

By Senator Polsky

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1 A bill to be entitled
2 An act relating to firearms; amending s. 790.001,
3 F.S.; revising the definition of the term "machine
4 gun"; amending s. 921.0022, F.S.; ranking an offense
5 on level 5 of the offense severity ranking chart of
6 the Criminal Punishment Code; reenacting ss.
7 775.087(3)(a) and (d), 784.07(3)(b), 790.06(1)(a), and
8 921.0024(1)(b), F.S., relating to required minimum
9 sentences and legislative intent, required minimum
10 sentences, the definition of the term "concealed
11 weapon or concealed firearm," and the worksheet key
12 for worksheet computations of the Criminal Punishment
13 Code, respectively, to incorporate the amendment made
14 to s. 790.001, F.S., in references thereto; providing
15 an effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

18
19 Section 1. Subsection (13) of section 790.001, Florida
20 Statutes, is amended to read:

21 790.001 Definitions.—As used in this chapter, except where
22 the context otherwise requires:

23 (13) "Machine gun" means any firearm that: ~~which~~

24 (a) Shoots, or is designed to shoot, automatically more
25 than one shot, without manually reloading, by a single function
26 pull of the trigger; or

27 (b) Is modified by a conversion kit, a tool, an accessory,
28 or a device that is used to alter the rate of fire of the
29 firearm to mimic automatic weapon fire or that is used to

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30 increase the rate of fire to a faster rate than is possible for
 31 a person to fire such firearm unassisted by a conversion kit, a
 32 tool, an accessory, or a device by a single pull of the trigger.

33 Section 2. Paragraph (e) of subsection (3) of section
 34 921.0022, Florida Statutes, is amended to read:

35 921.0022 Criminal Punishment Code; offense severity ranking
 36 chart.—

37 (3) OFFENSE SEVERITY RANKING CHART

38 (e) LEVEL 5

39

Florida Statute	Felony Degree	Description
316.027(2)(a)	3rd	Accidents involving personal injuries other than serious bodily injury, failure to stop; leaving scene.
316.1935(4)(a)	2nd	Aggravated fleeing or eluding.
316.80(2)	2nd	Unlawful conveyance of fuel; obtaining fuel fraudulently.
322.34(6)	3rd	Careless operation of motor vehicle with suspended license,

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resulting in death or
serious bodily injury.

327.30(5)

3rd

Vessel accidents
involving personal
injury; leaving scene.

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379.365(2)(c)1.

3rd

Violation of rules
relating to: willful
molestation of stone
crab traps, lines, or
buoys; illegal
bartering, trading, or
sale, conspiring or
aiding in such barter,
trade, or sale, or
supplying, agreeing to
supply, aiding in
supplying, or giving
away stone crab trap
tags or certificates;
making, altering,
forging,
counterfeiting, or
reproducing stone crab
trap tags; possession
of forged, counterfeit,
or imitation stone crab
trap tags; and engaging

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in the commercial
harvest of stone crabs
while license is
suspended or revoked.

379.367 (4)

3rd

Willful molestation of
a commercial
harvester's spiny
lobster trap, line, or
buoy.

47

379.407 (5) (b) 3.

3rd

Possession of 100 or
more undersized spiny
lobsters.

48

381.0041 (11) (b)

3rd

Donate blood, plasma,
or organs knowing HIV
positive.

49

440.10 (1) (g)

2nd

Failure to obtain
workers' compensation
coverage.

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440.105 (5)

2nd

Unlawful solicitation
for the purpose of
making workers'
compensation claims.

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440.381 (2)

3rd

Submission of false,

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misleading, or
incomplete information
with the purpose of
avoiding or reducing
workers' compensation
premiums.

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624.401 (4) (b) 2.

2nd

Transacting insurance
without a certificate
or authority; premium
collected \$20,000 or
more but less than
\$100,000.

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626.902 (1) (c)

2nd

Representing an
unauthorized insurer;
repeat offender.

54

790.01 (3)

3rd

Unlawful carrying of a
concealed firearm.

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790.162

2nd

Threat to throw or
discharge destructive
device.

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790.163 (1)

2nd

False report of bomb,
explosive, weapon of
mass destruction, or
use of firearms in

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			violent manner.
57	790.221 (1)	2nd	Possession of short-barreled shotgun or machine gun.
58	<u>790.222</u>	<u>3rd</u>	<u>Prohibited acts related to bump-fire stocks.</u>
59	790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or devices.
60	796.05 (1)	2nd	Live on earnings of a prostitute; 1st offense.
61	800.04 (6) (c)	3rd	Lewd or lascivious conduct; offender less than 18 years of age.
62	800.04 (7) (b)	2nd	Lewd or lascivious exhibition; offender 18 years of age or older.
63	806.111 (1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage

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812.0145 (2) (b)

2nd

any structure or
property.

Theft from person 65
years of age or older;
\$10,000 or more but
less than \$50,000.

812.015
(8) (a) & (c) - (e)

3rd

Retail theft; property
stolen is valued at
\$750 or more and one or
more specified acts.

812.015 (8) (f)

3rd

Retail theft; multiple
thefts within specified
period.

812.019 (1)

2nd

Stolen property;
dealing in or
trafficking in.

812.081 (3)

2nd

Trafficking in trade
secrets.

812.131 (2) (b)

3rd

Robbery by sudden
snatching.

812.16 (2)

3rd

Owning, operating, or
conducting a chop shop.

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817.034 (4) (a) 2.

2nd

Communications fraud,
value \$20,000 to
\$50,000.

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817.234 (11) (b)

2nd

Insurance fraud;
property value \$20,000
or more but less than
\$100,000.

73

817.2341 (1),
(2) (a) & (3) (a)

3rd

Filing false financial
statements, making
false entries of
material fact or false
statements regarding
property values
relating to the
solvency of an insuring
entity.

74

817.568 (2) (b)

2nd

Fraudulent use of
personal identification
information; value of
benefit, services
received, payment
avoided, or amount of
injury or fraud, \$5,000
or more or use of
personal identification

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75			information of 10 or more persons.
	817.611 (2) (a)	2nd	Traffic in or possess 5 to 14 counterfeit credit cards or related documents.
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	817.625 (2) (b)	2nd	Second or subsequent fraudulent use of scanning device, skimming device, or reencoder.
77			
	825.1025 (4)	3rd	Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.
78			
	827.071 (4)	2nd	Possess with intent to promote any photographic material, motion picture, etc., which includes child pornography.
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	827.071 (5)	3rd	Possess, control, or intentionally view any

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photographic material,
 motion picture, etc.,
 which includes child
 pornography.

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828.12 (2)

3rd

Tortures any animal
 with intent to inflict
 intense pain, serious
 physical injury, or
 death.

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836.14 (4)

2nd

Person who willfully
 promotes for financial
 gain a sexually
 explicit image of an
 identifiable person
 without consent.

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839.13 (2) (b)

2nd

Falsifying records of
 an individual in the
 care and custody of a
 state agency involving
 great bodily harm or
 death.

83

843.01 (1)

3rd

Resist officer with
 violence to person;
 resist arrest with
 violence.

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84	847.0135 (5) (b)	2nd	Lewd or lascivious exhibition using computer; offender 18 years or older.
85	847.0137 (2) & (3)	3rd	Transmission of pornography by electronic device or equipment.
86	847.0138 (2) & (3)	3rd	Transmission of material harmful to minors to a minor by electronic device or equipment.
87	874.05 (1) (b)	2nd	Encouraging or recruiting another to join a criminal gang; second or subsequent offense.
88	874.05 (2) (a)	2nd	Encouraging or recruiting person under 13 years of age to join a criminal gang.
89	893.13 (1) (a) 1.	2nd	Sell, manufacture, or

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deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5. drugs).

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893.13(1)(c)2.

2nd

Sell, manufacture, or deliver cannabis (or other 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) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.

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893.13(1)(d)1.

1st

Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5. drugs) within 1,000 feet of university.

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893.13 (1) (e) 2.

2nd

Sell, manufacture, or deliver cannabis or other drug prohibited under 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) within 1,000 feet of property used for religious services or a specified business site.

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893.13 (1) (f) 1.

1st

Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), or (2)(a), (2)(b), or (2)(c)5. drugs) within 1,000 feet of public housing facility.

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893.13 (4) (b)

2nd

Use or hire of minor; deliver to minor other controlled substance.

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893.1351 (1)

3rd

Ownership, lease, or

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rental for trafficking
in or manufacturing of
controlled substance.

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Section 3. For the purpose of incorporating the amendment made by this act to section 790.001, Florida Statutes, in references thereto, paragraphs (a) and (d) of subsection (3) of section 775.087, Florida Statutes, are reenacted to read:

775.087 Possession or use of weapon; aggravated battery; felony reclassification; minimum sentence.—

(3) (a) 1. Any person who is convicted of a felony or an attempt to commit a felony, regardless of whether the use of a firearm is an element of the felony, and the conviction was for:

- a. Murder;
- b. Sexual battery;
- c. Robbery;
- d. Burglary;
- e. Arson;
- f. Aggravated battery;
- g. Kidnapping;
- h. Escape;
- i. Sale, manufacture, delivery, or intent to sell, manufacture, or deliver any controlled substance;
- j. Aircraft piracy;
- k. Aggravated child abuse;
- l. Aggravated abuse of an elderly person or disabled adult;
- m. Unlawful throwing, placing, or discharging of a destructive device or bomb;
- n. Carjacking;

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- 122 o. Home-invasion robbery;
- 123 p. Aggravated stalking;
- 124 q. Trafficking in cannabis, trafficking in cocaine, capital
- 125 importation of cocaine, trafficking in illegal drugs, capital
- 126 importation of illegal drugs, trafficking in phencyclidine,
- 127 capital importation of phencyclidine, trafficking in
- 128 methaqualone, capital importation of methaqualone, trafficking
- 129 in amphetamine, capital importation of amphetamine, trafficking
- 130 in flunitrazepam, trafficking in gamma-hydroxybutyric acid
- 131 (GHB), trafficking in 1,4-Butanediol, trafficking in
- 132 Phenethylamines, or other violation of s. 893.135(1); or
- 133 r. Human trafficking
- 134

135 and during the commission of the offense, such person possessed

136 a semiautomatic firearm and its high-capacity detachable box

137 magazine or a machine gun as defined in s. 790.001, shall be

138 sentenced to a minimum term of imprisonment of 15 years.

139 2. Any person who is convicted of a felony or an attempt to

140 commit a felony listed in subparagraph 1., regardless of whether

141 the use of a weapon is an element of the felony, and during the

142 course of the commission of the felony such person discharged a

143 semiautomatic firearm and its high-capacity box magazine or a

144 "machine gun" as defined in s. 790.001 shall be sentenced to a

145 minimum term of imprisonment of 20 years.

146 3. Any person who is convicted of a felony or an attempt to

147 commit a felony listed in subparagraph 1., regardless of whether

148 the use of a weapon is an element of the felony, and during the

149 course of the commission of the felony such person discharged a

150 semiautomatic firearm and its high-capacity box magazine or a

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151 "machine gun" as defined in s. 790.001 and, as the result of the
152 discharge, death or great bodily harm was inflicted upon any
153 person, the convicted person shall be sentenced to a minimum
154 term of imprisonment of not less than 25 years and not more than
155 a term of imprisonment of life in prison.

156 (d) It is the intent of the Legislature that offenders who
157 possess, carry, display, use, threaten to use, or attempt to use
158 a semiautomatic firearm and its high-capacity detachable box
159 magazine or a machine gun as defined in s. 790.001 be punished
160 to the fullest extent of the law, and the minimum terms of
161 imprisonment imposed pursuant to this subsection shall be
162 imposed for each qualifying felony count for which the person is
163 convicted. The court shall impose any term of imprisonment
164 provided for in this subsection consecutively to any other term
165 of imprisonment imposed for any other felony offense.

166 Section 4. For the purpose of incorporating the amendment
167 made by this act to section 790.001, Florida Statutes, in a
168 reference thereto, paragraph (b) of subsection (3) of section
169 784.07, Florida Statutes, is reenacted to read:

170 784.07 Assault or battery of law enforcement officers and
171 other specified personnel; reclassification of offenses; minimum
172 sentences.—

173 (3) Any person who is convicted of a battery under
174 paragraph (2)(b) and, during the commission of the offense, such
175 person possessed:

176 (b) A semiautomatic firearm and its high-capacity
177 detachable box magazine, as defined in s. 775.087(3), or a
178 machine gun as defined in s. 790.001, shall be sentenced to a
179 minimum term of imprisonment of 8 years.

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181 Notwithstanding s. 948.01, adjudication of guilt or imposition
182 of sentence shall not be suspended, deferred, or withheld, and
183 the defendant is not eligible for statutory gain-time under s.
184 944.275 or any form of discretionary early release, other than
185 pardon or executive clemency, or conditional medical release
186 under s. 947.149, prior to serving the minimum sentence.

187 Section 5. For the purpose of incorporating the amendment
188 made by this act to section 790.001, Florida Statutes, in a
189 reference thereto, paragraph (a) of subsection (1) of section
190 790.06, Florida Statutes, is reenacted to read:

191 790.06 License to carry concealed weapon or concealed
192 firearm.—

193 (1) (a) For the purposes of this section, the term
194 "concealed weapon or concealed firearm" means a handgun,
195 electric weapon or device, tear gas gun, knife, or billie, but
196 does not include a machine gun as that term is defined in s.
197 790.001.

198 Section 6. For the purpose of incorporating the amendment
199 made by this act to section 790.001, Florida Statutes, in a
200 reference thereto, paragraph (b) of subsection (1) of section
201 921.0024, Florida Statutes, is reenacted to read:

202 921.0024 Criminal Punishment Code; worksheet computations;
203 scoresheets.—

204 (1)

205 (b) WORKSHEET KEY:

206

207 Legal status points are assessed when any form of legal status
208 existed at the time the offender committed an offense before the

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209 court for sentencing. Four (4) sentence points are assessed for
210 an offender's legal status.

211
212 Community sanction violation points are assessed when a
213 community sanction violation is before the court for sentencing.
214 Six (6) sentence points are assessed for each community sanction
215 violation and each successive community sanction violation,
216 unless any of the following apply:

217 1. If the community sanction violation includes a new
218 felony conviction before the sentencing court, twelve (12)
219 community sanction violation points are assessed for the
220 violation, and for each successive community sanction violation
221 involving a new felony conviction.

222 2. If the community sanction violation is committed by a
223 violent felony offender of special concern as defined in s.
224 948.06:

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

228 I. The violation does not include a new felony conviction;
229 and

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

233 b. Twenty-four (24) community sanction violation points are
234 assessed for the violation and for each successive violation of
235 felony probation or community control where the violation
236 includes a new felony conviction.

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238 Multiple counts of community sanction violations before the
239 sentencing court shall not be a basis for multiplying the
240 assessment of community sanction violation points.

241
242 Prior serious felony points: If the offender has a primary
243 offense or any additional offense ranked in level 8, level 9, or
244 level 10, and one or more prior serious felonies, a single
245 assessment of thirty (30) points shall be added. For purposes of
246 this section, a prior serious felony is an offense in the
247 offender's prior record that is ranked in level 8, level 9, or
248 level 10 under s. 921.0022 or s. 921.0023 and for which the
249 offender is serving a sentence of confinement, supervision, or
250 other sanction or for which the offender's date of release from
251 confinement, supervision, or other sanction, whichever is later,
252 is within 3 years before the date the primary offense or any
253 additional offense was committed.

254
255 Prior capital felony points: If the offender has one or more
256 prior capital felonies in the offender's criminal record, points
257 shall be added to the subtotal sentence points of the offender
258 equal to twice the number of points the offender receives for
259 the primary offense and any additional offense. A prior capital
260 felony in the offender's criminal record is a previous capital
261 felony offense for which the offender has entered a plea of nolo
262 contendere or guilty or has been found guilty; or a felony in
263 another jurisdiction which is a capital felony in that
264 jurisdiction, or would be a capital felony if the offense were
265 committed in this state.

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267 Possession of a firearm, semiautomatic firearm, or machine gun:
268 If the offender is convicted of committing or attempting to
269 commit any felony other than those enumerated in s. 775.087(2)
270 while having in his or her possession: a firearm as defined in
271 s. 790.001, an additional eighteen (18) sentence points are
272 assessed; or if the offender is convicted of committing or
273 attempting to commit any felony other than those enumerated in
274 s. 775.087(3) while having in his or her possession a
275 semiautomatic firearm as defined in s. 775.087(3) or a machine
276 gun as defined in s. 790.001, an additional twenty-five (25)
277 sentence points are assessed.

278
279 Sentencing multipliers:

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281 Drug trafficking: If the primary offense is drug trafficking
282 under s. 893.135, the subtotal sentence points are multiplied,
283 at the discretion of the court, for a level 7 or level 8
284 offense, by 1.5. The state attorney may move the sentencing
285 court to reduce or suspend the sentence of a person convicted of
286 a level 7 or level 8 offense, if the offender provides
287 substantial assistance as described in s. 893.135(4).

288
289 Violent offenses committed against specified justice system
290 personnel: If the primary offense is a violation of s.
291 775.0823(2), (3), or (4), the subtotal sentence points are
292 multiplied by 2.5. If the primary offense is a violation of s.
293 775.0823(5), (6), (7), (8), or (9), the subtotal sentence points
294 are multiplied by 2.0. If the primary offense is a violation of
295 s. 784.07(3) or s. 775.0875(1), or s. 775.0823(10) or (11), the

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296 subtotal sentence points are multiplied by 1.5.

297

298 Grand theft of a motor vehicle: If the primary offense is grand
299 theft of the third degree involving a motor vehicle and in the
300 offender's prior record, there are three or more grand thefts of
301 the third degree involving a motor vehicle, the subtotal
302 sentence points are multiplied by 1.5.

303

304 Offense related to a criminal gang: If the offender is convicted
305 of the primary offense and committed that offense for the
306 purpose of benefiting, promoting, or furthering the interests of
307 a criminal gang as defined in s. 874.03, the subtotal sentence
308 points are multiplied by 1.5. If applying the multiplier results
309 in the lowest permissible sentence exceeding the statutory
310 maximum sentence for the primary offense under chapter 775, the
311 court may not apply the multiplier and must sentence the
312 defendant to the statutory maximum sentence.

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314 Domestic violence in the presence of a child: If the offender is
315 convicted of the primary offense and the primary offense is a
316 crime of domestic violence, as defined in s. 741.28, which was
317 committed in the presence of a child under 16 years of age who
318 is a family or household member as defined in s. 741.28(3) with
319 the victim or perpetrator, the subtotal sentence points are
320 multiplied by 1.5.

321

322 Adult-on-minor sex offense: If the offender was 18 years of age
323 or older and the victim was younger than 18 years of age at the
324 time the offender committed the primary offense, and if the

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325 primary offense was an offense committed on or after October 1,
326 2014, and is a violation of s. 787.01(2) or s. 787.02(2), if the
327 violation involved a victim who was a minor and, in the course
328 of committing that violation, the defendant committed a sexual
329 battery under chapter 794 or a lewd act under s. 800.04 or s.
330 847.0135(5) against the minor; s. 787.01(3)(a)2. or 3.; s.
331 787.02(3)(a)2. or 3.; s. 794.011, excluding s. 794.011(10); s.
332 800.04; or s. 847.0135(5), the subtotal sentence points are
333 multiplied by 2.0. If applying the multiplier results in the
334 lowest permissible sentence exceeding the statutory maximum
335 sentence for the primary offense under chapter 775, the court
336 may not apply the multiplier and must sentence the defendant to
337 the statutory maximum sentence.

338 Section 7. This act shall take effect July 1, 2024.