

By Senator Rossin

35-355-98

See CS/HB 1761

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"; prohibiting

5           insurance companies authorized to conduct

6           business in this state from increasing premiums

7           on homeowner's or property and casualty

8           insurance on the ground of storage of a firearm

9           that has been secured with an activated locking

10          device; authorizing such insurance companies to

11          decrease premiums on such insurance if the

12          insured has certified that all firearms owned

13          by the insured are stored and secured with an

14          activated locking device; amending s. 790.001,

15          F.S.; redefining the term "securely encased" to

16          mean a firearm that is secured with an

17          activated locking device; defining the term

18          "locking device"; providing that it is a third

19          degree felony to knowingly alter or remove a

20          locking device from a firearm without

21          authorization of the owner; providing that it

22          is a third degree felony to knowingly sell,

23          deliver, or possess a firearm if the firearm's

24          locking device has been altered or removed

25          without authorization of the owner; providing

26          penalties; amending s. 784.05, F.S.; providing

27          that it is not culpable negligence to store or

28          leave a loaded firearm within the reach of a

29          person under a specified age, which firearm is

30          used to inflict injury or death, if the firearm

31          was locked with a locking device; amending s.

1           790.174, F.S.; providing that a locking device  
2           may be used for the purpose of lawfully storing  
3           a firearm within access of a person under a  
4           specified age; amending s. 790.175, F.S.;  
5           requiring a licensed dealer to advise a  
6           potential buyer of a handgun of the  
7           availability of a locking device that renders  
8           the handgun inoperable; requiring that the  
9           dealer provide the potential buyer the  
10          opportunity to purchase a locking device at the  
11          time of the sale; providing an effective date.

12  
13           WHEREAS, children and teens are responsible for over  
14          10,000 accidental shootings each year, and

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

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

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

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

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

31

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

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

7

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

9

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

12           Section 2. An insurance company authorized to conduct  
13 business in this state may not use the storage of a firearm as  
14 a ground to increase the premiums for any homeowner's or  
15 property and casualty insurance if the stored firearm has been  
16 secured with an activated locking device. However, an  
17 insurance company authorized to conduct business in this state  
18 may decrease the premiums for any homeowner's or property and  
19 casualty insurance by up to 5 percent of the total premium if  
20 the insured has certified that all firearms owned by the  
21 insured are stored and secured with an activated locking  
22 device.

23           Section 3. Subsection (17) of section 790.001, Florida  
24 Statutes, is amended, and subsection (19) is added to that  
25 section, to read:

26           790.001 Definitions.--As used in this chapter, except  
27 where the context otherwise requires:

28           (17) "Securely encased" means in a glove compartment,  
29 whether or not locked; snapped in a holster; in a gun case,  
30 whether or not locked; in a zippered gun case; ~~or~~ in a closed  
31 box or container that ~~which~~ requires a lid or cover to be

1 opened for access; or secured with an activated locking  
2 device.

3 (19) "Locking device" means a device that when  
4 installed on a firearm and secured by means of a key or a  
5 mechanically or electronically operated combination lock  
6 prevents the firearm from being discharged without first  
7 deactivating or removing the device by means of a key or a  
8 mechanically or electronically operated combination lock.

9 Section 4. (1) A person may not knowingly alter or  
10 remove a locking device from a firearm unless authorized to do  
11 so by the owner of the firearm.

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

15 (3) A person who violates this section commits a  
16 felony of the third degree, punishable as provided in section  
17 775.082, section 775.083, or section 775.084, Florida  
18 Statutes.

19 Section 5. Section 784.05, Florida Statutes, is  
20 amended to read:

21 784.05 Culpable negligence.--

22 (1) Whoever, through culpable negligence, exposes  
23 another person to personal injury commits a misdemeanor of the  
24 second degree, punishable as provided in s. 775.082 or s.  
25 775.083.

26 (2) Whoever, through culpable negligence, inflicts  
27 actual personal injury on another commits a misdemeanor of the  
28 first degree, punishable as provided in s. 775.082 or s.  
29 775.083.

30 (3) Whoever violates subsection (1) by storing or  
31 leaving a loaded firearm within the reach or easy access of a

1 minor commits, if the minor obtains the firearm and uses it to  
2 inflict injury or death upon himself or herself or any other  
3 person, a felony of the third degree, punishable as provided  
4 in s. 775.082, s. 775.083, or s. 775.084. However, this  
5 subsection does not apply:

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

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

12 (c) To injuries resulting from target or sport  
13 shooting accidents or hunting accidents; or

14 (d) To members of the Armed Forces, National Guard, or  
15 State Militia, or to police or other law enforcement officers,  
16 with respect to firearm possession by a minor which occurs  
17 during or incidental to the performance of their official  
18 duties.

19  
20 When any minor child is accidentally shot by another family  
21 member, no arrest shall be made pursuant to this subsection  
22 prior to 7 days after the date of the shooting. With respect  
23 to any parent or guardian of any deceased minor, the  
24 investigating officers shall file all findings and evidence  
25 with the state attorney's office with respect to violations of  
26 this subsection. The state attorney shall evaluate such  
27 evidence and shall take such action as he or she deems  
28 appropriate under the circumstances and may file an  
29 information against the appropriate parties.

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

1           Section 6. Section 790.174, Florida Statutes, is  
2 amended to read:

3           790.174 Safe storage of firearms required.--

4           (1) A person who stores or leaves, on a premise under  
5 his or her control, a loaded firearm, as defined in s.  
6 790.001, and who knows or reasonably should know that a minor  
7 is likely to gain access to the firearm without the lawful  
8 permission of the minor's parent or the person having charge  
9 of the minor, or without the supervision required by law,  
10 shall keep the firearm in a securely locked box or container  
11 or in a location that ~~which~~ a reasonable person would believe  
12 to be secure or shall secure it with a trigger lock or a  
13 locking device, except when the person is carrying the firearm  
14 on his or her body or within such close proximity thereto that  
15 he or she can retrieve and use it as easily and quickly as if  
16 he or she carried it on his or her body.

17           (2) It is a misdemeanor of the second degree,  
18 punishable as provided in s. 775.082 or s. 775.083, if a  
19 person violates subsection (1) by failing to store or leave a  
20 firearm in the required manner and as a result thereof a minor  
21 gains access to the firearm, without the lawful permission of  
22 the minor's parent or the person having charge of the minor,  
23 and possesses or exhibits it, without the supervision required  
24 by law:

25           (a) In a public place; or

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

28  
29 This subsection does not apply if the minor obtains the  
30 firearm as a result of an unlawful entry by any person.

31

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

3 Section 7. Present subsection (3) of section 790.175,  
4 Florida Statutes, is redesignated as subsection (4), and a new  
5 subsection (3) is added to that section, to read:

6 790.175 Transfer or sale of firearms; required  
7 warnings; penalties.--

8 (3) A licensed dealer may not sell or deliver any  
9 handgun to another person from inventory at a licensed  
10 premises, other than to a licensed importer, licensed  
11 manufacturer, licensed dealer, or licensed collector, until  
12 advising the potential buyer or transferee of the availability  
13 of a locking device that renders the handgun inoperable by an  
14 unauthorized person if such device is properly installed and  
15 engaged. The dealer must provide the potential buyer or  
16 transferee the opportunity to purchase a locking device at the  
17 time of the sale or transfer.

18 Section 8. This act shall take effect July 1, 1998.

19  
20 \*\*\*\*\*

21 LEGISLATIVE SUMMARY

22 Creates the "Safe Storage of Firearms for the Protection  
23 of Children Act." Prohibits an insurance company from  
24 increasing certain insurance premiums if each firearm  
25 stored in the home is secured with a locking device.  
26 Provides for certain insurance premiums to be decreased  
27 upon certification that all firearms owned by the insured  
28 are secured with a locking device. Redefines the term  
29 "securely encased" as used in ch. 790, F.S., to include a  
30 firearm that is secured with an activated locking device.  
31 Defines the term "locking device." Provides that if a  
firearm is secured with a locking device, the firearm is  
safely stored and it is not culpable negligence for the  
firearm to be 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.