

By Senator Thompson

12-00481A-15

20151550__

1 A bill to be entitled
2 An act relating to imitation firearms; creating s.
3 559.955, F.S.; defining terms; creating s. 559.956,
4 F.S.; prohibiting a person, for commercial purposes,
5 from knowingly selling an imitation firearm after a
6 specified date; providing penalties for violations;
7 providing exceptions; creating s. 559.957, F.S.;
8 prohibiting a person on or after a specified date from
9 knowingly altering, changing, removing, or
10 obliterating certain features required by law for an
11 imitation firearm; prohibiting a person on or after a
12 specified date from knowingly adding certain features
13 that make a firearm look more like an imitation
14 firearm; providing penalties for violations; providing
15 exceptions; creating s. 559.958, F.S.; prohibiting a
16 person from knowingly displaying or exposing an
17 imitation firearm in a public place after a specified
18 date; providing penalties for violations; providing
19 exceptions; creating s. 559.959, F.S.; requiring that
20 any imitation firearm manufactured after a certain
21 date be accompanied by a conspicuous written advisory
22 containing specified information as part of the
23 packaging; authorizing the conspicuous advisory to be
24 affixed to the imitation firearm; prohibiting a
25 manufacturer, importer, or distributor from failing to
26 comply with the conspicuous written advisory;
27 providing penalties for violations; providing an
28 effective date.
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12-00481A-15

20151550__

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

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32 Section 1. Section 559.955, Florida Statutes, is created to
33 read:

34 559.955 Definitions.—As used in ss. 559.955-599.959, the
35 term:

36 (1) "BB device" means any instrument that expels a
37 projectile, such as a BB or a pellet, through the force of air
38 pressure, gas pressure, or spring action, including any airsoft
39 gun and any spot marker or paintball gun.

40 (2) "Firearm" has the same meaning as in s. 790.001.

41 (3) (a) "Imitation firearm" means, subject to paragraph (b),
42 any BB device, replica of a firearm, or other device that is so
43 substantially similar in color and overall appearance to an
44 actual firearm as to lead a reasonable person to perceive that
45 the device is a firearm.

46 (b) The term does not include any toy gun unless the toy
47 gun is a BB device.

48 (4) "Public place" means an area open to the public,
49 including any of the following:

50 (a) A street, alley, sidewalk, driveway, or parking lot.

51 (b) A bridge.

52 (c) A plaza or park.

53 (d) A front yard.

54 (e) A motor vehicle, whether moving or not.

55 (f) A building open to the general public, including one
56 that serves food or drink or that provides entertainment.

57 (g) A doorway or entrance to a building or dwelling.

58 (h) A school operated by a board of education or a

12-00481A-15

20151550__

59 community school.

60 (i) Any premises owned or leased by a public or private
61 college, university, or other institution of higher education.

62 (5) Except as used in paragraph (4) (h), the term "school"
63 has the same meaning as provided in s. 1003.01.

64 Section 2. Section 559.956, Florida Statutes, is created to
65 read:

66 559.956 Imitation firearms.-

67 (1) A person may not knowingly sell, for commercial
68 purposes, an imitation firearm in this state on or after January
69 1, 2017.

70 (2) A person who violates subsection (1) is guilty of
71 commercial sale of an illegal imitation firearm and commits a
72 misdemeanor of the first degree, punishable as provided in s.
73 775.082 or s. 775.083.

74 (3) Subsection (1) does not apply to the sale of:

75 (a) A nonfiring collector's replica of a firearm that is
76 historically significant and is offered for sale in conjunction
77 with a wall plaque or presentation case.

78 (b) A BB device that is a spot marker gun that expels a
79 projectile that is greater than 10mm caliber.

80 (c) A BB device that expels a projectile, such as a BB or
81 pellet, that is other than 6mm or 8mm caliber.

82 (d) A BB device that is an airsoft gun that expels a
83 projectile, such as a BB or pellet, that is 6mm or 8mm caliber,
84 if the device contains the blaze orange ring on the barrel
85 required by federal law, has a trigger guard that has
86 fluorescent coloration over the entire guard, and meets either
87 of the following:

12-00481A-15

20151550__

88 1. If the airsoft gun is configured as a handgun, there is
89 a 2cm-wide adhesive band around the circumference of the
90 protruding pistol grip that has fluorescent coloration and the
91 adhesive band is applied in a manner not intended for removal
92 and is in place on the airsoft gun prior to sale to a customer;
93 or

94 2. If the airsoft gun is configured as a rifle or long gun,
95 there is a 2 cm-wide adhesive band with fluorescent coloration,
96 applied in a manner and in place as described in subparagraph
97 (d)1., around the circumference of any two or more of the
98 following:

99 a. The protruding pistol grip;

100 b. The buttstock; or

101 c. A protruding ammunition magazine or clip.

102 (e) A device, if the entire exterior surface is white,
103 bright red, bright orange, bright yellow, bright green, bright
104 blue, bright pink, or bright purple, either singly or as the
105 predominant color in combination with other colors in any
106 pattern.

107 (f) A device that is entirely constructed of transparent or
108 translucent materials that permits unmistakable observation of
109 the device's complete contents.

110 (4) Subsection (1) does not apply to the sale of an
111 imitation firearm:

112 (a) Solely for export in interstate or foreign commerce.

113 (b) Solely for lawful use in any theatrical production,
114 including any motion picture, video, television, or stage
115 production.

116 (c) Solely for use in a certified or regulated sporting

12-00481A-15

20151550__

117 event or competition.

118 (d) Solely for use in any military or civil defense
119 activity or ceremonial activity.

120 (e) For any public display authorized by a school.

121 Section 3. Section 559.957, Florida Statutes, is created to
122 read:

123 559.957 Altering an imitation firearm.-

124 (1) A person, on or after January 1, 2017, may not
125 knowingly alter, change, remove, or obliterate any color,
126 markings, or bands that are required by any applicable law or
127 regulation of this state or the United States for an imitation
128 firearm in a way that makes the imitation firearm or BB device
129 look more like an actual firearm.

130 (2) A person, on or after January 1, 2017, may not
131 knowingly add to any firearm any color, markings, or bands that
132 are required by any law or regulation of this state or the
133 United States for any imitation firearm in a way that makes the
134 firearm look more like an imitation firearm.

135 (3) (a) A person who violates subsection (1) is guilty of
136 alteration of an imitation firearm and commits a misdemeanor of
137 the first degree, punishable as provided in s. 775.082, s.
138 775.083, or s. 775.084.

139 (b) A person who violates subsection (2) is guilty of
140 disguising a firearm as an imitation firearm and commits a
141 misdemeanor of the first degree, punishable as provided in s.
142 775.082 or s. 775.083.

143 (4) Subsection (1) does not apply to any of the following:

144 (a) A manufacturer, importer, or distributor of imitation
145 firearms.

12-00481A-15

20151550__

146 (b) A lawful use in any theatrical production, including
147 any motion picture, video, television, or stage production.

148 Section 4. Section 559.958, Florida Statutes, is created to
149 read:

150 559.958 Open display of imitation firearm.-

151 (1) A person may not knowingly display or expose any
152 imitation firearm in a public place on or after January 1, 2017.

153 (2) A person who violates subsection (1) is guilty of
154 illegal public display of an imitation firearm and commits a
155 misdemeanor of the first degree, punishable as provided in s.
156 775.082 or s. 775.083.

157 (3) Subsection (1) does not apply in any of the following
158 circumstances in which the imitation firearm is:

159 (a) Packaged or concealed so that it is not subject to
160 public viewing.

161 (b) Displayed or exposed in the course of commerce,
162 including in a commercial film or video production, or for
163 service, repair, or restoration of the imitation firearm.

164 (c) Used in a theatrical production, including any motion
165 picture, video, television, or stage production.

166 (d) Used in conjunction with a certified or regulated
167 sporting event or competition.

168 (e) Used in conjunction with lawful hunting or a lawful
169 pest control activity.

170 (f) Used or possessed at a certified or regulated public or
171 private shooting range.

172 (g) Used at a fair, exhibition, exposition, or other
173 similar activity for which a permit has been obtained from a
174 local or state government.

12-00481A-15

20151550__

175 (h) Used in a military, civil defense, or civic activity,
176 including a flag ceremony, color guard, parade, award
177 presentation, historical reenactment, or memorial.

178 (i) Used for a public display authorized by a school or for
179 a display that is part of a museum collection.

180 (j) Used in a parade, ceremony, or other similar activity
181 for which a permit has been obtained from a local or state
182 government.

183 (k) Displayed on a wall plaque or in a presentation case.

184 (l) Being used in an area where the discharge of a firearm
185 is lawful.

186 (m)1. Manufactured in such a way that the entire exterior
187 surface of the imitation firearm is white, bright red, bright
188 orange, bright yellow, bright green, bright blue, bright pink,
189 or bright purple, either singly or as the predominant color in
190 combination with other colors in any pattern, or the entire
191 device is constructed of transparent or translucent material
192 that permits unmistakable observation of the device's complete
193 contents.

194 2. To satisfy the requirement of subparagraph 1., the
195 entire surface must be colored or transparent or translucent.
196 Merely having an orange tip as provided in federal law does not
197 satisfy that requirement.

198 Section 5. Section 559.959, Florida Statutes, is created to
199 read:

200 559.959 Manufacture of imitation firearm.-

201 (1) Any imitation firearm manufactured after July 1, 2016,
202 must be accompanied, at the time of offer for commercial sale in
203 this state, by a conspicuous advisory in writing as part of the

12-00481A-15

20151550__

204 packaging of the imitation firearm to the effect that all of the
205 following apply:

206 (a) The product may be mistaken for a firearm by law
207 enforcement officers or other persons.

208 (b) Altering the coloration or markings required by state
209 or federal law so as to make the product look more like a
210 firearm is dangerous and may result in penalties.

211 (c) Brandishing or displaying the imitation firearm in
212 public may cause confusion and may result in penalties.

213 (2) To comply with subsection (1), the conspicuous advisory
214 may be affixed to the imitation firearm.

215 (3) A manufacturer, importer, or distributor may not
216 knowingly fail to comply with subsection (1).

217 (4) A manufacturer, importer, or distributor that violates
218 subsection (3) by failing to provide imitation firearm warnings
219 in a conspicuous advisory commits a misdemeanor of the first
220 degree, as provided in s. 775.082 or s. 775.083, and shall be
221 fined as follows:

222 (a) Except as otherwise provided in paragraph (b) or
223 paragraph (c), the offender shall be fined no more than \$1,000.

224 (b) If the offender has been convicted of or pleaded guilty
225 to a violation of subsection (3) once previously, the offender
226 shall be fined no more than \$5,000.

227 (c) If the offender has been convicted of or pleaded guilty
228 to a violation of subsection (3) two or more times previously,
229 the offender shall be fined no more than \$10,000.

230 Section 6. This act shall take effect October 1, 2015.