

STORAGE NAME: h0695.lecp

DATE: April 12, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
LAW ENFORCEMENT AND CRIME PREVENTION
ANALYSIS**

BILL #: HB 695

RELATING TO: Firearms/ Locking Devices

SPONSOR(S): Representative Hill and Others

COMPANION BILL(S): SB 1382(i)

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

- (1) LAW ENFORCEMENT AND CRIME PREVENTION
 - (2) GOVERNMENTAL RULES AND REGULATIONS
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

HB 695 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.

Currently, a loaded firearm stored where a minor could gain access to it must be kept in a securely locked box or secured with a "trigger lock." The bill 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, if the loaded firearm is stored on a premises where a minor is temporarily or permanently residing, the bill requires that the firearm be secured with an activated locking device and that the firearm be kept in a secure location. An exception is provided when the person is carrying the firearm on his or her body or within close proximity for quick retrieval.

Accordingly, the bill provides that a locking device may be used to meet the requirements for lawful safe storage of a loaded firearm under section 790.174, F.S., but if a minor resides permanently or temporarily on the premises, then the firearm must be secured with an activated locking device and be stored in a secure location.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Florida law 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. The statute makes no specific reference to the use of a "locking device," as a means of safe storage of firearms.

Also, 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."

Chapter 790, F.S., does not currently contain a definition for "trigger lock" or "locking device." Trigger locks are devices placed over the gun's trigger guard, designed to block access to the trigger, which are engaged or disengaged with either a key or combination. Such locks retail at approximately \$12. Trigger lock manufacturers warn that their product is not designed to used on loaded firearms. In the last few years, some gun manufacturers have begun to include trigger locks or other locking devices as part of the gun purchase. There is at least one product on the market, which is designed to be used on a loaded gun, called "Saf T Lok." *Saf T Lok* is the brand name of a locking device which is permanently installed on the gun's grip or magazine. The *Saf T Lok* Grip Lock retails for \$69.95 and the Magazine Lock retails for \$89.95.

B. EFFECT OF PROPOSED CHANGES:

HB 695 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 bill amends s. 790.174, F.S., to require persons who store or leave a firearm on any premises where the person knows or reasonably should know that a minor is temporarily or permanently residing, to secure the firearm with an activated locking device, in addition to keeping the firearm in a secure location. An exception is provided, consistent with existing law, for when a person is carrying the firearm on his or her body or within such close proximity that he or she can retrieve it and use it easily and quickly.

If a person violates these provisions and as a result a minor gains access to the firearm and possesses or exhibits it in a public place or in a threatening manner, the person commits a second-degree misdemeanor (60 day jail maximum). A "minor" is defined as a person under the age of 16.

The bill would have the effect of requiring a "locking device" on all firearms in any household where a minor is temporarily or permanently residing. "Temporarily residing" is not defined, but arguably could include an overnight stay by a minor.

Currently, s. 790.174, F.S., addresses only the safe storage of loaded firearms. However, the new language set forth in HB 695 merely refers to the storage of "the firearm." The phrase "the firearm" may be intended to refer back to the current law referencing "a loaded firearm," but it is not entirely clear. If the bill is intended to apply to loaded firearms, then only persons subject to the bill's provisions (who keep loaded firearms at a residence with minors) would have to purchase locking devices-- which work on loaded firearms. If, on the other hand, the bill is intended to encompass unloaded firearms, then the effect would be to require firearm owners who are subject to the bill's provisions to purchase locking devices for all the firearms in their household.

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:

- (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 and s. 790.174, F.S.

E. SECTION-BY-SECTION ANALYSIS:

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

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

The Florida Department of Law Enforcement indicates it may have to purchase one lock per weapon that is issued to each agent at about \$10 each.

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

FDLE estimates its expenditures would be approximately \$9,000.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

Indeterminate.

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

STORAGE NAME: h0695.lecp

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PAGE 6

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Firearms owners subject to the bill's provisions who have minors permanently or temporarily residing in their homes will be required to purchase "locking devices" and install them on their firearms.

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:

N/A

VII. SIGNATURES:

COMMITTEE ON LAW ENFORCEMENT AND CRIME PREVENTION:

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