Florida Senate - 2005

By Senator Saunders

37-52-05 1 A bill to be entitled 2 An act relating to culpable negligence; amending s. 784.05, F.S.; providing that it is 3 4 a first-degree misdemeanor for a person to 5 commit culpable negligence by driving a vehicle б under the influence of alcohol or drugs while 7 accompanied in the vehicle by a person younger than a specified age; providing an effective 8 9 date. 10 Be It Enacted by the Legislature of the State of Florida: 11 12 13 Section 1. Section 784.05, Florida Statutes, is amended to read: 14 784.05 Culpable negligence.--15 (1) Whoever, through culpable negligence, exposes 16 17 another person to personal injury commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 18 775.083. 19 (2) Whoever, through culpable negligence, inflicts 20 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. (3) Whoever violates subsection (1) by storing or 2.4 leaving a loaded firearm within the reach or easy access of a 25 minor commits, if the minor obtains the firearm and uses it to 26 27 inflict injury or death upon himself or herself or any other 2.8 person, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. However, this 29 subsection does not apply: 30 31

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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 person would have believed to be secure, or was securely 3 locked with a trigger lock; 4 (b) If the minor obtains the firearm as a result of an 5 6 unlawful entry by any person; 7 (c) To injuries resulting from target or sport 8 shooting accidents or hunting accidents; or (d) To members of the Armed Forces, National Guard, or 9 10 State Militia, or to police or other law enforcement officers, with respect to firearm possession by a minor which occurs 11 12 during or incidental to the performance of their official 13 duties. 14 When any minor child is accidentally shot by another family 15 member, no arrest shall be made pursuant to this subsection 16 17 prior to 7 days after the date of the shooting. With respect to any parent or guardian of any deceased minor, the 18 investigating officers shall file all findings and evidence 19 with the state attorney's office with respect to violations of 20 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 information against the appropriate parties. 2.4 (4) As used in this act, the term "minor" means any 25 person under the age of 16. 26 27 (5) A person who violates subsection (1) by driving 2.8 under the influence as proscribed by s. 316.193 commits a misdemeanor of the first degree, punishable as provided in s. 29 30 775.082 or s. 775.083, if, at the time of the offense, the 31

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person is accompanied in the vehicle by a person younger than 18 years of age. Section 2. This act shall take effect July 1, 2005. SENATE SUMMARY 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.

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