

By Senator Braynon

36-01412-13

20131582__

1 A bill to be entitled
2 An act relating to culpable negligence; providing a
3 short title; amending s. 784.05, F.S.; defining the
4 term "assault weapon"; providing that a person commits
5 a felony of the third degree if he or she stores or
6 leaves an assault weapon within the reach or easy
7 access of another person if that person obtains the
8 weapon and uses it to inflict injury or death;
9 providing criminal penalties; providing exceptions;
10 amending s. 921.0022, F.S.; conforming a cross-
11 reference; providing an effective date.

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

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

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

19 784.05 Culpable negligence.—

20 (1) As used in this section, the term:

21 (a)1. "Assault weapon" means:

22 a. A semiautomatic rifle that has the ability to accept a
23 detachable magazine and has at least two of the following
24 characteristics:

25 (I) A folding or telescoping stock;

26 (II) A pistol grip that protrudes conspicuously beneath the
27 action of the weapon;

28 (III) A bayonet mount;

29 (IV) A flash suppressor or threaded barrel designed to

36-01412-13

20131582__

30 accommodate a flash suppressor; or
31 (V) A grenade launcher;
32 b. A semiautomatic shotgun that has at least two of the
33 following characteristics:
34 (I) A folding or telescoping stock;
35 (II) A pistol grip that protrudes conspicuously beneath the
36 action of the weapon;
37 (III) A fixed magazine capacity in excess of five rounds;
38 or
39 (IV) An ability to accept a detachable magazine;
40 c. A semiautomatic pistol that has the ability to accept a
41 detachable magazine and has at least two of the following
42 characteristics:
43 (I) An ammunition magazine that attaches to the pistol
44 outside of the pistol grip;
45 (II) A threaded barrel capable of accepting a barrel
46 extender, flash suppressor, forward handgrip, or silencer;
47 (III) A shroud that is attached to, or partially or
48 completely encircles, the barrel and that permits the shooter to
49 hold the firearm with the nontrigger hand without being burned;
50 (IV) A manufactured weight of 50 ounces or more when the
51 pistol is unloaded; or
52 (V) A semiautomatic version of an automatic rifle, shotgun,
53 or firearm; or
54 d. Any of the weapons, or functioning frames or receivers
55 of such weapons, or copies or duplicates of such weapons, in any
56 caliber, known as:
57 (I) Norinco, Mitchell, and Poly Technologies Avtomat
58 Kalashnikovs, all models;

36-01412-13

20131582__

59 (II) Action Arms Israeli Military Industries UZI and Galil;
60 (III) Beretta Ar70 (SC-70);
61 (IV) Colt AR-15;
62 (V) Fabrique National FN/FAL, FN/LAR, and FNC;
63 (VI) SWD M-10, M-11, M-11/9, and M-12;
64 (VII) Steyr AUG;
65 (VIII) INTRATEC TEC-9, TEC-DC9, and TEC-22; or
66 (IX) Revolving cylinder shotguns, such as, or similar to,
67 the Street Sweeper and Striker 12.

68 2. The term does not include a rifle, shotgun, or pistol
69 that:

70 a. Is manually operated by bolt, pump, lever, or slide
71 action;

72 b. Has been rendered permanently inoperable;

73 c. Is an antique firearm as defined in 18 U.S.C. s.
74 921(a)(16);

75 d. Is a semiautomatic rifle that cannot accept a detachable
76 magazine that holds more than five rounds of ammunition;

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

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

84 g. Is a semiautomatic rifle, a semiautomatic shotgun, or a
85 semiautomatic pistol or a weapon defined in sub-subparagraph
86 1.d. lawfully possessed before September 14, 1994.

87 (b) "Minor" means a person 15 years of age or younger.

36-01412-13

20131582__

88 (2)~~(1)~~ Whoever, through culpable negligence, exposes
89 another person to personal injury commits a misdemeanor of the
90 second degree, punishable as provided in s. 775.082 or s.
91 775.083.

92 (3)~~(2)~~ Whoever, through culpable negligence, inflicts
93 actual personal injury on another commits a misdemeanor of the
94 first degree, punishable as provided in s. 775.082 or s.
95 775.083.

96 (4)~~(3)~~ Whoever violates subsection (2)~~(1)~~ by storing or
97 leaving a loaded firearm within the reach or easy access of a
98 minor commits, if the minor obtains the firearm and uses it to
99 inflict injury or death upon himself or herself or any other
100 person, a felony of the third degree, punishable as provided in
101 s. 775.082, s. 775.083, or s. 775.084. However, this subsection
102 does not apply:

103 (a) If the firearm was stored or left in a securely locked
104 box or container or in a location that ~~which~~ a reasonable person
105 would have believed to be secure, or was securely locked with a
106 trigger lock;

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

109 (c) To injuries resulting from target or sport shooting
110 accidents or hunting accidents; or

111 (d) To members of the Armed Forces, National Guard, or
112 State Militia, or to police or other law enforcement officers,
113 with respect to firearm possession by a minor which occurs
114 during or incidental to the performance of their official
115 duties.

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36-01412-13

20131582__

117 When a any minor child is accidentally shot by another family
118 member, an ~~no~~ arrest may not shall be made pursuant to this
119 subsection until at least prior to 7 days after the date of the
120 shooting. With respect to the any parent or guardian of a any
121 deceased minor, the investigating officers shall file all
122 findings and evidence with the state attorney's office with
123 respect to violations of this subsection. The state attorney
124 shall evaluate the such evidence and shall take such action as
125 he or she deems appropriate under the circumstances and may file
126 an information against the appropriate parties.

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

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

136 (a) If the assault weapon was stored or left in a securely
137 locked box or container or in a location that a reasonable
138 person would have believed to be secure, or was securely locked
139 with a trigger lock;

140 (b) If the assault weapon was stolen and the owner reported
141 the theft of the assault weapon to law enforcement authorities
142 within 24 hours after the owner's knowledge of the theft;

143 (c) To injuries resulting from target or sport shooting
144 accidents or hunting accidents; or

145 (d) To members of the Armed Forces, National Guard, or

36-01412-13

20131582__

146 State Militia, or to police or other law enforcement officers,
 147 with respect to the possession of an assault firearm which
 148 occurs during or incidental to the performance of their official
 149 duties.

150 Section 3. Paragraph (b) of subsection (3) of section
 151 921.0022, Florida Statutes, is amended to read:

152 921.0022 Criminal Punishment Code; offense severity ranking
 153 chart.-

154 (3) OFFENSE SEVERITY RANKING CHART

155 (b) LEVEL 2

156

Florida	Felony	
Statute	Degree	Description

157

379.2431 (1) (e) 3.	3rd	Possession of 11 or fewer marine turtle eggs in violation of the Marine Turtle Protection Act.
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379.2431 (1) (e) 4.	3rd	Possession of more than 11 marine turtle eggs in violation of the Marine Turtle Protection Act.
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159

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.
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517.07 (2)	3rd	Failure to furnish a prospectus meeting requirements.
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36-01412-13

20131582__

161	590.28(1)	3rd	Intentional burning of lands.
162	784.05 <u>(4)</u> (3)	3rd	Storing or leaving a loaded firearm within reach of minor who uses it to inflict injury or death.
163	787.04(1)	3rd	In violation of court order, take, entice, etc., minor beyond state limits.
164	806.13(1)(b)3.	3rd	Criminal mischief; damage \$1,000 or more to public communication or any other public service.
165	810.061(2)	3rd	Impairing or impeding telephone or power to a dwelling; facilitating or furthering burglary.
166	810.09(2)(e)	3rd	Trespassing on posted commercial horticulture property.
167	812.014(2)(c)1.	3rd	Grand theft, 3rd degree; \$300 or more but less than \$5,000.
168	812.014(2)(d)	3rd	Grand theft, 3rd degree; \$100 or more but less than \$300, taken from unenclosed curtilage of dwelling.
169	812.015(7)	3rd	Possession, use, or attempted use of an

36-01412-13

20131582__

antishoplifting or inventory control
device countermeasure.

170

817.234(1)(a)2. 3rd False statement in support of insurance
claim.

171

817.481(3)(a) 3rd Obtain credit or purchase with false,
expired, counterfeit, etc., credit card,
value over \$300.

172

817.52(3) 3rd Failure to redeliver hired vehicle.

173

817.54 3rd With intent to defraud, obtain mortgage
note, etc., by false representation.

174

817.60(5) 3rd Dealing in credit cards of another.

175

817.60(6)(a) 3rd Forgery; purchase goods, services with
false card.

176

817.61 3rd Fraudulent use of credit cards over \$100
or more within 6 months.

177

826.04 3rd Knowingly marries or has sexual
intercourse with person to whom related.

178

831.01 3rd Forgery.

179

831.02 3rd Uttering forged instrument; utters or

