

1                   A bill to be entitled  
 2           An act relating to culpable negligence; providing a short  
 3           title; amending s. 784.05, F.S.; providing that a person  
 4           commits a felony of the third degree if he or she stores  
 5           or leaves an assault weapon within the reach or easy  
 6           access of another person if that person obtains the weapon  
 7           and uses it to inflict injury or death; providing criminal  
 8           penalties; providing exceptions; defining the term  
 9           "assault weapon"; providing an effective date.

10  
 11 Be It Enacted by the Legislature of the State of Florida:

12  
 13           Section 1. This act may be cited as the "Officer Jose  
 14 Somohano Assault Weapons Act."

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

17           784.05 Culpable negligence.--

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

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

24           (3) Whoever violates subsection (1) by storing or leaving  
 25 a loaded firearm within the reach or easy access of a minor  
 26 commits, if the minor obtains the firearm and uses it to inflict  
 27 injury or death upon himself or herself or any other person, a  
 28 felony of the third degree, punishable as provided in s.

29 | 775.082, s. 775.083, or s. 775.084. However, this subsection  
 30 | does not apply:

31 |       (a) If the firearm was stored or left in a securely locked  
 32 | box or container or in a location which a reasonable person  
 33 | would have believed to be secure, or was securely locked with a  
 34 | trigger lock;

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

37 |       (c) To injuries resulting from target or sport shooting  
 38 | accidents or hunting accidents; or

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

44 |  
 45 | When any minor child is accidentally shot by another family  
 46 | member, an ~~no~~ arrest may not ~~shall~~ be made pursuant to this  
 47 | subsection prior to 7 days after the date of the shooting. With  
 48 | respect to any parent or guardian of any deceased minor, the  
 49 | investigating officers shall file all findings and evidence with  
 50 | the state attorney's office with respect to violations of this  
 51 | subsection. The state attorney shall evaluate the ~~such~~ evidence  
 52 | and shall take such action as he or she deems appropriate under  
 53 | the circumstances and may file an information against the  
 54 | appropriate parties.

55 |       (4) As used in this section ~~act~~, the term "minor" means  
 56 | any person under the age of 16.

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57 (5) (a) Whoever violates subsection (1) by storing or  
58 leaving an assault weapon within the reach or easy access of  
59 another person commits a felony of the third degree, punishable  
60 as provided in s. 775.082, s. 775.083, or s. 775.084, if the  
61 person obtains the assault weapon and uses it to inflict injury  
62 or death upon himself or herself or any other person. However,  
63 this subsection does not apply:

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

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

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

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

85 the action of the weapon;  
 86 (III) A bayonet mount;  
 87 (IV) A flash suppressor or threaded barrel designed to  
 88 accommodate a flash suppressor; or  
 89 (V) A grenade launcher;  
 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  
 94 the 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;  
 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,  
 111 shotgun, 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:

115 (I) Norinco, Mitchell, and Poly Technologies Avtomat  
 116 Kalashnikovs, all models;

117 (II) Action Arms Israeli Military Industries UZI and  
 118 Galil;

119 (III) Beretta Ar70 (SC-70);

120 (IV) Colt AR-15;

121 (V) Fabrique National FN/FAL, FN/LAR, and FNC;

122 (VI) SWD M-10, M-11, M-11/9, and M-12;

123 (VII) Steyr AUG;

124 (VIII) INTRATEC TEC-9, TEC-DC9, and TEC-22; or

125 (IX) Revolving cylinder shotguns, such as, or similar to,  
 126 the Street Sweeper and Striker 12.

127 2. The term does not include any rifle, shotgun, or pistol  
 128 that:

129 a. Is manually operated by bolt, pump, lever, or slide  
 130 action;

131 b. Has been rendered permanently inoperable;

132 c. Is an antique firearm as defined in 18 U.S.C. s.  
 133 921(a)(16);

134 d. Is a semiautomatic rifle that cannot accept a  
 135 detachable magazine that holds more than five rounds of  
 136 ammunition;

137 e. Is a semiautomatic shotgun that cannot hold more than  
 138 five rounds of ammunition in a fixed or detachable magazine;

139 f. Is a rifle, shotgun, or pistol, or a replica or a  
 140 duplicate thereof, specified in Appendix A to 18 U.S.C. s. 922

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141 as such weapon was manufactured on October 1, 1993. The mere  
142 fact that a weapon is not listed in Appendix A does not mean  
143 that such weapon is an assault weapon; or

144 g. Is a semiautomatic rifle, a semiautomatic shotgun, or a  
145 semiautomatic pistol or any of the weapons defined in sub-  
146 subparagraph 1.d. lawfully possessed prior to September 14,  
147 1994.

148 Section 3. This act shall take effect July 1, 2010.