

By Senator Bullard

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1 A bill to be entitled

2 An act relating to culpable negligence; providing a short
3 title; amending s. 784.05, F.S.; prohibiting storing or
4 leaving an assault weapon within the reach or easy access
5 of another person if the person obtains the weapon and
6 uses it to inflict injury or death; providing criminal
7 penalties; defining the term "assault weapon"; amending s.
8 921.0022, F.S.; conforming provisions of the offense
9 severity ranking chart of the Criminal Punishment Code;
10 providing an effective date.

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

13
14 Section 1. This act may be cited as the "Officer Jose
15 Somohano Assault Weapons Act."

16 Section 2. Section 784.05, Florida Statutes, is amended to
17 read:

18 784.05 Culpable negligence.--

19 (1)~~(4)~~ As used in this section ~~act~~, the term "minor" means
20 any person under the age of 16.

21 (2)~~(1)~~ Whoever, through culpable negligence, exposes
22 another person to personal injury commits a misdemeanor of the
23 second degree, punishable as provided in s. 775.082 or s.
24 775.083.

25 (3)~~(2)~~ Whoever, through culpable negligence, inflicts
26 actual personal injury on another commits a misdemeanor of the
27 first degree, punishable as provided in s. 775.082 or s. 775.083.

28 (4)~~(3)~~ Whoever violates subsection (2) ~~(1)~~ by storing or
29 leaving a loaded firearm within the reach or easy access of a

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30 | minor commits, if the minor obtains the firearm and uses it to
31 | inflict injury or death upon himself or herself or any other
32 | person, a felony of the third degree, punishable as provided in
33 | s. 775.082, s. 775.083, or s. 775.084. However, this subsection
34 | does not apply:

35 | (a) If the firearm was stored or left in a securely locked
36 | box or container or in a location which a reasonable person would
37 | have believed to be secure, or was securely locked with a trigger
38 | lock;

39 | (b) If the minor obtains the firearm as a result of an
40 | unlawful entry by any person;

41 | (c) To injuries resulting from target or sport shooting
42 | accidents or hunting accidents; or

43 | (d) To members of the Armed Forces, National Guard, or
44 | State Militia, or to police or other law enforcement officers,
45 | with respect to firearm possession by a minor which occurs during
46 | or incidental to the performance of their official duties.

47 |
48 | When any minor child is accidentally shot by another family
49 | member, no arrest shall be made pursuant to this subsection prior
50 | to 7 days after the date of the shooting. With respect to any
51 | parent or guardian of any deceased minor, the investigating
52 | officers shall file all findings and evidence with the state
53 | attorney's office with respect to violations of this subsection.
54 | The state attorney shall evaluate such evidence and shall take
55 | such action as he or she deems appropriate under the
56 | circumstances and may file an information against the appropriate
57 | parties.

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58 (5) (a) Whoever violates subsection (2) by storing or
59 leaving an assault weapon within the reach or easy access of
60 another person commits, if the person obtains the assault weapon
61 and uses it to inflict injury or death upon himself or herself or
62 any other person, a felony of the third degree, punishable as
63 provided in s. 775.082, s. 775.083, or s. 775.084. However, this
64 subsection does not apply:

65 1. If the assault weapon was stored or left in a securely
66 locked box or container or in a location which a reasonable
67 person would have believed to be secure, or was securely locked
68 with a trigger lock;

69 2. If the assault weapon was stolen and the owner reported
70 the theft of the assault weapon to law enforcement authorities
71 within 24 hours of the owner's knowledge of the theft;

72 3. To injuries resulting from target or sport shooting
73 accidents or hunting accidents; or

74 4. To members of the Armed Forces, National Guard, or State
75 Militia, or to police or other law enforcement officers, with
76 respect to assault firearm possession which occurs during or
77 incidental to the performance of their official duties.

78 (b)1. For purposes of this subsection, the term "assault
79 weapon" means:

80 a. A semiautomatic rifle that has an ability to accept a
81 detachable magazine and has at least two of the following
82 characteristics:

83 (I) A folding or telescoping stock;

84 (II) A pistol grip that protrudes conspicuously beneath the
85 action of the weapon;

86 (III) A bayonet mount;

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87 (IV) A flash suppressor or threaded barrel designed to
88 accommodate a flash suppressor; or

89 (V) A grenade launcher; or

90 b. A semiautomatic shotgun that has at least two of the
91 following characteristics:

92 (I) A folding or telescoping stock;

93 (II) A pistol grip that protrudes conspicuously beneath the
94 action of the weapon;

95 (III) A fixed magazine capacity in excess of five rounds;

96 or

97 (IV) An ability to accept a detachable magazine; or

98 c. A semiautomatic pistol that has an ability to accept a
99 detachable magazine and has at least two of the following
100 characteristics:

101 (I) An ammunition magazine that attaches to the pistol
102 outside of the pistol grip;

103 (II) A threaded barrel capable of accepting a barrel
104 extender, flash suppressor, forward handgrip, or silencer;

105 (III) A shroud that is attached to, or partially or
106 completely encircles, the barrel and that permits the shooter to
107 hold the firearm with the nontrigger hand without being burned;

108 (IV) A manufactured weight of 50 ounces or more when the
109 pistol is unloaded; or

110 (V) A semiautomatic version of an automatic rifle, shotgun,
111 or firearm; or

112 d. Any of the weapons, or functioning frames or receivers
113 of such weapons, or copies or duplicates of such weapons, in any
114 caliber, known as:

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- 115 (I) Norinco, Mitchell, and Poly Technologies Avtomat
116 Kalashnikovs (all models);
- 117 (II) Action Arms Israeli Military Industries UZI and Galil;
118 (III) Beretta Ar70 (SC-70);
119 (IV) Colt AR-15;
120 (V) Fabrique National FN/FAL, FN/LAR, and FNC;
121 (VI) SWD M-10, M-11, M-11/9, and M-12;
122 (VII) Steyr AUG;
123 (VIII) INTRATEC TEC-9, TEC-DC9, and TEC-22; or
124 (IX) Revolving cylinder shotguns, such as, or similar to,
125 the Street Sweeper and Striker 12.
- 126 2. The term does not include any rifle, shotgun, or pistol
127 that:
- 128 a. Is manually operated by bolt, pump, lever, or slide
129 action;
- 130 b. Has been rendered permanently inoperable;
131 c. Is an antique firearm as defined in 18 U.S.C. s.
132 921(a)(16);
- 133 d. Is a semiautomatic rifle that cannot accept a detachable
134 magazine that holds more than five rounds of ammunition;
- 135 e. Is a semiautomatic shotgun that cannot hold more than
136 five rounds of ammunition in a fixed or detachable magazine;
- 137 f. Is a rifle, shotgun, or pistol, or a replica or a
138 duplicate thereof, specified in Appendix A to 18 U.S.C. s. 922 as
139 such weapon was manufactured on October 1, 1993. The mere fact
140 that a weapon is not listed in Appendix A shall not be construed
141 to mean that such weapon is an assault weapon; or

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142 g. Is a semiautomatic rifle, a semiautomatic shotgun, or a
 143 semiautomatic pistol or any of the weapons defined in sub-
 144 subparagraph 1.d. lawfully possessed prior to September 14, 1994.

145 Section 3. Paragraph (b) of subsection (3) of section
 146 921.0022, Florida Statutes, is amended to read:

147 921.0022 Criminal Punishment Code; offense severity ranking
 148 chart.--

149 (3) OFFENSE SEVERITY RANKING CHART

150 (b) LEVEL 2

Florida Statute	Felony Degree	Description
370.12(1)(e)3.	3rd	Possession of 11 or fewer marine turtle eggs in violation of the Marine Turtle Protection Act.
370.12(1)(e)4.	3rd	Possession of more than 11 marine turtle eggs in violation of the Marine Turtle Protection Act.
403.413(5)(c)	3rd	Dumps waste litter exceeding 500 lbs. in weight or 100 cubic feet in volume or any quantity for commercial purposes, or hazardous waste.
517.07	3rd	Registration of securities and furnishing of prospectus required.
590.28(1)	3rd	Willful, malicious, or intentional

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			burning.
156	784.05 (4) (3)	3rd	Storing or leaving a loaded firearm within reach of minor who uses it to inflict injury or death.
157	<u>784.05 (5)</u>	<u>3rd</u>	<u>Storing or leaving an assault weapon within reach of another who uses it to inflict injury or death.</u>
158	787.04 (1)	3rd	In violation of court order, take, entice, etc., minor beyond state limits.
159	806.13 (1) (b) 3.	3rd	Criminal mischief; damage \$1,000 or more to public communication or any other public service.
160	810.061 (2)	3rd	Impairing or impeding telephone or power to a dwelling; facilitating or furthering burglary.
161	810.09 (2) (e)	3rd	Trespassing on posted commercial horticulture property.
162	812.014 (2) (c) 1.	3rd	Grand theft, 3rd degree; \$300 or more but less than \$5,000.
163	812.014 (2) (d)	3rd	Grand theft, 3rd degree; \$100 or more but less than \$300, taken from

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			unenclosed curtilage of dwelling.
164	812.015 (7)	3rd	Possession, use, or attempted use of an antishoplifting or inventory control device countermeasure.
165	817.234 (1) (a) 2.	3rd	False statement in support of insurance claim.
166	817.481 (3) (a)	3rd	Obtain credit or purchase with false, expired, counterfeit, etc., credit card, value over \$300.
167	817.52 (3)	3rd	Failure to redeliver hired vehicle.
168	817.54	3rd	With intent to defraud, obtain mortgage note, etc., by false representation.
169	817.60 (5)	3rd	Dealing in credit cards of another.
170	817.60 (6) (a)	3rd	Forgery; purchase goods, services with false card.
171	817.61	3rd	Fraudulent use of credit cards over \$100 or more within 6 months.
172	826.04	3rd	Knowingly marries or has sexual intercourse with person to whom related.
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174	831.01	3rd	Forgery.
175	831.02	3rd	Uttering forged instrument; utters or publishes alteration with intent to defraud.
176	831.07	3rd	Forging bank bills, checks, drafts, or promissory notes.
177	831.08	3rd	Possessing 10 or more forged notes, bills, checks, or drafts.
178	831.09	3rd	Uttering forged notes, bills, checks, drafts, or promissory notes.
179	831.11	3rd	Bringing into the state forged bank bills, checks, drafts, or notes.
180	832.05(3)(a)	3rd	Cashing or depositing item with intent to defraud.
181	843.08	3rd	Falsely impersonating an officer.
182	893.13(2)(a)2.	3rd	Purchase of any s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs other than cannabis.
	893.147(2)	3rd	Manufacture or delivery of drug

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paraphernalia.

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Section 4. This act shall take effect October 1, 2008.