

CHAPTER 97-72

Committee Substitute for Committee Substitute for House Bill No. 379

An act relating to carrying of self-defense weapons or devices; amending s. 790.001, F.S.; providing an exception for certain self-defense chemical sprays from the definition of “tear gas gun” or “chemical weapon or device”; providing a definition of “self-defense chemical spray” and “remote stun gun”; amending s. 790.01, F.S., relating to carrying concealed weapons; providing that self-defense chemical sprays and nonlethal stun guns and other nonlethal electric weapons or devices may be lawfully carried in a concealed manner in certain circumstances; clarifying language; providing for construction not to preclude criminal prosecutions; amending s. 790.053, F.S., relating to open carrying of weapons; providing that self-defense chemical sprays and nonlethal stun guns and other nonlethal electric weapons or devices may be lawfully carried in an open manner in certain circumstances; clarifying language; creating s. 790.054, F.S.; defining the offense of knowingly and willfully using self-defense chemical sprays and nonlethal stun guns and other nonlethal electric weapons or devices against a law enforcement officer engaged in official duties, and providing penalties therefor; providing effective dates.

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

Section 1. The introductory paragraph and paragraph (b) of subsection (3) of section 790.001, Florida Statutes, are amended, subsections (15) through (17) of said section are renumbered as subsections (16) through (18), respectively, and a new subsection (15) is added to said section, to read:

790.001 Definitions.—~~As used in this chapter~~ 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:

(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 ~~“Tear gas gun,” “chemical weapon,” or “device” shall apply to all weapons of such nature except those designed to be carried in a woman’s handbag or a man’s pants or coat pocket or designed as a pocket pencil or pen and containing not more than one-half ounce of chemical.~~

(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.

Section 2. Section 790.01, Florida Statutes, is amended to read:

790.01 Carrying concealed weapons.—

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

(2) A person who carries ~~Whoever shall carry~~ a concealed firearm on or about his or her person ~~commits shall be guilty~~ of 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 ~~Nothing in this section shall relate to persons licensed to carry a concealed weapon or a concealed firearm pursuant to the provisions of s. as set forth in ss. 790.053 and 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.

Section 3. Section 790.053, Florida Statutes, is amended to read:

790.053 Open carrying of weapons.—

(1) Except as otherwise provided by law ~~and in subsection (2), it is~~ shall be 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; ~~provided, however, that a person may openly carry a stun gun or nonlethal electric weapon or device designed solely for defensive purposes, which weapon does not fire a dart or projectile.~~

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

Section 4. Effective October 1, 1997, and applicable to offenses committed on or after that date, section 790.054, Florida Statutes, is created to read:

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.

Section 5. Except as otherwise provided herein, this act shall take effect upon becoming a law.

Became a law without the Governor's approval May 16, 1997.

Filed in Office Secretary of State May 12, 1997.