

STORAGE NAME: h3241s1.leps

DATE: April 15, 1998

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

BILL #: CS/HB 3241

RELATING TO: Firearms/ Locking Devices

SPONSOR(S): Committee on Law Enforcement and Public Safety, Representative(s) Meek, Miller and Others

COMPANION BILL(S): SB 420 (l), SB 262 (c)

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

- (1) LAW ENFORCEMENT AND PUBLIC SAFETY YEAS 4 NAYS 3
- (2) CRIME AND PUNISHMENT
- (3) GOVERNMENTAL RULES AND REGULATIONS
- (4) CRIMINAL JUSTICE APPROPRIATIONS
- (5)

I. SUMMARY:

CS/HB 3241 provides for the safe storage of firearms with the use of a locking device, which when installed on a firearm prevents the firearm from discharging. The term "locking device" is defined to mean a device that when installed on a firearm and secured by means of a key or a mechanically or electronically operated combination lock prevents the firearm from being discharged without first deactivating or removing the device by means of a key or a mechanically or electronically operated combination lock.

The bill makes it a third degree felony for any person to knowingly alter or remove a locking device from a firearm unless authorized to do so by the owner of the firearm. The bill also makes it a third degree felony for any person to knowingly sell, deliver, or possess a firearm if the locking device has been altered or removed without the authorization of the owner of the firearm.

The bill provides that the use of a locking device will relieve the owner of a firearm from liability for culpable negligence under Section 784.05, F.S., in the event a minor obtains the firearm and uses it to inflict injury or death upon himself or any person. A locking device may also be used to meet the requirements for lawful safe storage of a loaded firearm under Section 790.174, F.S., where the firearm is stored within the reach or easy access of a minor.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Currently, in Florida, a person commits culpable negligence by storing or leaving 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. However, it does not constitute culpable negligence "if the firearm was stored or left in a securely locked box" or "was securely locked with a trigger lock." The statute does not specifically contemplate the use of a "locking device" as defined and it is not a violation of law for a person to remove or alter a locking device on a firearm, without the authorization of the owner of the firearm.

Florida law also currently requires the safe storage of a loaded firearm, either in a locked box, in a reasonably secure location, or with a trigger lock. Failure to do so constitutes a misdemeanor of the second degree, if a minor gains access to the firearm, and possesses or exhibits it in a public place or in a rude, careless, angry, or threatening manner. Once again, the statute makes no specific reference to the use of a locking device, as defined, as a means of safe storage of firearms.

B. EFFECT OF PROPOSED CHANGES:

CS/HB 3241 provides for the safe storage of firearms with the use of a locking device, which when installed on a firearm prevents the firearm from discharging. The term "locking device" is defined to mean a device that when installed on a firearm and secured by means of a key or a mechanically or electronically operated combination lock prevents the firearm from being discharged without first deactivating or removing the device by means of a key or a mechanically or electronically operated combination lock.

The bill makes it a crime for any person to "knowingly alter or remove a locking device from a firearm unless authorized to do so by the owner of the firearm." It also makes it a crime to "knowingly sell, deliver, or possess a firearm if the locking device has been altered or removed without the authorization of the owner of the firearm." Both offenses are punishable as third degree felonies.

The bill amends Section 784.05, F.S., pertaining to the crime of culpable negligence. A person is guilty of culpable negligence if he or she stores or leaves 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. The bill provides an exemption from liability for this crime when a locking device is utilized on the firearm.

Currently, under Section 790.F.S., a loaded firearm stored where a minor could gain access to it must be kept in a securely locked box, in a location which a reasonable person would believe to be secure, or secured with a "trigger lock." The committee substitute allows the use of a "locking device" as defined as an additional means which qualifies under the safe storage of firearms requirement, where children might gain access to the firearm. However, the committee substitute removes the exemption for storage of a loaded firearm "in a location which a reasonable person would believe to be secure."

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?

N/A

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

N/A

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

N/A

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

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

N/A

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

N/A

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

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

N/A

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

N/A

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

N/A

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

N/A

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

N/A

3. Personal Responsibility:

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

N/A

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

N/A

4. Individual Freedom:

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

N/A

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

N/A

5. Family Empowerment:

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

STORAGE NAME: h3241s1.leps

DATE: April 15, 1998

PAGE 5

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

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

N/A

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

N/A

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

N/A

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?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

s. 790.001, 784.05, and 790.174, F.S.

E. SECTION-BY-SECTION RESEARCH:

This section need be completed only in the discretion of the Committee.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

STORAGE NAME: h3241s1.leps

DATE: April 15, 1998

PAGE 7

2. Direct Private Sector Benefits:

N/A

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

N/A

D. FISCAL COMMENTS:

N/A

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

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

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

N/A

V. COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 14, 1998, the Committee on Law Enforcement and Public Safety passed a committee substitute which defines "locking device" and includes locking devices in the definition of "securely encased." It makes it 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 so altered or removed. The committee substitute 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.

STORAGE NAME: h3241s1.leps

DATE: April 15, 1998

PAGE 8

VII. SIGNATURES:

COMMITTEE ON LAW ENFORCEMENT AND PUBLIC SAFETY:

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