

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Rules

BILL: SB 952

INTRODUCER: Senator Ingoglia and others

SUBJECT: Restrictions on Firearms and Ammunition During Emergencies

DATE: April 7, 2025

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Cellon</u>	<u>Stokes</u>	<u>CJ</u>	Favorable
2. <u>Shuler</u>	<u>Fleming</u>	<u>CA</u>	Favorable
3. <u>Cellon</u>	<u>Yeatman</u>	<u>RC</u>	Pre-meeting

I. Summary:

SB 952 repeals s. 870.044, F.S., which provides that when a county sheriff or a city official declares a local state of emergency due to their belief of a clear and present danger of a riot, public disorder, disobedience, and substantial injury to persons or property, a person may not:

- Sell or offer to sell firearms or ammunition;
- Intentionally display firearms or ammunition in a store or shop; or
- Intentionally possess a firearm in a public place unless he or she is an authorized law enforcement official or person in military service acting in the official performance of her or his duty.

The bill also repeals the provision in section 870.044, F.S., which provides that nothing in ch. 870, F.S., may be construed to authorize the seizure, taking, or confiscation of lawfully possessed firearms unless the person is engaged in a criminal act.

There is no fiscal impact from the bill.

The bill takes effect upon becoming a law.

II. Present Situation:

State Emergency Management Act

The State Emergency Management Act, ch. 252, F.S., was enacted to be the legal framework for this state's overall approach to activities related to the management of emergencies of all types. The State Emergency Management Act delineates the Governor's authority to declare a state of emergency, issue executive orders, and otherwise lead the state during emergencies. If the

Governor finds that an emergency¹ has occurred or is imminent, he or she must declare a state of emergency.² In the event of an emergency beyond local control, the Governor may assume direct operational control over all or any part of the emergency management functions within this state and is authorized to delegate such powers as she or he may deem prudent.³

Under the State Emergency Management Act, the Governor has the specific authority to suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives, and combustibles.⁴ However, nothing contained in the State Emergency Management Act or the Florida Emergency Planning and Community Right-to-Know Act (ss. 252.31-252.90, F.S.) may be construed to authorize the seizure, taking, or confiscation of firearms that are lawfully possessed, unless a person is engaged in the commission of a criminal act.⁵

Emergency Management - Counties and Municipalities

The responsibilities and powers of counties and municipalities in response to emergencies are specified by the State Emergency Management Act. The Act provides specific authorization and emergency powers to counties and municipalities, including the requirement for each county (municipalities are encouraged) to develop a county emergency management plan consistent with the state comprehensive emergency management plan.⁶

Counties and municipalities have the authority under the State Emergency Management Act to declare a state of local emergency in the event of an emergency affecting only one county or municipality for the purpose of requesting state assistance or invoking emergency-related mutual-aid assistance.⁷ Such a declaration may only last 7 days, and may be extended in 7-day increments as necessary.⁸

Affrays; Riots; Routs; Unlawful Assemblies

Chapter 870, F.S., provides for the authority of officials to react in the event of unlawful assemblies, riots, and other such public acts or threats of violence. The designation of local officials with the authority to declare local emergencies under the chapter differs for unincorporated areas and municipalities. For unincorporated areas, section 870.042, F.S., empowers a county sheriff, or other official having the duties of the sheriff, to declare that a state of emergency exists within those unincorporated areas and to exercise the emergency powers conferred in ss. 870.041-870.047, F.S.⁹

¹ Under the State Emergency Management Act, the term “emergency” means any occurrence, or threat thereof, whether natural, technological, or manmade, in war or in peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property. See s. 252.34(4), F.S.

² Section 252.36(2), F.S.

³ Section 252.36(1)(a), F.S.

⁴ Section 252.36(6)(h), F.S.

⁵ *Id.*

⁶ Sections 252.38(1)(a) and (2), F.S.

⁷ Section 252.38(3)(a)5., F.S.

⁸ *Id.*

⁹ Section 870.042(1), F.S.

For municipalities, the governing body of any municipality may designate by an ordinance a city official who will be empowered to declare that a state of emergency exists within the boundaries of the municipality and to exercise the emergency powers conferred in ss. 870.041-870.047, F.S. The designated city official will be either the mayor or chief of police or the person who performs the duties of a mayor or chief of police in the municipality. In the absence of an ordinance designating the official to act, the chief of police of the municipality is designated as the city official to assume the duties and powers set forth in the statute.¹⁰

Sections 870.041-870.047, F.S., specify the parameters within which local officials may declare emergencies locally and may act under the chapter. These provisions include:

- The general authority of local officers to declare an emergency locally in the event of acts or threats of violence.¹¹
- The designation of the local official with the authority to declare a local emergency under the chapter.¹²
- The circumstances under which a local official may declare a local emergency.¹³
- Acts automatically prohibited when a locally-declared state of emergency under the chapter exists¹⁴
- Limitations and conditions that public officials have the authority to promulgate when a locally-declared state of emergency under the chapter exists.¹⁵
- Requirements for filing and publishing notice of the locally-declared state of emergency.¹⁶
- Limits on the duration of locally-declared states of emergency and requirements for extensions.¹⁷

The specific conditions that authorize the sheriff or designated city official to declare a state of emergency are provided in s. 870.043, F.S. Under the section, whenever the sheriff or designated city official determines that there has been an act of violence or a flagrant and substantial defiance of, or resistance to, a lawful exercise of public authority and that, on account thereof, there is reason to believe that there exists a clear and present danger of a riot or other general public disorder, widespread disobedience of the law, and substantial injury to persons or to property, all of which constitute an imminent threat to public peace or order and to the general welfare of the jurisdiction affected or a part or parts thereof, he or she may declare that a state of emergency exists within that jurisdiction or any part or parts thereof.¹⁸

Local officials also have the more general authority pursuant to s. 870.041 to declare a state of emergency in the event of overt acts, or the imminent threat, of violence within the county or municipality and the Governor has not declared a state of emergency.

¹⁰ Section 870.042(2), F.S.

¹¹ Section 870.041, F.S.

¹² Section 870.042, F.S.

¹³ Section 870.043, F.S.

¹⁴ Section 870.044, F.S.

¹⁵ Section 870.045, F.S.

¹⁶ Section 870.046, F.S.

¹⁷ Section 870.047, F.S.

¹⁸ Section 870.043, F.S.

Section 870.044, F.S., prohibits the following acts, throughout the specified jurisdiction, during a state of emergency declared by a sheriff or designated city official pursuant to the conditions of violence and disorder specified in s. 870.043, F.S.:¹⁹

- The sale of, or offer to sell, with or without consideration, any ammunition or gun or other firearm of any size or description.
- The intentional display, after the emergency is declared, by or in any store or shop of any ammunition or gun or other firearm of any size or description.
- The intentional possession in a public place of a firearm by any person, except an authorized law enforcement official or person in military service acting in the official performance of her or his duty.²⁰

Section 870.044, F.S., also specifies that nothing contained in ch. 870, F.S., may be construed to authorize the seizure, taking, or confiscation of firearms that are lawfully possessed, unless a person is engaged in a criminal act.

Under s. 790.01, F.S., it is not unlawful for a person to carry a concealed weapon or a concealed firearm while in the act of evacuating during a mandatory evacuation order issued during a state of emergency declared by the Governor pursuant to ch. 252, F.S., or declared by a local authority pursuant to ch. 870, F.S.²¹

III. Effect of Proposed Changes:

The bill repeals s. 870.044, F.S., which prohibits a person from selling or offering to sell firearms or ammunition, intentionally displaying firearms or ammunition in a store or shop, or intentionally possessing a firearm in a public place during a local state of emergency declared pursuant to the conditions of violence and disorder specified in s. 870.043, F.S., unless he or she is an authorized law enforcement official or person in military service acting in the official performance of her or his duty.

The bill also repeals the provision of s. 870.044, F.S., which provides that nothing in ch. 870, F.S., may be construed to authorize the seizure, taking, or confiscation of firearms that are lawfully possessed, unless a person is engaged in a criminal act.

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s.18, of the State Constitution.

¹⁹ Section 870.043, F.S.

²⁰ Section 870.044, F.S.

²¹ Section 790.01(5), F.S.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill repeals the following section of the Florida Statutes: 870.044.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
