

By Senator Bullard

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1 A bill to be entitled

2 An act relating to culpable negligence; providing a
3 short title; amending s. 784.05, F.S.; providing that
4 a person commits a felony of the third degree if he or
5 she stores or leaves an assault weapon within the
6 reach or easy access of another person if that person
7 obtains the weapon and uses it to inflict injury or
8 death; providing criminal penalties; providing
9 exceptions; defining the term "assault weapon";
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) Whoever, through culpable negligence, exposes another
20 person to personal injury commits a misdemeanor of the second
21 degree, punishable as provided in s. 775.082 or s. 775.083.

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

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

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

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

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

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

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

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

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

58 (5) (a) Whoever violates subsection (1) by storing or

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59 leaving an assault weapon within the reach or easy access of
60 another person commits a felony of the third degree, punishable
61 as provided in s. 775.082, s. 775.083, or s. 775.084, if the
62 person obtains the assault weapon and uses it to inflict injury
63 or death upon himself or herself or any other person. However,
64 this 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 that 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 after 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 the possession of an assault firearm which occurs
77 during or incidental to the performance of their official
78 duties.

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

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

84 (I) A folding or telescoping stock;

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

87 (III) A bayonet mount;

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

90 (V) A grenade launcher;

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

93 (I) A folding or telescoping stock;

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

96 (III) A fixed magazine capacity in excess of five rounds;
97 or

98 (IV) An ability to accept a detachable magazine;

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

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

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

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

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

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

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

116 (I) Norinco, Mitchell, and Poly Technologies Avtomat

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117 Kalashnikovs, all models;
118 (II) Action Arms Israeli Military Industries UZI and 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 detachable
135 magazine that holds more than five rounds of ammunition;

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

138 f. Is a rifle, shotgun, or pistol, or a replica or a
139 duplicate thereof, specified in Appendix A to 18 U.S.C. s. 922
140 as such weapon was manufactured on October 1, 1993. The mere
141 fact that a weapon is not listed in Appendix A does not mean
142 that such weapon is an assault weapon; or

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

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146 1994.

147 Section 3. This act shall take effect July 1, 2011.