

2C:58-15

**LEGISLATIVE HISTORY CHECKLIST**  
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**NJSA:** 2C:58-15 (Firearms---penalties)

**LAWS OF:** 1991 **CHAPTER:** 397

**Bill No:** S1285

**Sponsor(s):** Codey

**Date Introduced:** Pre-filed

**Committee: Assembly:** Judiciary, Law & Public Safety

**Senate:** Judiciary

**Amended during passage:** Yes

**Date of Passage: Assembly:** January 10, 1992

**Senate:** May 17, 1990

**Date of Approval:** January 17, 1992

**Following statements are attached if available:**

**Sponsor statement:** Yes

**Committee Statement: Assembly:** Yes

**Senate:** Yes

**Fiscal Note:** No

**Veto Message:** No

**Message on signing:** No

**Following were printed:**

**Reports:** No

**Hearings:** No

Florida statute mentioned --- attached

KBG/dgw

[FIRST REPRINT]  
SENATE, No. 1285

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1990 SESSION

By Senator CODEY

- 1 AN ACT concerning firearms and supplementing chapter 58 of  
2 Title 2C of the New Jersey Statutes.  
3
- 4 BE IT ENACTED *by the Senate and General Assembly of the*  
5 *State of New Jersey:*
- 6 1. a. A person who knows or reasonably should know that a  
7 minor is likely to gain access to a loaded firearm at a premises  
8 under the person's control commits a <sup>1</sup>[petty]<sup>1</sup> disorderly persons  
9 offense if a minor gains access to the firearm, unless the person:  
10 (1) Stores the firearm in a securely locked box or container;  
11 (2) Stores the firearm in a location which a reasonable person  
12 would believe to be secure; or  
13 (3) Secures the firearm with a trigger lock.  
14 <sup>1</sup>[b. An offense under this section is a crime of the third  
15 degree if, as a result of the minor having gained access to the  
16 firearm, the minor uses the firearm to inflict injury or death upon  
17 himself or any other person.  
18 c.] <sup>1</sup>b.<sup>1</sup> This section shall not apply:  
19 (1) To activities authorized by section 14 of P.L.1979, c.179,  
20 (C.2C:58-6.1), concerning the lawful use of a firearm by a minor;  
21 or  
22 (2) Under circumstances where a minor obtained a firearm as a  
23 result of an unlawful entry by any person.  
24 <sup>1</sup>[d.] <sup>1</sup>c.<sup>1</sup> As used in this act, "minor" means a person under the  
25 age of 16.  
26 2. a. Upon the retail sale or transfer of any firearm, the retail  
27 dealer or his employee shall deliver to the purchaser or  
28 transferee the following written warning, printed in block letters  
29 not less than one-fourth of an inch in height:  
30 "IT IS A CRIMINAL OFFENSE, PUNISHABLE BY A FINE AND  
31 IMPRISONMENT, FOR AN ADULT TO LEAVE A LOADED  
32 FIREARM WITHIN EASY ACCESS OF A MINOR."  
33 b. Every wholesale and retail dealer of firearms shall  
34 conspicuously post at each purchase counter the following  
35 warning, printed in block letters not less than one inch in height:  
36 "IT IS A CRIMINAL OFFENSE TO LEAVE A LOADED  
37 FIREARM WITHIN EASY ACCESS OF A MINOR."  
38 c. Violation of this section by any retail or wholesale dealer of  
39 firearms is a petty disorderly persons offense.

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the  
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Senate SJU committee amendments adopted March 19, 1990.

1           3. This act shall take effect immediately.

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4                                   CRIMINAL JUSTICE

5

6 Provides criminal penalties for leaving loaded firearm within easy  
7 access of a minor.

SENATE, No. 1285

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1990 SESSION

By Senator CODEY

1 AN ACT concerning firearms and supplementing chapter 58 of  
2 Title 2C of the New Jersey Statutes.

3

4 BE IT ENACTED *by the Senate and General Assembly of the*  
5 *State of New Jersey:*

6 1. a. A person who knows or reasonably should know that a  
7 minor is likely to gain access to a loaded firearm at a premises  
8 under the person's control commits a petty disorderly persons  
9 offense if a minor gains access to the firearm, unless the person:

10 (1) Stores the firearm in a securely locked box or container;

11 (2) Stores the firearm in a location which a reasonable person  
12 would believe to be secure; or

13 (3) Secures the firearm with a trigger lock.

14 b. An offense under this section is a crime of the third degree  
15 if, as a result of the minor having gained access to the firearm,  
16 the minor uses the firearm to inflict injury or death upon himself  
17 or any other person.

18 c. This section shall not apply:

19 (1) To activities authorized by section 14 of P.L.1979, c.179  
20 (C.2C:58-6.1), concerning the lawful use of a firearm by a minor;  
21 or

22 (2) Under circumstances where a minor obtained a firearm as a  
23 result of an unlawful entry by any person.

24 d. As used in this act, "minor" means a person under the age  
25 of 16.

26 2. a. Upon the retail sale or transfer of any firearm, the retail  
27 dealer or his employee shall deliver to the purchaser or  
28 transferee the following written warning, printed in block letters  
29 not less than one-fourth of an inch in height:

30 "IT IS A CRIMINAL OFFENSE, PUNISHABLE BY A FINE AND  
31 IMPRISONMENT, FOR AN ADULT TO LEAVE A LOADED  
32 FIREARM WITHIN EASY ACCESS OF A MINOR."

33 b. Every wholesale and retail dealer of firearms shall  
34 conspicuously post at each purchase counter the following  
35 warning, printed in block letters not less than one inch in height:

36 "IT IS A CRIMINAL OFFENSE TO LEAVE A LOADED  
37 FIREARM WITHIN EASY ACCESS OF A MINOR."

38 c. Violation of this section by any retail or wholesale dealer of  
39 firearms is a petty disorderly persons offense.

40 3. This act shall take effect immediately.

## STATEMENT

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A recently enacted Florida statute addresses the problem of childrens' access to firearms by imposing criminal penalties on adults who fail to keep these weapons securely locked and stored out of childrens' reach.

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This bill, which is modeled on the Florida statute, requires a person who knows or reasonably should know that a minor is likely to gain access to a loaded firearm at a premises under the person's control to store the firearm in a securely locked box or container or in a location which a reasonable person would believe to be secure, or to secure the firearm with a trigger lock. If a person fails to follow these precautions and a minor gains access to the firearm, the adult would be guilty of a petty disorderly persons offense. A petty disorderly persons offense is punishable by a term of imprisonment of up to 30 days, or a fine of up to \$500, or both.

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However, if the minor obtaining the firearm uses it to inflict injury or death upon himself or any other person, the adult would be guilty of a crime of the third degree. A crime of the third degree is punishable by a term of imprisonment of three to five years, or a fine of up to \$7,500, or both.

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The act would be inapplicable under circumstances where the minor uses the firearm in activities authorized by current law, or under circumstances where a minor obtained the firearm as a result of an unlawful entry by any person.

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## CRIMINAL JUSTICE

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Provides criminal penalties for leaving loaded firearm within easy access of a minor.

ASSEMBLY JUDICIARY, LAW AND PUBLIC SAFETY  
COMMITTEE

STATEMENT TO

[FIRST REPRINT]

SENATE, No. 1285

STATE OF NEW JERSEY

DATED: AUGUST 5, 1991

The Assembly Judiciary, Law and Public Safety Committee reports favorably Senate Bill No. 1285 (1R).

The bill would require a person who knows or reasonably should know that a minor, a person under the age of 16 years, is likely to gain access to a loaded firearm at a premises under the person's control to store the firearm in a securely locked box or container or in a location which a reasonable person would believe to be secure, or to secure the firearm with a trigger lock. If a person fails to follow these precautions and a minor gains access to the firearm, the adult would be guilty of a disorderly persons offense which is punishable by up to six months imprisonment, or a fine of up to \$1,000.00 or both.

The provisions of the bill would be inapplicable under circumstances where the minor uses the firearm in activities authorized by current law, or under circumstances where a minor obtained the firearm as a result of an unlawful entry by any person.

In addition, this bill would require firearm dealers to post warning signs and provide firearms buyers with written warnings that leaving a firearm within easy access of a minor constitutes a criminal offense. A retail or wholesale dealer may be guilty of a petty disorderly persons offense for failure to display the warnings.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 1285

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 19, 1990

The Senate Judiciary Committee reports favorably and with committee amendments Senate Bill No. 1285.

The bill would require a person who knows or reasonably should know that a minor is likely to gain access to a loaded firearm at a premises under the person's control to store the firearm in a securely locked box or container or in a location which a reasonable person would believe to be secure, or to secure the firearm with a trigger lock. If a person fails to follow these precautions and a minor gains access to the firearm, the adult would be guilty of a disorderly persons offense (up to 6 months imprisonment, or a fine of up to \$1,000.00 or both).

The provisions of the bill would be inapplicable under circumstances where the minor uses the firearm in activities authorized by current law, or under circumstances where a minor obtained the firearm as a result of an unlawful entry by any person.

In addition, this bill would require firearm dealers to post warning signs and provide firearms buyers with written warnings that leaving a firearm within easy access of a minor constitutes a criminal offense.

As originally drafted leaving a firearm within easy access of a minor would have constituted a petty disorderly persons offense. By amendment, the committee changed the gradation of this offense to a disorderly persons offense. Also, by amendment, the committee deleted language providing that if a minor obtains access to a firearm as the result of a violation of the bill's provisions and the minor uses that firearm to inflict injury or death to himself or another persons, the person who failed to securely store that firearm would have been guilty of a crime of the third degree.

This bill was prefiled for introduction in the 1990 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

end or use imitation destructive device in such way as to appear to be a weapon and as so construed this section is not unconstitutionally vague. In Interest of T.C., App. 4 Dist., 578 So.2d 121 (1991).

#### 18 years of age, etc.

any minor under 18 years of age any firearm or weapon, other than an ordinary such minor, or the person having charge gives to any person of unsound mind an firearm, other than an ordinary pocketknife, is punishable as provided in s. 775.082 or s.

776; Laws 1991, c. 91-224, § 175.

Amended 18. Jimenez v. Zayre Corp., App., 374 So.2d 28 (1979).

BB gun, which operated through release of compressed air was not an unspecified "other firearm or weapon" within § 790.17 proscribing furnishing of weapons to minors, nor was it a pistol, Springfield rifle or other repeating rifle, within § 790.18 proscribing dealers' sale of such to minors; thus department store could not be held liable, on basis of the statutes, when two minors purchased BB gun and their six-year-old brother pushed it into plaintiff's eye. Id.

large number of Florida children have been negligently stored firearms; that placing firearms in children is irresponsible, encourages such behavior, and legislative action is necessary to protect the

adult citizens of the state retain their right to hunt and sporting activities and for firearms as collectibles. Nothing in this act shall be construed to infringe upon the privacy of any family,

under his control, a loaded firearm, a minor should be able to know that a minor is likely to be in the possession of the minor's parent or the person having charge, shall keep the firearm in a location which a reasonable person would expect to be secure, and shall lock it with a trigger lock, except when he is in such close proximity thereto that he can be carried it on his body.

(2) It is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, if a person violates subsection (1) by failing to store or leave a firearm in the required manner and as a result thereof a minor gains access to the firearm, without the lawful permission of the minor's parent or the person having charge of the minor, and possesses or exhibits it, without the supervision required by law:

(a) In a public place; or

(b) In a rude, careless, angry, or threatening manner in violation of s. 790.10.

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

(3) As used in this act, the term "minor" means any person under the age of 16.<sup>1</sup> Laws 1989, c. 89-534, §§ 2, 7, eff. Oct. 1, 1989.

<sup>1</sup> Also published at §§ 784.05(4) and 790.175(4).

#### 790.175. Transfer or sale of firearms; required warnings; penalties

(1) Upon the retail commercial sale or retail transfer of any firearm, the seller or transferor shall deliver a written warning to the purchaser or transferee, which warning states, in block letters not less than ¼ inch in height:

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

(2) Any retail or wholesale store, shop, or sales outlet which sells firearms must conspicuously post at each purchase counter the following warning in block letters not less than 1 inch in height:

"IT IS UNLAWFUL TO STORE  
OR LEAVE A FIREARM IN ANY  
PLACE WITHIN THE REACH OR  
EASY ACCESS OF A MINOR."

(3) Any person or business knowingly violating a requirement to provide warning under this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(4) As used in this act, the term "minor" means any person under the age of 16.<sup>1</sup> Added by Laws 1989, c. 89-534, §§ 4, 7, eff. Oct. 1, 1989.

<sup>1</sup> Also published at §§ 784.05(4) and 790.174(3).

#### 790.18. Selling arms to minors by dealers

It is unlawful for any dealer in arms to sell to minors any pistol, Springfield rifle or other repeating rifle, bowie knife or dirk knife, brass knuckles, slungshot, or electric weapon or device, and every person violating this section shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Amended by Laws 1976, c. 76-165, § 2, eff. Oct. 1, 1976; Laws 1991, c. 91-224, § 176.

#### Historical and Statutory Notes

Laws 1976, c. 76-165, included electric weapons or devices within the provision of this section and provided for punishment as alternatively provided for in section 775.084.

Laws 1991, c. 91-224, a reviser's bill, modified provisions for punishment of misdemeanors as

contained in this section by deleting reference to punishment pursuant to § 775.084 to conform with Laws 1988, c. 88-131 which deleted all references to misdemeanors from § 775.084.



Notes of Decisions

Elements of offense 1

1. Elements of offense

Violation of statute prohibiting planting of "hoax bomb" requires that perpetrator design,

intend or use imitation destructive device in such a way as to appear to be a weapon and as so construed this section is not unconstitutionally vague. In Interest of T.C., App. 4 Dist., 573 So.2d 121 (1991).

**790.17. Furnishing weapons to minors under 18 years of age, etc.**

Whoever sells, hires, barter, lends, or gives any minor under 18 years of age any pistol, dirk, electric weapon or device, or other arm or weapon, other than an ordinary pocketknife, without permission of the parent of such minor, or the person having charge of such minor, or sells, hires, barter, lends, or gives to any person of unsound mind an electric weapon or device or any dangerous weapon, other than an ordinary pocketknife, is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Amended by Laws 1976, c. 76-165, § 2, eff. Oct. 1, 1976; Laws 1991, c. 91-224, § 175.

Historical and Statutory Notes

Laws 1976, c. 76-165, included electric weapons or devices within the provision of this section and provided for punishment as alternatively provided for in section 775.084.

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reached 18. *Jimenez v. Zayre Corp.*, App., 374 So.2d 28 (1979).

BB gun, which operated through release of compressed air was not an unspecified "other arm or weapon" within § 790.17 proscribing furnishing of weapons to minors, nor was it a pistol, Springfield rifle or other repeating rifle, within § 790.18 proscribing dealers' sale of such to minors; thus department store could not be held liable, on basis of the statutes, when two minors purchased BB gun and their six-year-old brother fired it into plaintiff's eye. *Id.*

Notes of Decisions

1. Construction and application

No nonstatutory common-law liability attaches merely to sale of BB gun to person who has not

**790.173. Legislative findings and intent**

(1) The Legislature finds that a tragically large number of Florida children have been accidentally killed or seriously injured by negligently stored firearms; that placing firearms within the reach or easy access of children is irresponsible, encourages such accidents, and should be prohibited; and that legislative action is necessary to protect the safety of our children.

(2) It is the intent of the Legislature that adult citizens of the state retain their constitutional right to keep and bear firearms for hunting and sporting activities and for defense of self, family, home, and business and as collectibles. Nothing in this act shall be construed to reduce or limit any existing right to purchase and own firearms, or to provide authority to any state or local agency to infringe upon the privacy of any family, home, or business, except by lawful warrant.

Laws 1989, c. 89-534, § 1, eff. Oct. 1, 1989.

**790.174. Safe storage of firearms required**

(1) A person who stores or leaves, on a premise under his control, a loaded firearm, as defined in s. 790.001, and who knows or reasonably should know that a minor is likely to gain access to the firearm without the lawful permission of the minor's parent or the person having charge of the minor, or without the supervision required by law, shall keep the firearm in a securely locked box or container or in a location which a reasonable person would believe to be secure or shall secure it with a trigger lock, except when he is carrying the firearm on his body or within such close proximity thereto that he can retrieve and use it as easily and quickly as if he carried it on his body.