

By the Committee on Criminal Justice; and Senator Latvala

591-03220-12

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1 A bill to be entitled
2 An act relating to possession of a firearm or
3 destructive device during the commission of an
4 offense; amending s. 775.087, F.S.; providing that an
5 exception to the 10-year minimum term for persons
6 convicted of certain offenses during which the person
7 actually possessed a firearm or destructive device
8 does not apply to offenders convicted for possession
9 of a firearm by a felon who have certain prior
10 convictions; providing an effective date.

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

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14 Section 1. Paragraph (a) of subsection (2) of section
15 775.087, Florida Statutes, is amended to read:

16 775.087 Possession or use of weapon; aggravated battery;
17 felony reclassification; minimum sentence.—

18 (2)(a)1. Any person who is convicted of a felony or an
19 attempt to commit a felony, regardless of whether the use of a
20 weapon is an element of the felony, and the conviction was for:

- 21 a. Murder;
22 b. Sexual battery;
23 c. Robbery;
24 d. Burglary;
25 e. Arson;
26 f. Aggravated assault;
27 g. Aggravated battery;
28 h. Kidnapping;
29 i. Escape;

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- 30 j. Aircraft piracy;
- 31 k. Aggravated child abuse;
- 32 l. Aggravated abuse of an elderly person or disabled adult;
- 33 m. Unlawful throwing, placing, or discharging of a
- 34 destructive device or bomb;
- 35 n. Carjacking;
- 36 o. Home-invasion robbery;
- 37 p. Aggravated stalking;
- 38 q. Trafficking in cannabis, trafficking in cocaine, capital
- 39 importation of cocaine, trafficking in illegal drugs, capital
- 40 importation of illegal drugs, trafficking in phencyclidine,
- 41 capital importation of phencyclidine, trafficking in
- 42 methaqualone, capital importation of methaqualone, trafficking
- 43 in amphetamine, capital importation of amphetamine, trafficking
- 44 in flunitrazepam, trafficking in gamma-hydroxybutyric acid
- 45 (GHB), trafficking in 1,4-Butanediol, trafficking in
- 46 Phenethylamines, or other violation of s. 893.135(1); or
- 47 r. Possession of a firearm by a felon
- 48

49 and during the commission of the offense, such person actually

50 possessed a "firearm" or "destructive device" as those terms are

51 defined in s. 790.001, shall be sentenced to a minimum term of

52 imprisonment of 10 years, except that a person who is convicted

53 for aggravated assault, possession of a firearm by a felon, or

54 burglary of a conveyance shall be sentenced to a minimum term of

55 imprisonment of 3 years if such person possessed a "firearm" or

56 "destructive device" during the commission of the offense.

57 However, if an offender who is convicted of the offense of

58 possession of a firearm by a felon has a previous conviction of

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59 committing or attempting to commit a felony listed in s.
60 775.084(1)(b)1. and actually possessed a firearm or destructive
61 device during the commission of the prior felony, the offender
62 shall be sentenced to a minimum term of imprisonment of 10
63 years.

64 2. Any person who is convicted of a felony or an attempt to
65 commit a felony listed in sub-subparagraphs (a)1.a.-q.,
66 regardless of whether the use of a weapon is an element of the
67 felony, and during the course of the commission of the felony
68 such person discharged a "firearm" or "destructive device" as
69 defined in s. 790.001 shall be sentenced to a minimum term of
70 imprisonment of 20 years.

71 3. Any person who is convicted of a felony or an attempt to
72 commit a felony listed in sub-subparagraphs (a)1.a.-q.,
73 regardless of whether the use of a weapon is an element of the
74 felony, and during the course of the commission of the felony
75 such person discharged a "firearm" or "destructive device" as
76 defined in s. 790.001 and, as the result of the discharge, death
77 or great bodily harm was inflicted upon any person, the
78 convicted person shall be sentenced to a minimum term of
79 imprisonment of not less than 25 years and not more than a term
80 of imprisonment of life in prison.

81 Section 2. This act shall take effect July 1, 2012.