

SENATE BILL No. 268

February 19, 2009, Introduced by Senators SCOTT, CLARK-COLEMAN, HUNTER, BRATER, CLARKE and THOMAS and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
(MCL 750.1 to 750.568) by adding section 223a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 223A. (1) A PERSON WHO STORES OR LEAVES A FIREARM ON
2 PREMISES UNDER HIS OR HER CONTROL, AND WHO KNOWS OR REASONABLY
3 SHOULD KNOW THAT THE FIREARM IS ACCESSIBLE TO A MINOR WITHOUT THE
4 LAWFUL PERMISSION OF THE MINOR'S PARENT OR THE PERSON HAVING CHARGE
5 OF THE MINOR, SHALL DO 1 OR MORE OF THE FOLLOWING:

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

7 (B) KEEP THE FIREARM IN A LOCATION THAT A REASONABLE PERSON
8 WOULD BELIEVE IS SECURE.

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

10 (2) SUBSECTION (1) DOES NOT APPLY TO A FIREARM THAT IS CARRIED

1 ON THE BODY OF THE PERSON OR THAT IS LOCATED WITHIN THE PREMISES SO
2 THAT THE PERSON CAN RETRIEVE AND USE IT AS EASILY AND QUICKLY AS IF
3 HE OR SHE CARRIED IT ON HIS OR HER BODY.

4 (3) A PERSON IS GUILTY OF A MISDEMEANOR PUNISHABLE BY
5 IMPRISONMENT FOR NOT MORE THAN 60 DAYS OR A FINE OF NOT MORE THAN
6 \$500.00, OR BOTH, IF THE PERSON VIOLATES SUBSECTION (1) BY FAILING
7 TO STORE OR LEAVE A FIREARM IN THE REQUIRED MANNER AND AS A RESULT
8 OF THE VIOLATION BOTH OF THE FOLLOWING OCCUR:

9 (A) A MINOR GAINS ACCESS TO THE FIREARM WITHOUT THE LAWFUL
10 PERMISSION OF THE MINOR'S PARENT OR THE PERSON IN CHARGE OF THE
11 MINOR.

12 (B) THE MINOR DOES EITHER OF THE FOLLOWING:

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

14 (ii) POSSESSES OR EXHIBITS THE FIREARM IN THE PRESENCE OF
15 ANOTHER PERSON IN A CARELESS, RECKLESS, OR THREATENING MANNER.

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

19 (5) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (6), IF A
20 PERSON IS CULPABLY NEGLIGENT IN STORING OR LEAVING A LOADED FIREARM
21 WITHIN THE REACH OR EASY ACCESS OF A MINOR AND THE MINOR OBTAINS
22 THE FIREARM AND USES IT TO INFLICT INJURY OR DEATH UPON HIMSELF OR
23 HERSELF OR ANY OTHER PERSON, THE PERSON WHO STORES OR LEAVES THE
24 FIREARM IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT
25 MORE THAN 5 YEARS OR A FINE OF NOT MORE THAN \$5,000.00, OR BOTH.

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

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

3 (B) THE MINOR OBTAINS THE FIREARM AS A RESULT OF UNLAWFUL
4 ENTRY BY ANY PERSON ONTO PREMISES OF THE PERSON WHO STORES OR
5 LEAVES THE FIREARM.

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

8 (7) IF A MINOR IS ACCIDENTALLY SHOT BY ANOTHER FAMILY MEMBER,
9 AN ARREST SHALL NOT BE MADE PURSUANT TO SUBSECTION (5) UNTIL THE
10 EXPIRATION OF 7 DAYS AFTER THE SHOOTING.

11 (8) A PEACE OFFICER INVESTIGATING A VIOLATION OF SUBSECTION
12 (5) SHALL FILE ALL FINDINGS AND EVIDENCE REGARDING THE VIOLATION
13 WITH THE PROSECUTING ATTORNEY'S OFFICE. THE PROSECUTING ATTORNEY
14 SHALL EVALUATE THE FINDINGS AND EVIDENCE AND TAKE THE ACTION THAT
15 HE OR SHE CONSIDERS APPROPRIATE UNDER THE CIRCUMSTANCES.

16 (9) AS USED IN THIS SECTION, "MINOR" MEANS AN INDIVIDUAL LESS
17 THAN 18 YEARS OF AGE.