

By the Committees on Law Enforcement & Public Safety, Law Enforcement & Public Safety and Representatives Bronson, Futch, Feeney, Argenziano, Fasano and Lynn

1 A bill to be entitled
2 An act relating to carrying of self-defense
3 weapons or devices; amending s. 790.001, F.S.;
4 providing an exception for certain self-defense
5 chemical sprays from the definition of "tear
6 gas gun" or "chemical weapon or device";
7 providing a definition of "self-defense
8 chemical spray"; amending s. 790.01, F.S.,
9 relating to carrying concealed weapons;
10 providing that self-defense chemical sprays and
11 nonlethal stun guns and other nonlethal
12 electric weapons or devices may be lawfully
13 carried in a concealed manner in certain
14 circumstances; clarifying language; providing
15 for construction not to preclude criminal
16 prosecutions; amending s. 790.053, F.S.,
17 relating to open carrying of weapons; providing
18 that self-defense chemical sprays and nonlethal
19 stun guns and other nonlethal electric weapons
20 or devices may be lawfully carried in an open
21 manner in certain circumstances; clarifying
22 language; creating s. 790.054, F.S.; defining
23 the offense of knowingly and willfully using
24 self-defense chemical sprays and nonlethal stun
25 guns and other nonlethal electric weapons or
26 devices against a law enforcement officer
27 engaged in official duties, and providing
28 penalties therefor; providing effective dates.
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30 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. The introductory paragraph and paragraph
2 (b) of subsection (3) of section 790.001, Florida Statutes,
3 are amended to read:

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

9 (3)(a) "Concealed weapon" means any dirk, metallic
10 knuckles, slungshot, billie, tear gas gun, chemical weapon or
11 device, or other deadly weapon carried on or about a person in
12 such a manner as to conceal the weapon from the ordinary sight
13 of another person.

14 (b) "Tear gas gun" or "chemical weapon or device"
15 means any weapon of such nature, except a device known as a
16 "self-defense chemical spray." "Self-defense chemical spray"
17 means a device carried solely for purposes of lawful
18 self-defense that is compact in size, designed to be carried
19 on or about the person, and contains not more than two ounces
20 of chemical ~~"Tear gas gun," "chemical weapon," or "device"~~
21 ~~shall apply to all weapons of such nature except those~~
22 ~~designed to be carried in a woman's handbag or a man's pants~~
23 ~~or coat pocket or designed as a pocket pencil or pen and~~
24 ~~containing not more than one-half ounce of chemical.~~

25 Section 2. Section 790.01, Florida Statutes, is
26 amended to read:

27 790.01 Carrying concealed weapons.--

28 (1) Except as provided in subsection (4), a person who
29 carries ~~whoever shall carry~~ a concealed weapon or electric
30 weapon or device on or about his or her person commits ~~shall~~
31

1 ~~be guilty of~~ a misdemeanor of the first degree, punishable as
2 provided in s. 775.082 or s. 775.083.

3 (2) A person who carries ~~whoever shall carry~~ a
4 concealed firearm on or about his or her person commits ~~shall~~
5 ~~be guilty of~~ a felony of the third degree, punishable as
6 provided in s. 775.082, s. 775.083, or s. 775.084.

7 (3) This section does not apply to a person ~~Nothing in~~
8 ~~this section shall relate to persons~~ licensed to carry a
9 concealed weapon or a concealed firearm pursuant to the
10 provisions of s. as set forth in ss. 790.053 and 790.06.

11 (4) It is not a violation of this section for a person
12 to carry for purposes of lawful self-defense, in a concealed
13 manner:

14 (a) A self-defense chemical spray.

15 (b) A nonlethal stun gun or other nonlethal electric
16 weapon or device which does not fire a dart or projectile and
17 is designed solely for defensive purposes.

18 (5) This section does not preclude any prosecution for
19 the use of an electric weapon or device or self-defense
20 chemical spray during the commission of any criminal offense
21 under s. 790.07, s. 790.10, s. 790.23, or s. 790.235, or for
22 any other criminal offense.

23 Section 3. Section 790.053, Florida Statutes, is
24 amended to read:

25 790.053 Open carrying of weapons.--

26 (1) Except as otherwise provided by law and in
27 subsection (2), it is ~~shall be~~ unlawful for any person to
28 openly carry on or about his or her person any firearm or
29 electric weapon or device.

30 (2) A person may openly carry, for purposes of lawful
31 self-defense:

1 (a) A self-defense chemical spray.
2 (b) A nonlethal stun gun or other nonlethal electric
3 weapon or device which does not fire a dart or projectile and
4 is designed solely for defensive purposes; ~~provided, however,~~
5 ~~that a person may openly carry a stun gun or nonlethal~~
6 ~~electric weapon or device designed solely for defensive~~
7 ~~purposes, which weapon does not fire a dart or projectile.~~

8 (3) Any person violating this section commits ~~shall be~~
9 ~~guilty of~~ a misdemeanor of the second degree, punishable as
10 provided in s. 775.082 or s. 775.083.

11 Section 4. Effective October 1, 1997, and applicable
12 to offenses committed on or after that date, section 790.054,
13 Florida Statutes, is created to read:

14 790.054 Prohibited use of self-defense weapon or
15 device against law enforcement officer; penalties.--A person
16 who knowingly and willfully uses a self-defense chemical spray
17 or a nonlethal stun gun or other nonlethal electric weapon or
18 device against a law enforcement officer engaged in the
19 performance of his or her duties commits a felony of the third
20 degree, punishable as provided in s. 775.082, s. 775.083, or
21 s. 775.084.

22 Section 5. Except as otherwise provided herein, this
23 act shall take effect upon becoming a law.
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