

By Senator Turner

36-681-98

See HB 3315

1                                   A bill to be entitled  
2           An act relating to weapons and firearms;  
3           amending s. 790.001, F.S.; revising a  
4           definition; amending s. 790.06, F.S.; revising  
5           conditions precedent to the issuance of a  
6           license to carry a concealed weapon or firearm;  
7           requiring the denial or revocation of a license  
8           under specified circumstances; providing an  
9           additional condition under which a license  
10          shall be suspended or revoked pursuant to ch.  
11          120, F.S.; expanding provisions relating to  
12          areas upon which concealed weapons or firearms  
13          shall not be carried; increasing the penalty  
14          for violation; amending s. 790.065, F.S.,  
15          relating to sale and delivery of firearms;  
16          including a specified misdemeanor penalty  
17          within conditions which constitute conditional  
18          nonapproval of a licensee; providing for  
19          suspension of a specified time limitation under  
20          certain conditions; revising procedure to  
21          provide for issuance of a nonapproval number to  
22          potential buyers prohibited from owning a  
23          firearm; providing a time limit within which  
24          specified records shall be destroyed; repealing  
25          s. 790.065(13), F.S., as created by chapter  
26          89-191, Laws of Florida; nullifying the  
27          scheduled repeal of s. 790.065, F.S., on the  
28          effective date of federal law which provides  
29          access to national criminal history information  
30          and requires national criminal history checks  
31          on potential buyers or transferees on firearms;

1           repealing s. 790.065(14), F.S., as created by  
2           chapter 93-197, Laws of Florida; nullifying the  
3           scheduled repeal of s. 790.065, F.S., on  
4           October 1, 1999; amending s. 790.0655, F.S.;  
5           revising provisions relating to the mandatory  
6           3-day waiting period between the purchase and  
7           delivery of a handgun; providing a penalty;  
8           creating s. 790.0657, F.S.; providing for  
9           regulation of the sale of firearms at gun  
10          shows; providing definitions; requiring that  
11          persons promoting the sale of firearms in the  
12          state through gun shows register with the  
13          Florida Department of Law Enforcement;  
14          requiring the promoter of any gun show at which  
15          firearms are being sold to be a firearms  
16          dealer; requiring all sales and transfers of  
17          firearms at a gun show to be subject to  
18          background check provisions of s. 790.065,  
19          F.S.; providing a first-degree misdemeanor  
20          penalty for the sale or transfer of a firearm  
21          within 1,000 feet of a gun show by specified  
22          unauthorized persons; requiring gun show  
23          promoters to pay a fee to defray the cost of  
24          firearm purchase program services; providing an  
25          appropriation to fund such services; amending  
26          s. 790.08, F.S.; authorizing the submission of  
27          seized handguns to the Florida Department of  
28          Law Enforcement; requiring the department to  
29          forward serial numbers of seized handguns to  
30          the Federal Bureau of Alcohol, Tobacco, and  
31          Firearms for specified tracing and

1 identification purposes; amending s. 790.10,  
2 F.S.; increasing the penalty for improper  
3 exhibition of dangerous weapons or firearms;  
4 amending s. 790.115, F.S., relating to the  
5 prohibition against possessing or discharging  
6 weapons or firearms on school property;  
7 clarifying language relative to a specified  
8 exception; amending s. 790.17, F.S.; providing  
9 that a person may not knowingly or willfully  
10 rent, barter, lend, or give a firearm to a  
11 minor; providing a penalty; increasing the  
12 penalty for sale or transfer of a firearm to a  
13 minor; amending s. 790.22, F.S.; revising  
14 penalty requirements for offenses involving  
15 possession of a firearm by a minor under 18  
16 years of age; amending s. 790.23, F.S.;  
17 providing an additional condition which  
18 constitutes unlawful ownership or possession of  
19 specified firearms or weapons; amending s.  
20 790.25, F.S.; providing additional exclusions  
21 from the protections of provisions governing  
22 lawful ownership, possession, and use of  
23 firearms and other weapons; including  
24 correctional officers among persons who may  
25 lawfully own, possess, and use firearms and  
26 other weapons; amending s. 790.256, F.S.;  
27 requiring the Department of Children and Family  
28 Services to prepare specified public service  
29 announcements; amending s. 790.27, F.S.;  
30 increasing the penalty for selling, delivering,  
31 or possessing any firearm on which the

1 manufacturer's or importer's serial number has  
2 been unlawfully altered or removed; amending s.  
3 790.33, F.S.; authorizing the option of any  
4 county to require handgun registration and  
5 reporting of handgun title transfers; providing  
6 an effective date.

7

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

9

10 Section 1. Subsection (17) of section 790.001, Florida  
11 Statutes, is amended to read:

12 790.001 Definitions.--As used in this chapter, except  
13 where the context otherwise requires:

14 (17) "Securely encased" means in a locked glove  
15 compartment, ~~whether or not locked; snapped in a holster;~~ in a  
16 locked gun case, ~~whether or not locked; in a zippered gun~~  
17 ~~case~~ or in a locked closed box or container which requires a  
18 lid or cover to be opened for access.

19 Section 2. Subsections (2), (3), (10), and (12) of  
20 section 790.06, Florida Statutes, are amended to read:

21 790.06 License to carry concealed weapon or firearm.--

22 (2) The Department of State shall issue a license if  
23 the applicant:

24 (a) Is a resident of the United States or is a  
25 consular security official of a foreign government that  
26 maintains diplomatic relations and treaties of commerce,  
27 friendship, and navigation with the United States and is  
28 certified as such by the foreign government and by the  
29 appropriate embassy in this country;

30 (b) Is 21 years of age or older;

31

1 (c) Does not suffer from a physical infirmity which  
2 prevents the safe handling of a weapon or firearm;

3 (d) Is not ineligible to possess a firearm pursuant to  
4 s. 790.23 by virtue of having been convicted of a felony or of  
5 a misdemeanor crime of domestic violence;

6 (e) Has not been committed for the abuse of a  
7 controlled substance or been found guilty of a crime under the  
8 provisions of chapter 893 or similar laws of any other state  
9 relating to controlled substances within a 3-year period  
10 immediately preceding the date on which the application is  
11 submitted;

12 (f) Does not chronically and habitually use alcoholic  
13 beverages or other substances to the extent that his or her  
14 normal faculties are impaired. It shall be presumed that an  
15 applicant chronically and habitually uses alcoholic beverages  
16 or other substances to the extent that his or her normal  
17 faculties are impaired if the applicant has been committed  
18 under chapter 397 or under the provisions of former chapter  
19 396 or has been convicted under s. 790.151 or has been deemed  
20 a habitual offender under s. 856.011(3), or has had two or  
21 more convictions under s. 316.193 or similar laws of any other  
22 state, within the 3-year period immediately preceding the date  
23 on which the application is submitted;

24 (g) Desires a legal means to carry a concealed weapon  
25 or firearm for lawful self-defense;

26 (h) Demonstrates competence with a firearm by any one  
27 of the following:

28 1. Completion of any hunter education or hunter safety  
29 course approved by the Game and Fresh Water Fish Commission or  
30 a similar agency of another state;

31

1           2. Completion of any National Rifle Association  
2 firearms safety or training course;

3           3. Completion of any firearms safety or training  
4 course or class available to the general public offered by a  
5 law enforcement, junior college, college, or private or public  
6 institution or organization or firearms training school,  
7 utilizing instructors certified by the National Rifle  
8 Association, Criminal Justice Standards and Training  
9 Commission, or the Department of State;

10          4. Completion of any law enforcement firearms safety  
11 or training course or class offered for security guards,  
12 investigators, special deputies, or any division or  
13 subdivision of law enforcement or security enforcement;

14          5. Presents evidence of equivalent experience with a  
15 firearm through participation in organized shooting  
16 competition or military service;

17          6. Is licensed or has been licensed to carry a firearm  
18 in this state or a county or municipality of this state,  
19 unless such license has been revoked for cause; or

20          7. Completion of any firearms training or safety  
21 course or class conducted by a state-certified or National  
22 Rifle Association certified firearms instructor;

23  
24 A photocopy of a certificate of completion of any of the  
25 courses or classes; or an affidavit from the instructor,  
26 school, club, organization, or group that conducted or taught  
27 said course or class attesting to the completion of the course  
28 or class by the applicant; or a copy of any document which  
29 shows completion of the course or class or evidences  
30 participation in firearms competition shall constitute  
31 evidence of qualification under this paragraph;

1 (i) Has not been adjudicated an incapacitated person  
2 under s. 744.331, or similar laws of any other state, unless 5  
3 years have elapsed since the applicant's restoration to  
4 capacity by court order;

5 (j) Has not been committed to a mental institution  
6 under chapter 394, or similar laws of any other state, unless  
7 the applicant produces a certificate from a licensed  
8 psychiatrist that he or she has not suffered from disability  
9 for at least 5 years prior to the date of submission of the  
10 application; and

11 (k) Has not had adjudication of guilt withheld or  
12 imposition of sentence suspended on any felony or on any  
13 misdemeanor crime of domestic violence unless 3 years have  
14 elapsed since probation or any other conditions set by the  
15 court have been fulfilled, or the record has been sealed or  
16 expunged.

17 (3) The Department of State shall ~~may~~ deny a license  
18 if the applicant has been found guilty of one or more crimes  
19 of violence constituting a misdemeanor unless 3 years have  
20 elapsed since probation or any other conditions set by the  
21 court have been fulfilled, or the record has been sealed or  
22 expunged, and shall ~~or may~~ revoke a license if the licensee  
23 has been found guilty of one or more crimes of violence within  
24 the preceding 3 years. The department shall, upon  
25 notification by a law enforcement agency, a court, or the  
26 Florida Department of Law Enforcement and subsequent written  
27 verification, suspend a license or the processing of an  
28 application for a license if the licensee or applicant is  
29 arrested or formally charged with a crime which would  
30 disqualify such person from having a license under this  
31 section, until final disposition of the case.

1 (10) A license issued under this section shall be  
2 suspended or revoked pursuant to chapter 120 if the licensee:

3 (a) Is found to be ineligible under the criteria set  
4 forth in subsection (2);

5 (b) Develops or sustains a physical infirmity which  
6 prevents the safe handling of a weapon or firearm;

7 (c) Is convicted of a felony or of a misdemeanor crime  
8 of domestic violence which would make the licensee ineligible  
9 to possess a firearm pursuant to s. 790.23;

10 (d) Is found guilty of a crime under the provisions of  
11 chapter 893, or similar laws of any other state, relating to  
12 controlled substances;

13 (e) Is committed as a substance abuser under chapter  
14 397, or is deemed a habitual offender under s. 856.011(3), or  
15 similar laws of any other state;

16 (f) Is convicted of a second violation of s. 316.193,  
17 or a similar law of another state, within 3 years of a  
18 previous conviction of such section, or similar law of another  
19 state, even though the first violation may have occurred prior  
20 to the date on which the application was submitted;

21 (g) Is adjudicated an incapacitated person under s.  
22 744.331, or similar laws of any other state; or

23 (h) Is committed to a mental institution under chapter  
24 394, or similar laws of any other state.

25 (12) No license issued pursuant to this section shall  
26 authorize any person to carry a concealed weapon or firearm  
27 into any place of nuisance as defined in s. 823.05; any  
28 police, sheriff, or highway patrol station; any detention  
29 facility, prison, or jail; any courthouse; any courtroom,  
30 except that nothing in this section would preclude a judge  
31 from carrying a concealed weapon or determining who will carry

1 a concealed weapon in his or her courtroom; any polling place;  
2 any meeting of the governing body of a county, public school  
3 district, municipality, or special district; any meeting of  
4 the Legislature or a committee thereof; any school, college,  
5 or professional athletic event not related to firearms; any  
6 school administration building; any portion of an  
7 establishment licensed to dispense alcoholic beverages for  
8 consumption on the premises, which portion of the  
9 establishment is primarily devoted to such purpose; any  
10 elementary or secondary school facility; any area technical  
11 center; any college or university facility unless the licensee  
12 is a registered student, employee, or faculty member of such  
13 college or university and the weapon is a stun gun or  
14 nonlethal electric weapon or device designed solely for  
15 defensive purposes and the weapon does not fire a dart or  
16 projectile; inside the passenger terminal and sterile area of  
17 any airport, provided that no person shall be prohibited from  
18 carrying any legal firearm into the terminal, which firearm is  
19 encased for shipment for purposes of checking such firearm as  
20 baggage to be lawfully transported on any aircraft; any public  
21 property controlled by local government, other than the  
22 right-of-way of streets, roads, or highways, where the local  
23 government prominently displays a sign which indicates that  
24 the carrying of a concealed weapon or firearm on such property  
25 is prohibited; or any place where the carrying of firearms is  
26 prohibited by federal law. Any person who willfully violates  
27 any provision of this subsection commits a felony ~~misdemeanor~~  
28 of the third ~~second~~ degree, punishable as provided in s.  
29 775.082, ~~or~~ s. 775.083, or s. 775.084.

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1 Section 3. Paragraphs (a) and (c) of subsection (2)  
2 and paragraphs (a), (c), and (d) of subsection (4) of section  
3 790.065, Florida Statutes, are amended to read:

4 790.065 Sale and delivery of firearms.--

5 (2) Upon receipt of a request for a criminal history  
6 record check, the Department of Law Enforcement shall, during  
7 the licensee's call or by return call, forthwith:

8 (a) Review criminal history records to determine if  
9 the potential buyer or transferee has been convicted of a  
10 felony or of a misdemeanor crime of domestic violence and is  
11 prohibited from receipt or possession of a firearm pursuant to  
12 s. 790.23 or has had adjudication of guilt withheld or  
13 imposition of sentence suspended on any felony or on any  
14 misdemeanor crime of domestic violence unless 3 years have  
15 elapsed since probation or any other conditions set by the  
16 court have been fulfilled or expunction has occurred.

17 (c)1. Review any records available to it to determine  
18 whether the potential buyer or transferee has been indicted or  
19 has had an information filed against her or him for an offense  
20 that is a felony or that is a misdemeanor crime of domestic  
21 violence under either state or federal law, or, as mandated by  
22 federal law, has had an injunction for protection against  
23 domestic violence entered against the potential buyer or  
24 transferee under s. 741.30, has had an injunction for  
25 protection against repeat violence entered against the  
26 potential buyer or transferee under s. 784.046, or has been  
27 arrested for a dangerous crime as specified in s.

28 907.041(4)(a) or for any of the following enumerated offenses:

- 29 a. Criminal anarchy under ss. 876.01 and 876.02.  
30 b. Extortion under s. 836.05.  
31 c. Explosives violations under s. 552.22(1) and (2).

- 1 d. Controlled substances violations under chapter 893.  
2 e. Resisting an officer with violence under s. 843.01.  
3 f. Weapons and firearms violations under this chapter.  
4 g. Treason under s. 876.32.  
5 h. Assisting self-murder under s. 782.08.  
6 i. Sabotage under s. 876.38.  
7 j. Stalking or aggravated stalking under s. 784.048.

8  
9 If the review indicates any such indictment, information, or  
10 arrest, the department shall provide to the licensee a  
11 conditional nonapproval number.

12 2. Within 24 working hours, the department shall  
13 determine the disposition of the indictment, information, or  
14 arrest and inform the licensee as to whether the potential  
15 buyer is prohibited from receiving or possessing a firearm.  
16 For purposes of this paragraph, "working hours" means the  
17 hours from 8 a.m. to 5 p.m. Monday through Friday, excluding  
18 legal holidays.

19 3. The office of the clerk of court, at no charge to  
20 the department, shall respond to any department request for  
21 data on the disposition of the indictment, information, or  
22 arrest as soon as possible, but in no event later than 8  
23 working hours.

24 4. The department shall determine as quickly as  
25 possible within the allotted time period whether the potential  
26 buyer is prohibited from receiving or possessing a firearm.

27 5. If the potential buyer is not so prohibited, the  
28 department shall provide the licensee with a conditional  
29 approval number.~~or~~

30 6. If the department cannot determine the disposition  
31 information within the allotted time period, or if the

1 department cannot determine compliance with s. 741.30(4), the  
2 time limitation prescribed by this section may be suspended  
3 until receipt of the final disposition or proof of restoration  
4 of civil and firearm rights ~~the department shall provide the~~  
5 ~~licensee with a conditional approval number.~~

6 ~~7.6.~~ If the buyer is so prohibited, the conditional  
7 nonapproval number shall become a nonapproval number.

8 ~~8.7.~~ The department shall continue its attempts to  
9 obtain the disposition information and may retain a record of  
10 all approval numbers granted without sufficient disposition  
11 information. If the department later obtains disposition  
12 information which indicates:

13 a. That the potential buyer is not prohibited from  
14 owning a firearm, it shall treat the record of the transaction  
15 in accordance with this section; or

16 b. That the potential buyer is prohibited from owning  
17 a firearm, it shall provide the licensee with a nonapproval  
18 number ~~immediately revoke the conditional approval number and~~  
19 ~~notify local law enforcement.~~

20 ~~9.8.~~ During the time that disposition of the  
21 indictment, information, or arrest is pending and until the  
22 department is notified by the potential buyer that there has  
23 been a final disposition of the indictment, information, or  
24 arrest, the conditional nonapproval number shall remain in  
25 effect.

26 (4)(a) Any records containing any of the information  
27 set forth in subsection (1) pertaining to a buyer or  
28 transferee who is not found to be prohibited from receipt or  
29 transfer of a firearm by reason of Florida and federal law  
30 which records are created by the Department of Law Enforcement  
31 to conduct the criminal history record check shall be

1 confidential and exempt from the provisions of s. 119.07(1)  
2 and may not be disclosed by the Department of Law Enforcement  
3 or any officer or employee thereof to any person or to another  
4 agency. The Department of Law Enforcement shall destroy any  
5 such records forthwith after it communicates the approval and  
6 nonapproval numbers to the licensee and, in any event, such  
7 records shall be destroyed within 30 days ~~48 hours~~ after the  
8 day of the response to the licensee's request.

9 (c) Nothing in this chapter shall be construed to  
10 allow the State of Florida to maintain records containing the  
11 names of purchasers or transferees who receive unique approval  
12 numbers or to maintain records of firearm transactions beyond  
13 the 30-day period provided in paragraph (a).

14 (d) Any officer or employee, or former officer or  
15 employee of the Department of Law Enforcement or law  
16 enforcement agency who intentionally and maliciously violates  
17 the provisions of this subsection commits a felony of the  
18 third degree punishable as provided in s. 775.082 or s.  
19 775.083.

20 Section 4. Subsection (13) of section 790.065, Florida  
21 Statutes, as created by chapter 89-191, Laws of Florida, is  
22 repealed.

23 Section 5. Subsection (14) of section 790.065, Florida  
24 Statutes, as created by chapter 93-197, Laws of Florida, is  
25 repealed.

26 Section 6. Section 790.0655, Florida Statutes, is  
27 amended to read:

28 790.0655 Purchase and delivery of handguns; mandatory  
29 waiting period; exceptions; penalties.--

30 (1)(a) There shall be a mandatory 3-day waiting  
31 period, which shall be 3 days, excluding weekends and legal

1 | holidays, between the purchase and the delivery ~~at retail~~ of  
2 | any handgun, whether at retail or through private sale at a  
3 | gun show, as defined in s. 790.0657. "Purchase" means the  
4 | transfer of money or other valuable consideration to the  
5 | retailer. "Handgun" means a firearm capable of being carried  
6 | and used by one hand, such as a pistol or revolver. "Retailer"  
7 | means and includes every person engaged in the business of  
8 | making sales at retail or for distribution, or use, or  
9 | consumption, or storage to be used or consumed in this state,  
10 | as defined in s. 212.02(13)~~(14)~~.

11 |         (b) Records of handgun sales must be available for  
12 | inspection by any law enforcement agency, as defined in s.  
13 | 934.02, during normal business hours.

14 |         (2) The 3-day waiting period shall not apply in the  
15 | following circumstances:

16 |             (a) When a handgun is being purchased by a holder of a  
17 | concealed weapons permit as defined in s. 790.06.

18 |             (b) To a trade-in of another handgun.

19 |         (3) It is a felony of the third degree, punishable as  
20 | provided in s. 775.082, s. 775.083, or s. 775.084:

21 |             (a) For any retailer, ~~or~~ any employee or agent of a  
22 | retailer, or any person offering a handgun for sale at a gun  
23 | show, as defined in s. 790.0657, to deliver a handgun before  
24 | the expiration of the 3-day waiting period, subject to the  
25 | exceptions provided in subsection (2).

26 |             (b) For a purchaser to obtain delivery of a handgun by  
27 | fraud, false pretense, or false representation.

28 |         Section 7. Section 790.0657, Florida Statutes, is  
29 | created to read:

30 |             790.0657 Gun shows; definitions; regulation;  
31 | penalty.--

1           (1) For the purpose of this section, the following  
2 terms have the following meanings:

3           (a) "Firearms dealer" means any person licensed as a  
4 firearms dealer pursuant to 18 U.S.C. ss. 921 et. seq.

5           (b) "Gun show" means any gathering or exhibition  
6 conducted by a firearms dealer for the purpose of exchanging,  
7 selling, or trading firearms, which gathering or exhibition is  
8 open to the public and is not conducted on the permanent  
9 premises of a firearms dealer.

10           (c) "Gun show promoter" means a firearms dealer who  
11 conducts Florida criminal history background checks prior to  
12 the sale or transfer of any firearm at a gun show as required  
13 under subsection (3).

14           (2) The promoter of any gun show at which firearms are  
15 being sold must be a firearms dealer. Any person promoting the  
16 sale of firearms in the state through gun shows must register  
17 with the Florida Department of Law Enforcement.

18           (3) Every sale and transfer of a firearm at a gun show  
19 must be conducted by the promoter of the gun show in  
20 accordance with the background check provisions of s. 790.065.

21           (4) A person who participates in the sale or transfer  
22 of a firearm within 1,000 feet of a gun show and who is not  
23 authorized by the promoter of the gun show to conduct sales at  
24 the gun show commits a misdemeanor of the first degree,  
25 punishable as provided in s. 775.082 or s. 775.083. This  
26 subsection does not apply to sales conducted on private real  
27 property by the owner of such property or by a person whose  
28 presence on such property has been authorized, licensed, or  
29 invited by the owner.

30           (5) The Florida Department of Law Enforcement shall  
31 provide firearm purchase program services at designated gun

1 shows throughout the year. Each gun show promoter shall  
2 provide full cooperation to the department and shall pay a fee  
3 to be set by the department to defray the cost of such  
4 services.

5 Section 8. There is hereby appropriated from the  
6 General Revenue Fund to the Florida Department of Law  
7 Enforcement the sum of \$607,596 for the purpose of funding  
8 firearm purchase program services at gun shows as provided in  
9 s. 790.0657, Florida Statutes, as created by this act.

10 Section 9. Subsection (1) of section 790.08, Florida  
11 Statutes, is amended to read:

12 790.08 Taking possession of weapons and arms; reports;  
13 disposition; custody.--

14 (1) Every officer making an arrest under s. 790.07, or  
15 under any other law or municipal ordinance within the state,  
16 shall take possession of any weapons, electric weapons or  
17 devices, or arms mentioned in s. 790.07 found upon the person  
18 arrested and deliver them to the sheriff of the county, or the  
19 chief of police of the municipality wherein the arrest is  
20 made, who shall retain the same until after the trial of the  
21 person arrested. The sheriff of the county or the chief of  
22 police of the municipality may submit all handguns to the  
23 Florida Department of Law Enforcement for entry into the  
24 database of the DRUGFIRE program. For any handgun submitted,  
25 the Florida Department of Law Enforcement shall forward the  
26 serial number of such handgun to the Federal Bureau of  
27 Alcohol, Tobacco and Firearms National Tracing Center to  
28 identify the movement of handguns recovered, or otherwise used  
29 in illicit activities. The Florida Department of Law  
30 Enforcement is responsible for returning all submitted

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1 handguns to the proper local law enforcement authority for  
2 compliance with the remaining provisions of this section.

3 Section 10. Section 790.10, Florida Statutes, is  
4 amended to read:

5 790.10 Improper exhibition of dangerous weapons or  
6 firearms.--If any person having or carrying any dirk, sword,  
7 sword cane, firearm, electric weapon or device, or other  
8 weapon shall, in the presence of one or more persons, exhibit  
9 the same in a rude, careless, angry, or threatening manner,  
10 not in necessary self-defense, the person so offending shall  
11 be guilty of a felony ~~misdemeanor~~ of the third ~~first~~ degree,  
12 punishable as provided in s. 775.082, ~~or~~ s. 775.083, or s.  
13 775.084.

14 Section 11. Paragraphs (a), (c), (d), and (e) of  
15 subsection (2) and subsection (3) of section 790.115, Florida  
16 Statutes, are amended to read:

17 790.115 Possessing or discharging weapons or firearms  
18 on school property prohibited; penalties; exceptions.--

19 (2)(a) A person shall not possess any firearm,  
20 electric weapon or device, destructive device, or other  
21 weapon, including a razor blade, box cutter, or knife, except  
22 as authorized in support of school-sanctioned activities, on  
23 the property of any school, school bus, or school bus stop;  
24 however, a person may carry a firearm:

25 1. In a case to a firearms program, class or function  
26 which has been approved in advance by the principal or chief  
27 administrative officer of the school as a program or class to  
28 which firearms could be carried;

29 2. In a case to a vocational school having a firearms  
30 training range; or

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1           3. In a vehicle pursuant to s. 790.25(5) if the  
2 firearm is securely encased; except that school districts may  
3 adopt written and published policies that waive the exception  
4 in this subparagraph for purposes of student and campus  
5 parking privileges.

6  
7 For the purposes of this section, "school" means any  
8 preschool, elementary school, middle school, junior high  
9 school, secondary school, vocational school, or postsecondary  
10 school, whether public or nonpublic.

11           (c)1. A person who willfully and knowingly possesses  
12 any firearm in violation of this subsection commits a felony  
13 of the third degree, punishable as provided in s. 775.082, s.  
14 775.083, or s. 775.084.

15           2. A person who stores or leaves a loaded firearm  
16 within the reach or easy access of a minor who obtains the  
17 firearm and commits a violation of subparagraph 1. commits a  
18 misdemeanor of the second degree, punishable as provided in s.  
19 775.082 or s. 775.083; except that this does not apply if the  
20 firearm was stored or left in a securely locked box or  
21 container or in a location which a reasonable person would  
22 have believed to be secure, or was securely locked with a  
23 firearm-mounted push-button combination lock or a trigger  
24 lock; if the minor obtains the firearm as a result of an  
25 unlawful entry by any person; or to members of the Armed  
26 Forces, National Guard, or State Militia, or to police or  
27 other law enforcement officers, with respect to firearm  
28 possession by a minor which occurs during or incidental to the  
29 performance of their official duties.

30           (d) A person who discharges any weapon or firearm  
31 while in violation of paragraph (a), unless discharged for

1 lawful defense of himself or herself or another or for a  
2 lawful purpose, commits a felony of the second degree,  
3 punishable as provided in s. 775.082, s. 775.083, or s.  
4 775.084.

5 (e) The penalties of this subsection shall not apply  
6 to persons licensed under s. 790.06. Persons licensed under  
7 s. 790.06 shall be punished as provided in s. 790.06(12),  
8 except that a licenseholder who unlawfully discharges a weapon  
9 or firearm on school property as prohibited by this subsection  
10 commits a felony of the second degree, punishable as provided  
11 in s. 775.082, s. 775.083, or s. 775.084.

12 (3) This section does not apply to any law enforcement  
13 officer as defined in s. 943.10(1), (2), (3), (4), (6), (7),  
14 (8), (9), or (14).

15 Section 12. Paragraph (a) of subsection (2) of section  
16 790.17, Florida Statutes, is amended to read:

17 790.17 Furnishing weapons to minors under 18 years of  
18 age or persons of unsound mind and furnishing firearms to  
19 minors under 18 years of age prohibited.--

20 (2)(a) A person may not knowingly or willfully sell,  
21 rent, barter, lend, give, or transfer a firearm to a minor  
22 under 18 years of age, except that a person may rent or  
23 transfer ownership of a firearm to a minor with permission of  
24 the parent or guardian. A person who violates this paragraph  
25 commits a felony of the second ~~third~~ degree, punishable as  
26 provided in s. 775.082, s. 775.083, or s. 775.084.

27 Section 13. Subsections (3), (5), and (9) of section  
28 790.22, Florida Statutes, are amended to read:

29 790.22 Use of BB guns, air or gas-operated guns, or  
30 electric weapons or devices by minor under 16; limitation;  
31

1 possession of firearms by minor under 18 prohibited;  
2 penalties.--

3 (3) A minor under 18 years of age may not possess a  
4 firearm, other than an unloaded firearm at his or her home,  
5 unless:

6 (a) The minor is engaged in a lawful hunting activity  
7 and is:

- 8 1. At least 16 years of age; or
- 9 2. Under 16 years of age and supervised by an adult.

10 (b) The minor is engaged in a lawful marksmanship  
11 competition or practice or other lawful recreational shooting  
12 activity and is:

- 13 1. At least 16 years of age; or
- 14 2. Under 16 years of age and supervised by an adult  
15 who is acting with the consent of the minor's parent or  
16 guardian.

17 (c) The firearm is unloaded and is being transported  
18 by the minor directly to or from an event authorized in  
19 paragraph (a) or paragraph (b).

20 (5)(a) A minor who violates subsection (3) commits a  
21 misdemeanor of the first degree, and, in addition to any other  
22 penalty provided by law, shall be required to perform 100  
23 hours of community service, and:

24 1. If the minor is eligible by reason of age for a  
25 driver license or driving privilege, the court shall direct  
26 the Department of Highway Safety and Motor Vehicles to revoke  
27 or to withhold issuance of the minor's driver license or  
28 driving privilege for up to 1 year.

29 2. If the minor's driver license or driving privilege  
30 is under suspension or revocation for any reason, the court  
31 shall direct the Department of Highway Safety and Motor

1 Vehicles to extend the period of suspension or revocation by  
2 an additional period of up to 1 year.

3 3. If the minor is ineligible by reason of age for a  
4 driver license or driving privilege, the court shall direct  
5 the Department of Highway Safety and Motor Vehicles to  
6 withhold issuance of the minor's driver license or driving  
7 privilege for up to 1 year after the date on which the minor  
8 would otherwise have become eligible.

9 (b) For a second or subsequent offense, the court  
10 shall commit the child to the Department of Juvenile Justice  
11 for placement in a nonresidential program, and:

12 1. The minor shall be required to perform not less  
13 than 100 nor more than 250 hours of community service, ~~and:~~

14 ~~2.1.~~ If the minor is eligible by reason of age for a  
15 driver license or driving privilege, the court shall direct  
16 the Department of Highway Safety and Motor Vehicles to revoke  
17 or to withhold issuance of the minor's driver license or  
18 driving privilege for up to 2 years.

19 ~~3.2.~~ If the minor's driver license or driving  
20 privilege is under suspension or revocation for any reason,  
21 the court shall direct the Department of Highway Safety and  
22 Motor Vehicles to extend the period of suspension or  
23 revocation by an additional period of up to 2 years.

24 ~~4.3.~~ If the minor is ineligible by reason of age for a  
25 driver license or driving privilege, the court shall direct  
26 the Department of Highway Safety and Motor Vehicles to  
27 withhold issuance of the minor's driver license or driving  
28 privilege for up to 2 years after the date on which the minor  
29 would otherwise have become eligible.

30 (9) Notwithstanding s. 985.214 ~~39.043~~, if the minor is  
31 found to have committed an offense that involves the use or

1 possession of a firearm, as defined in s. 790.001, other than  
2 a violation of subsection (3), or an offense during the  
3 commission of which the minor possessed a firearm, and the  
4 minor is not committed to a residential commitment program of  
5 the Department of Juvenile Justice ~~Health and Rehabilitative~~  
6 ~~Services~~, in addition to any other punishment provided by law,  
7 the court shall order:

8 (a) For a first offense, that the minor serve a  
9 mandatory period of detention of 5 days in a secure detention  
10 facility and:

11 1. Shall be committed to the Department of Juvenile  
12 Justice for placement in a commitment program, or a community  
13 control program.

14 2. Shall perform 100 hours of community service.

15 (b) For a second or subsequent offense, that the minor  
16 serve a mandatory period of detention of 10 days in a secure  
17 detention facility and:

18 1. Shall be committed to the Department of Juvenile  
19 Justice for placement in a commitment program, or a community  
20 control program.

21 2. Shall perform not less than 100 nor more than 250  
22 hours of community service.

23

24 The minor shall receive credit for time served before  
25 adjudication.

26 Section 14. Section 790.23, Florida Statutes, is  
27 amended to read:

28 790.23 Criminals ~~Felons~~ and delinquents; possession of  
29 firearms or electric weapons or devices unlawful.--

30 (1) It is unlawful for any person to own or to have in  
31 his or her care, custody, possession, or control any firearm

1 or electric weapon or device, or to carry a concealed weapon,  
2 including a tear gas gun or chemical weapon or device, if that  
3 person has been:

4 (a) Convicted of a felony or found to have committed a  
5 delinquent act that would be a felony if committed by an adult  
6 in the courts of this state;

7 (b) Convicted of or found to have committed a crime  
8 against the United States which is designated as a felony, or  
9 is otherwise prohibited from possessing a firearm;

10 (c) Found to have committed a delinquent act in  
11 another state, territory, or country that would be a felony if  
12 committed by an adult and which was punishable by imprisonment  
13 for a term exceeding 1 year; ~~or~~

14 (d) Found guilty of an offense that is a felony in  
15 another state, territory, or country and which was punishable  
16 by imprisonment for a term exceeding 1 year; or-

17 (e) Convicted of a misdemeanor crime of domestic  
18 violence.

19 (2) This section shall not apply to a person convicted  
20 of a felony whose civil rights and firearm authority have been  
21 restored, or to a person found to have committed a delinquent  
22 act that would be a felony if committed by an adult with  
23 respect to which the jurisdiction of the court pursuant to  
24 chapter 39 has expired.

25 (3) Any person who violates this section commits a  
26 felony of the second degree, punishable as provided in s.  
27 775.082, s. 775.083, or s. 775.084.

28 Section 15. Subsections (2) and (3) of section 790.25,  
29 Florida Statutes, are amended to read:

30 790.25 Lawful ownership, possession, and use of  
31 firearms and other weapons.--

1           (2) USES NOT AUTHORIZED.--

2           (a) This section does not authorize carrying a  
3 concealed weapon without a permit, as prohibited by ss. 790.01  
4 and 790.02.

5           (b) The protections of this section do not apply to  
6 the following:

7           1. A person who has been adjudged mentally  
8 incompetent, who has been adjudicated as an incapacitated  
9 person under s. 744.331, or similar laws of any other state,  
10 unless 5 years have elapsed since the person's restoration to  
11 capacity by court order, who has been committed to a mental  
12 institution under chapter 394, or similar laws of any other  
13 state, unless the applicant produces a certificate from a  
14 licensed psychiatrist that he or she has not suffered from  
15 disability for at least 5 years prior to the date of purchase,  
16 who is addicted to the use of narcotics or any similar drug,  
17 or who is a habitual or chronic alcoholic, or a person using  
18 weapons or firearms in violation of ss. 790.07-790.12,  
19 790.14-790.19, 790.22-790.24;

20           2. Vagrants and other undesirable persons as defined  
21 in s. 856.02;

22           3. A person in or about a place of nuisance as defined  
23 in s. 823.05, unless such person is there for law enforcement  
24 or some other lawful purpose.

25           (3) LAWFUL USES.--The provisions of ss. 790.053 and  
26 790.06 do not apply in the following instances, and, despite  
27 such sections, it is lawful for the following persons to own,  
28 possess, and lawfully use firearms and other weapons,  
29 ammunition, and supplies for lawful purposes:

30           (a) Members of the Militia, National Guard, Florida  
31 State Defense Force, Army, Navy, Air Force, Marine Corps,

1 Coast Guard, organized reserves, and other armed forces of the  
2 state and of the United States, when on duty, when training or  
3 preparing themselves for military duty, or while subject to  
4 recall or mobilization;

5 (b) Citizens of this state subject to duty in the  
6 Armed Forces under s. 2, Art. X of the State Constitution,  
7 under chapters 250 and 251, and under federal laws, when on  
8 duty or when training or preparing themselves for military  
9 duty;

10 (c) Persons carrying out or training for emergency  
11 management duties under chapter 252;

12 (d) Sheriffs, marshals, prison or jail wardens, police  
13 officers, correctional officers, Florida highway patrol  
14 officers, game wardens, revenue officers, forest officials,  
15 special officers appointed under the provisions of chapter  
16 354, and other peace and law enforcement officers and their  
17 deputies and assistants and full-time paid peace officers of  
18 other states and of the Federal Government who are carrying  
19 out official duties while in this state;

20 (e) Officers or employees of the state or United  
21 States duly authorized to carry a concealed weapon;

22 (f) Guards or messengers of common carriers, express  
23 companies, armored car carriers, mail carriers, banks, and  
24 other financial institutions, while actually employed in and  
25 about the shipment, transportation, or delivery of any money,  
26 treasure, bullion, bonds, or other thing of value within this  
27 state;

28 (g) Regularly enrolled members of any organization  
29 duly authorized to purchase or receive weapons from the United  
30 States or from this state, or regularly enrolled members of  
31 clubs organized for target, skeet, or trap shooting, while at

1 or going to or from shooting practice; or regularly enrolled  
2 members of clubs organized for modern or antique firearms  
3 collecting, while such members are at or going to or from  
4 their collectors' gun shows, conventions, or exhibits;

5 (h) A person engaged in fishing, camping, or lawful  
6 hunting or going to or returning from a fishing, camping, or  
7 lawful hunting expedition;

8 (i) A person engaged in the business of manufacturing,  
9 repairing, or dealing in firearms, or the agent or  
10 representative of any such person while engaged in the lawful  
11 course of such business;

12 (j) A person firing weapons for testing or target  
13 practice under safe conditions and in a safe place not  
14 prohibited by law or going to or from such place;

15 (k) A person firing weapons in a safe and secure  
16 indoor range for testing and target practice;

17 (l) A person traveling by private conveyance when the  
18 weapon is securely encased or in a public conveyance when the  
19 weapon is securely encased and not in the person's manual  
20 possession;

21 (m) A person while carrying a pistol unloaded and in a  
22 secure wrapper, concealed or otherwise, from the place of  
23 purchase to his or her home or place of business or to a place  
24 of repair or back to his or her home or place of business;

25 (n) A person possessing arms at his or her home or  
26 place of business;

27 (o) Investigators employed by the several public  
28 defenders of the state, while actually carrying out official  
29 duties, provided such investigators:

30 1. Are employed full time;

31

1           2. Meet the official training standards for firearms  
2 established by the Criminal Justice Standards and Training  
3 Commission as provided in s. 943.12(5) and the requirements of  
4 ss. 493.6108(1)(a) and 943.13(1)-(4); and

5           3. Are individually designated by an affidavit of  
6 consent signed by the employing public defender and filed with  
7 the clerk of the circuit court in the county in which the  
8 employing public defender resides.

9           (p) Investigators employed by the capital collateral  
10 representative, while actually carrying out official duties,  
11 provided such investigators:

12           1. Are employed full time;

13           2. Meet the official training standards for firearms  
14 as established by the Criminal Justice Standards and Training  
15 Commission as provided in s. 943.12(1) and the requirements of  
16 ss. 493.6108(1)(a) and 943.13(1)-(4); and

17           3. Are individually designated by an affidavit of  
18 consent signed by the capital collateral representative and  
19 filed with the clerk of the circuit court in the county in  
20 which the investigator is headquartered.

21           Section 16. Section 790.256, Florida Statutes, is  
22 amended to read:

23           790.256 Public service announcements.--The Department  
24 of Children and Family Services ~~Health and Rehabilitative~~  
25 ~~Services~~ shall prepare public service announcements for  
26 dissemination to parents throughout the state, of the  
27 provisions of chapter 93-416, Laws of Florida.

28           Section 17. Subsections (2) and (3) of section 790.27,  
29 Florida Statutes, are amended to read:

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31

1           790.27 Alteration or removal of firearm serial number  
2 or possession, sale, or delivery of firearm with serial number  
3 altered or removed prohibited; penalties.--

4           (2)(a) It is unlawful for any person to knowingly  
5 sell, deliver, or possess any firearm on which the  
6 manufacturer's or importer's serial number has been unlawfully  
7 altered or removed.

8           (b) Any person violating paragraph (a) is guilty of a  
9 felony ~~misdemeanor~~ of the third ~~first~~ degree, punishable as  
10 provided in s. 775.082, ~~or~~ s. 775.083, or s. 775.084.

11           (3) This section shall not apply to antique firearms.  
12           Section 18. Subsections (1) and (2) of section 790.33,  
13 Florida Statutes, are amended to read:

14           790.33 Field of regulation of firearms and ammunition  
15 preempted.--

16           (1) PREEMPTION.--Except as expressly provided by  
17 general law, the Legislature hereby declares that it is  
18 occupying the whole field of regulation of firearms and  
19 ammunition, including the purchase, sale, transfer, taxation,  
20 manufacture, ownership, possession, and transportation  
21 thereof, to the exclusion of all existing and future county,  
22 city, town, or municipal ordinances or regulations relating  
23 thereto. Any such existing ordinances are hereby declared  
24 null and void. This subsection shall not affect zoning  
25 ordinances which encompass firearms businesses along with  
26 other businesses. Zoning ordinances which are designed for  
27 the purpose of restricting or prohibiting the sale, purchase,  
28 transfer, or manufacture of firearms or ammunition as a method  
29 of regulating firearms or ammunition are in conflict with this  
30 subsection and are prohibited.

31

1           (2) LIMITED EXCEPTION; COUNTY WAITING-PERIOD  
2 ORDINANCES; COUNTY HANDGUN REGISTRATION AND TITLE TRANSFER  
3 ORDINANCES.--

4           (a) Any county may have the option to adopt a  
5 waiting-period ordinance requiring a waiting period of up to,  
6 but not to exceed, 3 working days between the purchase and  
7 delivery of a handgun. For purposes of this subsection,  
8 "purchase" means payment of deposit, payment in full, or  
9 notification of intent to purchase. Adoption of a  
10 waiting-period ordinance, by any county, shall require a  
11 majority vote of the county commission on votes on  
12 waiting-period ordinances. This exception is limited solely  
13 to individual counties and is limited to the provisions and  
14 restrictions contained in this subsection.

15           **(b) Any county may have the option to adopt an**  
16 **ordinance requiring handgun registration and reporting of**  
17 **title transfers. Adoption of an ordinance requiring handgun**  
18 **registration and reporting of title transfers, by any county,**  
19 **shall require a majority vote of the county commission on**  
20 **votes on such ordinances. This exception is limited solely to**  
21 **the individual counties and is limited to the provisions and**  
22 **restrictions contained in this subsection.**

23           **(c)**~~(b)~~ Ordinances authorized by this subsection shall  
24 apply to all sales of handguns to individuals by a retail  
25 establishment except those sales to individuals exempted in  
26 this subsection. For purposes of this subsection, "retail  
27 establishment" means a gun shop, sporting goods store, pawn  
28 shop, hardware store, department store, discount store, bait  
29 or tackle shop, or any other store or shop that offers  
30 handguns for walk-in retail sale and includes ~~but does not~~  
31 ~~include~~ gun collectors shows or exhibits, or gun shows.

1            (d)~~(c)~~ Ordinances authorized by this subsection may  
2 ~~shall not~~ require any reporting or notification to any source  
3 outside the retail establishment, but records of handgun sales  
4 must be available for inspection, during normal business  
5 hours, by any law enforcement agency as defined in s. 934.02.

6            (e)~~(d)~~ The following shall be exempt from any waiting  
7 period:

8            1. Individuals who are licensed to carry concealed  
9 firearms under the provisions of s. 790.06 or who are licensed  
10 to carry concealed firearms under any other provision of state  
11 law and who show a valid license;

12            2. Individuals who already lawfully own another  
13 firearm and who show a sales receipt for another firearm; who  
14 are known to own another firearm through a prior purchase from  
15 the retail establishment; or who have another firearm for  
16 trade-in;

17            3. A law enforcement or correctional officer as  
18 defined in s. 943.10;

19            4. A law enforcement agency as defined in s. 934.02;

20            5. Sales or transactions between dealers or between  
21 distributors or between dealers and distributors who have  
22 current federal firearms licenses; or

23            6. Any individual who has been threatened or whose  
24 family has been threatened with death or bodily injury,  
25 provided the individual may lawfully possess a firearm and  
26 provided such threat has been duly reported to local law  
27 enforcement.

28            Section 19. This act shall take effect October 1 of  
29 the year in which enacted.

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LEGISLATIVE SUMMARY

Revises various provisions of ch. 790, F.S., relating to weapons and firearms. With respect to licensure to carry a concealed weapon or concealed firearm, provides that conviction of a misdemeanor crime of domestic violence constitutes a condition of ineligibility for possession of a license to carry a concealed weapon or firearm. Requires the denial or revocation of such license under specified circumstances. Provides an additional condition under which such license shall be suspended or revoked pursuant to ch. 120, F.S. Expands provisions relating to areas upon which concealed weapons or firearms shall not be carried and increases the penalty for violation from a second degree misdemeanor to a third degree felony.

With respect to current provisions governing the sale and delivery of firearms, nullifies the repeal of such provisions, currently scheduled for October 1, 1999, and on the effective date of federal law which provides access to national criminal history information and requires national criminal history checks on potential buyers or transferees on firearms. Provides that conviction of a misdemeanor crime of domestic violence constitutes a condition for nonapproval of a license. Provides for suspension of time limitation for review of criminal history records under specified conditions. Revises procedure to provide for issuance of a nonapproval number to potential buyers prohibited from owning a firearm. Increases a time limit within which specified records shall be destroyed from 48 hours to 30 days.

Revises provisions relating to the mandatory 3-day waiting period between the purchase and delivery of handguns to include handguns purchased through private sale at a gun show.

Creates s. 790.0657, F.S., for the purpose of regulating the sale of firearms at gun shows. Requires that persons promoting sales of firearms in the state register with the Florida Department of Law Enforcement and requires that promoters of gun shows at which firearms are being sold must be firearm dealers. Requires all sales and transfers of firearms at a gun show to be subject to background check provisions of s. 790.065, F.S. Provides a first degree misdemeanor penalty for the sale or transfer of a firearm within 1,000 feet of a gun show by anyone not authorized by the promoter of the gun show to conduct such sale or transfer. Provides an appropriation to fund firearm purchase program services at gun shows. Requires gun show promoters to pay a fee set by the Florida Department of Law Enforcement to defray the cost of firearm purchase program services.

1 | Authorizes county sheriffs and municipal chiefs of police  
2 | to submit all seized handguns to the Florida Department  
3 | of Law Enforcement. Requires the department to forward  
4 | serial numbers of seized handguns to the Federal Bureau  
5 | of Alcohol, Tobacco and Firearms National Tracing Center  
6 | for specified tracing and identification purposes.

7 |  
8 | Increases, from a first-degree misdemeanor to a  
9 | third-degree felony, the penalty for improper exhibition  
10 | of dangerous weapons or firearms.

11 |  
12 | Provides that a person may not knowingly or willfully  
13 | rent, barter, lend, or give a firearm to a minor under 18  
14 | years of age and provides a second-degree felony penalty  
15 | for violation. Increases the penalty for sale or  
16 | transfer of a firearm to a minor under 18 years of age  
17 | from a third-degree felony to a second-degree felony.

18 |  
19 | Revises penalties for offenses involving the possession  
20 | of a firearm by a minor under 18 years of age.

21 |  
22 | Provides a second-degree felony penalty for ownership or  
23 | possession of specified firearms or weapons by persons  
24 | who have been convicted of a misdemeanor crime of  
25 | domestic violence.

26 |  
27 | Provides additional exclusions from the protections of  
28 | provisions governing lawful ownership, possession, and  
29 | use of firearms and other weapons. Includes correctional  
30 | officers among persons who may lawfully own, possess, and  
31 | use firearms and other weapons.

32 |  
33 | Increases, from a first-degree misdemeanor to a  
34 | third-degree felony, the penalty for selling, delivering,  
35 | or possessing any firearm on which the manufacturer's or  
36 | importer's serial number has been unlawfully altered or  
37 | removed.

38 |  
39 | Authorizes the option of any county to require handgun  
40 | registration and reporting of handgun title transfers.

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