

By Senator Polsky

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1 A bill to be entitled
2 An act relating to the sale, transfer, or storage of
3 firearms; amending s. 790.174, F.S.; redefining the
4 term "minor"; revising requirements for the safe
5 storage of loaded firearms; providing criminal
6 penalties if a person fails to properly secure or
7 store a firearm and a minor gains access to the weapon
8 as a result; amending s. 790.175, F.S.; conforming
9 provisions to changes made by the act; requiring a
10 seller or transferor of a firearm to provide each
11 purchaser or transferee with specified information;
12 providing an exception; providing immunity for certain
13 providers of information; providing criminal
14 penalties; amending s. 784.05, F.S.; revising the
15 standard for adults and minors to be criminally
16 negligent in the storage of a firearm under certain
17 circumstances; providing criminal penalties;
18 redefining the term "minor"; conforming provisions to
19 changes made by the act; amending s. 790.115, F.S.;
20 revising an exception to the prohibition on storing or
21 leaving a loaded firearm within the reach or easy
22 access of a minor who obtains it and commits a certain
23 violation; conforming a provision to changes made by
24 the act; amending s. 921.0022, F.S.; conforming a
25 cross-reference; reenacting s. 409.175(5)(g), F.S.,
26 relating to rules of the Department of Children and
27 Families requiring the adoption of a form used by
28 child-placing agencies, to incorporate the amendment
29 made to s. 790.174, F.S., in a reference thereto;

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30 providing an effective date.

31
32 Be It Enacted by the Legislature of the State of Florida:

33
34 Section 1. Section 790.174, Florida Statutes, is amended to
35 read:

36 790.174 Safe storage of firearms required.-

37 (1) As used in this section, the term "minor" means a
38 person younger than 18 years of age.

39 (2)~~(1)~~ A person who stores or leaves, on a premise under
40 his or her control, a loaded firearm, as defined in s. 790.001,
41 and who knows or reasonably should know that a minor is likely
42 to gain access to the firearm without the lawful permission of
43 the minor's parent or guardian or the person having charge of
44 the minor, or without the supervision required by law, shall
45 keep the firearm in a securely locked box or container ~~or in a~~
46 ~~location which a reasonable person would believe to be secure~~ or
47 shall secure it with a firearm locking mechanism ~~trigger lock~~,
48 except when the person is carrying the firearm on his or her
49 body or within such close proximity thereto that he or she can
50 retrieve and use it as easily and quickly as if he or she
51 carried it on his or her body.

52 (3)~~(2)~~ It is a misdemeanor of the second degree, punishable
53 as provided in s. 775.082 or s. 775.083, if a person violates
54 subsection (2) ~~(1)~~ by failing to store or leave a firearm in the
55 required manner and as a result thereof a minor gains access to
56 the firearm, without the lawful permission of the minor's parent
57 or guardian or the person having charge of the minor, and
58 possesses or exhibits it, without the supervision required by

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59 law:

60 (a) In a public place; ~~or~~61 (b) In a rude, careless, angry, or threatening manner in
62 violation of s. 790.10;63 (c) During the commission of any violation of law; or64 (d) When great bodily harm or injury occurs, unless the
65 bodily harm or injury is a result of the firearm's use for
66 lawful self-defense or defense of another person.

67

68 This subsection does not apply if the minor obtains the firearm
69 as a result of an unlawful entry by any person.70 ~~(3) As used in this act, the term "minor" means any person~~
71 ~~under the age of 16.~~72 Section 2. Section 790.175, Florida Statutes, is amended to
73 read:74 790.175 Transfer or sale of firearms; required warnings and
75 information; penalties.-76 (1) Upon the retail commercial sale or retail transfer of
77 any firearm, the seller or transferor shall deliver a written
78 warning to the purchaser or transferee, which warning states, in
79 block letters not less than 1/4 inch in height:80 "IT IS UNLAWFUL, AND PUNISHABLE BY IMPRISONMENT AND FINE, ~~FOR~~
81 ~~ANY ADULT~~ TO STORE OR LEAVE A FIREARM IN AN UNSAFE MANNER IN ANY
82 PLACE WITHIN THE REACH OR EASY ACCESS OF A MINOR UNDER 18 YEARS
83 OF AGE OR TO KNOWINGLY SELL OR OTHERWISE TRANSFER OWNERSHIP OR
84 POSSESSION OF A FIREARM TO A MINOR OR A PERSON OF UNSOUND MIND."85 (2) Any retail or wholesale store, shop, or sales outlet
86 which sells firearms must conspicuously post at each purchase
87 counter the following warning in block letters not less than 1

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88 inch in height:

89 "IT IS UNLAWFUL TO STORE OR LEAVE A FIREARM IN AN UNSAFE MANNER
90 IN ANY PLACE WITHIN THE REACH OR EASY ACCESS OF A MINOR UNDER 18
91 YEARS OF AGE OR TO KNOWINGLY SELL OR OTHERWISE TRANSFER
92 OWNERSHIP OR POSSESSION OF A FIREARM TO A MINOR OR A PERSON OF
93 UN SOUND MIND."

94 (3) (a) At the retail commercial sale or retail transfer of
95 any firearm, the seller or transferor shall comply with all of
96 the following:

97 1. Provide each purchaser or transferee with a basic
98 firearm safety brochure. Such brochure must be produced by a
99 national nonprofit membership organization that provides a
100 comprehensive voluntary safety program, including the training
101 of individuals in the safe handling and use of firearms, or by
102 another comparable nonprofit organization, and must contain all
103 of the following information relating to firearms:

104 a. Rules for safe handling, storage, and use of firearms;
105 b. Nomenclature and descriptions of various types of
106 firearms;
107 c. Responsibilities of firearm ownership; and
108 d. The following information developed by the Department of
109 Law Enforcement:

110 (I) A list of locations at which handguns are prohibited;
111 and

112 (II) Information concerning the use of handguns for self-
113 defense.

114 2. Offer to demonstrate to the purchaser the use of a
115 firearm locking mechanism.

116 3. Post in a conspicuous place information relating to the

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117 availability of known local voluntary firearm safety programs.

118 (b) The brochure required under paragraph (a) need not be
119 supplied by the firearm dealer if the firearm manufacturer
120 provides a basic firearm safety brochure with the firearm.

121 (c) The dealer may collect a charge for the brochure which
122 may not be greater than the dealer's cost to obtain the
123 brochure.

124 (d) Organizations that produce basic firearm safety
125 brochures for distribution to firearm dealers for subsequent
126 distribution to purchasers of firearms under this section and
127 firearm dealers are not liable for injuries resulting from the
128 accidental discharge of nondefective firearms purchased from any
129 dealer.

130 (4)~~(3)~~ Any person or business knowingly violating a
131 requirement to provide a warning as required by ~~under~~ this
132 section or failing to comply with subsection (3) commits a
133 misdemeanor of the second degree, punishable as provided in s.
134 775.082 or s. 775.083.

135 Section 3. Subsections (3) and (4) of section 784.05,
136 Florida Statutes, are amended, and subsection (1) of that
137 section is republished, to read:

138 784.05 Culpable negligence.—

139 (1) Whoever, through culpable negligence, exposes another
140 person to personal injury commits a misdemeanor of the second
141 degree, punishable as provided in s. 775.082 or s. 775.083.

142 (3) (a)1. An adult who stores or leaves ~~Whoever violates~~
143 ~~subsection (1) by storing or leaving~~ a loaded firearm within the
144 reach or easy access of a minor commits, if the minor obtains
145 the firearm and uses it to inflict injury or death upon himself

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146 or herself or any other person, a felony of the third degree,
147 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

148 2. A minor who violates subsection (1) by storing or
149 leaving a loaded firearm within the reach or easy access of
150 another minor commits, if the other minor obtains the firearm
151 and uses it to inflict injury or death upon himself or herself
152 or any other person, a misdemeanor of the second degree,
153 punishable as provided in s. 775.082 or s. 775.083.

154 (b) However, this subsection does not apply:

155 1.(a) If the firearm was stored or left in a securely
156 locked box or container or in a secure location ~~which a~~
157 ~~reasonable person would have believed to be secure,~~ or was
158 securely locked with a firearm locking mechanism ~~trigger lock;~~

159 2.(b) If the minor obtains the firearm as a result of an
160 unlawful entry by any person;

161 3.(c) To injuries resulting from target or sport shooting
162 accidents or hunting accidents; or

163 4.(d) To members of the Armed Forces, National Guard, or
164 State Militia, or to police or other law enforcement officers,
165 with respect to firearm possession by a minor which occurs
166 during or incidental to the performance of their official
167 duties.

168
169 When any minor child is accidentally shot by another family
170 member, no arrest shall be made pursuant to this subsection
171 prior to 7 days after the date of the shooting. With respect to
172 any parent or guardian of any deceased minor, the investigating
173 officers shall file all findings and evidence with the state
174 attorney's office with respect to violations of this subsection.

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175 The state attorney shall evaluate such evidence and shall take
176 such action as he or she deems appropriate under the
177 circumstances and may file an information against the
178 appropriate parties.

179 (4) As used in this section ~~act~~, the term "minor" means any
180 person under the age of 18 ~~16~~.

181 Section 4. Paragraph (c) of subsection (2) of section
182 790.115, Florida Statutes, is amended to read:

183 790.115 Possessing or discharging weapons or firearms at a
184 school-sponsored event or on school property prohibited;
185 penalties; exceptions.—

186 (2)

187 (c)1. A person who willfully and knowingly possesses any
188 firearm in violation of this subsection commits a felony of the
189 third degree, punishable as provided in s. 775.082, s. 775.083,
190 or s. 775.084.

191 2. A person who stores or leaves a loaded firearm within
192 the reach or easy access of a minor who obtains the firearm and
193 commits a violation of subparagraph 1. commits a misdemeanor of
194 the second degree, punishable as provided in s. 775.082 or s.
195 775.083; except that this does not apply if the firearm was
196 stored or left in a securely locked box or container or in a
197 secure location ~~which a reasonable person would have believed to~~
198 ~~be secure~~, or was securely locked with a firearm-mounted push-
199 button combination lock or a firearm locking mechanism ~~trigger~~
200 ~~lock~~; if the minor obtains the firearm as a result of an
201 unlawful entry by any person; or to members of the Armed Forces,
202 National Guard, or State Militia, or to police or other law
203 enforcement officers, with respect to firearm possession by a

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204 minor which occurs during or incidental to the performance of
 205 their official duties.

206 Section 5. Paragraph (b) of subsection (3) of section
 207 921.0022, Florida Statutes, is amended to read:

208 921.0022 Criminal Punishment Code; offense severity ranking
 209 chart.—

210 (3) OFFENSE SEVERITY RANKING CHART

211 (b) LEVEL 2

212

Florida Statute	Felony Degree	Description
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213

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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215

403.413 (6) (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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216

517.07 (2)	3rd	Failure to furnish a prospectus
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meeting requirements.

217

590.28 (1) 3rd Intentional burning of lands.

218

784.05 (3) (a) 1. 3rd Adult storing or leaving a
~~784.05 (3)~~ loaded firearm within reach of
 minor who uses it to inflict
 injury or death.

219

787.04 (1) 3rd In violation of court order,
 take, entice, etc., minor
 beyond state limits.

220

806.13 (1) (b) 3. 3rd Criminal mischief; damage
 \$1,000 or more to public
 communication or any other
 public service.

221

810.061 (2) 3rd Impairing or impeding telephone
 or power to a dwelling;
 facilitating or furthering
 burglary.

222

810.09 (2) (e) 3rd Trespassing on posted
 commercial horticulture
 property.

223

812.014 (2) (c) 1. 3rd Grand theft, 3rd degree; \$750
 or more but less than \$5,000.

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812.014 (2) (d)	3rd	Grand theft, 3rd degree; \$100 or more but less than \$750, taken from unenclosed curtilage of dwelling.
812.015 (7)	3rd	Possession, use, or attempted use of an antishoplifting or inventory control device countermeasure.
817.234 (1) (a) 2.	3rd	False statement in support of insurance claim.
817.481 (3) (a)	3rd	Obtain credit or purchase with false, expired, counterfeit, etc., credit card, value over \$300.
817.52 (3)	3rd	Failure to redeliver hired vehicle.
817.54	3rd	With intent to defraud, obtain mortgage note, etc., by false representation.
817.60 (5)	3rd	Dealing in credit cards of another.

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232	817.60 (6) (a)	3rd	Forgery; purchase goods, services with false card.
233	817.61	3rd	Fraudulent use of credit cards over \$100 or more within 6 months.
234	826.04	3rd	Knowingly marries or has sexual intercourse with person to whom related.
235	831.01	3rd	Forgery.
236	831.02	3rd	Uttering forged instrument; utters or publishes alteration with intent to defraud.
237	831.07	3rd	Forging bank bills, checks, drafts, or promissory notes.
238	831.08	3rd	Possessing 10 or more forged notes, bills, checks, or drafts.
239	831.09	3rd	Uttering forged notes, bills, checks, drafts, or promissory notes.
	831.11	3rd	Bringing into the state forged

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bank bills, checks, drafts, or notes.

240

832.05(3)(a) 3rd Cashing or depositing item with intent to defraud.

241

843.08 3rd False personation.

242

893.13(2)(a)2. 3rd Purchase of any s.
893.03(1)(c), (2)(c)1.,
(2)(c)2., (2)(c)3., (2)(c)6.,
(2)(c)7., (2)(c)8., (2)(c)9.,
(2)(c)10., (3), or (4) drugs
other than cannabis.

243

893.147(2) 3rd Manufacture or delivery of drug paraphernalia.

244

245 Section 6. For the purpose of incorporating the amendment
246 made by this act to section 790.174, Florida Statutes, in a
247 reference thereto, paragraph (g) of subsection (5) of section
248 409.175, Florida Statutes, is reenacted to read:

249 409.175 Licensure of family foster homes, residential
250 child-caring agencies, and child-placing agencies; public
251 records exemption.—

252 (5) The department shall adopt and amend rules for the
253 levels of licensed care associated with the licensure of family
254 foster homes, residential child-caring agencies, and child-
255 placing agencies. The rules may include criteria to approve

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256 waivers to licensing requirements when applying for a child-
257 specific license.

258 (g) The department's rules shall include adoption of a form
259 to be used by child-placing agencies during an adoption home
260 study that requires all prospective adoptive applicants to
261 acknowledge in writing the receipt of a document containing
262 solely and exclusively the language provided for in s. 790.174
263 verbatim.

264 Section 7. This act shall take effect October 1, 2021.