

By Senator Gruters

23-01318-19

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1                   A bill to be entitled  
2           An act relating to exceptions to requirements for the  
3           purchase and sale of firearms; amending s. 790.001,  
4           F.S.; defining the term "holder of a concealed weapons  
5           permit" and revising the definition of the term "law  
6           enforcement officer"; amending s. 790.0655, F.S.;  
7           deleting a cross-reference; creating s. 790.0656,  
8           F.S.; exempting holders of a concealed weapons permit  
9           from specified county waiting period requirements when  
10          purchasing a firearm; amending ss. 790.06, 790.115,  
11          790.145, 810.095, and 921.0024, F.S.; conforming  
12          provisions to changes made by the act; providing an  
13          effective date.

14  
15           WHEREAS, s. 8(b) of Article I of the State Constitution,  
16          which requires a waiting period for the purchase and delivery of  
17          a handgun, provides that "Holders of a concealed weapon permit  
18          as prescribed in Florida law shall not be subject to the  
19          provisions of this paragraph," and

20           WHEREAS, s. 5(b) of Article VIII of the State Constitution,  
21          which authorizes a county to require a waiting period for the  
22          purchase and delivery of a handgun, provides that "Holders of a  
23          concealed weapons permit as prescribed by general law shall not  
24          be subject to the provisions of this subsection when purchasing  
25          a firearm," and

26           WHEREAS, law enforcement officers certified under chapter  
27          943, Florida Statutes, are deemed by the Legislature to meet the  
28          requirements for holding concealed weapons permits, NOW,  
29          THEREFORE,

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

Section 1. Subsections (7)-(19) of section 790.001, Florida Statutes, are renumbered as subsections (8)-(20), respectively, present subsection (8) of that section is amended, and a new subsection (7) is added to that section, to read:

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

(7) "Holder of a concealed weapons permit" means a holder of a license issued under s. 790.06 or a full-time, part-time, or auxiliary law enforcement officer, as defined in s. 943.10, who is certified under chapter 943.

(9)~~(8)~~ "Law enforcement officer" means:

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

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

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

(d) County or municipal corrections officers who have the responsibility of supervision, protection, care, custody, and control or investigation of municipal or county inmates ~~At~~

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59 ~~employee of the state prisons or correctional systems who has~~  
60 ~~been so designated by the Department of Corrections or by a~~  
61 ~~warden of an institution;~~

62 (e) All peace officers and all certified supervisory and  
63 command personnel whose duties include, in whole or in part, the  
64 supervision, training, guidance, and management responsibilities  
65 of full-time law enforcement officers, part-time law enforcement  
66 officers, or auxiliary law enforcement officers, but not  
67 including support personnel employed by the employing agency;  
68 and

69 (f) All state attorneys and United States attorneys and  
70 their respective assistants and investigators.

71 Section 2. Paragraph (a) of subsection (2) of section  
72 790.0655, Florida Statutes, is amended to read:

73 790.0655 Purchase and delivery of firearms; mandatory  
74 waiting period; exceptions; penalties.—

75 (2) The waiting period does not apply in the following  
76 circumstances:

77 (a) When a firearm is being purchased by a holder of a  
78 concealed weapons permit ~~as defined in s. 790.06.~~

79 Section 3. Section 790.0656, Florida Statutes, is created  
80 to read:

81 790.0656 Sale of firearms; county requirements;  
82 exceptions.—Waiting period requirements adopted by a county  
83 pursuant to s. 5(b), Art. VIII of the State Constitution in  
84 connection with the sale of a firearm occurring within the  
85 county do not apply if the firearm is being purchased by a  
86 holder of a concealed weapons permit.

87 Section 4. Subsection (1) of section 790.06, Florida

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88 Statutes, is amended to read:

89 790.06 License to carry concealed weapon or firearm.—

90 (1) The Department of Agriculture and Consumer Services is  
91 authorized to issue licenses to carry concealed weapons or  
92 concealed firearms to persons qualified as provided in this  
93 section. Each such license must bear a color photograph of the  
94 licensee. For the purposes of this section, concealed weapons or  
95 concealed firearms are defined as a handgun, electronic weapon  
96 or device, tear gas gun, knife, or billie, but the term does not  
97 include a machine gun as defined in s. 790.001 ~~790.001(9)~~. Such  
98 licenses shall be valid throughout the state for a period of 7  
99 years from the date of issuance. Any person in compliance with  
100 the terms of such license may carry a concealed weapon or  
101 concealed firearm notwithstanding the provisions of s. 790.01.  
102 The licensee must carry the license, together with valid  
103 identification, at all times in which the licensee is in actual  
104 possession of a concealed weapon or firearm and must display  
105 both the license and proper identification upon demand by a law  
106 enforcement officer. Violations of the provisions of this  
107 subsection shall constitute a noncriminal violation with a  
108 penalty of \$25, payable to the clerk of the court.

109 Section 5. Subsection (1) and paragraphs (a) and (b) of  
110 subsection (2) of section 790.115, Florida Statutes, are amended  
111 to read:

112 790.115 Possessing or discharging weapons or firearms at a  
113 school-sponsored event or on school property prohibited;  
114 penalties; exceptions.—

115 (1) A person who exhibits any sword, sword cane, firearm,  
116 electric weapon or device, destructive device, or other weapon

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117 as defined in s. 790.001 ~~790.001(13)~~, including a razor blade,  
118 box cutter, or common pocketknife, except as authorized in  
119 support of school-sanctioned activities, in the presence of one  
120 or more persons in a rude, careless, angry, or threatening  
121 manner and not in lawful self-defense, at a school-sponsored  
122 event or on the grounds or facilities of any school, school bus,  
123 or school bus stop, or within 1,000 feet of the real property  
124 that comprises a public or private elementary school, middle  
125 school, or secondary school, during school hours or during the  
126 time of a sanctioned school activity, commits a felony of the  
127 third degree, punishable as provided in s. 775.082, s. 775.083,  
128 or s. 775.084. This subsection does not apply to the exhibition  
129 of a firearm or weapon on private real property within 1,000  
130 feet of a school by the owner of such property or by a person  
131 whose presence on such property has been authorized, licensed,  
132 or invited by the owner.

133 (2) (a) A person shall not possess any firearm, electric  
134 weapon or device, destructive device, or other weapon as defined  
135 in s. 790.001 ~~790.001(13)~~, including a razor blade or box  
136 cutter, except as authorized in support of school-sanctioned  
137 activities, at a school-sponsored event or on the property of  
138 any school, school bus, or school bus stop; however, a person  
139 may carry a firearm:

140 1. In a case to a firearms program, class or function which  
141 has been approved in advance by the principal or chief  
142 administrative officer of the school as a program or class to  
143 which firearms could be carried;

144 2. In a case to a career center having a firearms training  
145 range; or

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

150  
151 For the purposes of this section, "school" means any preschool,  
152 elementary school, middle school, junior high school, secondary  
153 school, career center, or postsecondary school, whether public  
154 or nonpublic.

155 (b) A person who willfully and knowingly possesses any  
156 electric weapon or device, destructive device, or other weapon  
157 as defined in s. 790.001 ~~790.001(13)~~, including a razor blade or  
158 box cutter, except as authorized in support of school-sanctioned  
159 activities, in violation of this subsection commits a felony of  
160 the third degree, punishable as provided in s. 775.082, s.  
161 775.083, or s. 775.084.

162 Section 6. Subsection (1) of section 790.145, Florida  
163 Statutes, is amended to read:

164 790.145 Crimes in pharmacies; possession of weapons;  
165 penalties.—

166 (1) Unless otherwise provided by law, any person who is in  
167 possession of a concealed ~~"firearm," as defined in s.~~  
168 ~~790.001(6),~~ or a ~~"destructive device," as defined in s.~~  
169 ~~790.001(4),~~ within the premises of a "pharmacy," as defined in  
170 chapter 465, commits ~~is guilty of~~ a felony of the third degree,  
171 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

172 Section 7. Subsection (1) of section 810.095, Florida  
173 Statutes, is amended to read:

174 810.095 Trespass on school property with firearm or other

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175 weapon prohibited.-

176 (1) It is a felony of the third degree, punishable as  
177 provided in s. 775.082, s. 775.083, or s. 775.084, for a person  
178 who is trespassing upon school property to bring onto, or to  
179 possess on, such school property any weapon as defined in s.  
180 790.001 ~~790.001(13)~~ or any firearm.

181 Section 8. Paragraph (b) of subsection (1) of section  
182 921.0024, Florida Statutes, is amended to read:

183 921.0024 Criminal Punishment Code; worksheet computations;  
184 scoresheets.-

185 (1)

186 (b) WORKSHEET KEY:

187  
188 Legal status points are assessed when any form of legal status  
189 existed at the time the offender committed an offense before the  
190 court for sentencing. Four (4) sentence points are assessed for  
191 an offender's legal status.

192  
193 Community sanction violation points are assessed when a  
194 community sanction violation is before the court for sentencing.  
195 Six (6) sentence points are assessed for each community sanction  
196 violation and each successive community sanction violation,  
197 unless any of the following apply:

198 1. If the community sanction violation includes a new  
199 felony conviction before the sentencing court, twelve (12)  
200 community sanction violation points are assessed for the  
201 violation, and for each successive community sanction violation  
202 involving a new felony conviction.

203 2. If the community sanction violation is committed by a

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204 violent felony offender of special concern as defined in s.  
205 948.06:

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

209 I. The violation does not include a new felony conviction;  
210 and

211 II. The community sanction violation is not based solely on  
212 the probationer or offender's failure to pay costs or fines or  
213 make restitution payments.

214 b. Twenty-four (24) community sanction violation points are  
215 assessed for the violation and for each successive violation of  
216 felony probation or community control where the violation  
217 includes a new felony conviction.

218

219 Multiple counts of community sanction violations before the  
220 sentencing court shall not be a basis for multiplying the  
221 assessment of community sanction violation points.

222

223 Prior serious felony points: If the offender has a primary  
224 offense or any additional offense ranked in level 8, level 9, or  
225 level 10, and one or more prior serious felonies, a single  
226 assessment of thirty (30) points shall be added. For purposes of  
227 this section, a prior serious felony is an offense in the  
228 offender's prior record that is ranked in level 8, level 9, or  
229 level 10 under s. 921.0022 or s. 921.0023 and for which the  
230 offender is serving a sentence of confinement, supervision, or  
231 other sanction or for which the offender's date of release from  
232 confinement, supervision, or other sanction, whichever is later,



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233 is within 3 years before the date the primary offense or any  
234 additional offense was committed.

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236 Prior capital felony points: If the offender has one or more  
237 prior capital felonies in the offender's criminal record, points  
238 shall be added to the subtotal sentence points of the offender  
239 equal to twice the number of points the offender receives for  
240 the primary offense and any additional offense. A prior capital  
241 felony in the offender's criminal record is a previous capital  
242 felony offense for which the offender has entered a plea of nolo  
243 contendere or guilty or has been found guilty; or a felony in  
244 another jurisdiction which is a capital felony in that  
245 jurisdiction, or would be a capital felony if the offense were  
246 committed in this state.

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248 Possession of a firearm, semiautomatic firearm, or machine gun:  
249 If the offender is convicted of committing or attempting to  
250 commit any felony other than those enumerated in s. 775.087(2)  
251 while having in his or her possession: a firearm as defined in  
252 s. 790.001(6), an additional eighteen (18) sentence points are  
253 assessed; or if the offender is convicted of committing or  
254 attempting to commit any felony other than those enumerated in  
255 s. 775.087(3) while having in his or her possession a  
256 semiautomatic firearm as defined in s. 775.087(3) or a machine  
257 gun as defined in s. 790.001 ~~790.001(9)~~, an additional twenty-  
258 five (25) sentence points are assessed.

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260 Sentencing multipliers:

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262 Drug trafficking: If the primary offense is drug trafficking  
263 under s. 893.135, the subtotal sentence points are multiplied,  
264 at the discretion of the court, for a level 7 or level 8  
265 offense, by 1.5. The state attorney may move the sentencing  
266 court to reduce or suspend the sentence of a person convicted of  
267 a level 7 or level 8 offense, if the offender provides  
268 substantial assistance as described in s. 893.135(4).

269

270 Law enforcement protection: If the primary offense is a  
271 violation of the Law Enforcement Protection Act under s.  
272 775.0823(2), (3), or (4), the subtotal sentence points are  
273 multiplied by 2.5. If the primary offense is a violation of s.  
274 775.0823(5), (6), (7), (8), or (9), the subtotal sentence points  
275 are multiplied by 2.0. If the primary offense is a violation of  
276 s. 784.07(3) or s. 775.0875(1), or of the Law Enforcement  
277 Protection Act under s. 775.0823(10) or (11), the subtotal  
278 sentence points are multiplied by 1.5.

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280 Grand theft of a motor vehicle: If the primary offense is grand  
281 theft of the third degree involving a motor vehicle and in the  
282 offender's prior record, there are three or more grand thefts of  
283 the third degree involving a motor vehicle, the subtotal  
284 sentence points are multiplied by 1.5.

285

286 Offense related to a criminal gang: If the offender is convicted  
287 of the primary offense and committed that offense for the  
288 purpose of benefiting, promoting, or furthering the interests of  
289 a criminal gang as defined in s. 874.03, the subtotal sentence  
290 points are multiplied by 1.5. If applying the multiplier results

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291 in the lowest permissible sentence exceeding the statutory  
292 maximum sentence for the primary offense under chapter 775, the  
293 court may not apply the multiplier and must sentence the  
294 defendant to the statutory maximum sentence.

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296 Domestic violence in the presence of a child: If the offender is  
297 convicted of the primary offense and the primary offense is a  
298 crime of domestic violence, as defined in s. 741.28, which was  
299 committed in the presence of a child under 16 years of age who  
300 is a family or household member as defined in s. 741.28(3) with  
301 the victim or perpetrator, the subtotal sentence points are  
302 multiplied by 1.5.

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304 Adult-on-minor sex offense: If the offender was 18 years of age  
305 or older and the victim was younger than 18 years of age at the  
306 time the offender committed the primary offense, and if the  
307 primary offense was an offense committed on or after October 1,  
308 2014, and is a violation of s. 787.01(2) or s. 787.02(2), if the  
309 violation involved a victim who was a minor and, in the course  
310 of committing that violation, the defendant committed a sexual  
311 battery under chapter 794 or a lewd act under s. 800.04 or s.  
312 847.0135(5) against the minor; s. 787.01(3)(a)2. or 3.; s.  
313 787.02(3)(a)2. or 3.; s. 794.011, excluding s. 794.011(10); s.  
314 800.04; or s. 847.0135(5), the subtotal sentence points are  
315 multiplied by 2.0. If applying the multiplier results in the  
316 lowest permissible sentence exceeding the statutory maximum  
317 sentence for the primary offense under chapter 775, the court  
318 may not apply the multiplier and must sentence the defendant to  
319 the statutory maximum sentence.

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Section 9. This act shall take effect July 1, 2019.