

SENATE BILL 5164

State of Washington

52nd Legislature

1991 Regular Session

By Senators Talmadge and Moore.

Read first time January 22, 1991. Referred to Committee on Law & Justice.

1 AN ACT Relating to access to firearms by minors; adding new
2 sections to chapter 9.41 RCW; creating a new section; prescribing
3 penalties; and providing an effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that placing
6 firearms within the reach or easy access of children is irresponsible
7 and encourages accidents that result in serious injury or death.
8 Legislative action is necessary to prohibit negligently stored firearms
9 and to protect the safety of our children.

10 (2) It is the intent of the legislature that adult citizens of the
11 state retain their constitutional right to keep and bear firearms for
12 hunting and sporting activities and for defense of self, family, home,
13 and business, and as collectibles. Nothing in sections 2 through 5 of
14 this act shall be construed to reduce or limit any existing right to
15 purchase and own firearms, or to provide authority to any state or

1 local agency to infringe upon the privacy of any family, home, or
2 business, except by lawful warrant.

3 NEW SECTION. **Sec. 2.** (1) A person who stores or leaves, on a
4 premise under his or her control, a loaded firearm, as defined in RCW
5 9.41.010, and who knows or reasonably should know that a child is
6 likely to gain access to the firearm without the lawful permission of
7 the child's parent or the person having charge of the child or without
8 the supervision required by law shall keep the firearm in a securely
9 locked box or container or in a location which a reasonable person
10 would believe to be secure or shall secure it with a trigger lock,
11 except when carrying the firearm on his or her body or within such
12 close proximity thereto that it can be retrieved and used as easily and
13 quickly as if carried on the body.

14 (2) It is a misdemeanor if a person violates subsection (1) of this
15 section by failing to store or leave a firearm in the required manner
16 and as a result thereof a child gains access to the firearm, without
17 the lawful permission of the child's parent or the person having charge
18 of the child, and possesses or exhibits it, without the supervision
19 required by law:

20 (a) In a public place; or

21 (b) In a reckless or criminally negligent manner.

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

24 NEW SECTION. **Sec. 3.** Whoever violates section 2 of this act
25 by storing or leaving a loaded firearm within the reach or easy access
26 of a child, if the child obtains the firearm and uses it to inflict
27 injury or death upon himself or herself or any other person, shall be

1 guilty of a class C felony under chapter 9A.20 RCW. However, this
2 section does not apply:

3 (1) If the firearm was stored or left in a securely locked box or
4 container or in a location which a reasonable person would have
5 believed to be secure, or was securely locked with a trigger lock;

6 (2) If the child obtains the firearm as a result of an unlawful
7 entry by any person;

8 (3) To injuries resulting from target or sport shooting accidents
9 or hunting accidents; or

10 (4) To members of the armed forces, national guard, or state
11 militia, or to police or other law enforcement officers, with respect
12 to firearm possession by a child which occurs during or incidental to
13 the performance of their official duties.

14 When any child is accidentally shot by another family member, no
15 arrest shall be made pursuant to this subsection prior to seven days
16 after the date of the shooting. With respect to any parent or guardian
17 of any deceased child, the investigating officers shall file all
18 findings and evidence with the prosecuting attorney's office with
19 respect to violations of this section. The prosecuting attorney shall
20 evaluate such evidence and shall take such action as he or she deems
21 appropriate under the circumstances and may file charges against the
22 appropriate parties.

23 NEW SECTION. **Sec. 4.** (1) Upon the retail commercial sale or
24 retail transfer of any firearm, the seller or transferor shall deliver
25 a written warning to the purchaser or transferee, which warning states,
26 in block letters not less than one-fourth inch in height:

27 "IT IS UNLAWFUL, AND PUNISHABLE BY IMPRISONMENT AND FINE, FOR ANY ADULT
28 TO STORE OR LEAVE A FIREARM IN ANY PLACE WITHIN THE REACH OR EASY
29 ACCESS OF A CHILD."

1 (2) Any retail or wholesale store, shop, or sales outlet which
2 sells firearms must conspicuously post at each purchase counter the
3 following warning in block letters not less than one inch in height:
4 "IT IS UNLAWFUL TO STORE OR LEAVE A FIREARM IN ANY PLACE WITHIN THE
5 REACH OR EASY ACCESS OF A CHILD."

6 (3) Any person or business knowingly violating a requirement to
7 provide warning under this section is guilty of a misdemeanor.

8 NEW SECTION. **Sec. 5.** As used in sections 2 through 4 of this
9 act, "child" means any person under the age of sixteen.

10 NEW SECTION. **Sec. 6.** Sections 2 through 5 of this act are
11 each added to chapter 9.41 RCW.

12 NEW SECTION. **Sec. 7.** This act shall take effect January 1,
13 1992.