

HOUSE BILL No. 5212

October 19, 1989, Introduced by Reps. Stallworth, Joe Young, Sr., Harrison, Murphy, Profit, Joe Young, Jr., Clack, Gire, Gubow, Kilpatrick, Saunders, Johnson, Hoffman, Hunter, Jacobetti, Hertel, Palamara, Varga, Bennane, Stabenow and Keith and referred to the Committee on Judiciary.

A bill to amend Act No. 328 of the Public Acts of 1931,
entitled

"The Michigan penal code,"

as amended, being sections 750.1 to 750.568 of the Michigan
Compiled Laws, by adding section 223a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Act No. 328 of the Public Acts of 1931, as
2 amended, being sections 750.1 to 750.568 of the Michigan Compiled
3 Laws, is amended by adding section 223a to read as follows:

4 SEC. 223A. (1) A PERSON WHO STORES OR LEAVES A LOADED FIRE-
5 ARM ON PREMISES UNDER HIS OR HER CONTROL, AND WHO KNOWS OR REA-
6 SONABLY SHOULD KNOW THAT A MINOR IS LIKELY TO GAIN ACCESS TO THE
7 FIREARM WITHOUT THE LAWFUL PERMISSION OF THE MINOR'S PARENT OR
8 THE PERSON HAVING CHARGE OF THE MINOR, OR WITHOUT THE SUPERVISION
9 REQUIRED BY LAW, SHALL DO 1 OR MORE OF THE FOLLOWING:

1 (A) KEEP THE FIREARM IN A SECURELY LOCKED BOX OR CONTAINER.

2 (B) KEEP THE FIREARM IN A LOCATION THAT A REASONABLE PERSON
3 WOULD BELIEVE TO BE SECURE.

4 (C) SECURELY LOCK THE FIREARM WITH A TRIGGER LOCK.

5 (2) SUBSECTION (1) DOES NOT APPLY TO A FIREARM THAT IS CAR-
6 RIED ON THE BODY OF THE PERSON IN CONTROL OF THE PREMISES OR
7 WITHIN SUCH CLOSE PROXIMITY TO THE PERSON THAT THE PERSON CAN
8 RETRIEVE AND USE IT AS EASILY AND QUICKLY AS IF HE OR SHE CARRIED
9 IT ON HIS OR HER BODY.

10 (3) A PERSON IS GUILTY OF A MISDEMEANOR PUNISHABLE BY
11 IMPRISONMENT FOR NOT MORE THAN 60 DAYS OR A FINE OF NOT MORE THAN
12 \$500.00, OR BOTH, IF THE PERSON VIOLATES SUBSECTION (1) BY FAIL-
13 ING TO STORE OR LEAVE A FIREARM IN THE REQUIRED MANNER AND AS A
14 RESULT OF THE VIOLATION BOTH OF THE FOLLOWING OCCUR:

15 (A) A MINOR GAINS ACCESS TO THE FIREARM WITHOUT THE LAWFUL
16 PERMISSION OF THE MINOR'S PARENT OR THE PERSON IN CHARGE OF THE
17 MINOR.

18 (B) WITHOUT THE SUPERVISION REQUIRED BY LAW, THE MINOR DOES
19 EITHER OF THE FOLLOWING:

20 (i) POSSESSES OR EXHIBITS THE FIREARM IN A PUBLIC PLACE.

21 (ii) POSSESSES OR EXHIBITS THE FIREARM IN THE PRESENCE OF
22 ANOTHER PERSON IN A RUDE, CARELESS, ANGRY, OR THREATENING
23 MANNER.

24 (4) SUBSECTION (3) DOES NOT APPLY IF THE MINOR OBTAINS THE
25 FIREARM AS A RESULT OF AN UNLAWFUL ENTRY OF THE PREMISES BY ANY
26 PERSON.

1 (5) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (6), IF A
2 PERSON IS CULPABLY NEGLIGENT IN STORING OR LEAVING A LOADED
3 FIREARM WITHIN THE REACH OR EASY ACCESS OF A MINOR AND THE MINOR
4 OBTAINS THE FIREARM AND USES IT TO INFLICT INJURY OR DEATH UPON
5 HIMSELF OR HERSELF OR ANY OTHER PERSON, THE PERSON WHO STORES OR
6 LEAVES THE FIREARM IS GUILTY OF A FELONY PUNISHABLE BY IMPRISON-
7 MENT FOR NOT MORE THAN 5 YEARS OR A FINE OF NOT MORE THAN
8 \$5,000.00, OR BOTH.

9 (6) SUBSECTION (5) DOES NOT APPLY IF ANY OF THE FOLLOWING
10 CIRCUMSTANCES EXIST:

11 (A) THE FIREARM IS STORED OR LEFT IN A MANNER DESCRIBED IN
12 SUBSECTION (1)(A), (B), OR (C).

13 (B) THE MINOR OBTAINS THE FIREARM AS A RESULT OF UNLAWFUL
14 ENTRY BY ANY PERSON OF THE PREMISES OF THE PERSON WHO STORES OR
15 LEAVES THE FIREARM.

16 (C) THE INJURY OR DEATH RESULTS FROM A TARGET OR SPORT
17 SHOOTING INCIDENT OR HUNTING ACCIDENT.

18 (D) THE PERSON WHO STORES OR LEAVES THE FIREARM IS A MEMBER
19 OF THE ARMED FORCES, ARMED FORCES RESERVES, OR NATIONAL GUARD OR
20 IS A POLICE OFFICER OR OTHER LAW ENFORCEMENT OFFICER, AND THE
21 POSSESSION OF THE FIREARM BY THE MINOR OCCURS DURING OR INCIDENT-
22 TAL TO THE PERFORMANCE OF THE PERSON'S OFFICIAL DUTIES.

23 (7) IF A MINOR IS ACCIDENTALLY SHOT BY ANOTHER FAMILY
24 MEMBER, AN ARREST SHALL NOT BE MADE PURSUANT TO SUBSECTION (5)
25 PRIOR TO 7 DAYS AFTER THE SHOOTING.

26 (8) WITH RESPECT TO A PARENT OR GUARDIAN OF A DECEASED
27 MINOR, THE INVESTIGATING OFFICERS SHALL FILE ALL FINDINGS AND

1 EVIDENCE IN RELATION TO A VIOLATION OF SUBSECTION (5) WITH THE
2 PROSECUTING ATTORNEY'S OFFICE. THE PROSECUTING ATTORNEY SHALL
3 EVALUATE THIS EVIDENCE AND SHALL TAKE ANY ACTION THAT HE OR SHE
4 CONSIDERS APPROPRIATE UNDER THE CIRCUMSTANCES.

5 (9) AS USED IN THIS SECTION, "MINOR" MEANS A CHILD LESS THAN
6 16 YEARS OF AGE.