

By Senator Joyner

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1 A bill to be entitled
 2 An act relating to the sale or transfer of firearms at
 3 gun shows; amending s. 790.001, F.S.; defining the
 4 terms "gun show" and "gun show vendor"; creating s.
 5 790.0653, F.S.; prohibiting a person from selling,
 6 offering for sale, transferring, exchanging, or
 7 delivering a firearm at a gun show unless a gun show
 8 vendor is a party to the transaction; providing
 9 criminal penalties; amending ss. 790.06, 790.115,
 10 790.145, 790.1612, 810.095, and 921.0024, F.S.;
 11 conforming cross-references; making technical changes;
 12 providing an effective date.

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

15
 16 Section 1. Section 790.001, Florida Statutes, is reordered
 17 and amended to read:

18 790.001 Definitions.—As used in this chapter, except where
 19 the context otherwise requires:

20 (2)~~(1)~~ "Antique firearm" means any firearm manufactured in
 21 or before 1918, including any matchlock, flintlock, percussion
 22 cap, or similar early type of ignition system,~~or replica~~
 23 thereof, whether actually manufactured before or after the year
 24 1918, and also any firearm using fixed ammunition manufactured
 25 in or before 1918, for which ammunition is no longer
 26 manufactured in the United States and is not readily available
 27 in the ordinary channels of commercial trade.

28 (3)~~(2)~~ "Concealed firearm" means any firearm, as defined in
 29 subsection (9) ~~(6)~~, which is carried on or about a person in

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30 such a manner as to conceal the firearm from the ordinary sight
31 of another person.

32 (4)~~(3)~~(a) "Concealed weapon" means any dirk, metallic
33 knuckles, slungshot, billie, tear gas gun, chemical weapon or
34 device, or other deadly weapon carried on or about a person in
35 such a manner as to conceal the weapon from the ordinary sight
36 of another person.

37 (b) "Tear gas gun" or "chemical weapon or device" means any
38 weapon of such nature, except a device known as a "self-defense
39 chemical spray." The term "self-defense chemical spray" means a
40 device carried solely for purposes of lawful self-defense that
41 is compact in size, designed to be carried on or about the
42 person, and contains not more than two ounces of chemical.

43 (6)~~(4)~~ "Destructive device" means any bomb, grenade, mine,
44 rocket, missile, pipebomb, or similar device containing an
45 explosive, incendiary, or poison gas and includes any frangible
46 container filled with an explosive, incendiary, explosive gas,
47 or expanding gas, which is designed or so constructed as to
48 explode by such filler and is capable of causing bodily harm or
49 property damage; any combination of parts either designed or
50 intended for use in converting any device into a destructive
51 device and from which a destructive device may be readily
52 assembled; any device declared a destructive device by the
53 Bureau of Alcohol, Tobacco, and Firearms; any type of weapon
54 which will, is designed to, or may readily be converted to expel
55 a projectile by the action of any explosive and which has a
56 barrel with a bore of one-half inch or more in diameter; and
57 ammunition for such destructive devices, but not including
58 shotgun shells or any other ammunition designed for use in a

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59 firearm other than a destructive device. The term "Destructive
60 ~~device~~" does not include:

61 (a) A device that ~~which~~ is not designed, redesigned, used,
62 or intended for use as a weapon;

63 (b) Any device, although originally designed as a weapon,
64 which is redesigned so that it may be used solely as a
65 signaling, line-throwing, safety, or similar device;

66 (c) Any shotgun other than a short-barreled shotgun; or

67 (d) Any nonautomatic rifle (other than a short-barreled
68 rifle) generally recognized or particularly suitable for use for
69 the hunting of big game.

70 (8)~~(5)~~ "Explosive" means any chemical compound or mixture
71 that has the property of yielding readily to combustion or
72 oxidation upon application of heat, flame, or shock, including
73 but not limited to dynamite, nitroglycerin, trinitrotoluene, or
74 ammonium nitrate when combined with other ingredients to form an
75 explosive mixture, blasting caps, and detonators; but not
76 including:

77 (a) Shotgun shells, cartridges, or ammunition for firearms;

78 (b) Fireworks as defined in s. 791.01;

79 (c) Smokeless propellant powder or small arms ammunition
80 primers, if possessed, purchased, sold, transported, or used in
81 compliance with s. 552.241;

82 (d) Black powder in quantities not to exceed that
83 authorized by chapter 552, or by any rules adopted thereunder by
84 the Department of Financial Services, when used for, or intended
85 to be used for, the manufacture of target and sporting
86 ammunition or for use in muzzle-loading flint or percussion
87 weapons.

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89 The exclusions contained in paragraphs (a)-(d) do not apply to
90 the term "explosive" as used in the definition of "firearm" in
91 subsection (9) ~~(6)~~.

92 (9) ~~(6)~~ "Firearm" means any weapon, ~~(including a starter~~
93 ~~gun,~~) which will, is designed to, or may readily be converted to
94 expel a projectile by the action of an explosive; the frame or
95 receiver of any such weapon; any firearm muffler or firearm
96 silencer; any destructive device; or any machine gun. The term
97 ~~"firearm"~~ does not include an antique firearm unless the antique
98 firearm is used in the commission of a crime.

99 (10) "Gun show" means an event or function that is
100 sponsored to facilitate, in whole or in part, the purchase,
101 sale, offer for sale, or collection of firearms at which at
102 least three gun show vendors exhibit, sell, offer for sale,
103 transfer, exchange, or deliver firearms. The term includes the
104 entire premises provided for the gun show, including, but not
105 limited to, parking areas.

106 (11) "Gun show vendor" means a licensed firearm dealer,
107 licensed firearm manufacturer, or licensed firearm importer who
108 exhibits, sells, offers for sale, transfers, exchanges, or
109 delivers any firearm at a gun show, regardless of whether the
110 dealer, manufacturer, or importer arranges with a gun show
111 promoter to have a fixed location from which to exhibit, sell,
112 offer for sale, transfer, exchange, or deliver any firearm.

113 (12) ~~(7)~~ "Indictment" means an indictment or an information
114 in any court under which a crime punishable by imprisonment for
115 a term exceeding 1 year may be prosecuted.

116 (13) ~~(8)~~ "Law enforcement officer" means:

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117 (a) All officers or employees of the United States or the
118 State of Florida, or any agency, commission, department, board,
119 division, municipality, or subdivision thereof, who have
120 authority to make arrests;

121 (b) Officers or employees of the United States or the State
122 of Florida, or any agency, commission, department, board,
123 division, municipality, or subdivision thereof, duly authorized
124 to carry a concealed weapon;

125 (c) Members of the Armed Forces of the United States, the
126 organized reserves, state militia, or Florida National Guard,
127 when on duty, when preparing themselves for, or going to or
128 from, military duty, or under orders;

129 (d) An employee of the state prisons or correctional
130 systems who has been so designated by the Department of
131 Corrections or by a warden of an institution;

132 (e) All peace officers;

133 (f) All state attorneys and United States attorneys and
134 their respective assistants and investigators.

135 (14)~~(9)~~ "Machine gun" means any firearm, as defined herein,
136 which shoots, or is designed to shoot, automatically more than
137 one shot, without manually reloading, by a single function of
138 the trigger.

139 (18)~~(10)~~ "Short-barreled shotgun" means a shotgun having
140 one or more barrels less than 18 inches in length and any weapon
141 made from a shotgun (whether by alteration, modification, or
142 otherwise) if such weapon as modified has an overall length of
143 less than 26 inches.

144 (17)~~(11)~~ "Short-barreled rifle" means a rifle having one or
145 more barrels less than 16 inches in length and any weapon made

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146 from a rifle (whether by alteration, modification, or otherwise)
147 if such weapon as modified has an overall length of less than 26
148 inches.

149 (19)~~(12)~~ "Slungshot" means a small mass of metal, stone,
150 sand, or similar material fixed on a flexible handle, strap, or
151 the like, used as a weapon.

152 (21)~~(13)~~ "Weapon" means any dirk, knife, metallic knuckles,
153 slungshot, billie, tear gas gun, chemical weapon or device, or
154 other deadly weapon except a firearm or a common pocketknife,
155 plastic knife, or blunt-bladed table knife.

156 (7)~~(14)~~ "Electric weapon or device" means any device that
157 ~~which~~, through the application or use of electrical current, is
158 designed, redesigned, used, or intended to be used for offensive
159 or defensive purposes, the destruction of life, or the
160 infliction of injury.

161 (5)~~(15)~~ "Dart-firing stun gun" means any device having one
162 or more darts that are capable of delivering an electrical
163 current.

164 (15)~~(16)~~ "Readily accessible for immediate use" means that
165 a firearm or other weapon is carried on the person or within
166 such close proximity and in such a manner that it can be
167 retrieved and used as easily and quickly as if carried on the
168 person.

169 (16)~~(17)~~ "Securely encased" means in a glove compartment,
170 whether or not locked; snapped in a holster; in a gun case,
171 whether or not locked; in a zippered gun case; or in a closed
172 box or container which requires a lid or cover to be opened for
173 access.

174 (20)~~(18)~~ "Sterile area" means the area of an airport to

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175 which access is controlled by the inspection of persons and
176 property in accordance with federally approved airport security
177 programs.

178 (1)~~(19)~~ "Ammunition" means an object consisting of all of
179 the following:

180 (a) A fixed metallic or nonmetallic hull or casing
181 containing a primer.

182 (b) One or more projectiles, one or more bullets, or shot.

183 (c) Gunpowder.

184

185 All of the specified components must be present for an object to
186 be ammunition.

187 Section 2. Section 790.0653, Florida Statutes, is created
188 to read:

189 790.0653 Gun shows.—

190 (1) A person may not sell, offer for sale, transfer,
191 exchange, or deliver a firearm at a gun show unless a gun show
192 vendor is a party to the transaction.

193 (2) A person who violates this section commits a felony of
194 the third degree, punishable as provided in s. 775.082, s.
195 775.083, or s. 775.084.

196 Section 3. Subsection (1) of section 790.06, Florida
197 Statutes, is amended to read:

198 790.06 License to carry concealed weapon or firearm.—

199 (1) The Department of Agriculture and Consumer Services is
200 authorized to issue licenses to carry concealed weapons or
201 concealed firearms to persons qualified as provided in this
202 section. Each such license must bear a color photograph of the
203 licensee. For the purposes of this section, concealed weapons or

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204 concealed firearms are defined as a handgun, electronic weapon
205 or device, tear gas gun, knife, or billie, but the term does not
206 include a machine gun as defined in s. 790.001 ~~s. 790.001(9)~~.
207 Such licenses shall be valid throughout the state for a period
208 of 7 years from the date of issuance. Any person in compliance
209 with the terms of such license may carry a concealed weapon or
210 concealed firearm notwithstanding the provisions of s. 790.01.
211 The licensee must carry the license, together with valid
212 identification, at all times in which the licensee is in actual
213 possession of a concealed weapon or firearm and must display
214 both the license and proper identification upon demand by a law
215 enforcement officer. Violations of the provisions of this
216 subsection shall constitute a noncriminal violation with a
217 penalty of \$25, payable to the clerk of the court.

218 Section 4. Subsection (1) and paragraphs (a) and (b) of
219 subsection (2) of section 790.115, Florida Statutes, are amended
220 to read:

221 790.115 Possessing or discharging weapons or firearms at a
222 school-sponsored event or on school property prohibited;
223 penalties; exceptions.-

224 (1) A person who exhibits any sword, sword cane, firearm,
225 electric weapon or device, destructive device, or other weapon
226 as defined in s. 790.001 ~~s. 790.001(13)~~, including a razor
227 blade, box cutter, or common pocketknife, except as authorized
228 in support of school-sanctioned activities, in the presence of
229 one or more persons in a rude, careless, angry, or threatening
230 manner and not in lawful self-defense, at a school-sponsored
231 event or on the grounds or facilities of any school, school bus,
232 or school bus stop, or within 1,000 feet of the real property

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233 that comprises a public or private elementary school, middle
234 school, or secondary school, during school hours or during the
235 time of a sanctioned school activity, commits a felony of the
236 third degree, punishable as provided in s. 775.082, s. 775.083,
237 or s. 775.084. This subsection does not apply to the exhibition
238 of a firearm or weapon on private real property within 1,000
239 feet of a school by the owner of such property or by a person
240 whose presence on such property has been authorized, licensed,
241 or invited by the owner.

242 (2) (a) A person shall not possess any firearm, electric
243 weapon or device, destructive device, or other weapon as defined
244 in s. 790.001 ~~s. 790.001(13)~~, including a razor blade or box
245 cutter, except as authorized in support of school-sanctioned
246 activities, at a school-sponsored event or on the property of
247 any school, school bus, or school bus stop; however, a person
248 may carry a firearm:

249 1. In a case to a firearms program, class or function which
250 has been approved in advance by the principal or chief
251 administrative officer of the school as a program or class to
252 which firearms could be carried;

253 2. In a case to a career center having a firearms training
254 range; or

255 3. In a vehicle pursuant to s. 790.25(5); except that
256 school districts may adopt written and published policies that
257 waive the exception in this subparagraph for purposes of student
258 and campus parking privileges.

259

260 For the purposes of this section, the term "school" means any
261 preschool, elementary school, middle school, junior high school,

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262 secondary school, career center, or postsecondary school,
263 whether public or nonpublic.

264 (b) A person who willfully and knowingly possesses any
265 electric weapon or device, destructive device, or other weapon
266 as defined in s. 790.001 ~~s. 790.001(13)~~, including a razor blade
267 or box cutter, except as authorized in support of school-
268 sanctioned activities, in violation of this subsection commits a
269 felony of the third degree, punishable as provided in s.
270 775.082, s. 775.083, or s. 775.084.

271 Section 5. Subsection (1) of section 790.145, Florida
272 Statutes, is amended to read:

273 790.145 Crimes in pharmacies; possession of weapons;
274 penalties.—

275 (1) Unless otherwise provided by law, any person who is in
276 possession of a concealed "firearm," as defined in s. 790.001 ~~s.~~
277 ~~790.001(6)~~, or a "destructive device," as defined in s. 790.001
278 ~~s. 790.001(4)~~, within the premises of a "pharmacy," as defined
279 in chapter 465, commits ~~is guilty of~~ a felony of the third
280 degree, punishable as provided in s. 775.082, s. 775.083, or s.
281 775.084.

282 Section 6. Section 790.1612, Florida Statutes, is amended
283 to read:

284 790.1612 Authorization for governmental manufacture,
285 possession, and use of destructive devices.—The governing body
286 of any municipality or county and the Division of State Fire
287 Marshal of the Department of Financial Services have the power
288 to authorize the manufacture, possession, and use of destructive
289 devices as defined in s. 790.001 ~~s. 790.001(4)~~.

290 Section 7. Subsection (1) of section 810.095, Florida

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291 Statutes, is amended to read:

292 810.095 Trespass on school property with firearm or other
293 weapon prohibited.—

294 (1) It is a felony of the third degree, punishable as
295 provided in s. 775.082, s. 775.083, or s. 775.084, for a person
296 who is trespassing upon school property to bring onto, or to
297 possess on, such school property any weapon as defined in s.
298 790.001 ~~s. 790.001(13)~~ or any firearm.

299 Section 8. Paragraph (b) of subsection (1) of section
300 921.0024, Florida Statutes, is amended to read:

301 921.0024 Criminal Punishment Code; worksheet computations;
302 scoresheets.—

303 (1)

304 (b) WORKSHEET KEY:

305

306 Legal status points are assessed when any form of legal status
307 existed at the time the offender committed an offense before the
308 court for sentencing. Four (4) sentence points are assessed for
309 an offender's legal status.

310

311 Community sanction violation points are assessed when a
312 community sanction violation is before the court for sentencing.
313 Six (6) sentence points are assessed for each community sanction
314 violation and each successive community sanction violation,
315 unless any of the following apply:

316 1. If the community sanction violation includes a new
317 felony conviction before the sentencing court, twelve (12)
318 community sanction violation points are assessed for the
319 violation, and for each successive community sanction violation

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320 involving a new felony conviction.

321 2. If the community sanction violation is committed by a
322 violent felony offender of special concern as defined in s.
323 948.06:

324 a. Twelve (12) community sanction violation points are
325 assessed for the violation and for each successive violation of
326 felony probation or community control where:

327 (I)~~+~~. The violation does not include a new felony
328 conviction; and

329 (II)~~++~~. The community sanction violation is not based
330 solely on the probationer or offender's failure to pay costs or
331 fines or make restitution payments.

332 b. Twenty-four (24) community sanction violation points are
333 assessed for the violation and for each successive violation of
334 felony probation or community control where the violation
335 includes a new felony conviction.

336

337 Multiple counts of community sanction violations before the
338 sentencing court shall not be a basis for multiplying the
339 assessment of community sanction violation points.

340

341 Prior serious felony points: If the offender has a primary
342 offense or any additional offense ranked in level 8, level 9, or
343 level 10, and one or more prior serious felonies, a single
344 assessment of thirty (30) points shall be added. For purposes of
345 this section, a prior serious felony is an offense in the
346 offender's prior record that is ranked in level 8, level 9, or
347 level 10 under s. 921.0022 or s. 921.0023 and for which the
348 offender is serving a sentence of confinement, supervision, or

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349 other sanction or for which the offender's date of release from
350 confinement, supervision, or other sanction, whichever is later,
351 is within 3 years before the date the primary offense or any
352 additional offense was committed.

353

354 Prior capital felony points: If the offender has one or more
355 prior capital felonies in the offender's criminal record, points
356 shall be added to the subtotal sentence points of the offender
357 equal to twice the number of points the offender receives for
358 the primary offense and any additional offense. A prior capital
359 felony in the offender's criminal record is a previous capital
360 felony offense for which the offender has entered a plea of nolo
361 contendere or guilty or has been found guilty; or a felony in
362 another jurisdiction which is a capital felony in that
363 jurisdiction, or would be a capital felony if the offense were
364 committed in this state.

365

366 Possession of a firearm, semiautomatic firearm, or machine gun:
367 If the offender is convicted of committing or attempting to
368 commit any felony other than those enumerated in s. 775.087(2)
369 while having in his or her possession: a firearm as defined in
370 s. 790.001 ~~s. 790.001(6)~~, an additional eighteen (18) sentence
371 points are assessed; or if the offender is convicted of
372 committing or attempting to commit any felony other than those
373 enumerated in s. 775.087(3) while having in his or her
374 possession a semiautomatic firearm as defined in s. 775.087(3)
375 or a machine gun as defined in s. 790.001 ~~s. 790.001(9)~~, an
376 additional twenty-five (25) sentence points are assessed.

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378 Sentencing multipliers:

379

380 Drug trafficking: If the primary offense is drug trafficking
381 under s. 893.135, the subtotal sentence points are multiplied,
382 at the discretion of the court, for a level 7 or level 8
383 offense, by 1.5. The state attorney may move the sentencing
384 court to reduce or suspend the sentence of a person convicted of
385 a level 7 or level 8 offense, if the offender provides
386 substantial assistance as described in s. 893.135(4).

387

388 Law enforcement protection: If the primary offense is a
389 violation of the Law Enforcement Protection Act under s.
390 775.0823(2), (3), or (4), the subtotal sentence points are
391 multiplied by 2.5. If the primary offense is a violation of s.
392 775.0823(5), (6), (7), (8), or (9), the subtotal sentence points
393 are multiplied by 2.0. If the primary offense is a violation of
394 s. 784.07(3) or s. 775.0875(1), or of the Law Enforcement
395 Protection Act under s. 775.0823(10) or (11), the subtotal
396 sentence points are multiplied by 1.5.

397

398 Grand theft of a motor vehicle: If the primary offense is grand
399 theft of the third degree involving a motor vehicle and in the
400 offender's prior record, there are three or more grand thefts of
401 the third degree involving a motor vehicle, the subtotal
402 sentence points are multiplied by 1.5.

403

404 Offense related to a criminal gang: If the offender is convicted
405 of the primary offense and committed that offense for the
406 purpose of benefiting, promoting, or furthering the interests of

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407 a criminal gang as defined in s. 874.03, the subtotal sentence
408 points are multiplied by 1.5. If applying the multiplier results
409 in the lowest permissible sentence exceeding the statutory
410 maximum sentence for the primary offense under chapter 775, the
411 court may not apply the multiplier and must sentence the
412 defendant to the statutory maximum sentence.

413

414 Domestic violence in the presence of a child: If the offender is
415 convicted of the primary offense and the primary offense is a
416 crime of domestic violence, as defined in s. 741.28, which was
417 committed in the presence of a child under 16 years of age who
418 is a family or household member as defined in s. 741.28(3) with
419 the victim or perpetrator, the subtotal sentence points are
420 multiplied by 1.5.

421

422 Adult-on-minor sex offense: If the offender was 18 years of age
423 or older and the victim was younger than 18 years of age at the
424 time the offender committed the primary offense, and if the
425 primary offense was an offense committed on or after October 1,
426 2014, and is a violation of s. 787.01(2) or s. 787.02(2), if the
427 violation involved a victim who was a minor and, in the course
428 of committing that violation, the defendant committed a sexual
429 battery under chapter 794 or a lewd act under s. 800.04 or s.
430 847.0135(5) against the minor; s. 787.01(3)(a)2. or 3.; s.
431 787.02(3)(a)2. or 3.; s. 794.011, excluding s. 794.011(10); s.
432 800.04; or s. 847.0135(5), the subtotal sentence points are
433 multiplied by 2.0. If applying the multiplier results in the
434 lowest permissible sentence exceeding the statutory maximum
435 sentence for the primary offense under chapter 775, the court

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436 may not apply the multiplier and must sentence the defendant to
437 the statutory maximum sentence.

438 Section 9. This act shall take effect October 1, 2016.