidentally shot by another family
5 member, no arrest shall be made pursuant to this subsection
6 prior to 7 days after the date of the shooting. With respect
7 to any parent or guardian of any deceased minor, the
8 investigating officers shall file all findings and evidence
9 with the state attorney's office with respect to violations of
10 this subsection. The state attorney shall evaluate such
11 evidence and shall take such action as he or she deems
12 appropriate under the circumstances and may file an
13 information against the appropriate parties.

14 (4) As used in this act, the term "minor" means any
15 person under the age of 16.

16 Section 5. Section 790.174, Florida Statutes, is
17 amended to read:

18 790.174 Safe storage of firearms required.--

19 (1) A person who stores or leaves, on a premise under
20 his control, a loaded firearm, as defined in s. 790.001, and
21 who knows or reasonably should know that a minor is likely to
22 gain access to the firearm without the lawful permission of
23 the minor's parent or the person having charge of the minor,
24 or without the supervision required by law, shall keep the
25 firearm in a securely locked box or container or in a location
26 that ~~which~~ a reasonable person would believe to be secure or
27 shall secure it with a trigger lock or a locking device,
28 except when he is carrying the firearm on his body or within
29 such close proximity thereto that he can retrieve and use it
30 as easily and quickly as if he carried it on his body.

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1 (2) It is a misdemeanor of the second degree,
2 punishable as provided in s. 775.082 or s. 775.083, if a
3 person violates subsection (1) by failing to store or leave a
4 firearm in the required manner and as a result thereof a minor
5 gains access to the firearm, without the lawful permission of
6 the minor's parent or the person having charge of the minor,
7 and possesses or exhibits it, without the supervision required
8 by law:

9 (a) In a public place; or

10 (b) In a rude, careless, angry, or threatening manner
11 in violation of s. 790.10.

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

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

17 Section 6. Present subsection (3) of section 790.175,
18 Florida Statutes, is redesignated as subsection (4), and a new
19 subsection (3) is added to that section, to read:

20 790.175 Transfer or sale of firearms; required
21 warnings; penalties.--

22 (3) A licensed dealer may not sell or deliver any
23 handgun to another person from inventory at a licensed
24 premises, other than to a licensed importer, licensed
25 manufacturer, licensed dealer, or licensed collector, until
26 advising the potential buyer or transferee of the availability
27 of a locking device that renders the handgun inoperable by an
28 unauthorized person if such device is properly installed and
29 engaged. The dealer must provide the potential buyer or
30 transferee the opportunity to purchase a locking device at the
31 time of the sale or transfer.

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Section 7. This act shall take effect July 1, 1997.

LEGISLATIVE SUMMARY

Creates the "Safe Storage of Firearms for the Protection of Children Act." Redefines the term "securely encased" as used in ch. 790, F.S., to include a firearm that is secured with an activated locking device. Defines the term "locking device." Provides that it is a third degree felony to knowingly alter or remove a locking device from a firearm without the owner's authorization or to sell or possess a firearm if the locking device has been altered or removed without the owner's authorization. Provides that if a firearm is secured with a locking device, the firearm is safely stored and it is not culpable negligence if the firearm is within the reach or easy access of a minor under 16 years of age. Requires that a firearms dealer advise a buyer or transferee that a locking device is available for a handgun. Requires that the buyer or transferee be given the opportunity to purchase a locking device for the handgun.