

1991 Senate Bill 54

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1991 WISCONSIN ACT 139

AN ACT to renumber and amend 948.60 (2); and to create 175.37, 948.55, 948.60 (2) (b) and (c), 968.02 (4) and 968.07 (3) of the statutes, relating to: the secure storage of loaded firearms, transfer of weapons, warnings about the failure to secure loaded firearms, establishment of a gun safety program and providing penalties.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 175.37 of the statutes is created to read:

175.37 Warning whenever transferring a firearm.

(1) Upon the retail commercial sale or retail commercial transfer of any firearm, the seller or transferor shall provide to the buyer or transferee the following written warning in block letters not less than one-fourth inch in height: "IF YOU LEAVE A LOADED FIREARM WITHIN THE REACH OR EASY ACCESS OF A CHILD YOU MAY BE FINED OR IMPRISONED OR BOTH IF THE CHILD IMPROPERLY DISCHARGES, POSSESSES OR EXHIBITS THE FIREARM."

(2) Any person who violates sub. (1) may be fined not more than \$500 or imprisoned for not more than 30 days or both.

SECTION 2. 948.55 of the statutes is created to read:

948.55 Leaving or storing a loaded firearm within the reach or easy access of a child. (1) In this section, "child" means a person who has not attained the age of 14 years.

(2) Whoever recklessly stores or leaves a loaded firearm within the reach or easy access of a child is guilty of a Class A misdemeanor if all of the following occur:

(a) A child obtains the firearm without the lawful permission of his or her parent or guardian or the person having charge of the child.

(b) The child under par. (a) discharges the firearm and the discharge causes bodily harm or death to himself, herself or another.

(3) Whoever recklessly stores or leaves a loaded firearm within the reach or easy access of a child is guilty of a Class C misdemeanor if all of the following occur:

(a) A child obtains the firearm without the lawful permission of his or her parent or guardian or the person having charge of the child.

(b) The child under par. (a) possesses or exhibits the firearm in a public place or in violation of s. 941.20.

(4) Subsections (2) and (3) do not apply under any of the following circumstances:

(a) The firearm is stored or left in a securely locked box or container or in a location that a reasonable person would believe to be secure.

(b) The firearm is securely locked with a trigger lock.

(c) The firearm is left on the person's body or in such proximity to the person's body that he or she could retrieve it as easily and quickly as if carried on his or her body.

(d) The person is a peace officer or a member of the armed forces or national guard and the child obtains the firearm during or incidental to the performance of the person's duties.

(e) The child obtains the firearm as a result of an illegal entry by any person.

(f) The child gains access to a loaded firearm and uses it in the lawful exercise of a privilege under s. 939.48.

(g) The person who stores or leaves a loaded firearm reasonably believes that a child is not likely to be present where the firearm is stored or left.

(h) The firearm is rendered inoperable by the removal of an essential component of the firing mechanism such as the bolt in a breech-loading firearm.

(5) Subsection (2) does not apply if the bodily harm or death resulted from an accident that occurs while the child is using the firearm in accordance with s. 29.227 or 948.60 (3)

SECTION 3. 948.60 (2) of the statutes is renumbered 948.60 (2) (a) and amended to read:

948.60 (2) (a) Any child who possesses or goes armed with a dangerous weapon ~~or any person who intentionally sells, loans or gives a dangerous weapon to a child~~ is guilty of a Class A misdemeanor.

(d) A child who has violated this subsection is subject to the provisions of ch. 48 unless jurisdiction is waived under s. 48.18.

SECTION 4. 948.60 (2) (b) and (c) of the statutes are created to read:

948.60 (2) (b) Except as provided in par. (c), any person who intentionally sells, loans or gives a dangerous weapon to a child is guilty of a Class A misdemeanor.

(c) Whoever violates par. (b) is guilty of a Class E felony if the child under par. (b) discharges the firearm and the discharge causes death to himself, herself or another.

SECTION 5. 968.02 (4) of the statutes is created to read:

968.02 (4) If the alleged violator under s. 948.55 (2) or 948.60 (2) (c) is or was the parent or guardian of a child

who is injured or dies as a result of an accidental shooting, the district attorney may consider, among other factors, the impact of the injury or death on the alleged violator when deciding whether to issue a complaint regarding the alleged violation. This subsection does not restrict the factors that a district attorney may consider in deciding whether to issue a complaint regarding any alleged violation.

SECTION 6. 968.07 (3) of the statutes is created to read:

968.07 (3) If the alleged violator under s. 948.55 (2) or 948.60 (2) (c) is or was the parent or guardian of a child who is injured or dies as a result of an accidental shooting, no law enforcement officer may arrest the alleged violator until at least 7 days after the date of the shooting.

SECTION 7. Nonstatutory provisions. The department of natural resources shall develop a plan for a gun safety program that promotes public awareness and understanding regarding the safe use and storage of firearms and shall submit the plan, together with any proposed legislation necessary to implement the plan, by February 1, 1993, to the chief clerk of each house of the legislature for distribution to the legislature under section 13.172 (2) of the statutes.

SECTION 8. Initial applicability. This act first applies to offenses occurring on the effective date of this SECTION.