

Florida State Law
FL Stat. Ann.
Chapter 790. Weapons and Firearms

790.001 Definitions. The following words and phrases, when used in this chapter, shall, for the purposes of this chapter, have the meanings respectively ascribed to them 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.

(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 shell, cartridges or ammunition for firearms;

(b) Fireworks as defined in § 791.01;

(c) Smokeless propellant powder or small arms ammunition primers, if possessed, purchased, sold, transported, or used in compliance with § 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 muzzleloading flint or percussion weapons.

The exclusions contained in paragraphs (a)-(d) shall 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, or 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 machinegun. The term **"firearm"** shall 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 one 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 Offender Rehabilitation or by a superintendent of an institution;

(e) All peace officers;

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

(9) **"Machinegun"** means any firearm, as defined herein, which shoots, or is designed to shoot, more than one (1) shot, without manually reloading, by a single function of the trigger.

(10) **"Short barreled shotgun"** means a shotgun having one (1) or more barrels less than eighteen (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 twenty-six (26) inches.

(11) **"Short barreled rifle"** means a rifle having one (1) or more barrels less than sixteen (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 twenty-six (26) inches. * * * *

(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) **"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. * * * *

(16) **"Securely encased"** means in a glove compartment, whether or not locked;

snapped in a holster; in a gun case, whether or locked; in a zippered gun case; or in a closed box or container which requires a lid or cover to be opened for access.

(17) "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.

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 duties or when acting at any time in the line of or performance of duty.

790.065. Sale and delivery of firearms.

(1) No licensed importer, licensed manufacturer, or licensed dealer shall sell or deliver from his inventory at his licensed premises any firearm to another person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, until 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, 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 \$8. 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.

(c) Requested, by means of 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 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 has been convicted of a felony and is prohibited from receipt or possession of a firearm pursuant to s.790.23 or has had adjudication of guilt withheld or imposition of sentence suspended on any felony 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.

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(14).

(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.

790.161. Making, possessing, throwing, projecting, placing, or discharging any destructive device or attempt to do so; 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 § 775.082 or § 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 § 775.082 or § 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 § 775.082 or § 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.

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 § 790.001(4). * * * *

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 is 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.

790.18. Sale or Transfer of arms to minors by dealers. It is unlawful for any dealer in arms to sell to a minor any firearm, pistol, Springfield rifle or other repeating rifle, Bowie knife or dirk knife, brass knuckles, slingshot, 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.

790.22. Use of B.B. 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.

(3) A minor under 18 years of age may not possess a firearm, other than an unloaded firearm at his 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).

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

(1) It is unlawful for any person to own or to have in his care, custody, possession or control any short-barreled rifle, short-barreled shotgun, or

machinegun 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 § 775.082, § 775.083, or § 775.084.

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

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

(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 or found to have committed a delinquent act that would be a felony if committed by an adult in the courts of this state;

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

(c) 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; or

(d) 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, or to a person found to have committed a delinquent act that would be a felony if committed by an adult with respect to which the jurisdiction of the court pursuant to chapter 39 has expired.

(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.

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

(1) Any person who meets the violent career criminal criteria under s.775.84(1)(c), 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 mandatory minimum of 15 years imprisonment; however, if the person would be sentenced to a longer term of imprisonment under s.775.084(4)(c), 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)(c) 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 does not apply to persons whose civil rights and firearm authority have been restored.

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 § 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 §§ 790.07 - 790.12, 790.14-790.19, 790.22-790.24;
2. Vagrants and other undesirable persons, as defined in § 856.02;
3. A person in or about a place of nuisance as defined in § 823.05, unless such person is there for law enforcement or some other lawful purpose.

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 § 775.082, § 775.083, or § 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 § 775.082, or § 775.083.

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

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 conforms to applicable laws and regulations of the United States, of the state where the purchase is made, and of this state.