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S.59

Introduced by Senators McCormack, Ayer, Baruth, Fox, Miller and White

Referred to Committee on

Date:

Subject: Crimes; weapons; negligent storage of a firearm

Statement of purpose: This bill proposes to make it a crime for a person to negligently leave a firearm accessible to a child.

An act relating to negligent storage of a firearm

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. FINDINGS

(a) The presence of unsecured firearms in homes increases the risk of suicide and accidental shootings. Studies consistently show that the risk of suicide increases in homes where guns are kept loaded or unlocked.

(b) Despite the risk, substantial numbers of children in the United States live in homes with unsecured firearms. A 2000 study of firearm storage patterns in American homes found that 55 percent of the homes with children and firearms reported to have one or more firearm in an unlocked place. A 2005 study found that over 1.6 million children under the age of 18 lived in homes with loaded and unlocked firearms.

(c) Child Access Prevention (CAP) laws have been found in other states to

1 be associated with a significant reduction in the risk of unintentional shooting
2 deaths in young children. One study found that in 12 states where such laws
3 had been in place for at least one year, unintentional firearms deaths fell by
4 23 percent among children under 15 years of age.

5 Sec. 2. 13 V.S.A. § 4017 is added to read:

6 § 4017. NEGLIGENT STORAGE OF A FIREARM

7 (a) As used in this section:

8 (1) “Child” means a person under 18 years of age.

9 (2) “Firearm” means any weapon, whether loaded or unloaded, which
10 will expel a projectile by the action of an explosive, and includes any weapon
11 commonly referred to as a pistol, revolver, rifle, gun, machine gun, or shotgun.

12 (3) “Locking device” means a device that is designed to prevent a
13 firearm from functioning and which, when applied to a firearm, renders the
14 firearm inoperable.

15 (b) A person is guilty of negligent storage of a firearm in the first degree if:

16 (1) the person keeps a loaded firearm within any premises that are under
17 the person’s custody or control;

18 (2) the person knows or reasonably should know that a child is likely to
19 gain access to the firearm without the permission of the child’s parent or legal
20 guardian; and

1 (3) a child obtains access to the firearm and uses it to cause death or
2 serious bodily injury to any person.

3 (c) A person is guilty of negligent storage of a firearm in the second
4 degree if:

5 (1) the person keeps a loaded firearm within any premises that are under
6 the person's custody or control;

7 (2) the person knows or reasonably should know that a child is likely to
8 gain access to the firearm without the permission of the child's parent or legal
9 guardian; and

10 (3) a child obtains access to the firearm and discharges it or uses it in the
11 commission of a crime or uses it to cause injury to any person.

12 (d) This section shall not apply when:

13 (1) The child obtains the firearm as a result of an illegal entry into any
14 premises by any person.

15 (2) The firearm is kept in a locked container or in a location that a
16 reasonable person would believe to be secure.

17 (3) The firearm is carried on the person or within such close proximity
18 to the person that it can readily be retrieved and used as if carried on the
19 person.

20 (4) The firearm is locked with a locking device that renders the firearm
21 inoperable.

1 (5) The person from whom the child obtains the firearm is a law
2 enforcement officer, or a member of the armed forces or national guard,
3 engaged in the performance of the person's official duties.

4 (6) The child obtains or discharges the firearm during the course of a
5 lawful act of self-defense or defense of another person.

6 (7) A reasonable person would not expect a child to be present on the
7 premises where the firearm was obtained.

8 (e) A person who:

9 (1) violates subsection (b) of this section shall be imprisoned not more
10 than three years or fined not more than \$10,000.00 or both.

11 (2) violates subsection (c) of this section shall be imprisoned not more
12 than one year or fined not more than \$1,000.00 or both.

13 (f) If a violation of this section leads to the accidental shooting of a child of
14 the person who committed the violation:

15 (1) The state's attorney shall consider the impact of the child's injury or
16 death on the person when deciding whether to file charges under this section.

17 (2) No prosecution shall be brought unless the person behaved in a
18 grossly negligent manner or unless similarly egregious circumstances exist.

19 (3) The person shall not be arrested for violating this section until:

20 (A) at least seven days after the date upon which the accidental
21 shooting occurred; and

1 (B) after a law enforcement officer considers the nature and extent of
2 the child's injuries, including whether the child is in critical medical condition.

3 (g) Nothing in this section may be construed to affect any existing right to
4 purchase and own firearms, or to provide authority to any state or local agency
5 to infringe upon the privacy of any family, home, or business except by lawful
6 warrant, including rights under Chapter I, Articles 9 and 16 and Chapter II,
7 § 59 of the Constitution of the State of Vermont.

8 Sec. 3. 13 V.S.A. § 4006 is amended to read:

9 § 4006. RECORD OF FIREARM SALES; WARNING

10 (a) All pawnbrokers and retail merchants dealing in firearms shall keep a
11 record book in which they shall record the sale by them of all revolvers and
12 pistols, and the purchase by them of all secondhand revolvers and pistols.
13 Such record shall include the date of the transaction, the marks of identification
14 of the firearm, including the manufacturer's name, the caliber, model, and
15 manufacturer's number of the firearm, the name, address, birthplace,
16 occupation, age, height, weight, and color of eyes and hair of the purchaser or
17 seller. Such purchaser or seller shall sign his or her name to the record, and the
18 pawnbroker or merchant shall preserve such record book for six years after the
19 date of last entry and shall permit all enforcement officers to inspect the same
20 at all reasonable times. A person, partnership, or corporation who violates a
21 provision of this section shall be fined not more than \$100.00.

1 (b) All pawnbrokers and retail merchants dealing in firearms shall:

2 (1) conspicuously post at each purchase counter, in bold type not less

3 than one inch in height, the following warning: TO PREVENT

4 UNAUTHORIZED USE OR MISUSE BY CHILDREN, VERMONT LAW

5 REQUIRES THIS FIREARM TO BE STORED SO THAT IT IS SECURE

6 AND INACCESSIBLE TO CHILDREN; and

7 (2) provide a written copy of the warning described in subdivision (1) of

8 this subsection to every person who purchases a firearm.

9 Sec. 3. EFFECTIVE DATE

10 This act shall take effect on July 1, 2011.