By Senator Wilson

33-790B-06

1	A bill to be entitled
2	An act relating to imitation firearms; defining
3	the term "imitation firearm"; prohibiting the
4	sale of an imitation firearm; providing
5	exceptions; providing penalties for a person
6	who sells an imitation firearm; amending s.
7	790.07, F.S.; providing penalties for a person
8	who displays, uses, threatens, or attempts to
9	use any imitation firearm while committing or
10	attempting to commit a felony; providing an
11	effective date.
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13	Be It Enacted by the Legislature of the State of Florida:
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15	Section 1. Sale of imitation firearms prohibited;
16	penalties
17	(1) As used in this section, the term "imitation
18	firearm" means any toy qun, replica of a firearm, air-soft qun
19	that fires nonmetallic projectiles, or other device that is so
20	substantially similar in coloration and overall appearance to
21	a firearm, as defined in s. 790.001, Florida Statutes, as to
22	<u>lead a reasonable person to believe that the device is a</u>
23	firearm. As provided in the federal regulations governing
24	imitation firearms, the term does not include:
25	(a) A nonfiring collector's replica of an antique
26	firearm developed prior to 1898;
27	(b) Traditional BB, paintball, or pellet-firing air
28	quns that expel a projectile through the force of air
29	pressure; or
30	(c) A device for which a blaze orange solid plug or
31	marking is permanently affixed to the muzzle end of the barrel

1	for a depth of at least 6 millimeters; a device for which the
2	entire exterior surface is colored white, bright red, bright
3	orange, bright yellow, bright green, bright blue, bright pink,
4	or bright purple, either singly or as the predominant color in
5	combination with other colors in any pattern; or a device that
6	is constructed of transparent or translucent materials that
7	permit unmistakable observation of the complete contents of
8	the device.
9	(2) A person may not sell or offer for sale within
10	this state, by mail or in any other manner, an imitation
11	firearm.
12	(3) A person may sell or offer for sale an imitation
13	firearm if the device is sold solely for purposes of:
14	(a) Export in interstate or foreign commerce;
15	(b) Lawful use in theatrical productions, including
16	motion picture, television, and stage productions;
17	(c) Use in a certified or regulated sporting event or
18	competition;
19	(d) Use in military or civil defense activities or
20	ceremonial activities; or
21	(e) Public displays authorized by public or private
22	schools.
23	(4)(a) A person who violates subsection (2) commits a
24	misdemeanor of the first degree, punishable as provided in s.
25	775.082 or s. 775.083, Florida Statutes.
26	(b) A person who violates subsection (2) a second or
27	subsequent time commits a felony of the third degree,
28	punishable as provided in s. 775.082 or s. 775.083, Florida
29	Statutes.
30	Section 2. Section 790.07, Florida Statutes, is
31	amended to read:

2.4

790.07 Persons engaged in criminal offense, having weapons or imitation firearms.--

- (1) Whoever, while committing or attempting to commit any felony or while under indictment, displays, uses, threatens, or attempts to use any weapon or electric weapon or device or carries a concealed weapon commits is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
- (2) Whoever, while committing or attempting to commit any felony, displays, uses, threatens, or attempts to use any firearm or <u>imitation firearm</u>, or carries a concealed firearm, <u>commits</u> is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, and s. 775.084.
- (3) The following crimes are excluded from application of this section: Antitrust violations, unfair trade practices, restraints of trade, nonsupport of dependents, bigamy, or other similar offenses.
- (4) Whoever, having previously been convicted of a violation of subsection (1) or subsection (2) and, subsequent to such conviction, displays, uses, threatens, or attempts to use any weapon, firearm, <u>imitation firearm</u>, or electric weapon or device, carries a concealed weapon, or carries a concealed firearm while committing or attempting to commit any felony or while under indictment <u>commits is guilty of</u> a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Sentence <u>may shall</u> not be suspended or deferred under the provisions of this subsection.

Section 3. This act shall take effect October 1, 2006.

2.8

\*\*\*\*\*\*\*\*\*\* SENATE SUMMARY Defines the term "imitation firearm." Prohibits the sale of any imitation firearm. Provides exceptions. Provides penalties for a person who sells an imitation firearm. Provides penalties for a person who displays, uses, threatens, or attempts to use any imitation firearm while committing or attempting to commit a felony.