

By Representative Arnall

1 A bill to be entitled
2 An act relating to weapons and firearms;
3 creating s. 790.401, F.S.; defining "booby
4 trap"; creating s. 790.402, F.S.; defining the
5 offense of construction or placement, or
6 causing the construction or placement, of a
7 booby trap, and providing criminal penalties
8 therefor; providing for mandatory minimum terms
9 of imprisonment; providing penalties for
10 perpetrating the placing of a booby trap that
11 results in injury to or death of an animal,
12 under specified circumstances, or that results
13 in bodily harm to another or damage to
14 property; making it a capital felony punishable
15 by death to perpetrate the placing of a booby
16 trap which results in the death of another;
17 creating s. 790.403, F.S.; defining the offense
18 of construction, placement, or installation, or
19 causing the construction, placement, or
20 installation, without lawful purpose, of a
21 booby trap or other object, device, substance,
22 or weapon capable of causing injury or damage,
23 with the purpose of causing injury to any
24 person or animal, or damage to property;
25 providing penalties therefor; providing
26 penalties, under specified circumstances, for
27 offenses resulting in property damage or animal
28 injury or death or resulting in personal
29 injury; providing capital felony penalties,
30 under specified circumstances, for offenses
31 resulting in death of a person; providing a

1 presumption; providing for inapplicability of
2 certain provisions to law enforcement officers
3 or members of the United States Armed Forces,
4 under specified circumstances; providing an
5 effective date.

6
7 Be It Enacted by the Legislature of the State of Florida:

8
9 Section 1. Section 790.401, Florida Statutes, is
10 created to read:

11 790.401 Booby trap; definition.--As used in ss.
12 790.401, 790.402, and 790.403, unless the context clearly
13 indicates otherwise:

14 (1) "Booby trap" means any device, object, or
15 substance, whether disguised, camouflaged or not, or
16 unattended or not, knowingly and intentionally constructed and
17 placed without lawful purpose but for the purpose of causing
18 injury to persons or animals or damage to property. Booby
19 traps include, but are not limited to:

20 (a) Devices commonly called booby traps, whereby a
21 person or an animal may be injured or property may be damaged
22 by mechanical, chemical, or electrical means, or any
23 combination thereof.

24 (b) Traps or devices containing or composed of
25 injurious objects, puncturing or cutting implements, or
26 obstacles, placed for the purpose of causing injury to persons
27 or animals or damage to property.

28 (c) Gun traps, snares, disguised pit traps, or trip
29 lines.

30 (d) Traps employing poisons or debilitating chemicals
31 or gas, electrocution traps, or dead falls.

- 1 (e) Incendiary or corrosive chemical traps, such as,
2 but not limited to, those using phosphorus, acid, or lye.
- 3 (f) Slippery substances purposely designed and placed
4 so as to cause the loss of traction, control, or balance, such
5 as marbles on a walkway or oil on a roadway.
- 6 (g) Devices capable of firing a projectile or
7 projectiles so designed to injure or kill persons or animals
8 or damage vehicles coming near or in contact with such a
9 device.
- 10 (h) Any mine or other explosive device so designed to
11 injure or kill persons or animals or damage vehicles coming
12 near or in contact with such a device.
- 13 (2) "Booby trap" does not include:
- 14 (a) Gas-emitting or electrical devices designed for
15 self-defense or for controlling animals.
- 16 (b) Electric fences legally erected to keep animals
17 from straying.
- 18 (c) Traps legally set for capture of fur-bearing
19 animals or other animals by licensed or permitted trappers.
- 20 (d) Live traps legally set for the purpose of
21 capturing nuisance or sick animals or domestic farm animals
22 without harming them.
- 23 (e) Devices set to ward off or warn of the approach of
24 animals or warn of the approach of persons so long as the
25 device is not capable of doing bodily harm or property damage
26 as it normally functions and there is no intent to do such
27 injury or damage by persons using such a device.
- 28 (f) The novelty or trick noisemaker referred to as a
29 "booby trap" in s. 791.01(4)(c), if the novelty or trick
30 noisemaker is used for lawful purposes and not with the intent
31

1 to cause damage to property or injury to or death of any
2 animal or person.

3 Section 2. Section 790.402, Florida Statutes, is
4 created to read:

5 790.402 Constructing or placing booby trap prohibited;
6 penalties; legal presumption; exception.--

7 (1)(a) A person who constructs or places, or causes to
8 be constructed or placed, a booby trap, as defined in s.
9 790.401, commits a felony of the third degree, punishable as
10 provided in s. 775.082, s. 775.083, or s. 775.084, and the
11 person shall be required to serve a term of imprisonment of
12 not less than 1 calendar year before becoming eligible for
13 parole.

14 (b)1. A person who perpetrates the placing of a booby
15 trap that results in injury to or death of an animal belonging
16 to another that is valued at less than \$1,000 commits a felony
17 of the third degree, punishable as provided in s. 775.082, s.
18 775.083, or s. 775.084, and the person shall be required to
19 serve a term of imprisonment of not less than 3 calendar years
20 before becoming eligible for parole.

21 2. A person who perpetrates the placing of a booby
22 trap that results in injury to or death of an animal belonging
23 to another that is valued at \$1,000 or greater commits a
24 felony of the second degree, punishable as provided in s.
25 775.082, s. 775.083, or s. 775.084, and shall be required to
26 serve a term of imprisonment of not less than 5 calendar years
27 before becoming eligible for parole.

28 (c)1. A person who perpetrates the placing of a booby
29 trap that results in bodily harm to a person or damage to
30 property commits a felony of the first degree, punishable as
31 provided in s. 775.082, s. 775.083, or s. 775.084, and shall

1 be required to serve a term of imprisonment of not less than
2 10 calendar years before becoming eligible for parole.

3 2. If the act of perpetrating the placing of the booby
4 trap results in the death of a person, the person who
5 perpetrated the placing of the booby trap commits a capital
6 felony, punishable by death.

7 (2)(a) It shall be presumed that a booby trap device,
8 object, or substance is placed for the purpose of causing
9 injury or damage if it is placed in a location where a
10 reasonable person would foresee the possibility of injury to a
11 person or animal or of damage to property.

12 (b) In order to obtain a conviction for a violation of
13 this section, it is not necessary to prove that the offender
14 intended to injure any particular person or animal, or
15 intended to damage any particular property.

16 (3) The provisions of this section shall not apply to
17 any law enforcement officer or any member of the Armed Forces
18 of the United States while engaged in training or other lawful
19 activity within the scope of his or her employment.

20 Section 3. Section 790.403, Florida Statutes, is
21 created to read:

22 790.403 Booby traps and other injurious objects,
23 devices, substances, or weapons; prohibited acts; legal
24 presumption; exception.--

25 (1)(a) A person who constructs, places, or installs,
26 or causes to be constructed, placed, or installed, in any
27 location without lawful purpose, any booby trap or object,
28 device, substance, or weapon that is capable of causing injury
29 or damage, with the purpose of causing injury to any person or
30 animal, or damage to property, commits a felony of the third
31

1 degree, punishable as provided in s. 775.082, s. 775.083, or
2 s. 775.084.
3 (b) If, as a result of a violation of paragraph (a),
4 damage to property or injury to or death of an animal
5 belonging to another results, the perpetrator commits a felony
6 of the second degree, punishable as provided in s. 775.082, s.
7 775.083, or s. 775.084.
8 (c) If, as a result of a violation of paragraph (a), a
9 person is injured, the perpetrator commits a felony of the
10 first degree, punishable as provided in s. 775.082, s.
11 775.083, or s. 775.084.
12 (d) If, as a result of a violation of paragraph (a),
13 death of a person results, the perpetrator commits a capital
14 felony, punishable by death or life imprisonment.
15 (2)(a) It shall be presumed that a booby trap or
16 object, device, substance, or weapon that is capable of
17 causing injury to any person or animal, or damage to property,
18 is placed, installed, or constructed with the purpose of
19 causing injury or damage if it is placed, installed, or
20 constructed where a reasonable person would foresee the
21 possibility of injury to a person or animal, or of damage to
22 property.
23 (b) In order to obtain a conviction for a violation of
24 this section, it is not necessary to prove that the offender
25 intended to injure any particular person or animal, or
26 intended to damage any particular property.
27 (3) The provisions of this section shall not apply to
28 any law enforcement officer or any member of the Armed Forces
29 of the United States while engaged in training or other lawful
30 activity within the scope of his or her employment.
31

