

Florida Law

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

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

(2) "Concealed firearm" means any firearm, as defined in subsection (6), which is carried on or about a person in such a manner as to conceal the firearm from the ordinary sight of another person.

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

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

(4) "Destructive device" means any bomb, grenade, mine, rocket, missile, pipebomb, or similar device containing an explosive, incendiary, or poison gas and includes any frangible container filled with an explosive, incendiary, explosive gas, or expanding gas, which is designed or so constructed as to explode by such filler and is capable of causing bodily harm or property damage; any combination of parts either designed or intended for use in converting any device into a destructive device and from which a destructive device may be readily assembled; any device declared a destructive device by the Bureau of Alcohol, Tobacco, and Firearms; any type of weapon which will, is designed to, or may readily be converted to expel a projectile by the action of any explosive and which has a barrel with a bore of one-half inch or more in diameter; and ammunition for such destructive devices, but not including shotgun shells or any other ammunition designed for use in a firearm other than a destructive device. "Destructive device" does not include:

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

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

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

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

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

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

(b) Fireworks as defined in s. 791.01;

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

(d) Black powder in quantities not to exceed that authorized by chapter 552, or by any rules or regulations promulgated thereunder by the Department of Insurance, when used for, or intended to be used for, the manufacture of target and sporting ammunition or for use in muzzle-loading flint or percussion weapons.

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

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

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

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

(e) All peace officers;

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

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

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

(11) "Short-barreled rifle" means a rifle having one or more barrels less than 16 inches in length and any weapon made from a rifle (whether by alteration, modification, or otherwise) if such weapon as modified has an overall length of less than 26 inches.

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

(13) "Weapon" means any dirk, metallic knuckles, slungshot, billie, tear gas gun, chemical weapon or device, or other deadly weapon except a firearm or a common pocketknife.

(14) "Electric weapon or device" means any device which, through the application or use of electrical current, is designed, redesigned, used, or intended to be used for offensive or defensive purposes, the destruction of life, or the

infliction of injury.

(15) "Remote stun gun" means any nonlethal device with a tethered range not to exceed 16 feet and which shall utilize an identification and tracking system which, upon use, disperses coded material traceable to the purchaser through records kept by the manufacturer on all remote stun guns and all individual cartridges sold which information shall be made available to any law enforcement agency upon request.

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

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

(18) "Sterile area" means the area of an airport to which access is controlled by the inspection of persons and property in accordance with federally approved airport security programs.

History.--s. 1, ch. 69-306; ss. 13, 19, 35, ch. 69-106; ss. 1, 2, ch. 70-441; s. 32, ch. 73-334; s. 1, ch. 76-165; s. 12, ch. 77-120; s. 1, ch. 78-200; s. 19, ch. 79-3; s. 1, ch. 79-58; s. 1, ch. 80-112; s. 1, ch. 82-131; s. 162, ch. 83-216; s. 2, ch. 88-183; s. 43, ch. 88-381; s. 1, ch. 90-124; s. 1, ch. 90-176; s. 1, ch. 93-17; s. 1, ch. 97-72; s. 1202, ch. 97-102; s. 5, ch. 2000-161.

790.01 Carrying concealed weapons.--

(1) Except as provided in subsection (4), a person who carries a concealed weapon or electric weapon or device on or about his or her person commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) A person who carries a concealed firearm on or about his or her person commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) This section does not apply to a person licensed to carry a concealed weapon or a concealed firearm pursuant to the provisions of s. 790.06.

(4) It is not a violation of this section for a person to carry for purposes of lawful self-defense, in a concealed manner:

(a) A self-defense chemical spray.

(b) A nonlethal stun gun or remote stun gun or other nonlethal electric weapon or device which does not fire a dart or projectile and is designed solely for defensive purposes.

(5) This section does not preclude any prosecution for the use of an electric weapon or device or remote stun gun or self-defense chemical spray during the commission of any criminal offense under s. 790.07, s. 790.10, s. 790.23, or s. 790.235, or for any other criminal offense.

History.--s. 1, ch. 4929, 1901; GS 3262; RGS 5095; CGL 7197; s. 1, ch. 67-165; s. 2, ch. 69-306; s. 739, ch. 71-136; s. 2, ch. 76-165; s. 3, ch. 80-268; s. 2, ch. 92-183; s. 2, ch. 97-72; s. 1203, ch. 97-102.

790.015 Nonresidents who are United States citizens and hold a concealed weapons license in another state; reciprocity.--

(1) Notwithstanding s. 790.01, a resident of the United States who is a nonresident of Florida may carry a concealed weapon or concealed firearm while in this state if the nonresident:

(a) Is 21 years of age or older; and

(b) Has in his or her immediate possession a valid license to carry a concealed weapon or concealed firearm issued to the nonresident in his or her state of residence.

(2) A nonresident is subject to the same laws and restrictions with respect to carrying a concealed weapon or concealed firearm as a resident of Florida who is so licensed.

(3) If the resident of another state who is the holder of a valid license to carry a concealed weapon or concealed firearm issued in another state establishes legal residence in this state by registering to vote, or making a statement of domicile pursuant to s. 222.17, or filing for homestead tax exemption on property in this state, the license shall remain in effect for 90 days following the date on which the holder of the license establishes legal state residence. This section applies only to nonresident concealed weapon or concealed firearm licenseholders from states that honor Florida concealed weapon or concealed firearm licenses.

History.--s. 1, ch. 99-132.

790.02 Officer to arrest without warrant and upon probable cause.--

The carrying of a concealed weapon is declared a breach of peace, and any officer authorized to make arrests under the laws of this state may make arrests without warrant of persons violating the provisions of s. 790.01 when said officer has reasonable grounds or probable cause to believe that the offense of carrying a concealed weapon is being committed.

History.--s. 1, ch. 4929, 1901; GS 3263; RGS 5096; CGL 7198; s. 3, ch. 69-306.

790.051 Exemption from licensing requirements; law enforcement officers.--

Law enforcement officers are exempt from the licensing and penal provisions of this chapter when acting at any time within the scope or course of their official duties or when acting at any time in the line of or performance of duty.

History.--s. 11, ch. 69-306.

790.052 Carrying concealed firearms; off-duty law enforcement officers.--

(1) All persons holding active certifications from the Criminal Justice Standards and Training Commission as law enforcement officers or correctional officers as defined in s. 943.10(1), (2), (6), (7), (8), or (9) shall have the right to carry, on or about their persons, concealed firearms, during off-duty hours, at the discretion of their superior officers, and may perform those law enforcement functions that they normally perform during duty hours, utilizing their weapons in a manner which is reasonably expected of on-duty officers in similar situations. However, nothing in this subsection shall be construed to limit the right of a law enforcement officer, correctional officer, or correctional probation officer to carry a concealed firearm off duty as a private citizen under the exemption provided in s. 790.06 that allows a law enforcement officer, correctional officer, or correctional probation officer as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9) to carry a concealed firearm without a concealed weapon or firearm license. The appointing or employing agency or department of an officer carrying a concealed firearm as a private citizen under s. 790.06 shall not be liable for the use of the firearm in such capacity. Nothing herein limits the authority of the appointing or employing agency or department from establishing policies limiting law enforcement officers or correctional officers from carrying concealed firearms during off-duty hours in their capacity as appointees or employees of the agency or department.

(2) The superior officer of any police department or sheriff's office or the Florida Highway Patrol, if he or she elects to direct the officers under his or her supervision to carry concealed firearms while off duty, shall file a statement with the governing body of such department of his or her instructions and requirements relating to the carrying of said firearms.

History.--ss. 1, 2, 3, ch. 72-84; s. 235, ch. 77-104; s. 23, ch. 79-8; s. 3, ch. 88-183; s. 4, ch. 95-318; s. 1204, ch. 97-102.

790.053 Open carrying of weapons.--

(1) Except as otherwise provided by law and in subsection (2), it is unlawful for any person to openly carry on or about his or her person any firearm or electric weapon or device.

(2) A person may openly carry, for purposes of lawful self-defense:

(a) A self-defense chemical spray.

(b) A nonlethal stun gun or remote stun gun or other nonlethal electric weapon or device which does not fire a dart or projectile and is designed solely for defensive purposes.

(3) Any person violating this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.--s. 1, ch. 87-537; s. 173, ch. 91-224; s. 3, ch. 97-72; s. 1205, ch. 97-102.

790.054 Prohibited use of self-defense weapon or device against law enforcement officer; penalties.--

A person who knowingly and willfully uses a self-defense chemical spray or a nonlethal stun gun or other nonlethal electric weapon or device or remote stun gun against a law enforcement officer engaged in the performance of his or her duties commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.--s. 4, ch. 97-72.

790.06 License to carry concealed weapon or firearm.--

(1) The Department of State is authorized to issue licenses to carry concealed weapons or concealed firearms to persons qualified as provided in this section. Each such license must bear a color photograph of the licensee. For the purposes of this section, concealed weapons or concealed firearms are defined as a handgun, electronic weapon or device, tear gas gun, knife, or billie, but the term does not include a machine gun as defined in s. 790.001(9). Such licenses shall be valid throughout the state for a period of 5 years from the date of issuance. Any person in compliance with the terms of such license may carry a concealed weapon or concealed firearm notwithstanding the provisions of s. 790.01. The licensee must carry the license, together with valid identification, at all times in which the licensee is in actual possession of a concealed weapon or firearm and must display both the license and proper identification upon demand by a law enforcement officer. Violations of the provisions of this subsection shall constitute a noncriminal violation with a penalty of \$25, payable to the clerk of the court.

(2) The Department of State shall issue a license if the applicant:

(a) Is a resident of the United States or is a consular security official of a foreign government that maintains diplomatic relations and treaties of commerce, friendship, and navigation with the United States and is certified as such by the foreign government and by the appropriate embassy in this country;

(b) Is 21 years of age or older;

(c) Does not suffer from a physical infirmity which prevents the safe handling of a weapon or firearm;

(d) Is not ineligible to possess a firearm pursuant to s. 790.23 by virtue of having been convicted of a felony;

(e) Has not been committed for the abuse of a controlled substance or been found guilty of a crime under the

provisions of chapter 893 or similar laws of any other state relating to controlled substances within a 3-year period immediately preceding the date on which the application is submitted;

(f) Does not chronically and habitually use alcoholic beverages or other substances to the extent that his or her normal faculties are impaired. It shall be presumed that an applicant chronically and habitually uses alcoholic beverages or other substances to the extent that his or her normal faculties are impaired if the applicant has been committed under chapter 397 or under the provisions of former chapter 396 or has been convicted under s. 790.151 or has been deemed a habitual offender under s. 856.011(3), or has had two or more convictions under s. 316.193 or similar laws of any other state, within the 3-year period immediately preceding the date on which the application is submitted;

(g) Desires a legal means to carry a concealed weapon or firearm for lawful self-defense;

(h) Demonstrates competence with a firearm by any one of the following:

1. Completion of any hunter education or hunter safety course approved by the Fish and Wildlife Conservation Commission or a similar agency of another state;

2. Completion of any National Rifle Association firearms safety or training course;

3. Completion of any firearms safety or training course or class available to the general public offered by a law enforcement, junior college, college, or private or public institution or organization or firearms training school, utilizing instructors certified by the National Rifle Association, Criminal Justice Standards and Training Commission, or the Department of State;

4. Completion of any law enforcement firearms safety or training course or class offered for security guards, investigators, special deputies, or any division or subdivision of law enforcement or security enforcement;

5. Presents evidence of equivalent experience with a firearm through participation in organized shooting competition or military service;

6. Is licensed or has been licensed to carry a firearm in this state or a county or municipality of this state, unless such license has been revoked for cause; or

7. Completion of any firearms training or safety course or class conducted by a state-certified or National Rifle Association certified firearms instructor;

A photocopy of a certificate of completion of any of the courses or classes; or an affidavit from the instructor, school, club, organization, or group that conducted or taught said course or class attesting to the completion of the course or class by the applicant; or a copy of any document which shows completion of the course or class or evidences participation in firearms competition shall constitute evidence of qualification under this paragraph; any person who conducts a course pursuant to subparagraph 2., subparagraph 3., or subparagraph 7., or who, as an instructor, attests to the completion of such courses, must maintain records certifying that he or she observed the student safely handle and discharge the firearm;

(i) Has not been adjudicated an incapacitated person under s. 744.331, or similar laws of any other state, unless 5 years have elapsed since the applicant's restoration to capacity by court order;

(j) Has not been committed to a mental institution under chapter 394, or similar laws of any other state, unless the applicant produces a certificate from a licensed psychiatrist that he or she has not suffered from disability for at least 5 years prior to the date of submission of the application;

(k) Has not had adjudication of guilt withheld or imposition of sentence suspended on any felony or misdemeanor crime of domestic violence unless 3 years have elapsed since probation or any other conditions set by the court have been fulfilled, or the record has been sealed or expunged;

(l) Has not been issued an injunction that is currently in force and effect and that restrains the applicant from committing acts of domestic violence or acts of repeat violence; and

(m) Is not prohibited from purchasing or possessing a firearm by any other provision of Florida or federal law.

(3) The Department of State shall deny a license if the applicant has been found guilty of, had adjudication of guilt withheld for, or had imposition of sentence suspended for one or more crimes of violence constituting a misdemeanor, unless 3 years have elapsed since probation or any other conditions set by the court have been fulfilled or the record has been sealed or expunged. The Department of State shall revoke a license if the licensee has been found guilty of, had adjudication of guilt withheld for, or had imposition of sentence suspended for one or more crimes of violence within the preceding 3 years. The department shall, upon notification by a law enforcement agency, a court, or the Florida Department of Law Enforcement and subsequent written verification, suspend a license or the processing of an application for a license if the licensee or applicant is arrested or formally charged with a crime that would disqualify such person from having a license under this section, until final disposition of the case. The department shall suspend a license or the processing of an application for a license if the licensee or applicant is issued an injunction that restrains the licensee or applicant from committing acts of domestic violence or acts of repeat violence.

(4) The application shall be completed, under oath, on a form promulgated by the Department of State and shall include:

(a) The name, address, place and date of birth, race, and occupation of the applicant;

(b) A statement that the applicant is in compliance with criteria contained within subsections (2) and (3);

(c) A statement that the applicant has been furnished a copy of this chapter and is knowledgeable of its provisions;

(d) A conspicuous warning that the application is executed under oath and that a false answer to any question, or the submission of any false document by the applicant, subjects the applicant to criminal prosecution under s. 837.06; and

(e) A statement that the applicant desires a concealed weapon or firearms license as a means of lawful self-defense.

(5) The applicant shall submit to the Department of State:

(a) A completed application as described in subsection (4).

(b) A nonrefundable license fee not to exceed \$85, if he or she has not previously been issued a statewide license, or a nonrefundable license fee not to exceed \$70 for renewal of a statewide license. Costs for processing the set of fingerprints as required in paragraph (c) shall be borne by the applicant. However, an individual holding an active certification from the Criminal Justice Standards and Training Commission as a "law enforcement officer," "correctional officer," or "correctional probation officer" as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9) is exempt from the licensing requirements of this section. If any individual holding an active certification from the Criminal Justice Standards and Training Commission as a "law enforcement officer," a "correctional officer," or a "correctional probation officer" as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9) wishes to receive a concealed weapons or firearms license, such person is exempt from the background investigation and all background investigation fees, but shall pay the current license fees regularly required to be paid by nonexempt applicants. Further, a law enforcement officer, a correctional officer, or a correctional probation officer as defined in s. 943.10(1), (2), or (3) is exempt from the required fees and background investigation for a period of 1 year subsequent to the date of retirement of said officer as a law enforcement officer, a correctional officer, or a correctional probation officer.

(c) A full set of fingerprints of the applicant administered by a law enforcement agency.

(d) A photocopy of a certificate or an affidavit or document as described in paragraph (2)(h).

(e) A full frontal view color photograph of the applicant taken within the preceding 30 days, in which the head, including hair, measures $\frac{7}{8}$ of an inch wide and $1\frac{1}{8}$ inches high.

- (6)(a) The Department of State, upon receipt of the items listed in subsection (5), shall forward the full set of fingerprints of the applicant to the Department of Law Enforcement for state and federal processing, provided the federal service is available, to be processed for any criminal justice information as defined in s. 943.045. The cost of processing such fingerprints shall be payable to the Department of Law Enforcement by the Department of State.
- (b) The sheriff's office shall provide fingerprinting service if requested by the applicant and may charge a fee not to exceed \$5 for this service.
- (c) The Department of State shall, within 90 days after the date of receipt of the items listed in subsection (5):
1. Issue the license; or
 2. Deny the application based solely on the ground that the applicant fails to qualify under the criteria listed in subsection (2) or subsection (3). If the Department of State denies the application, it shall notify the applicant in writing, stating the ground for denial and informing the applicant of any right to a hearing pursuant to chapter 120.
 3. In the event the department receives criminal history information with no final disposition on a crime which may disqualify the applicant, the time limitation prescribed by this paragraph may be suspended until receipt of the final disposition or proof of restoration of civil and firearm rights.
- (d) In the event a legible set of fingerprints, as determined by the Department of State or the Federal Bureau of Investigation, cannot be obtained after two attempts, the Department of State shall determine eligibility based upon the name checks conducted by the Florida Department of Law Enforcement.
- (e) A consular security official of a foreign government that maintains diplomatic relations and treaties of commerce, friendship, and navigation with the United States and is certified as such by the foreign government and by the appropriate embassy in this country must be issued a license within 20 days after the date of the receipt of a completed application, certification document, color photograph as specified in paragraph (5)(e), and a nonrefundable license fee of \$300. Consular security official licenses shall be valid for 1 year and may be renewed upon completion of the application process as provided in this section.
- (7) The Department of State shall maintain an automated listing of licenseholders and pertinent information, and such information shall be available on-line, upon request, at all times to all law enforcement agencies through the Florida Crime Information Center.
- (8) Within 30 days after the changing of a permanent address, or within 30 days after having a license lost or destroyed, the licensee shall notify the Department of State of such change. Failure to notify the Department of State pursuant to the provisions of this subsection shall constitute a noncriminal violation with a penalty of \$25.
- (9) In the event that a concealed weapon or firearm license is lost or destroyed, the license shall be automatically invalid, and the person to whom the same was issued may, upon payment of \$15 to the Department of State, obtain a duplicate, or substitute thereof, upon furnishing a notarized statement to the Department of State that such license has been lost or destroyed.
- (10) A license issued under this section shall be suspended or revoked pursuant to chapter 120 if the licensee:
- (a) Is found to be ineligible under the criteria set forth in subsection (2);
 - (b) Develops or sustains a physical infirmity which prevents the safe handling of a weapon or firearm;
 - (c) Is convicted of a felony which would make the licensee ineligible to possess a firearm pursuant to s. 790.23;
 - (d) Is found guilty of a crime under the provisions of chapter 893, or similar laws of any other state, relating to controlled substances;

(e) Is committed as a substance abuser under chapter 397, or is deemed a habitual offender under s. 856.011(3), or similar laws of any other state;

(f) Is convicted of a second violation of s. 316.193, or a similar law of another state, within 3 years of a previous conviction of such section, or similar law of another state, even though the first violation may have occurred prior to the date on which the application was submitted;

(g) Is adjudicated an incapacitated person under s. 744.331, or similar laws of any other state; or

(h) Is committed to a mental institution under chapter 394, or similar laws of any other state.

(11) No less than 90 days prior to the expiration date of the license, the Department of State shall mail to each licensee a written notice of the expiration and a renewal form prescribed by the Department of State. The licensee must renew his or her license on or before the expiration date by filing with the Department of State the renewal form containing a notarized affidavit stating that the licensee remains qualified pursuant to the criteria specified in subsections (2) and (3), a color photograph as specified in paragraph (5)(e), and the required renewal fee. Out-of-state residents must also submit a completed fingerprint card and fingerprint processing fee. The license shall be renewed upon receipt of the completed renewal form, color photograph, appropriate payment of fees, and, if applicable, a completed fingerprint card. Additionally, a licensee who fails to file a renewal application on or before its expiration date must renew his or her license by paying a late fee of \$15. No license shall be renewed 6 months or more after its expiration date, and such license shall be deemed to be permanently expired. A person whose license has been permanently expired may reapply for licensure; however, an application for licensure and fees pursuant to subsection (5) must be submitted, and a background investigation shall be conducted pursuant to the provisions of this section. Persons who knowingly file false information pursuant to this subsection shall be subject to criminal prosecution under s. 837.06.

(12) No license issued pursuant to this section shall authorize any person to carry a concealed weapon or firearm into any place of nuisance as defined in s. 823.05; any police, sheriff, or highway patrol station; any detention facility, prison, or jail; any courthouse; any courtroom, except that nothing in this section would preclude a judge from carrying a concealed weapon or determining who will carry a concealed weapon in his or her courtroom; any polling place; any meeting of the governing body of a county, public school district, municipality, or special district; any meeting of the Legislature or a committee thereof; any school, college, or professional athletic event not related to firearms; any school administration building; any portion of an establishment licensed to dispense alcoholic beverages for consumption on the premises, which portion of the establishment is primarily devoted to such purpose; any elementary or secondary school facility; any area technical center; any college or university facility unless the licensee is a registered student, employee, or faculty member of such college or university and the weapon is a stun gun or nonlethal electric weapon or device designed solely for defensive purposes and the weapon does not fire a dart or projectile; inside the passenger terminal and sterile area of any airport, provided that no person shall be prohibited from carrying any legal firearm into the terminal, which firearm is encased for shipment for purposes of checking such firearm as baggage to be lawfully transported on any aircraft; or any place where the carrying of firearms is prohibited by federal law. Any person who willfully violates any provision of this subsection commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(13) All moneys collected by the department pursuant to this section shall be deposited in the Division of Licensing Trust Fund, and the Legislature shall appropriate from the fund those amounts deemed necessary to administer the provisions of this section. All revenues collected, less those costs determined by the Department of State to be nonrecurring or one-time costs, shall be deferred over the ¹3-year licensure period. Notwithstanding the provisions of s. 493.6117, all moneys collected pursuant to this section shall not revert to the General Revenue Fund; however, this shall not abrogate the requirement for payment of the service charge imposed pursuant to chapter 215.

(14) All funds received by the sheriff pursuant to the provisions of this section shall be deposited into the general revenue fund of the county and shall be budgeted to the sheriff.

(15) The Legislature finds as a matter of public policy and fact that it is necessary to provide statewide uniform standards for issuing licenses to carry concealed weapons and firearms for self-defense and finds it necessary to occupy the field of regulation of the bearing of concealed weapons or firearms for self-defense to ensure that no honest, law-abiding person who qualifies under the provisions of this section is subjectively or arbitrarily denied his or her rights.

The Department of State shall implement and administer the provisions of this section. The Legislature does not delegate to the Department of State the authority to regulate or restrict the issuing of licenses provided for in this section, beyond those provisions contained in this section. Subjective or arbitrary actions or rules which encumber the issuing process by placing burdens on the applicant beyond those sworn statements and specified documents detailed in this section or which create restrictions beyond those specified in this section are in conflict with the intent of this section and are prohibited. This section shall be liberally construed to carry out the constitutional right to bear arms for self-defense. This section is supplemental and additional to existing rights to bear arms, and nothing in this section shall impair or diminish such rights.

(16) The Department of State shall maintain statistical information on the number of licenses issued, revoked, suspended, and denied.

(17) As amended by chapter 87-24, Laws of Florida, this section shall be known and may be cited as the "Jack Hagler Self Defense Act."

History.--s. 2, ch. 4147, 1893; s. 1, ch. 5139, 1903; GS 3268; RGS 5101; CGL 7203; s. 2, ch. 76-165; s. 67, ch. 77-121; s. 1, ch. 77-302; s. 176, ch. 79-164; ss. 1, 2, ch. 87-24; s. 4, ch. 88-183; s. 2, ch. 89-60; s. 110, ch. 89-96; s. 3, ch. 90-311; s. 2, ch. 90-316; ss. 1, 7, ch. 90-364; s. 1, ch. 92-52; s. 1, ch. 92-183; s. 38, ch. 93-39; s. 52, ch. 95-196; s. 1, ch. 95-229; s. 10, ch. 95-430; s. 17, ch. 97-94; s. 1206, ch. 97-102; s. 5, ch. 98-284; s. 3, ch. 98-335; s. 228, ch. 99-245; s. 61, ch. 2000-258.

¹**Note.**--The 3-year licensure period required in s. 790.06(1) was changed to a 5-year licensure period by s. 3, ch. 98-335.

790.061 Judges and justices; exceptions from licensure provisions.--

A county court judge, circuit court judge, district court of appeal judge, justice of the supreme court, federal district court judge, or federal court of appeals judge serving in this state is not required to comply with the provisions of s. 790.06 in order to receive a license to carry a concealed weapon or firearm, except that any such justice or judge must comply with the provisions of s. 790.06(2)(h). The Department of State shall issue a license to carry a concealed weapon or firearm to any such justice or judge upon demonstration of competence of the justice or judge pursuant to s. 790.06(2)(h).

History.--s. 2, ch. 90-311; s. 2, ch. 95-229.

¹790.065 Sale and delivery of firearms.--

(1) A licensed importer, licensed manufacturer, or licensed dealer may not sell or deliver from her or his inventory at her or his licensed premises any firearm to another person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, until she or he has:

(a) Obtained a completed form from the potential buyer or transferee, which form shall have been promulgated by the Department of Law Enforcement and provided by the licensed importer, licensed manufacturer, or licensed dealer, which shall include the name, date of birth, gender, race, and social security number or other identification number of such potential buyer or transferee and has inspected proper identification including an identification containing a photograph of the potential buyer or transferee.

(b) Collected a fee from the potential buyer for processing the criminal history check of the potential buyer. The fee shall be established by the Department of Law Enforcement and may not exceed \$8 per transaction. The Department of Law Enforcement may reduce, or suspend collection of, the fee to reflect payment received from the Federal Government applied to the cost of maintaining the criminal history check system established by this section as a means of facilitating or supplementing the National Instant Criminal Background Check System. The Department of Law Enforcement shall, by rule, establish procedures for the fees to be transmitted by the licensee to the Department of Law Enforcement. All such fees shall be deposited into the Department of Law Enforcement Operating Trust Fund, but shall

be segregated from all other funds deposited into such trust fund and must be accounted for separately. Such segregated funds must not be used for any purpose other than the operation of the criminal history checks required by this section. The Department of Law Enforcement, each year prior to February 1, shall make a full accounting of all receipts and expenditures of such funds to the President of the Senate, the Speaker of the House of Representatives, the majority and minority leaders of each house of the Legislature, and the chairs of the appropriations committees of each house of the Legislature. In the event that the cumulative amount of funds collected exceeds the cumulative amount of expenditures by more than \$2.5 million, excess funds may be used for the purpose of purchasing soft body armor for law enforcement officers.

(c) Requested, by means of a toll-free telephone call, the Department of Law Enforcement to conduct a check of the information as reported and reflected in the Florida Crime Information Center and National Crime Information Center systems as of the date of the request.

(d) Received a unique approval number for that inquiry from the Department of Law Enforcement, and recorded the date and such number on the consent form.

However, if the person purchasing, or receiving delivery of, the firearm is a holder of a valid concealed weapons or firearms license pursuant to the provisions of s. 790.06 or holds an active certification from the Criminal Justice Standards and Training Commission as a "law enforcement officer," a "correctional officer," or a "correctional probation officer" as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9), the provisions of this subsection do not apply.

(2) Upon receipt of a request for a criminal history record check, the Department of Law Enforcement shall, during the licensee's call or by return call, forthwith:

(a) Review criminal history records to determine if the potential buyer or transferee:

1. Has been convicted of a felony and is prohibited from receipt or possession of a firearm pursuant to s. 790.23;
2. Has been convicted of a misdemeanor crime of domestic violence, and therefore is prohibited from purchasing a firearm; or
3. Has had adjudication of guilt withheld or imposition of sentence suspended on any felony or misdemeanor crime of domestic violence unless 3 years have elapsed since probation or any other conditions set by the court have been fulfilled or expunction has occurred.

(b) Inform the licensee making the inquiry either that records demonstrate that the buyer or transferee is so prohibited and provide the licensee a nonapproval number, or provide the licensee with a unique approval number.

(c)1. Review any records available to it to determine whether the potential buyer or transferee has been indicted or has had an information filed against her or him for an offense that is a felony under either state or federal law, or, as mandated by federal law, has had an injunction for protection against domestic violence entered against the potential buyer or transferee under s. 741.30, has had an injunction for protection against repeat violence entered against the potential buyer or transferee under s. 784.046, or has been arrested for a dangerous crime as specified in s. 907.041(4)

(a) or for any of the following enumerated offenses:

- a. Criminal anarchy under ss. 876.01 and 876.02.
- b. Extortion under s. 836.05.
- c. Explosives violations under s. 552.22(1) and (2).
- d. Controlled substances violations under chapter 893.
- e. Resisting an officer with violence under s. 843.01.

- f. Weapons and firearms violations under this chapter.
- g. Treason under s. 876.32.
- h. Assisting self-murder under s. 782.08.
- i. Sabotage under s. 876.38.
- j. Stalking or aggravated stalking under s. 784.048.

If the review indicates any such indictment, information, or arrest, the department shall provide to the licensee a conditional nonapproval number.

2. Within 24 working hours, the department shall determine the disposition of the indictment, information, or arrest and inform the licensee as to whether the potential buyer is prohibited from receiving or possessing a firearm. For purposes of this paragraph, "working hours" means the hours from 8 a.m. to 5 p.m. Monday through Friday, excluding legal holidays.
3. The office of the clerk of court, at no charge to the department, shall respond to any department request for data on the disposition of the indictment, information, or arrest as soon as possible, but in no event later than 8 working hours.
4. The department shall determine as quickly as possible within the allotted time period whether the potential buyer is prohibited from receiving or possessing a firearm.
5. If the potential buyer is not so prohibited, or if the department cannot determine the disposition information within the allotted time period, the department shall provide the licensee with a conditional approval number.
6. If the buyer is so prohibited, the conditional nonapproval number shall become a nonapproval number.
7. The department shall continue its attempts to obtain the disposition information and may retain a record of all approval numbers granted without sufficient disposition information. If the department later obtains disposition information which indicates:
 - a. That the potential buyer is not prohibited from owning a firearm, it shall treat the record of the transaction in accordance with this section; or
 - b. That the potential buyer is prohibited from owning a firearm, it shall immediately revoke the conditional approval number and notify local law enforcement.
8. During the time that disposition of the indictment, information, or arrest is pending and until the department is notified by the potential buyer that there has been a final disposition of the indictment, information, or arrest, the conditional nonapproval number shall remain in effect.

(3) In the event of scheduled computer downtime, electronic failure, or similar emergency beyond the control of the Department of Law Enforcement, the department shall immediately notify the licensee of the reason for, and estimated length of, such delay. After such notification, the department shall forthwith, and in no event later than the end of the next business day of the licensee, either inform the requesting licensee if its records demonstrate that the buyer or transferee is prohibited from receipt or possession of a firearm pursuant to Florida and Federal law or provide the licensee with a unique approval number. Unless notified by the end of said next business day that the buyer or transferee is so prohibited, and without regard to whether she or he has received a unique approval number, the licensee may complete the sale or transfer and shall not be deemed in violation of this section with respect to such sale or transfer.

(4)(a) Any records containing any of the information set forth in subsection (1) pertaining to a buyer or transferee who is not found to be prohibited from receipt or transfer of a firearm by reason of Florida and federal law which records are

created by the Department of Law Enforcement to conduct the criminal history record check shall be confidential and exempt from the provisions of s. 119.07(1) and may not be disclosed by the Department of Law Enforcement or any officer or employee thereof to any person or to another agency. The Department of Law Enforcement shall destroy any such records forthwith after it communicates the approval and nonapproval numbers to the licensee and, in any event, such records shall be destroyed within 48 hours after the day of the response to the licensee's request.

(b) Notwithstanding the provisions of this subsection, the Department of Law Enforcement may maintain records of NCIC transactions to the extent required by the Federal Government, and may maintain a log of dates of requests for criminal history records checks, unique approval and nonapproval numbers, license identification numbers, and transaction numbers corresponding to such dates for a period of not longer than 2 years or as otherwise required by law.

(c) Nothing in this chapter shall be construed to allow the State of Florida to maintain records containing the names of purchasers or transferees who receive unique approval numbers or to maintain records of firearm transactions.

(d) Any officer or employee, or former officer or employee of the Department of Law Enforcement or law enforcement agency who intentionally and maliciously violates the provisions of this subsection commits a felony of the third degree punishable as provided in s. 775.082 or s. 775.083.

(5) The Department of Law Enforcement shall establish a toll-free telephone number which shall be operational 7 days a week with the exception of Christmas Day and New Year's Day, for a period of 12 hours a day beginning at 9 a.m. and ending at 9 p.m., for purposes of responding to inquiries as described in this section from licensed manufacturers, licensed importers, and licensed dealers. The Department of Law Enforcement shall employ and train such personnel as are necessary expeditiously to administer the provisions of this section.

(6) Any person who is denied the right to receive or purchase a firearm as a result of the procedures established by this section may request a criminal history records review and correction in accordance with the rules promulgated by the Department of Law Enforcement.

(7) It shall be unlawful for any licensed dealer, licensed manufacturer, or licensed importer willfully and intentionally to request criminal history record information under false pretenses, or willfully and intentionally to disseminate criminal history record information to any person other than the subject of such information. Any person convicted of a violation of this subsection commits a felony of the third degree punishable as provided in s. 775.082 or s. 775.083.

(8) The Department of Law Enforcement shall promulgate regulations to ensure the identity, confidentiality, and security of all records and data provided pursuant to this section.

(9) This section shall become effective at such time as the Department of Law Enforcement has notified all licensed importers, licensed manufacturers, and licensed dealers in writing that the procedures and toll-free number described in this section are operational. This section shall remain in effect only during such times as the procedures described in subsection (2) remain operational.

(10) A licensed importer, licensed manufacturer, or licensed dealer is not required to comply with the requirements of this section in the event of:

(a) Unavailability of telephone service at the licensed premises due to the failure of the entity which provides telephone service in the state, region, or other geographical area in which the licensee is located to provide telephone service to the premises of the licensee due to the location of said premises; or the interruption of telephone service by reason of hurricane, tornado, flood, natural disaster, or other act of God, war, invasion, insurrection, riot, or other bona fide emergency, or other reason beyond the control of the licensee; or

(b) Failure of the Department of Law Enforcement to comply with the requirements of subsections (2) and (3).

(11) Compliance with the provisions of this chapter shall be a complete defense to any claim or cause of action under the laws of any state for liability for damages arising from the importation or manufacture, or the subsequent sale or transfer to any person who has been convicted in any court of a crime punishable by imprisonment for a term exceeding 1 year, of any firearm which has been shipped or transported in interstate or foreign commerce. The Department of

Law Enforcement, its agents and employees shall not be liable for any claim or cause of action under the laws of any state for liability for damages arising from its actions in lawful compliance with this section.

(12)(a) Any potential buyer or transferee who willfully and knowingly provides false information or false or fraudulent identification commits a felony of the third degree punishable as provided in s. 775.082 or s. 775.083.

(b) Any licensed importer, licensed manufacturer, or licensed dealer who violates the provisions of subsection (1) commits a felony of the third degree punishable as provided in s. 775.082 or s. 775.083.

(c) Any employee or agency of a licensed importer, licensed manufacturer, or licensed dealer who violates the provisions of subsection (1) commits a felony of the third degree punishable as provided in s. 775.082 or s. 775.083.

(d) Any person who knowingly acquires a firearm through purchase or transfer intended for the use of a person who is prohibited by state or federal law from possessing or receiving a firearm commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

(13) This section does not apply to employees of sheriff's offices, municipal police departments, correctional facilities or agencies, or other criminal justice or governmental agencies when the purchases or transfers are made on behalf of an employing agency for official law enforcement purposes.

(14) This section is repealed effective June 1, 2002.

History.--s. 1, ch. 89-191; s. 1, ch. 90-316; s. 4, ch. 92-183; s. 1, ch. 93-197; s. 1, ch. 94-256; s. 14, ch. 95-195; s. 8, ch. 95-430; s. 7, ch. 96-392; s. 429, ch. 96-406; s. 29, ch. 97-94; s. 1816, ch. 97-102; s. 6, ch. 98-284; ss. 8, 9, ch. 99-300; s. 1, ch. 2000-218.

¹Note.--

A. Section 1, ch. 89-191, provides that "[t]his section expires on the effective date of federal law which provides access to national criminal history information and requires national criminal history checks on potential buyers or transferees on firearms."

B. Section 3, ch. 90-316, provides that "[t]his act shall not be construed to nullify the expiration of s. 790.065, Florida Statutes, provided for in chapter 89-191, Laws of Florida."

790.0655 Purchase and delivery of handguns; mandatory waiting period; exceptions; penalties.--

(1)(a) There shall be a mandatory 3-day waiting period, which shall be 3 days, excluding weekends and legal holidays, between the purchase and the delivery at retail of any handgun. "Purchase" means the transfer of money or other valuable consideration to the retailer. "Handgun" means a firearm capable of being carried and used by one hand, such as a pistol or revolver. "Retailer" means and includes every person engaged in the business of making sales at retail or for distribution, or use, or consumption, or storage to be used or consumed in this state, as defined in s. 212.02(13).

(b) Records of handgun sales must be available for inspection by any law enforcement agency, as defined in s. 934.02, during normal business hours.

(2) The 3-day waiting period shall not apply in the following circumstances:

(a) When a handgun is being purchased by a holder of a concealed weapons permit as defined in s. 790.06.

(b) To a trade-in of another handgun.

(3) It is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084:

(a) For any retailer, or any employee or agent of a retailer, to deliver a handgun before the expiration of the 3-day waiting period, subject to the exceptions provided in subsection (2).

(b) For a purchaser to obtain delivery of a handgun by fraud, false pretense, or false representation.

History.--s. 1, ch. 91-24; s. 3, ch. 92-183; s. 98, ch. 99-3.

790.07 Persons engaged in criminal offense, having weapons.--

(1) Whoever, while committing or attempting to commit any felony or while under indictment, displays, uses, threatens, or attempts to use any weapon or electric weapon or device or carries a concealed weapon is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) Whoever, while committing or attempting to commit any felony, displays, uses, threatens, or attempts to use any firearm or carries a concealed firearm is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, and s. 775.084.

(3) The following crimes are excluded from application of this section: Antitrust violations, unfair trade practices, restraints of trade, nonsupport of dependents, bigamy, or other similar offenses.

(4) Whoever, having previously been convicted of a violation of subsection (1) or subsection (2) and, subsequent to such conviction, displays, uses, threatens, or attempts to use any weapon, firearm, or electric weapon or device, carries a concealed weapon, or carries a concealed firearm while committing or attempting to commit any felony or while under indictment is guilty of a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Sentence shall not be suspended or deferred under the provisions of this subsection.

History.--s. 10, ch. 1637, 1868; RS 2423; s. 2, ch. 4124, 1893; GS 3269; RGS 5102; CGL 7204; s. 4, ch. 69-306; s. 741, ch. 71-136; s. 2, ch. 76-165; s. 2, ch. 91-223.

790.08 Taking possession of weapons and arms; reports; disposition; custody.--

(1) Every officer making an arrest under s. 790.07, or under any other law or municipal ordinance within the state, shall take possession of any weapons, electric weapons or devices, or arms mentioned in s. 790.07 found upon the person arrested and deliver them to the sheriff of the county, or the chief of police of the municipality wherein the arrest is made, who shall retain the same until after the trial of the person arrested.

(2) If the person arrested as aforesaid is convicted of violating s. 790.07, or of a similar offense under any municipal ordinance, or any other offense involving the use or attempted use of such weapons, electric weapons or devices, or arms, such weapons, electric weapons or devices, or arms shall become forfeited to the state, without any order of forfeiture being necessary, although the making of such an order shall be deemed proper, and such weapons, electric weapons or devices, or arms shall be forthwith delivered to the sheriff by the chief of police or other person having custody thereof, and the sheriff is hereby made the custodian of such weapons, electric weapons or devices, and arms for the state.

(3) If the person arrested as aforesaid is acquitted of the offenses mentioned in subsection (2), the said weapons, electric weapons or devices, or arms taken from the person as aforesaid shall be returned to him or her; however, if he or she fails to call for or receive the same within 60 days from and after his or her acquittal or the dismissal of the charges against him or her, the same shall be delivered to the sheriff as aforesaid to be held by the sheriff as hereinafter provided. This subsection shall likewise apply to persons and their weapons, electric weapons or devices, or arms who have heretofore been acquitted or the charges against them dismissed.

(4) All such weapons, electric weapons or devices, and arms now in, or hereafter coming into, the hands of any of the peace officers of this state or any of its political subdivisions, which have been found abandoned or otherwise

discarded, or left in their hands and not reclaimed by the owners shall, within 60 days, be delivered by such peace officers to the sheriff of the county aforesaid.

(5) Weapons, electric weapons or devices, and arms coming into the hands of the sheriff pursuant to subsections (3) and (4) aforesaid shall, unless reclaimed by the owner thereof within 6 months from the date the same come into the hands of the said sheriff, become forfeited to the state, and no action or proceeding for their recovery shall thereafter be maintained in this state.

(6) Weapons, electric weapons or devices, and arms coming into the hands of the sheriff as aforesaid shall be listed, kept, and held by him or her as custodian for the state. Any or all such weapons, electric weapons or devices, and arms suitable for use by the sheriff may be so used. All such weapons, electric weapons or devices, and arms not needed by the said sheriff may be loaned to any other department of the state or to any county or municipality having use for such weapons, electric weapons or devices, and arms. The sheriff shall take the receipt of such other department, county, or municipality for such weapons, electric weapons or devices, and arms loaned to them. All weapons, electric weapons or devices, and arms which are not needed or which are useless or unfit for use shall be destroyed or otherwise disposed of by the sheriff as provided in chapter 705 or as provided in the Florida Contraband Forfeiture Act. All sums received from the sale or other disposition of the said weapons, electric weapons or devices, or arms disposed of by the sheriff under chapter 705 as aforesaid shall be paid into the State Treasury for the benefit of the State School Fund and shall become a part thereof. All sums received from the sale or other disposition of any such weapons, electric weapons or devices, or arms disposed of by the sheriff under the Florida Contraband Forfeiture Act shall be disbursed as provided therein.

(7) This section does not apply to any municipality in any county having home rule under the State Constitution.

History.--s. 3, ch. 3620, 1885; RS 2424; GS 3270; RGS 5103; CGL 7205; s. 1, ch. 22049, 1943; s. 1, ch. 65-189; ss. 1, 2, 3, 4, 5, 6, 7, 8, ch. 67-523; s. 3, ch. 67-2207; ss. 20, 35, ch. 69-106; s. 2, ch. 76-165; s. 24, ch. 79-8; s. 12, ch. 80-68; s. 1, ch. 83-21; s. 17, ch. 97-93; s. 1207, ch. 97-102.

790.09 Manufacturing or selling slungshot.--

Whoever manufactures or causes to be manufactured, or sells or exposes for sale any instrument or weapon of the kind usually known as slungshot, or metallic knuckles, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.--s. 11, ch. 1637, 1868; RS 2425; s. 3, ch. 4124, 1893; GS 3271; RGS 5104; CGL 7206; s. 742, ch. 71-136.

790.10 Improper exhibition of dangerous weapons or firearms.--

If any person having or carrying any dirk, sword, sword cane, firearm, electric weapon or device, or other weapon shall, in the presence of one or more persons, exhibit the same in a rude, careless, angry, or threatening manner, not in necessary self-defense, the person so offending shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.--s. 1, ch. 4532, 1897; GS 3272; RGS 5105; CGL 7207; s. 5, ch. 69-306; s. 743, ch. 71-136; s. 2, ch. 76-165; s. 174, ch. 91-224.

790.11 Carrying firearms in national forests prohibited.--

Except during the hunting season as established by law, no person shall carry, on or about his or her person, or in any vehicle in which such person may be riding, or on any animal which such person may be using, within the limits of a national forest area within the state, any gun or firearm of any description whatever, without first having obtained a permit as hereinafter prescribed except on state roads when securely locked within a vehicle.

History.--s. 1, ch. 17911, 1937; CGL 1940 Supp. 7203(5); s. 1, ch. 65-188; s. 1208, ch. 97-102.

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

(1) A person who exhibits any sword, sword cane, firearm, electric weapon or device, destructive device, or other weapon, including a razor blade, box cutter, or knife, except as authorized in support of school-sanctioned activities, in the presence of one or more persons in a rude, careless, angry, or threatening manner and not in lawful self-defense, at a school-sponsored event or on the grounds or facilities of any school, school bus, or school bus stop, or within 1,000 feet of the real property that comprises a public or private elementary school, middle school, or secondary school, during school hours or during the time of a sanctioned school activity, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. This subsection does not apply to the exhibition of a firearm or weapon on private real property within 1,000 feet of a school by the owner of such property or by a person whose presence on such property has been authorized, licensed, or invited by the owner.

(2)(a) A person shall not possess any firearm, electric weapon or device, destructive device, or other weapon, including a razor blade, box cutter, or knife, except as authorized in support of school-sanctioned activities, at a school-sponsored event or on the property of any school, school bus, or school bus stop; however, a person may carry a firearm:

1. In a case to a firearms program, class or function which has been approved in advance by the principal or chief administrative officer of the school as a program or class to which firearms could be carried;
2. In a case to a vocational school having a firearms training range; or
3. In a vehicle pursuant to s. 790.25(5); except that school districts may adopt written and published policies that waive the exception in this subparagraph for purposes of student and campus parking privileges.

For the purposes of this section, "school" means any preschool, elementary school, middle school, junior high school, secondary school, vocational school, or postsecondary school, whether public or nonpublic.

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

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

2. A person who stores or leaves a loaded firearm within the reach or easy access of a minor who obtains the firearm and commits a violation of subparagraph 1. commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083; except that this does not apply if the firearm was stored or left in a securely locked box or container or in a location which a reasonable person would have believed to be secure, or was securely locked with a firearm-mounted push-button combination lock or a trigger lock; if the minor obtains the firearm as a result of an unlawful entry by any person; or to members of the Armed Forces, National Guard, or State Militia, or to police or other law enforcement officers, with respect to firearm possession by a minor which occurs during or incidental to the performance of their official duties.

(d) A person who discharges any weapon or firearm while in violation of paragraph (a), unless discharged for lawful defense of himself or herself or another or for a lawful purpose, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(e) The penalties of this subsection shall not apply to persons licensed under s. 790.06. Persons licensed under s. 790.06 shall be punished as provided in s. 790.06(12), except that a licenseholder who unlawfully discharges a weapon or firearm on school property as prohibited by this subsection commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) This section does not apply to any law enforcement officer as defined in s. 943.10(1), (2), (3), (4), (6), (7), (8), (9), or (14).

(4) Notwithstanding s. 985.213, s. 985.214, or s. 985.215(1), any minor under 18 years of age who is charged under this section with possessing or discharging a firearm on school property shall be detained in secure detention, unless the state attorney authorizes the release of the minor, and shall be given a probable cause hearing within 24 hours after being taken into custody. At the hearing, the court may order that the minor continue to be held in secure detention for a period of 21 days, during which time the minor shall receive medical, psychiatric, psychological, or substance abuse examinations pursuant to s. 985.224, and a written report shall be completed.

History.--s. 4, ch. 92-130; s. 11, ch. 93-230; s. 1, ch. 94-289; s. 1209, ch. 97-102; s. 20, ch. 97-234; s. 3, ch. 99-284.

790.12 Permit may be granted by county commissioners.--

The board of county commissioners of the county, or counties, where such national forest area is located, may grant special permit for the carrying of firearms to be specifically described in such permit, when the granting of such permit shall have been recommended in writing by the officer or employee of the United States Government in charge of such national forest area; and, where such area lies in more than one county, such permit must be granted by the board of county commissioners of each of the several counties involved before the same shall be valid.

History.--s. 2, ch. 17911, 1937; CGL 1940 Supp. 7203(6).

790.14 Penalty for violation of ss. 790.11 and 790.12.--

Any person violating the provisions of ss. 790.11 and 790.12 shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.--s. 4, ch. 17911, 1937; CGL 1940 Supp. 7203(8); s. 7, ch. 22858, 1945; s. 744, ch. 71-136.

790.145 Crimes in pharmacies; possession of weapons; penalties.--

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

(2) The provisions of this section do not apply:

(a) To any law enforcement officer;

(b) To any person employed and authorized by the owner, operator, or manager of a pharmacy to carry a firearm or destructive device on such premises; or

(c) To any person licensed to carry a concealed weapon.

History.--s. 1, ch. 81-278; s. 2, ch. 90-124; s. 2, ch. 90-176.

790.15 Discharging firearm in public.--

(1) Except as provided in subsection (2) or subsection (3), any person who knowingly discharges a firearm in any public place or on the right-of-way of any paved public road, highway, or street or whosoever knowingly discharges any firearm over the right-of-way of any paved public road, highway, or street or over any occupied premises is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. This section does not apply to a person lawfully defending life or property or performing official duties requiring the discharge of a firearm or to a person discharging a firearm on public roads or properties expressly approved for hunting by the Fish and Wildlife

Conservation Commission or Division of Forestry.

(2) Any occupant of any vehicle who knowingly and willfully discharges any firearm from the vehicle within 1,000 feet of any person commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Any driver or owner of any vehicle, whether or not the owner of the vehicle is occupying the vehicle, who knowingly directs any other person to discharge any firearm from the vehicle commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.--s. 1, ch. 3289, 1881; RS 2683; GS 3626; RGS 5557; CGL 7743; s. 1, ch. 61-334; s. 745, ch. 71-136; s. 1, ch. 78-17; s. 1, ch. 89-157; s. 229, ch. 99-245.

790.151 Using firearm while under the influence of alcoholic beverages, chemical substances, or controlled substances; penalties.--

(1) As used in ss. 790.151-790.157, to "use a firearm" means to discharge a firearm or to have a firearm readily accessible for immediate discharge.

(2) For the purposes of this section, "readily accessible for immediate discharge" means loaded and in a person's hand.

(3) It is unlawful and punishable as provided in subsection (4) for any person who is under the influence of alcoholic beverages, any chemical substance set forth in s. 877.111, or any substance controlled under chapter 893, when affected to the extent that his or her normal faculties are impaired, to use a firearm in this state.

(4) Any person who violates subsection (3) commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(5) This section does not apply to persons exercising lawful self-defense or defense of one's property.

History.--s. 1, ch. 91-84; s. 1210, ch. 97-102.

790.153 Tests for impairment or intoxication; right to refuse.--

(1)(a) Any person who uses a firearm within this state shall submit to an approved chemical or physical breath test to determine the alcoholic content of the blood and to a urine test to detect the presence of controlled substances, if there is probable cause to believe that the person was using a firearm while under the influence of alcoholic beverages or controlled substances or that the person is lawfully arrested for any offense allegedly committed while he or she was using a firearm while under the influence of alcoholic beverages or controlled substances. The breath test shall be incidental to a lawful arrest and administered at the request of a law enforcement officer who has probable cause to believe such person was using the firearm within this state while under the influence of alcoholic beverages. The urine test shall be incidental to a lawful arrest and administered at a detention facility, mobile or otherwise, which is equipped to administer such tests at the request of a law enforcement officer who has probable cause to believe such person was using a firearm within this state while under the influence of controlled substances. The urine test shall be administered at a detention facility or any other facility, mobile or otherwise, which is equipped to administer such tests in a reasonable manner that will ensure the accuracy of the specimen and maintain the privacy of the individual involved. The administration of either test shall not preclude the administration of the other test. The refusal to submit to a chemical or physical breath or urine test upon the request of a law enforcement officer as provided in this section shall be admissible into evidence in any criminal proceeding. This section shall not hinder the taking of a mandatory blood test as outlined in s. 790.155.

(b) If the arresting officer does not request a chemical or physical test of the person arrested for any offense allegedly committed while the person was using a firearm while under the influence of alcoholic beverages or controlled substances, such person may request the arresting officer to have a chemical or physical test made of the arrested

person's breath for the purpose of determining the alcoholic content of the person's blood or a chemical test of urine or blood for the purpose of determining the presence of controlled substances; and, if so requested, the arresting officer shall have the test performed.

(c) The provisions of s. 316.1932(1)(f), relating to administration of tests for determining the weight of alcohol in the defendant's blood, additional tests at the defendant's expense, availability of test information to the defendant or the defendant's attorney, and liability of medical institutions and persons administering such tests are incorporated into this act.

(2) The results of any test administered pursuant to this section for the purpose of detecting the presence of any controlled substance shall not be admissible as evidence in a criminal prosecution for the possession of a controlled substance.

(3) Notwithstanding any provision of law pertaining to the confidentiality of hospital records or other medical records, information obtained pursuant to this section shall be released to a court, prosecuting attorney, defense attorney, or law enforcement officer in connection with an alleged violation of s. 790.151 upon request for such information.

History.--s. 2, ch. 91-84; s. 1211, ch. 97-102.

790.155 Blood test for impairment or intoxication in cases of death or serious bodily injury; right to use reasonable force.--

(1)(a) Notwithstanding any recognized ability to refuse to submit to the tests provided in s. 790.153, if a law enforcement officer has probable cause to believe that a firearm used by a person under the influence of alcoholic beverages or controlled substances has caused the death or serious bodily injury of a human being, such person shall submit, upon the request of a law enforcement officer, to a test of his or her blood for the purpose of determining the alcoholic content thereof or the presence of controlled substances therein. The law enforcement officer may use reasonable force if necessary to require such person to submit to the administration of the blood test. The blood test shall be performed in a reasonable manner.

(b) The term "serious bodily injury" means a physical condition which creates a substantial risk of death, serious personal disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(2) The provisions of s. 316.1933(2), relating to blood tests for impairment or intoxication, are incorporated into this act.

(3)(a) Any criminal charge resulting from the incident giving rise to the officer's demand for testing should be tried concurrently with a charge of any violation of s. 790.151. If such charges are tried separately, the fact that such person refused, resisted, obstructed, or opposed testing shall be admissible at the trial of the criminal offense which gave rise to the demand for testing.

(b) The results of any test administered pursuant to this section for the purpose of detecting the presence of any controlled substance shall not be admissible as evidence in a criminal prosecution for the possession of a controlled substance.

(4) Notwithstanding any provision of law pertaining to the confidentiality of hospital records or other medical records, information obtained pursuant to this section shall be released to a court, prosecuting attorney, defense attorney, or law enforcement officer in connection with an alleged violation of s. 790.151 upon request for such information.

History.--s. 3, ch. 91-84; s. 1212, ch. 97-102.

790.157 Presumption of impairment; testing methods.--

(1) It is unlawful and punishable as provided in s. 790.151 for any person who is under the influence of alcoholic

beverages or controlled substances, when affected to the extent that his or her normal faculties are impaired, to use a firearm in this state.

(2) Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by any person while using a firearm while under the influence of alcoholic beverages or controlled substances, when affected to the extent that his or her normal faculties were impaired or to the extent that the person was deprived of full possession of his or her normal faculties, the results of any test administered in accordance with s. 790.153 or s. 790.155 and this section shall be admissible into evidence when otherwise admissible, and the amount of alcohol in the person's blood at the time alleged, as shown by chemical analysis of the person's blood or chemical or physical analysis of the person's breath, shall give rise to the following presumptions:

(a) If there was at that time 0.05 percent or less by weight of alcohol in the person's blood, it shall be presumed that the person was not under the influence of alcoholic beverages to the extent that his or her normal faculties were impaired.

(b) If there was at that time in excess of 0.05 percent but less than 0.10 percent by weight of alcohol in the person's blood, such fact shall not give rise to any presumption that the person was or was not under the influence of alcoholic beverages to the extent that his or her normal faculties were impaired, but such fact may be considered with other competent evidence in determining whether the person was under the influence of alcoholic beverages to the extent that his or her normal faculties were impaired.

(c) If there was at that time 0.10 percent or more by weight of alcohol in the person's blood, that fact shall be prima facie evidence that the person was under the influence of alcoholic beverages to the extent that his or her normal faculties were impaired.

The percent by weight of alcohol in the blood shall be based upon grams of alcohol per 100 milliliters of blood. The foregoing provisions of this subsection shall not be construed as limiting the introduction of any other competent evidence bearing upon the question of whether the person was under the influence of alcoholic beverages to the extent that his or her normal faculties were impaired.

(3) A chemical analysis of a person's blood to determine its alcoholic content or a chemical or physical analysis of a person's breath, in order to be considered valid under the provisions of this section, must have been performed substantially in accordance with methods approved by the Florida Department of Law Enforcement and by an individual possessing a valid permit issued by the department for this purpose. Any insubstantial differences between approved techniques and actual testing procedures in an individual case shall not render the test or test results invalid. The Florida Department of Law Enforcement may approve satisfactory techniques or methods, ascertain the qualification and competence of individuals to conduct such analyses, and issue permits which shall be subject to termination or revocation in accordance with rules adopted by the department.

(4) Any person charged with using a firearm while under the influence of alcoholic beverages or controlled substances to the extent that his or her normal faculties were impaired, whether in a municipality or not, shall be entitled to trial by jury according to the Florida Rules of Criminal Procedure.

History.--s. 4, ch. 91-84; s. 1213, ch. 97-102; s. 294, ch. 99-8.

790.16 Discharging machine guns; penalty.--

(1) It is unlawful for any person to shoot or discharge any machine gun upon, across, or along any road, street, or highway in the state; upon or across any public park in the state; or in, upon, or across any public place where people are accustomed to assemble in the state. The discharge of such machine gun in, upon, or across such public street; in, upon, or across such public park; or in, upon, or across such public place, whether indoors or outdoors, including all theaters and athletic stadiums, with intent to do bodily harm to any person or with intent to do damage to property not resulting in the death of another person shall be a felony of the first degree, punishable as provided in s. 775.082. A sentence not exceeding life imprisonment is specifically authorized when great bodily harm to another or serious disruption of governmental operations results.

(2) This section shall not apply to the use of such machine guns by any United States or state militia or by any law enforcement officer while in the discharge of his or her lawful duty in suppressing riots and disorderly conduct and in preserving and protecting the public peace or in the preservation of public property, or when said use is authorized by law.

History.--s. 1, ch. 16111, 1933; CGL 1936 Supp. 7748(1); s. 746, ch. 71-136; s. 5, ch. 72-724; s. 1, ch. 76-38; s. 1214, ch. 97-102.

790.161 Making, possessing, throwing, projecting, placing, or discharging any destructive device or attempt so to do, felony; penalties.--

A person who willfully and unlawfully makes, possesses, throws, projects, places, discharges, or attempts to make, possess, throw, project, place, or discharge any destructive device:

(1) Commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.084.

(2) If the act is perpetrated with the intent to do bodily harm to any person, or with the intent to do property damage, or if the act results in a disruption of governmental operations, commerce, or the private affairs of another person, commits a felony of the second degree, punishable as provided in s. 775.082 or s. 775.084.

(3) If the act results in bodily harm to another person or in property damage, commits a felony of the first degree, punishable as provided in s. 775.082 or s. 775.084.

(4) If the act results in the death of another person, commits a capital felony, punishable as provided in s. 775.082. In the event the death penalty in a capital felony is held to be unconstitutional by the Florida Supreme Court or the United States Supreme Court, the court having jurisdiction over a person previously sentenced to death for a capital felony shall cause such person to be brought before the court, and the court shall sentence such person to life imprisonment if convicted of murder in the first degree or of a capital felony under this subsection, and such person shall be ineligible for parole. No sentence of death shall be reduced as a result of a determination that a method of execution is held to be unconstitutional under the State Constitution or the Constitution of the United States.

History.--s. 1, ch. 59-29; s. 6, ch. 69-306; s. 1, ch. 70-85; s. 747, ch. 71-136; s. 6, ch. 72-724; s. 2, ch. 76-38; s. 44, ch. 88-381; s. 3, ch. 90-124; s. 3, ch. 90-176; s. 19, ch. 93-406; s. 2, ch. 94-228; s. 3, ch. 98-3.

790.1612 Authorization for governmental manufacture, possession, and use of destructive devices.--

The governing body of any municipality or county and the Division of State Fire Marshal of the Department of Insurance have the power to authorize the manufacture, possession, and use of destructive devices as defined in s. 790.001(4).

History.--s. 6, ch. 90-124; s. 6, ch. 90-176.

790.1615 Unlawful throwing, projecting, placing, or discharging of destructive device or bomb that results in injury to another; penalty.--

(1) A person who perpetrates any unlawful throwing, projecting, placing, or discharging of a destructive device or bomb that results in any bodily harm to a firefighter or any other person, regardless of intent or lack of intent to cause such harm, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) A person who perpetrates any unlawful throwing, projecting, placing, or discharging of a destructive device or bomb that results in great bodily harm, permanent disability, or permanent disfigurement to a firefighter or any other person, regardless of intent or lack of intent to cause such harm, commits a felony of the second degree, punishable as

provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Upon conviction and adjudication of guilt, a person may be sentenced separately, pursuant to s. 775.021(4), for any violation of this section and for any unlawful throwing, projecting, placing, or discharging of a destructive device or bomb committed during the same criminal episode. A conviction for any unlawful throwing, projecting, placing, or discharging of a destructive device or bomb, however, is not necessary for a conviction under this section.

History.--s. 1, ch. 84-23; s. 7, ch. 90-124; s. 7, ch. 90-176.

790.162 Threat to throw, project, place, or discharge any destructive device, felony; penalty.--

It is unlawful for any person to threaten to throw, project, place, or discharge any destructive device with intent to do bodily harm to any person or with intent to do damage to any property of any person, and any person convicted thereof commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.--s. 2, ch. 59-29; s. 7, ch. 69-306; s. 748, ch. 71-136; s. 45, ch. 88-381; s. 4, ch. 90-124; s. 4, ch. 90-176.

790.163 False report about planting bomb or explosive; penalty.--

It is unlawful for any person to make a false report, with intent to deceive, mislead, or otherwise misinform any person, concerning the placing or planting of any bomb, dynamite, or other deadly explosive; and any person convicted thereof is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.--s. 3, ch. 59-29; s. 749, ch. 71-136.

790.164 False reports of bombing or arson against state-owned property; penalty; reward.--

(1) It is unlawful for any person to make a false report, with intent to deceive, mislead, or otherwise misinform any person, concerning the placing or planting of any bomb, dynamite, or other deadly explosive, or concerning any act of arson or other violence to property owned by the state or any political subdivision. Any person violating the provisions of this subsection is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2)(a) There shall be a \$5,000 reward for the giving of information to any law enforcement agency in the state, which information leads to the arrest and conviction of any person violating the provisions of this section. Any person claiming such reward shall apply to the law enforcement agency developing the case and be paid by the Department of Law Enforcement from the deficiency fund.

(b) There shall be only one reward given for each case, regardless of how many persons are arrested and convicted in connection with the case and regardless of how many persons submit claims for the reward.

(c) The Department of Law Enforcement shall establish procedures to be used by all reward applicants, and the circuit judge in whose jurisdiction the action occurs shall review all such applications and make final determination as to those applicants entitled to receive an award.

History.--ss. 2, 2A, ch. 71-306; s. 1, ch. 76-146; s. 236, ch. 77-104; s. 25, ch. 79-8.

790.165 Planting of "hoax bomb" prohibited; penalties.--

(1) For the purposes of this section, "hoax bomb" means any device or object that by its design, construction, content, or characteristics appears to be, or to contain, or is represented to be or to contain, a destructive device or explosive as

defined in this chapter, but is, in fact, an inoperative facsimile or imitation of such a destructive device or explosive, or contains no destructive device or explosive as was represented.

(2) Any person who manufactures, possesses, sells, or delivers a hoax bomb or mails or sends a hoax bomb to another person commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Any person who, while committing or attempting to commit any felony, possesses, displays, or threatens to use any hoax bomb commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Notwithstanding the provisions of s. 948.01, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld. However, the state attorney or defense attorney may move the sentencing court to reduce or suspend the sentence of any person who is convicted of a violation of this section and who provides substantial assistance in the identification, arrest, or conviction of any of his or her accomplices, accessories, coconspirators, or principals.

(4) The provisions of subsection (2) shall not apply to any law enforcement officer, firefighter, person, or corporation licensed pursuant to chapter 493, or member of the armed forces of the United States while engaged in training or other lawful activity within the scope of his or her employment, or to any person properly authorized to test a security system, or to any security personnel, while operating within the scope of their employment, including, but not limited to, security personnel in airports and other controlled access areas, or to any member of a theatrical company or production utilizing a hoax bomb as property during the course of a rehearsal or performance.

History.--s. 39, ch. 87-243; s. 5, ch. 90-124; s. 5, ch. 90-176; s. 20, ch. 93-406; s. 1215, ch. 97-102.

790.166 Manufacture, possession, sale, delivery, display, use, or attempted or threatened use of a weapon of mass destruction or hoax weapon of mass destruction prohibited; definitions; penalties.--

(1) As used in this section, the term:

(a) "Weapon of mass destruction" means:

1. Any device or object that is designed or intended to cause death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors;
2. Any device or object involving a disease organism; or
3. Any device or object that is designed to release radiation or radioactivity at a level dangerous to human life.

(b) "Hoax weapon of mass destruction" means any device or object that by its design, construction, content, or characteristics appears to be or to contain, or is represented to be, constitute, or contain, a weapon of mass destruction as defined in this section, but which is, in fact, an inoperative facsimile, imitation, counterfeit, or representation of a weapon of mass destruction which does not meet the definition of a weapon of mass destruction or which does not actually contain or constitute a weapon, biological agent, toxin, vector, or delivery system prohibited by this section.

(c) "Biological agent" means any microorganism, virus, infectious substance, or biological product that may be engineered through biotechnology, or any naturally occurring or bioengineered component of any such microorganism, virus, infectious substance, or biological product, capable of causing:

1. Death, disease, or other biological malfunction in a human, an animal, a plant, or other living organism;
2. Deterioration of food, water, equipment, supplies, or material of any kind; or
3. Deleterious alteration of the environment.

(d) "Toxin" means the toxic material of plants, animals, microorganisms, viruses, fungi, or infectious substances, or a recombinant molecule, whatever its origin or method of reproduction, including:

1. Any poisonous substance or biological product that may be engineered through biotechnology produced by a living organism; or
2. Any poisonous isomer or biological product, homolog, or derivative of such substance.

(e) "Delivery system" means:

1. Any apparatus, equipment, device, or means of delivery specifically designed to deliver or disseminate a biological agent, toxin, or vector; or
2. Any vector.

(f) "Vector" means a living organism or molecule, including a recombinant molecule or biological product that may be engineered through biotechnology, capable of carrying a biological agent or toxin to a host.

(2) A person who, without lawful authority, manufactures, possesses, sells, delivers, displays, uses, threatens to use, attempts to use, or conspires to use, or who makes readily accessible to others a weapon of mass destruction, including any biological agent, toxin, vector, or delivery system as those terms are defined in this section, commits a felony of the first degree, punishable by imprisonment for a term of years not exceeding life or as provided in s. 775.082, s. 775.083, or s. 775.084, and if death results, commits a capital felony, punishable as provided in s. 775.082.

(3) Any person who, without lawful authority, manufactures, possesses, sells, delivers, displays, uses, threatens to use, attempts to use, or conspires to use, or who makes readily accessible to others, a hoax weapon of mass destruction with the intent to deceive or otherwise mislead another person into believing that the hoax weapon of mass destruction will cause terror, bodily harm, or property damage commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) This section does not apply to any member or employee of the Armed Forces of the United States, a federal or state governmental agency, or a private entity who is otherwise engaged in lawful activity within the scope of his or her employment, if such person is otherwise duly authorized or licensed to manufacture, possess, sell, deliver, display, or otherwise engage in activity relative to this section and if such person is in compliance with applicable federal and state law.

History.--s. 2, ch. 2000-218.

790.169 Juvenile offenders; release of names and addresses.--

A law enforcement agency may release for publication the name and address of a child who has been convicted of any offense involving possession or use of a firearm.

History.--s. 1, ch. 93-416.

790.17 Furnishing weapons to minors under 18 years of age or persons of unsound mind and furnishing firearms to minors under 18 years of age prohibited.--

(1) A person who sells, hires, barter, lends, transfers, or gives any minor under 18 years of age any dirk, electric weapon or device, or other weapon, other than an ordinary pocketknife, without permission of the minor's parent or guardian, or sells, hires, barter, lends, transfers, or gives to any person of unsound mind an electric weapon or device or any dangerous weapon, other than an ordinary pocketknife, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2)(a) A person may not knowingly or willfully sell or transfer a firearm to a minor under 18 years of age, except that a person may transfer ownership of a firearm to a minor with permission of the parent or guardian. A person who violates this paragraph commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) The parent or guardian must maintain possession of the firearm except pursuant to s. 790.22.

History.--ss. 1, 2, ch. 3285, 1881; RS 2684; GS 3627; RGS 5558; CGL 7744; s. 1, ch. 65-187; s. 750, ch. 71-136; s. 2, ch. 76-165; s. 175, ch. 91-224; s. 2, ch. 93-416.

790.173 Legislative findings and intent.--

(1) The Legislature finds that a tragically large number of Florida children have been accidentally killed or seriously injured by negligently stored firearms; that placing firearms within the reach or easy access of children is irresponsible, encourages such accidents, and should be prohibited; and that legislative action is necessary to protect the safety of our children.

(2) It is the intent of the Legislature that adult citizens of the state retain their constitutional right to keep and bear firearms for hunting and sporting activities and for defense of self, family, home, and business and as collectibles. Nothing in this act shall be construed to reduce or limit any existing right to purchase and own firearms, or to provide authority to any state or local agency to infringe upon the privacy of any family, home, or business, except by lawful warrant.

History.--s. 1, ch. 89-534.

790.174 Safe storage of firearms required.--

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

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

(a) In a public place; or

(b) In a rude, careless, angry, or threatening manner in violation of s. 790.10.

This subsection does not apply if the minor obtains the firearm as a result of an unlawful entry by any person.

¹(3) As used in this act, the term "minor" means any person under the age of 16.

History.--ss. 2, 7, ch. 89-534; s. 1216, ch. 97-102.

¹**Note.**--Also published at s. 784.05(4).

790.175 Transfer or sale of firearms; required warnings; penalties.--

(1) Upon the retail commercial sale or retail transfer of any firearm, the seller or transferor shall deliver a written

warning to the purchaser or transferee, which warning states, in block letters not less than 1/4 inch in height:

"IT IS UNLAWFUL, AND PUNISHABLE BY IMPRISONMENT AND FINE, FOR ANY ADULT TO STORE OR LEAVE A FIREARM IN ANY PLACE WITHIN THE REACH OR EASY ACCESS OF A MINOR UNDER 18 YEARS OF AGE OR TO KNOWINGLY SELL OR OTHERWISE TRANSFER OWNERSHIP OR POSSESSION OF A FIREARM TO A MINOR OR A PERSON OF UNSOUND MIND."

(2) Any retail or wholesale store, shop, or sales outlet which sells firearms must conspicuously post at each purchase counter the following warning in block letters not less than 1 inch in height:

"IT IS UNLAWFUL TO STORE OR LEAVE A FIREARM IN ANY PLACE WITHIN THE REACH OR EASY ACCESS OF A MINOR UNDER 18 YEARS OF AGE OR TO KNOWINGLY SELL OR OTHERWISE TRANSFER OWNERSHIP OR POSSESSION OF A FIREARM TO A MINOR OR A PERSON OF UNSOUND MIND."

(3) Any person or business knowingly violating a requirement to provide warning under this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.--ss. 4, 7, ch. 89-534; s. 3, ch. 93-416.

790.18 Sale or transfer of arms to minors by dealers.--

It is unlawful for any dealer in arms to sell or transfer to a minor any firearm, pistol, Springfield rifle or other repeating rifle, bowie knife or dirk knife, brass knuckles, slungshot, or electric weapon or device. A person who violates this section commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.--s. 11, ch. 6421, 1913; RGS 5559; CGL 7745; s. 751, ch. 71-136; s. 2, ch. 76-165; s. 176, ch. 91-224; s. 4, ch. 93-416.

790.19 Shooting into or throwing deadly missiles into dwellings, public or private buildings, occupied or not occupied; vessels, aircraft, buses, railroad cars, streetcars, or other vehicles.--

Whoever, wantonly or maliciously, shoots at, within, or into, or throws any missile or hurls or projects a stone or other hard substance which would produce death or great bodily harm, at, within, or in any public or private building, occupied or unoccupied, or public or private bus or any train, locomotive, railway car, caboose, cable railway car, street railway car, monorail car, or vehicle of any kind which is being used or occupied by any person, or any boat, vessel, ship, or barge lying in or plying the waters of this state, or aircraft flying through the airspace of this state shall be guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.--s. 2, ch. 3281, 1881; RS 2696; ss. 1, 2, ch. 4987, 1901; ss. 1, 2, ch. 4988, 1901; GS 3628; RGS 5560; CGL 7746; s. 1, ch. 59-458; s. 752, ch. 71-136; s. 1, ch. 74-67.

790.22 Use of BB guns, air or gas-operated guns, or electric weapons or devices by minor under 16; limitation; possession of firearms by minor under 18 prohibited; penalties.--

(1) The use for any purpose whatsoever of BB guns, air or gas-operated guns, or electric weapons or devices, by any minor under the age of 16 years is prohibited unless such use is under the supervision and in the presence of an adult who is acting with the consent of the minor's parent.

(2) Any adult responsible for the welfare of any child under the age of 16 years who knowingly permits such child to use or have in his or her possession any BB gun, air or gas-operated gun, electric weapon or device, or firearm in violation of the provisions of subsection (1) of this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(3) A minor under 18 years of age may not possess a firearm, other than an unloaded firearm at his or her home, unless:

- (a) The minor is engaged in a lawful hunting activity and is:
1. At least 16 years of age; or
 2. Under 16 years of age and supervised by an adult.
- (b) The minor is engaged in a lawful marksmanship competition or practice or other lawful recreational shooting activity and is:
1. At least 16 years of age; or
 2. Under 16 years of age and supervised by an adult who is acting with the consent of the minor's parent or guardian.
- (c) The firearm is unloaded and is being transported by the minor directly to or from an event authorized in paragraph (a) or paragraph (b).
- (4)(a) Any parent or guardian of a minor, or other adult responsible for the welfare of a minor, who knowingly and willfully permits the minor to possess a firearm in violation of subsection (3) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
- (b) Any natural parent or adoptive parent, whether custodial or noncustodial, or any legal guardian or legal custodian of a minor, if that minor possesses a firearm in violation of subsection (3) may, if the court finds it appropriate, be required to participate in classes on parenting education which are approved by the Department of Juvenile Justice, upon the first conviction of the minor. Upon any subsequent conviction of the minor, the court may, if the court finds it appropriate, require the parent to attend further parent education classes or render community service hours together with the child.
- (c) The juvenile justice circuit boards or juvenile justice county councils or the Department of Juvenile Justice shall establish appropriate community service programs to be available to the alternative sanctions coordinators of the circuit courts in implementing this subsection. The boards or councils or department shall propose the implementation of a community service program in each circuit, and may submit a circuit plan, to be implemented upon approval of the circuit alternative sanctions coordinator.
- (d) For the purposes of this section, community service may be provided on public property as well as on private property with the expressed permission of the property owner. Any community service provided on private property is limited to such things as removal of graffiti and restoration of vandalized property.
- (5)(a) A minor who violates subsection (3) commits a misdemeanor of the first degree; for a first offense, may serve a period of detention of up to 3 days in a secure detention facility; and, in addition to any other penalty provided by law, shall be required to perform 100 hours of community service; and:
1. If the minor is eligible by reason of age for a driver license or driving privilege, the court shall direct the Department of Highway Safety and Motor Vehicles to revoke or to withhold issuance of the minor's driver license or driving privilege for up to 1 year.
 2. If the minor's driver license or driving privilege is under suspension or revocation for any reason, the court shall direct the Department of Highway Safety and Motor Vehicles to extend the period of suspension or revocation by an additional period of up to 1 year.
 3. If the minor is ineligible by reason of age for a driver license or driving privilege, the court shall direct the Department of Highway Safety and Motor Vehicles to withhold issuance of the minor's driver license or driving privilege for up to 1 year after the date on which the minor would otherwise have become eligible.
- (b) For a second or subsequent offense, a minor who violates subsection (3) commits a felony of the third degree and shall serve a period of detention of up to 15 days in a secure detention facility and shall be required to perform not less than 100 nor more than 250 hours of community service, and:
1. If the minor is eligible by reason of age for a driver license or driving privilege, the court shall direct the Department of Highway Safety and Motor Vehicles to revoke or to withhold issuance of the minor's driver license or driving privilege for up to 2 years.
 2. If the minor's driver license or driving privilege is under suspension or revocation for any reason, the court shall direct the Department of Highway Safety and Motor Vehicles to extend the period of suspension or revocation by an additional period of up to 2 years.
 3. If the minor is ineligible by reason of age for a driver license or driving privilege, the court shall direct the Department of Highway Safety and Motor Vehicles to withhold issuance of the minor's driver license or driving privilege for up to 2 years after the date on which the minor would otherwise have become eligible.

For the purposes of this subsection, community service shall be performed, if possible, in a manner involving a hospital emergency room or other medical environment that deals on a regular basis with trauma patients and gunshot wounds.

(6) Any firearm that is possessed or used by a minor in violation of this section shall be promptly seized by a law enforcement officer and disposed of in accordance with s. 790.08(1)-(6).

(7) The provisions of this section are supplemental to all other provisions of law relating to the possession, use, or

exhibition of a firearm.

(8) Notwithstanding s. 985.213 or s. 985.215(1), if a minor under 18 years of age is charged with an offense that involves the use or possession of a firearm, as defined in s. 790.001, including a violation of subsection (3), or is charged for any offense during the commission of which the minor possessed a firearm, the minor shall be detained in secure detention, unless the state attorney authorizes the release of the minor, and shall be given a hearing within 24 hours after being taken into custody. At the hearing, the court may order that the minor continue to be held in secure detention in accordance with the applicable time periods specified in s. 985.215(5), if the court finds that the minor meets the criteria specified in s. 985.215(2), or if the court finds by clear and convincing evidence that the minor is a clear and present danger to himself or herself or the community. The Department of Juvenile Justice shall prepare a form for all minors charged under this subsection that states the period of detention and the relevant demographic information, including, but not limited to, the sex, age, and race of the minor; whether or not the minor was represented by private counsel or a public defender; the current offense; and the minor's complete prior record, including any pending cases. The form shall be provided to the judge to be considered when determining whether the minor should be continued in secure detention under this subsection. An order placing a minor in secure detention because the minor is a clear and present danger to himself or herself or the community must be in writing, must specify the need for detention and the benefits derived by the minor or the community by placing the minor in secure detention, and must include a copy of the form provided by the department. The Department of Juvenile Justice must send the form, including a copy of any order, without client-identifying information, to the Office of Economic and Demographic Research.

(9) Notwithstanding s. 985.214, if the minor is found to have committed an offense that involves the use or possession of a firearm, as defined in s. 790.001, other than a violation of subsection (3), or an offense during the commission of which the minor possessed a firearm, and the minor is not committed to a residential commitment program of the Department of Juvenile Justice, in addition to any other punishment provided by law, the court shall order:

(a) For a first offense, that the minor shall serve a minimum period of detention of 15 days in a secure detention facility; and

1. Perform 100 hours of community service; and may
2. Be placed on community control or in a nonresidential commitment program.

(b) For a second or subsequent offense, that the minor shall serve a mandatory period of detention of at least 21 days in a secure detention facility; and

1. Perform not less than 100 nor more than 250 hours of community service; and may
2. Be placed on community control or in a nonresidential commitment program.

The minor shall not receive credit for time served before adjudication. For the purposes of this subsection, community service shall be performed, if possible, in a manner involving a hospital emergency room or other medical environment that deals on a regular basis with trauma patients and gunshot wounds.

(10) If a minor is found to have committed an offense under subsection (9), the court shall impose the following penalties in addition to any penalty imposed under paragraph (9)(a) or paragraph (9)(b):

(a) For a first offense:

1. If the minor is eligible by reason of age for a driver license or driving privilege, the court shall direct the Department of Highway Safety and Motor Vehicles to revoke or to withhold issuance of the minor's driver license or driving privilege for up to 1 year.
2. If the minor's driver license or driving privilege is under suspension or revocation for any reason, the court shall direct the Department of Highway Safety and Motor Vehicles to extend the period of suspension or revocation by an additional period for up to 1 year.
3. If the minor is ineligible by reason of age for a driver license or driving privilege, the court shall direct the Department of Highway Safety and Motor Vehicles to withhold issuance of the minor's driver license or driving privilege for up to 1 year after the date on which the minor would otherwise have become eligible.

(b) For a second or subsequent offense:

1. If the minor is eligible by reason of age for a driver license or driving privilege, the court shall direct the Department of Highway Safety and Motor Vehicles to revoke or to withhold issuance of the minor's driver license or driving privilege for up to 2 years.
2. If the minor's driver license or driving privilege is under suspension or revocation for any reason, the court shall direct the Department of Highway Safety and Motor Vehicles to extend the period of suspension or revocation by an additional period for up to 2 years.
3. If the minor is ineligible by reason of age for a driver license or driving privilege, the court shall direct the Department of Highway Safety and Motor Vehicles to withhold issuance of the minor's driver license or driving privilege for up to 2 years after the date on which the minor would otherwise have become eligible.

History.--ss. 1, 2, ch. 26946, 1951; s. 8, ch. 69-306; s. 753, ch. 71-136; s. 2, ch. 76-165; s. 177, ch. 91-224; s. 5, ch. 93-416; s. 29, ch. 95-267; s. 6, ch. 96-398; s. 1817, ch. 97-102; s. 32, ch. 98-136; s. 50, ch. 98-280; s. 1, ch. 99-284; s. 10, ch. 2000-135.

790.221 Possession of short-barreled rifle, short-barreled shotgun, or machine gun; penalty.--

(1) It is unlawful for any person to own or to have in his or her care, custody, possession, or control any short-barreled rifle, short-barreled shotgun, or machine gun which is, or may readily be made, operable; but this section shall not apply to antique firearms.

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

(3) Firearms in violation hereof which are lawfully owned and possessed under provisions of federal law are excepted.

History.--s. 10, ch. 69-306; s. 1, ch. 89-312; s. 21, ch. 93-406; s. 1217, ch. 97-102.

790.225 Self-propelled knives; unlawful to manufacture, sell, or possess; forfeiture; penalty.--

(1) It is unlawful for any person to manufacture, display, sell, own, possess, or use a self-propelled knife which is a device that propels a knifelike blade as a projectile by means of a coil spring, elastic material, or compressed gas. A self-propelled knife is declared to be a dangerous or deadly weapon and a contraband item. It shall be subject to seizure and shall be disposed of as provided in s. 790.08(1) and (6).

(2) This section shall not apply to any device which propels an arrow, a bolt, or a dart by means of any common bow, compound bow, crossbow, or underwater spear gun.

(3) Any person violating the provisions of subsection (1) is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.--s. 1, ch. 85-258; s. 178, ch. 91-224

790.23 Felons and delinquents; possession of firearms or electric weapons or devices unlawful.--

(1) It is unlawful for any person to own or to have in his or her care, custody, possession, or control any firearm or electric weapon or device, or to carry a concealed weapon, including a tear gas gun or chemical weapon or device, if that person has been:

(a) Convicted of a felony in the courts of this state;

(b) Found, in the courts of this state, to have committed a delinquent act that would be a felony if committed by an adult and such person is under 24 years of age.

(c) Convicted of or found to have committed a crime against the United States which is designated as a felony;

(d) Found to have committed a delinquent act in another state, territory, or country that would be a felony if committed by an adult and which was punishable by imprisonment for a term exceeding 1 year and such person is under 24 years of age; or

(e) Found guilty of an offense that is a felony in another state, territory, or country and which was punishable by imprisonment for a term exceeding 1 year.

(2) This section shall not apply to a person convicted of a felony whose civil rights and firearm authority have been restored.

(3) Any person who violates this section commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.--ss. 1, 2, 3, ch. 29766, 1955; s. 1, ch. 63-31; s. 9, ch. 69-306; s. 754, ch. 71-136; s. 1, ch. 71-318; s. 169, ch. 71-355; s. 2, ch. 76-165; s. 6, ch. 93-416; s. 51, ch. 98-280; s. 39, ch. 99-284.

790.233 Possession of firearm or ammunition prohibited when person is subject to an injunction against committing acts of domestic violence; penalties.--

(1) A person may not have in his or her care, custody, possession, or control any firearm or ammunition if the person has been issued a final injunction that is currently in force and effect, restraining that person from committing acts of domestic violence, and that has been issued under s. 741.30.

(2) A person who violates subsection (1) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3) It is the intent of the Legislature that the disabilities regarding possession of firearms and ammunition are consistent with federal law. Accordingly, this section shall not apply to a state or local officer as defined in s. 943.10 (14), holding an active certification, who receives or possesses a firearm or ammunition for use in performing official duties on behalf of the officer's employing agency, unless otherwise prohibited by the employing agency.

History.--s. 1, ch. 98-284.

790.235 Possession of firearm by violent career criminal unlawful; penalty.--

(1) Any person who meets the violent career criminal criteria under s. 775.084(1)(d), regardless of whether such person is or has previously been sentenced as a violent career criminal, who owns or has in his or her care, custody, possession, or control any firearm or electric weapon or device, or carries a concealed weapon, including a tear gas gun or chemical weapon or device, commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A person convicted of a violation of this section shall be sentenced to a mandatory minimum of 15 years' imprisonment; however, if the person would be sentenced to a longer term of imprisonment under s. 775.084(4)(d), the person must be sentenced under that provision. A person convicted of a violation of this section is not eligible for any form of discretionary early release, other than pardon, executive clemency, or conditional medical release under s. 947.149.

(2) For purposes of this section, the previous felony convictions necessary to meet the violent career criminal criteria under s. 775.084(1)(d) may be convictions for felonies committed as an adult or adjudications of delinquency for felonies committed as a juvenile. In order to be counted as a prior felony for purposes of this section, the felony must have resulted in a conviction sentenced separately, or an adjudication of delinquency entered separately, prior to the current offense, and sentenced or adjudicated separately from any other felony that is to be counted as a prior felony.

(3) This section shall not apply to a person whose civil rights and firearm authority have been restored.

History.--s. 7, ch. 95-182; s. 45, ch. 96-388; s. 6, ch. 99-188.

790.24 Report of medical treatment of certain wounds; penalty for failure to report.--

Any physician, nurse, or employee thereof and any employee of a hospital, sanitarium, clinic, or nursing home knowingly treating any person suffering from a gunshot wound or life-threatening injury indicating an act of violence, or receiving a request for such treatment, shall report the same immediately to the sheriff's department of the county in which said treatment is administered or request therefor received. This section does not affect any requirement that a person has to report abuse pursuant to chapter 39 or chapter 415. Any such person willfully failing to report such treatment or request therefor is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.--s. 1, ch. 59-35; s. 755, ch. 71-136; s. 1, ch. 99-235.

790.25 Lawful ownership, possession, and use of firearms and other weapons.--

(1) DECLARATION OF POLICY.--The Legislature finds as a matter of public policy and fact that it is necessary to promote firearms safety and to curb and prevent the use of firearms and other weapons in crime and by incompetent persons without prohibiting the lawful use in defense of life, home, and property, and the use by United States or state military organizations, and as otherwise now authorized by law, including the right to use and own firearms for target practice and marksmanship on target practice ranges or other lawful places, and lawful hunting and other lawful purposes.

(2) USES NOT AUTHORIZED.--

(a) This section does not authorize carrying a concealed weapon without a permit, as prohibited by ss. 790.01 and 790.02.

(b) The protections of this section do not apply to the following:

1. A person who has been adjudged mentally incompetent, who is addicted to the use of narcotics or any similar drug, or who is a habitual or chronic alcoholic, or a person using weapons or firearms in violation of ss. 790.07-790.12, 790.14-790.19, 790.22-790.24;

2. Vagrants and other undesirable persons as defined in ¹s. 856.02;

3. A person in or about a place of nuisance as defined in s. 823.05, unless such person is there for law enforcement or some other lawful purpose.

(3) LAWFUL USES.--The provisions of ss. 790.053 and 790.06 do not apply in the following instances, and, despite such sections, it is lawful for the following persons to own, possess, and lawfully use firearms and other weapons, ammunition, and supplies for lawful purposes:

(a) Members of the Militia, National Guard, Florida State Defense Force, Army, Navy, Air Force, Marine Corps, Coast Guard, organized reserves, and other armed forces of the state and of the United States, when on duty, when training or preparing themselves for military duty, or while subject to recall or mobilization;

(b) Citizens of this state subject to duty in the Armed Forces under s. 2, Art. X of the State Constitution, under chapters 250 and 251, and under federal laws, when on duty or when training or preparing themselves for military duty;

(c) Persons carrying out or training for emergency management duties under chapter 252;

(d) Sheriffs, marshals, prison or jail wardens, police officers, Florida highway patrol officers, game wardens, revenue officers, forest officials, special officers appointed under the provisions of chapter 354, and other peace and law enforcement officers and their deputies and assistants and full-time paid peace officers of other states and of the Federal Government who are carrying out official duties while in this state;

(e) Officers or employees of the state or United States duly authorized to carry a concealed weapon;

(f) Guards or messengers of common carriers, express companies, armored car carriers, mail carriers, banks, and other financial institutions, while actually employed in and about the shipment, transportation, or delivery of any money, treasure, bullion, bonds, or other thing of value within this state;

(g) Regularly enrolled members of any organization duly authorized to purchase or receive weapons from the United States or from this state, or regularly enrolled members of clubs organized for target, skeet, or trap shooting, while at or going to or from shooting practice; or regularly enrolled members of clubs organized for modern or antique firearms collecting, while such members are at or going to or from their collectors' gun shows, conventions, or exhibits;

(h) A person engaged in fishing, camping, or lawful hunting or going to or returning from a fishing, camping, or lawful hunting expedition;

(i) A person engaged in the business of manufacturing, repairing, or dealing in firearms, or the agent or representative of any such person while engaged in the lawful course of such business;

(j) A person firing weapons for testing or target practice under safe conditions and in a safe place not prohibited by law or going to or from such place;

(k) A person firing weapons in a safe and secure indoor range for testing and target practice;

(l) A person traveling by private conveyance when the weapon is securely encased or in a public conveyance when the weapon is securely encased and not in the person's manual possession;

(m) A person while carrying a pistol unloaded and in a secure wrapper, concealed or otherwise, from the place of purchase to his or her home or place of business or to a place of repair or back to his or her home or place of business;

(n) A person possessing arms at his or her home or place of business;

(o) Investigators employed by the several public defenders of the state, while actually carrying out official duties, provided such investigators:

1. Are employed full time;

2. Meet the official training standards for firearms established by the Criminal Justice Standards and Training Commission as provided in s. 943.12(5) and the requirements of ss. 493.6108(1)(a) and 943.13(1)-(4); and

3. Are individually designated by an affidavit of consent signed by the employing public defender and filed with the clerk of the circuit court in the county in which the employing public defender resides.

(p) Investigators employed by the capital collateral representative, while actually carrying out official duties, provided such investigators:

1. Are employed full time;
2. Meet the official training standards for firearms as established by the Criminal Justice Standards and Training Commission as provided in s. 943.12(1) and the requirements of ss. 493.6108(1)(a) and 943.13(1)-(4); and
3. Are individually designated by an affidavit of consent signed by the capital collateral representative and filed with the clerk of the circuit court in the county in which the investigator is headquartered.

(4) CONSTRUCTION.--This act shall be liberally construed to carry out the declaration of policy herein and in favor of the constitutional right to keep and bear arms for lawful purposes. This act is supplemental and additional to existing rights to bear arms now guaranteed by law and decisions of the courts of Florida, and nothing herein shall impair or diminish any of such rights. This act shall supersede any law, ordinance, or regulation in conflict herewith.

(5) POSSESSION IN PRIVATE CONVEYANCE.--Notwithstanding subsection (2), it is lawful and is not a violation of s. 790.01 for a person 18 years of age or older to possess a concealed firearm or other weapon for self-defense or other lawful purpose within the interior of a private conveyance, without a license, if the firearm or other weapon is securely encased or is otherwise not readily accessible for immediate use. Nothing herein contained prohibits the carrying of a legal firearm other than a handgun anywhere in a private conveyance when such firearm is being carried for a lawful use. Nothing herein contained shall be construed to authorize the carrying of a concealed firearm or other weapon on the person. This subsection shall be liberally construed in favor of the lawful use, ownership, and possession of firearms and other weapons, including lawful self-defense as provided in s. 776.012.

History.--s. 1, ch. 65-410; s. 32, ch. 69-216; s. 32, ch. 73-334; s. 2, ch. 77-302; s. 2, ch. 82-131; s. 15, ch. 83-167; ss. 45, 49, ch. 83-334; s. 32, ch. 84-258; s. 68, ch. 85-62; s. 5, ch. 85-332; s. 15, ch. 87-274; s. 2, ch. 87-537; s. 1, ch. 89-60; s. 8, ch. 90-364; s. 1, ch. 93-269; s. 7, ch. 93-416; s. 89, ch. 95-211; s. 1218, ch. 97-102.

¹**Note.**--Repealed by s. 3, ch. 72-133.

790.256 Public service announcements.--

The Department of Health shall prepare public service announcements for dissemination to parents throughout the state, of the provisions of chapter 93-416, Laws of Florida.

History.--s. 9, ch. 93-416; s. 295, ch. 99-8.

790.27 Alteration or removal of firearm serial number or possession, sale, or delivery of firearm with serial number altered or removed prohibited; penalties.--

(1)(a) It is unlawful for any person to knowingly alter or remove the manufacturer's or importer's serial number from a firearm with intent to disguise the true identity thereof.

(b) Any person violating paragraph (a) is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2)(a) It is unlawful for any person to knowingly sell, deliver, or possess any firearm on which the manufacturer's or importer's serial number has been unlawfully altered or removed.

(b) Any person violating paragraph (a) is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3) This section shall not apply to antique firearms.

History.--s. 2, ch. 79-58; s. 179, ch. 91-224.

790.28 Purchase of rifles and shotguns in contiguous states.--

A resident of this state may purchase a rifle or shotgun in any state contiguous to this state if he or she conforms to applicable laws and regulations of the United States, of the state where the purchase is made, and of this state.

History.--s. 1, ch. 79-44; s. 1219, ch. 97-102.

790.29 Paramilitary training; teaching or participation prohibited.--

(1) This act shall be known and may be cited as the "State Antiparamilitary Training Act."

(2) As used in this section, the term "civil disorder" means a public disturbance involving acts of violence by an assemblage of three or more persons, which disturbance causes an immediate danger of, or results in, damage or injury to the property or person of any other individual within the United States.

(3)(a) Whoever teaches or demonstrates to any other person the use, application, or making of any firearm, destructive device, or technique capable of causing injury or death to persons, knowing or having reason to know or intending that the same will be unlawfully employed for use in, or in furtherance of, a civil disorder within the United States, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Whoever assembles with one or more persons for the purpose of training with, practicing with, or being instructed in the use of any firearm, destructive device, or technique capable of causing injury or death to persons, intending to unlawfully employ the same for use in, or in furtherance of, a civil disorder within the United States, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) Nothing contained in this section shall be construed to prohibit any act of a law enforcement officer which is performed in connection with the lawful performance of his or her official duties or to prohibit the training or teaching of the use of weapons to be used for hunting, recreation, competition, self-defense or the protection of one's person or property, or other lawful use.

History.--s. 1, ch. 82-5; s. 164, ch. 83-216; s. 1220, ch. 97-102.

790.31 Armor-piercing or exploding ammunition or dragon's breath shotgun shells, bolo shells, or flechette shells prohibited.--

(1) As used in this section, the term:

(a) "Armor-piercing bullet" means any bullet which has a steel inner core or core of equivalent hardness and a truncated cone and which is designed for use in a handgun as an armor-piercing or metal-piercing bullet.

(b) "Exploding bullet" means any bullet that can be fired from any firearm, if such bullet is designed or altered so as to detonate or forcibly break up through the use of an explosive or deflagrant contained wholly or partially within or attached to such bullet. The term does not include any bullet designed to expand or break up through the mechanical forces of impact alone or any signaling device or pest control device not designed to impact on any target.

(c) "Handgun" means a firearm capable of being carried and used by one hand, such as a pistol or revolver.

(d) "Dragon's breath shotgun shell" means any shotgun shell that contains exothermic pyrophoric misch metal as the projectile and that is designed for the sole purpose of throwing or spewing a flame or fireball to simulate a flamethrower.

(e) "Bolo shell" means any shell that can be fired in a firearm and that expels as projectiles two or more metal balls connected by solid metal wire.

(f) "Flechette shell" means any shell that can be fired in a firearm and that expels two or more pieces of fin-stabilized solid metal wire or two or more solid dart-type projectiles.

(2)(a) Any person who manufactures, sells, offers for sale, or delivers any armor-piercing bullet or exploding bullet, or dragon's breath shotgun shell, bolo shell, or flechette shell is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Any person who possesses an armor-piercing bullet or exploding bullet with knowledge of its armor-piercing or exploding capabilities loaded in a handgun, or who possesses a dragon's breath shotgun shell, bolo shell, or flechette shell with knowledge of its capabilities loaded in a firearm, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Any person who possesses with intent to use an armor-piercing bullet or exploding bullet or dragon's breath shotgun shell, bolo shell, or flechette shell to assist in the commission of a criminal act is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) This section does not apply to:

(a) The possession of any item described in subsection (1) by any law enforcement officer, when possessed in connection with the performance of his or her duty as a law enforcement officer, or law enforcement agency.

(b) The manufacture of items described in subsection (1) exclusively for sale or delivery to law enforcement agencies.

(c) The sale or delivery of items described in subsection (1) to law enforcement agencies.

History.--s. 1, ch. 83-253; s. 1, ch. 92-141; s. 1221, ch. 97-102.

790.33 Field of regulation of firearms and ammunition preempted.--

(1) **PREEMPTION.**--Except as expressly provided by general law, the Legislature hereby declares that it is occupying the whole field of regulation of firearms and ammunition, including the purchase, sale, transfer, taxation, manufacture, ownership, possession, and transportation thereof, to the exclusion of all existing and future county, city, town, or municipal ordinances or regulations relating thereto. Any such existing ordinances are hereby declared null and void. This subsection shall not affect zoning ordinances which encompass firearms businesses along with other businesses. Zoning ordinances which are designed for the purpose of restricting or prohibiting the sale, purchase, transfer, or manufacture of firearms or ammunition as a method of regulating firearms or ammunition are in conflict with this subsection and are prohibited.

(2) **LIMITED EXCEPTION; COUNTY WAITING-PERIOD ORDINANCES.**--

(a) Any county may have the option to adopt a waiting-period ordinance requiring a waiting period of up to, but not to exceed, 3 working days between the purchase and delivery of a handgun. For purposes of this subsection, "purchase" means payment of deposit, payment in full, or notification of intent to purchase. Adoption of a waiting-period ordinance, by any county, shall require a majority vote of the county commission on votes on waiting-period ordinances. This exception is limited solely to individual counties and is limited to the provisions and restrictions contained in this subsection.

(b) Ordinances authorized by this subsection shall apply to all sales of handguns to individuals by a retail establishment except those sales to individuals exempted in this subsection. For purposes of this subsection, "retail establishment" means a gun shop, sporting goods store, pawn shop, hardware store, department store, discount store, bait or tackle shop, or any other store or shop that offers handguns for walk-in retail sale but does not include gun collectors shows or exhibits, or gun shows.

(c) Ordinances authorized by this subsection shall not require any reporting or notification to any source outside the retail establishment, but records of handgun sales must be available for inspection, during normal business hours, by any law enforcement agency as defined in s. 934.02.

(d) The following shall be exempt from any waiting period:

1. Individuals who are licensed to carry concealed firearms under the provisions of s. 790.06 or who are licensed to carry concealed firearms under any other provision of state law and who show a valid license;
2. Individuals who already lawfully own another firearm and who show a sales receipt for another firearm; who are known to own another firearm through a prior purchase from the retail establishment; or who have another firearm for trade-in;
3. A law enforcement or correctional officer as defined in s. 943.10;
4. A law enforcement agency as defined in s. 934.02;
5. Sales or transactions between dealers or between distributors or between dealers and distributors who have current federal firearms licenses; or
6. Any individual who has been threatened or whose family has been threatened with death or bodily injury, provided the individual may lawfully possess a firearm and provided such threat has been duly reported to local law enforcement.

(3) **POLICY AND INTENT.**--

(a) It is the intent of this section to provide uniform firearms laws in the state; to declare all ordinances and regulations null and void which have been enacted by any jurisdictions other than state and federal, which regulate firearms, ammunition, or components thereof; to prohibit the enactment of any future ordinances or regulations relating to firearms, ammunition, or components thereof unless specifically authorized by this section or general law; and to require local jurisdictions to enforce state firearms laws.

(b) As created by chapter 87-23, Laws of Florida, this section shall be known and may be cited as the "Joe Carlucci Uniform Firearms Act."

History.--ss. 1, 2, 3, 4, ch. 87-23; s. 5, ch. 88-183.