

10.11 FURNISHING [FIREARM] [WEAPON] TO MINOR [OR] [FURNISHING DANGEROUS WEAPON TO PERSON OF UNSOUND MIND]

§ 790.17, Fla. Stat.

To prove the crime of (name of crime), the State must prove the following two elements beyond a reasonable doubt:

Give as applicable.

1. a. (Defendant) **[sold] [hired] [bartered] [lent] [transferred] [gave]** (name of minor) **a [weapon] [dirk] [electric weapon or device] without the permission of the [parent] [guardian] of** (name of minor).
- b. (Defendant) **[sold] [hired] [bartered] [lent] [transferred] [gave] [an electric weapon or device] [a dangerous weapon] to** (name of person of unsound mind).
- c. (Defendant) **knowingly or willfully transferred a firearm to** (name of minor) **without the permission of the [parent] [guardian] of** (name of minor).
- d. (Defendant) **knowingly or willfully sold a firearm to** (name of minor).

Give as applicable.

2. a. (Minor alleged) **was at the time under 18 years of age.**
- b. (Person of unsound mind) **was at the time a person of unsound mind.**

Definitions. Give only those paragraphs that are applicable.

§ 790.001, Fla. Stat. Slungshot is defined in § 790.001, Fla. Stat.

A “weapon” is any dirk, knife, metallic knuckles, slungshot, billie, tear gas gun, chemical weapon or device, or other deadly weapon except a firearm or a common pocketknife, plastic knife, or blunt-bladed table knife.

A “deadly weapon” is any object other than a firearm that will likely cause death or great bodily harm if used in the ordinary and usual manner contemplated by its design and construction.

An object not designed to inflict bodily harm may nonetheless be a “deadly weapon” if the defendant knew that the object would be used or threatened to be used in a manner likely to cause death or great bodily harm.

The following two paragraphs are applicable only if element # 1b is charged.

A “dangerous weapon” is any object [other than an ordinary pocketknife] that is readily capable of inflicting death or great bodily harm if used in the ordinary manner contemplated by its design and construction.

An object not designed to inflict bodily harm [other than an ordinary pocketknife] may nonetheless be a “dangerous weapon” if the defendant knew that the object would be used or threatened to be used in a manner likely to inflict death or great bodily harm.

“Great bodily harm” means great as distinguished from slight, trivial, minor, or moderate harm, and as such does not include mere bruises.

§ 790.001, Fla. Stat.

“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.

§ 790.001, Fla. Stat.

A “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;] [any machine gun]. [The term “firearm” does not include an antique firearm unless the antique firearm is used in the commission of another crime. An antique firearm is *(insert definition in § 790.001, Fla. Stat.)*]. [A destructive device is *(insert definition in § 790.001, Fla. Stat.)*].

“Willfully” means intentionally and purposely.

Lesser Included Offense

FURNISHING [FIREARM] [WEAPON] TO MINORS UNDER 18 YEARS OF AGE, ETC. — 790.17

CATEGORY ONE	CATEGORY TWO	FLA. STAT.	INS. NO.
None			
	Attempt	777.04(1)	5.1

Comments

A special instruction will be necessary in cases where the weapon was an animal or a substance or something that is not commonly referred to as an “object.”

It is unclear whether a person may lawfully sell a firearm to a minor under 18 years of age if the parent or guardian has given permission.

This instruction was adopted in 1981 and amended on April 3, 2020.