

By Representative Futch

1 A bill to be entitled
2 An act relating to weapons of mass destruction;
3 creating s. 790.166, F.S.; prohibiting the
4 unlawful manufacture, possession, sale,
5 delivery, display, use, or attempted or
6 threatened use of a weapon of mass destruction;
7 prohibiting unlawful conspiring to use such
8 weapon; prohibiting making such weapon readily
9 accessible to others; providing a first degree
10 felony penalty for violation; providing that
11 violation which results in death is a capital
12 felony; prohibiting the unlawful manufacture,
13 possession, sale, delivery, display, use, or
14 attempted or threatened use of a hoax weapon of
15 mass destruction; prohibiting unlawful
16 conspiring to use such weapon; prohibiting
17 making such weapon readily accessible to
18 others; providing a second degree felony
19 penalty for violation; providing definitions
20 for purposes of the act; providing
21 nonapplicability of the act; providing an
22 effective date.

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

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26 Section 1. Section 790.166, Florida Statutes, is
27 created to read:

28 790.166 Manufacture, possession, sale, delivery,
29 display, use, or attempted or threatened use of a weapon of
30 mass destruction or hoax weapon of mass destruction
31 prohibited; definitions; penalties.--

1 (1) As used in this section, the following terms shall
2 have the following meanings:
3 (a) "Weapon of mass destruction" means:
4 1. Any destructive device as defined in this section;
5 2. Any weapon that is designed or intended to cause
6 death or serious bodily injury through the release,
7 dissemination, or impact of toxic or poisonous chemicals, or
8 their precursors;
9 3. Any weapon involving a disease organism; or
10 4. Any weapon that is designed to release radiation or
11 radioactivity at a level dangerous to human life.
12 (b) "Hoax weapon of mass destruction" means any device
13 or object that by its design, construction, content, or
14 characteristics appears to be or to contain, or is represented
15 to be, constitute, or contain, a weapon of mass destruction as
16 defined in this section, but which is, in fact, an inoperative
17 facsimile, imitation, counterfeit, or representation of a
18 weapon of mass destruction which does not meet the definition
19 of a weapon of mass destruction or which does not actually
20 contain or constitute a weapon, destructive device, biological
21 agent, toxin, vector, or delivery system prohibited by this
22 section.
23 (c) "Biological agent" means any microorganism, virus,
24 infectious substance, or biological product that may be
25 engineered through biotechnology, or any naturally occurring
26 or bioengineered component of any such microorganism, virus,
27 infectious substance, or biological product, capable of
28 causing:
29 1. Death, disease, or other biological malfunction in
30 a human, an animal, a plant, or other living organism;
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1 2. Deterioration of food, water, equipment, supplies,
2 or material of any kind; or
3 3. Deleterious alteration of the environment.
4 (d) "Toxin" means the toxic material of plants,
5 animals, microorganisms, viruses, fungi, or infectious
6 substances, or a recombinant molecule, whatever its origin or
7 method of reproduction, including:
8 1. Any poisonous substance or biological product that
9 may be engineered through biotechnology produced by a living
10 organism; or
11 2. Any poisonous isomer or biological product,
12 homolog, or derivative of such substance.
13 (e) "Delivery system" means:
14 1. Any apparatus, equipment, device, or means of
15 delivery specifically designed to deliver or disseminate a
16 biological agent, toxin, or vector; or
17 2. Any vector.
18 (f) "Vector" means a living organism or molecule,
19 including a recombinant molecule or biological product that
20 may be engineered through biotechnology, capable of carrying a
21 biological agent or toxin to a host.
22 (g) "Destructive device" shall have the same meaning
23 as that term is defined in s. 790.001(4).
24 (2) A person who, without lawful authority,
25 manufactures, possesses, sells, delivers, displays, uses,
26 threatens to use, attempts to use, or conspires to use, or who
27 makes readily accessible to others a weapon of mass
28 destruction, other than a chemical weapon as that term is
29 defined in 18 U.S.C. 229F and s. 790.001, including any
30 biological agent, toxin, vector, or delivery system as those
31 terms are defined in this section:

1 (a) Against any person within the State of Florida,
2 provided the offense occurs in whole or in part within the
3 state; or
4 (b) Against any property that is owned, leased, or
5 used by the State of Florida or by any department, agency, or
6 political subdivision of the state, provided the offense
7 occurs in whole or in part within the state,
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9 commits a felony of the first degree, punishable by
10 imprisonment for a term of years not exceeding life or as
11 provided in s. 775.082, s. 775.083, or s. 775.084, and if
12 death results, commits a capital felony, punishable as
13 provided in s. 775.082.
14 (3) Any person who, without lawful authority,
15 manufactures, possesses, sells, delivers, displays, uses,
16 threatens to use, attempts to use, or conspires to use, or who
17 makes readily accessible to others a hoax weapon of mass
18 destruction commits a felony of the second degree, punishable
19 as provided in s. 775.082, s. 775.083, or s. 775.084.
20 (4) The provisions of this section shall not apply to
21 any member of the Armed Forces of the United States, federal
22 or state governmental agencies or personnel, or private
23 entities otherwise engaged in lawful activity within the scope
24 of his or her employment, if such person is otherwise duly
25 authorized or licensed to manufacture, possess, sell, deliver,
26 display, or otherwise engage in activity relative to this
27 section and if such person is in compliance with applicable
28 federal and state law.
29 Section 2. This act shall take effect July 1, 2000.
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HOUSE SUMMARY

Prohibits the unlawful manufacture, possession, sale, delivery, display, use, or attempted or threatened use of a "weapon of mass destruction" or a "hoax weapon of mass destruction," as defined by the act. Prohibits unlawful conspiring to use such weapons and making such weapons readily accessible to others. Provides a first degree felony penalty for violation with respect to a weapon of mass destruction and provides that violation which results in death is a capital felony. Provides a second degree felony penalty for violation with respect to a hoax weapon of mass destruction.