

By Senator Saunders

37-80-04

1                                   A bill to be entitled  
2           An act relating to culpable negligence;  
3           amending s. 784.05, F.S.; providing that it is  
4           a first-degree misdemeanor for a person to  
5           commit culpable negligence by driving a vehicle  
6           under the influence of alcohol or drugs while  
7           accompanied in the vehicle by a person younger  
8           than a specified age; providing an effective  
9           date.

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

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13           Section 1. Section 784.05, Florida Statutes, is  
14 amended to read:

15           784.05 Culpable negligence.--

16           (1) Whoever, through culpable negligence, exposes  
17 another person to personal injury commits a misdemeanor of the  
18 second degree, punishable as provided in s. 775.082 or s.  
19 775.083.

20           (2) Whoever, through culpable negligence, inflicts  
21 actual personal injury on another commits a misdemeanor of the  
22 first degree, punishable as provided in s. 775.082 or s.  
23 775.083.

24           (3) Whoever violates subsection (1) by storing or  
25 leaving a loaded firearm within the reach or easy access of a  
26 minor commits, if the minor obtains the firearm and uses it to  
27 inflict injury or death upon himself or herself or any other  
28 person, a felony of the third degree, punishable as provided  
29 in s. 775.082, s. 775.083, or s. 775.084. However, this  
30 subsection does not apply:

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1 (a) If the firearm was stored or left in a securely  
2 locked box or container or in a location which a reasonable  
3 person would have believed to be secure, or was securely  
4 locked with a trigger lock;

5 (b) If the minor obtains the firearm as a result of an  
6 unlawful entry by any person;

7 (c) To injuries resulting from target or sport  
8 shooting accidents or hunting accidents; or

9 (d) To members of the Armed Forces, National Guard, or  
10 State Militia, or to police or other law enforcement officers,  
11 with respect to firearm possession by a minor which occurs  
12 during or incidental to the performance of their official  
13 duties.

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15 When any minor child is accidentally shot by another family  
16 member, no arrest shall be made pursuant to this subsection  
17 prior to 7 days after the date of the shooting. With respect  
18 to any parent or guardian of any deceased minor, the  
19 investigating officers shall file all findings and evidence  
20 with the state attorney's office with respect to violations of  
21 this subsection. The state attorney shall evaluate such  
22 evidence and shall take such action as he or she deems  
23 appropriate under the circumstances and may file an  
24 information against the appropriate parties.

25 (4) As used in this act, the term "minor" means any  
26 person under the age of 16.

27 (5) A person who violates subsection (1) by driving  
28 under the influence as proscribed by s. 316.193 commits a  
29 misdemeanor of the first degree, punishable as provided in s.  
30 775.082 or s. 775.083, if, at the time of the offense, the

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1 person is accompanied in the vehicle by a person younger than  
2 18 years of age.

3 Section 2. This act shall take effect July 1, 2004.

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SENATE SUMMARY

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Provides that a person who commits culpable negligence by driving under the influence commits a first-degree misdemeanor rather than a second-degree misdemeanor if a person younger than 18 years of age is in the vehicle at the time of the offense.