

By Senator Smith

14-1324-04

See HB 527

1 A bill to be entitled
 2 An act relating to possession of ammunition by
 3 felons and delinquents; amending s. 790.001,
 4 F.S.; providing a definition of the term
 5 "ammunition"; amending s. 790.23, F.S.;
 6 including ammunition among the specified items
 7 for which possession by a felon or delinquent
 8 constitutes a felony of the second degree;
 9 providing penalties; amending s. 790.235, F.S.;
 10 including ammunition among the specified items
 11 for which possession by a violent career
 12 criminal subjects such criminal to a mandatory
 13 minimum prison sentence; providing penalties;
 14 amending s. 921.0022, F.S., relating to the
 15 offense severity ranking chart, to conform;
 16 reenacting s. 790.01(5), F.S., relating to
 17 carrying concealed weapons, to incorporate the
 18 amendments to ss. 790.23 and 790.235, F.S., in
 19 references thereto; providing applicability;
 20 providing an effective date.

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

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 24 Section 1. Subsection (19) is added to section
 25 790.001, Florida Statutes, to read:
 26 790.001 Definitions.--As used in this chapter, except
 27 where the context otherwise requires:
 28 (19) "Ammunition" means an object consisting of all of
 29 the following:
 30 (a) A fixed metallic or nonmetallic hull or casing
 31 containing a primer.

1 (b) One or more projectiles, one or more bullets, or
2 shot.

3 (c) Gunpowder.
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5 All of the specified components must be present for an object
6 to be ammunition.

7 Section 2. Section 790.23, Florida Statutes, is
8 amended to read:

9 790.23 Felons and delinquents; possession of firearms,
10 ammunition, or electric weapons or devices unlawful.--

11 (1) It is unlawful for any person to own or to have in
12 his or her care, custody, possession, or control any firearm,
13 ammunition, or electric weapon or device, or to carry a
14 concealed weapon, including a tear gas gun or chemical weapon
15 or device, if that person has been:

16 (a) Convicted of a felony in the courts of this state;

17 (b) Found, in the courts of this state, to have
18 committed a delinquent act that would be a felony if committed
19 by an adult and such person is under 24 years of age; ~~-~~

20 (c) Convicted of or found to have committed a crime
21 against the United States which is designated as a felony;

22 (d) Found to have committed a delinquent act in
23 another state, territory, or country that would be a felony if
24 committed by an adult and which was punishable by imprisonment
25 for a term exceeding 1 year and such person is under 24 years
26 of age; or

27 (e) Found guilty of an offense that is a felony in
28 another state, territory, or country and which was punishable
29 by imprisonment for a term exceeding 1 year.

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1 (2) This section shall not apply to a person convicted
2 of a felony whose civil rights and firearm authority have been
3 restored.

4 (3) Any person who violates this section commits a
5 felony of the second degree, punishable as provided in s.
6 775.082, s. 775.083, or s. 775.084.

7 Section 3. Section 790.235, Florida Statutes, is
8 amended to read:

9 790.235 Possession of firearm or ammunition by violent
10 career criminal unlawful; penalty.--

11 (1) Any person who meets the violent career criminal
12 criteria under s. 775.084(1)(d), regardless of whether such
13 person is or has previously been sentenced as a violent career
14 criminal, who owns or has in his or her care, custody,
15 possession, or control any firearm, ammunition, or electric
16 weapon or device, or carries a concealed weapon, including a
17 tear gas gun or chemical weapon or device, commits a felony of
18 the first degree, punishable as provided in s. 775.082, s.
19 775.083, or s. 775.084. A person convicted of a violation of
20 this section shall be sentenced to a mandatory minimum of 15
21 years' imprisonment; however, if the person would be sentenced
22 to a longer term of imprisonment under s. 775.084(4)(d), the
23 person must be sentenced under that provision. A person
24 convicted of a violation of this section is not eligible for
25 any form of discretionary early release, other than pardon,
26 executive clemency, or conditional medical release under s.
27 947.149.

28 (2) For purposes of this section, the previous felony
29 convictions necessary to meet the violent career criminal
30 criteria under s. 775.084(1)(d) may be convictions for
31 felonies committed as an adult or adjudications of delinquency

1 for felonies committed as a juvenile. In order to be counted
2 as a prior felony for purposes of this section, the felony
3 must have resulted in a conviction sentenced separately, or an
4 adjudication of delinquency entered separately, prior to the
5 current offense, and sentenced or adjudicated separately from
6 any other felony that is to be counted as a prior felony.

7 (3) This section shall not apply to a person whose
8 civil rights and firearm authority have been restored.

9 Section 4. Paragraph (e) of subsection (3) of section
10 921.0022, Florida Statutes, is amended to read:

11 921.0022 Criminal Punishment Code; offense severity
12 ranking chart.--

13 (3) OFFENSE SEVERITY RANKING CHART

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15 Florida	Felony	
16 Statute	Degree	Description
		(e) LEVEL 5
20 316.027(1)(a)	3rd	Accidents involving personal 21 injuries, failure to stop; 22 leaving scene.
23 316.1935(4)	2nd	Aggravated fleeing or eluding.
24 322.34(6)	3rd	Careless operation of motor 25 vehicle with suspended license, 26 resulting in death or serious 27 bodily injury.
28 327.30(5)	3rd	Vessel accidents involving 29 personal injury; leaving scene.
30 381.0041 (11)(b)	3rd	Donate blood, plasma, or organs 31 knowing HIV positive.

1	440.10(1)(g)	2nd	Failure to obtain workers'
2			compensation coverage.
3	440.105(5)	2nd	Unlawful solicitation for the
4			purpose of making workers'
5			compensation claims.
6	440.381(2)	2nd	Submission of false, misleading,
7			or incomplete information with
8			the purpose of avoiding or
9			reducing workers' compensation
10			premiums.
11	624.401(4)(b)2.	2nd	Transacting insurance without a
12			certificate or authority; premium
13			collected \$20,000 or more but
14			less than \$100,000.
15	626.902(1)(c)	2nd	Representing an unauthorized
16			insurer; repeat offender.
17	790.01(2)	3rd	Carrying a concealed firearm.
18	790.162	2nd	Threat to throw or discharge
19			destructive device.
20	790.163(1)	2nd	False report of deadly explosive
21			or weapon of mass destruction.
22	790.221(1)	2nd	Possession of short-barreled
23			shotgun or machine gun.
24	790.23	2nd	Felons in possession of firearms,
25			<u>ammunition</u> , or electronic weapons
26			or devices.
27	800.04(6)(c)	3rd	Lewd or lascivious conduct;
28			offender less than 18 years.
29	800.04(7)(c)	2nd	Lewd or lascivious exhibition;
30			offender 18 years or older.
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1	806.111(1)	3rd	Possess, manufacture, or dispense
2			fire bomb with intent to damage
3			any structure or property.
4	812.0145(2)(b)	2nd	Theft from person 65 years of age
5			or older; \$10,000 or more but
6			less than \$50,000.
7	812.015(8)	3rd	Retail theft; property stolen is
8			valued at \$300 or more and one or
9			more specified acts.
10	812.019(1)	2nd	Stolen property; dealing in or
11			trafficking in.
12	812.131(2)(b)	3rd	Robbery by sudden snatching.
13	812.16(2)	3rd	Owning, operating, or conducting
14			a chop shop.
15	817.034(4)(a)2.	2nd	Communications fraud, value
16			\$20,000 to \$50,000.
17	817.234(11)(b)	2nd	Insurance fraud; property value
18			\$20,000 or more but less than
19			\$100,000.
20	817.2341(1), (2)(a)&(3)(a)	3rd	Filing false financial
21			statements, making false entries
22			of material fact or false
23			statements regarding property
24			values relating to the solvency
25			of an insuring entity.
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1	817.568(2)(b)	2nd	Fraudulent use of personal
2			identification information; value
3			of benefit, services received,
4			payment avoided, or amount of
5			injury or fraud, \$5,000 or more
6			or use of personal identification
7			information of 10 or more
8			individuals.
9	817.625(2)(b)	2nd	Second or subsequent fraudulent
10			use of scanning device or
11			reencoder.
12	825.1025(4)	3rd	Lewd or lascivious exhibition in
13			the presence of an elderly person
14			or disabled adult.
15	827.071(4)	2nd	Possess with intent to promote
16			any photographic material, motion
17			picture, etc., which includes
18			sexual conduct by a child.
19	839.13(2)(b)	2nd	Falsifying records of an
20			individual in the care and
21			custody of a state agency
22			involving great bodily harm or
23			death.
24	843.01	3rd	Resist officer with violence to
25			person; resist arrest with
26			violence.
27	874.05(2)	2nd	Encouraging or recruiting another
28			to join a criminal street gang;
29			second or subsequent offense.
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1	893.13(1)(a)1.	2nd	Sell, manufacture, or deliver
2			cocaine (or other s.
3			893.03(1)(a), (1)(b), (1)(d),
4			(2)(a), (2)(b), or (2)(c)4.
5			drugs).
6	893.13(1)(c)2.	2nd	Sell, manufacture, or deliver
7			cannabis (or other s.
8			893.03(1)(c), (2)(c)1., (2)(c)2.,
9			(2)(c)3., (2)(c)5., (2)(c)6.,
10			(2)(c)7., (2)(c)8., (2)(c)9.,
11			(3), or (4) drugs) within 1,000
12			feet of a child care facility,
13			school, or state, county, or
14			municipal park or publicly owned
15			recreational facility or
16			community center.
17	893.13(1)(d)1.	1st	Sell, manufacture, or deliver
18			cocaine (or other s.
19			893.03(1)(a), (1)(b), (1)(d),
20			(2)(a), (2)(b), or (2)(c)4.
21			drugs) within 1,000 feet of
22			university.
23	893.13(1)(e)2.	2nd	Sell, manufacture, or deliver
24			cannabis or other drug prohibited
25			under s. 893.03(1)(c), (2)(c)1.,
26			(2)(c)2., (2)(c)3., (2)(c)5.,
27			(2)(c)6., (2)(c)7., (2)(c)8.,
28			(2)(c)9., (3), or (4) within
29			1,000 feet of property used for
30			religious services or a specified
31			business site.

1 893.13(1)(f)1. 1st Sell, manufacture, or deliver
2 cocaine (or other s.
3 893.03(1)(a), (1)(b), (1)(d), or
4 (2)(a), (2)(b), or (2)(c)4.
5 drugs) within 1,000 feet of
6 public housing facility.
7 893.13(4)(b) 2nd Deliver to minor cannabis (or
8 other s. 893.03(1)(c), (2)(c)1.,
9 (2)(c)2., (2)(c)3., (2)(c)5.,
10 (2)(c)6., (2)(c)7., (2)(c)8.,
11 (2)(c)9., (3), or (4) drugs).

12 Section 5. For the purpose of incorporating the
13 amendments to sections 790.23 and 790.235, Florida Statutes,
14 in references thereto, subsection (5) of section 790.01,
15 Florida Statutes, is reenacted to read:

16 790.01 Carrying concealed weapons.--

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

22 Section 6. This act shall take effect October 1, 2004,
23 and shall apply to offenses committed on or after that date.
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