

Legislative Analysis



SAFE STORAGE OF FIREARMS

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<http://www.house.mi.gov/hfa>

House Bill 4139 as introduced
Sponsor: Rep. Sharon MacDonell

Analysis available at
<http://www.legislature.mi.gov>

House Bill 4140 as introduced
Sponsor: Rep. Karen Whitsett

House Bill 4141 as introduced
Sponsor: Rep. Natalie Price

House Bill 4144 as introduced
Sponsor: Rep. Felicia Brabec

Committee: Judiciary
Revised 3-22-23

SUMMARY:

House Bills 4139, 4140, 4141, and 4144 would do all of the following:

- Require a firearm being stored or left unattended to be unloaded and locked with a locking device or stored in a locked box or container if it is reasonably known that the firearm may be accessible to a minor. (HB 4144)
- Establish, with some exceptions, a range of penalties for a violation, based on the level of injury to a minor or another individual if the minor obtains the firearm. (HB 4144)
- Require the Department of Health and Human Services to inform the public of the bill's penalties, publish lethal means counseling literature, and provide that literature to federally licensed firearms dealers. (HB 4144)
- Revise the wording of a notice that a federally licensed firearms dealer must post where firearms are sold. (HB 4144)
- Include the proposed felony offenses in the sentencing guidelines. (HB 4139)
- Exempt firearm safety devices from sales and use taxes through 2024 and require a notice of that exemption to be posted where firearms are sold. (HBs 4140 and 4141)

House Bill 4144 would amend 1927 PA 372, the handgun licensure act, to require an individual who stores or leaves a *firearm* unattended on a premises under the individual's control, or who enters onto the premises of another individual and stores or leaves a firearm unattended on those premises, to do one or more of the following if the individual knows or reasonably should know that the firearm is accessible to a minor (an individual under 18 years old):

- Store the firearm in a *locked box or container*.
- Keep the firearm unloaded and lock it with a *locking device* that is properly engaged to render the firearm inoperable by anyone other than the owner or an authorized user.
- Before entering onto the premises of another individual, lock the firearm in the glove box in their vehicle.

Firearm means any weapon that will, is designed to, or may readily be converted to expel a projectile by action of an explosive.

Locked box or container would mean a secure container that is fully enclosed and locked by a padlock, key lock, combination lock, or similar locking device.

Locking device would mean a trigger lock, cable lock, or similar lock that prevents a firearm from discharging.

The Department of Health and Human Services (DHHS) would have to inform the public of the penalties for failing to store or leave a firearm as required. The department also would have to publish lethal means counseling literature and provide that literature to federally licensed firearms dealers for use when selling a firearm under the act.

Penalty for a violation

The bill would create the following penalties for failing to store or leave a firearm as required if a minor obtains the firearm as a result:

- A misdemeanor punishable by imprisonment for up to 93 days or a fine of up to \$500, or both.
- If the minor uses the firearm to injure themselves or another individual and the individual who failed to secure the firearm knew or should have known that the minor was likely to use the firearm for self-injury or to injure another: a felony punishable by imprisonment for up to five years or a fine of up to \$5,000, or both.
- If the minor uses the firearm to inflict death on themselves or another individual and the individual who failed to secure the firearm knew or should have known that the minor was likely to use the firearm for self-injury or to injure another: a felony punishable by imprisonment for up to 15 years or a fine of up to \$7,500, or both.

However, the penalties would not apply under any of the following circumstances:

- If the minor obtains a firearm with the permission of the minor's parent or guardian and uses or possesses the firearm during any of the following:
 - The minor's employment.
 - Ranching or farming.
 - Target practice, hunting, or instruction in the safe use of a firearm.
- If the minor obtains the firearm through their unlawful entry onto premises where the firearm has been stored or their illegal taking of the firearm from the owner's premises.
- If the minor obtains a firearm while lawfully acting in self-defense or defense of another.

Federally licensed firearms dealers

The act now prohibits a federally licensed firearms dealer from selling a firearm in Michigan unless the sale is accompanied by a free brochure or pamphlet that includes safety information on the use and storage of the firearm in a home environment. The bill would require the sale to also include the lethal means counseling literature published by DHHS and a written warning informing the purchaser of the penalties for failing to store or leave a firearm as required by the bill.

In addition, a federally licensed firearms dealer currently must post in a conspicuous manner at the entrances, exits, and all points of sale on the premises where firearms are sold a notice that says: "You may be criminally and civilly liable for any harm caused by a person less than 18 years of age who lawfully gains unsupervised access to your firearm if unlawfully stored."

The bill would instead require the notice to inform the reader that failing to store or leave a firearm in the manner required under the bill is unlawful.

MCL 28.435 and proposed MCL 28.429

House Bill 4139 would amend the Code of Criminal Procedure to place the felony penalties proposed by House Bill 4144 in the sentencing guidelines portion of that act. Specifically, the bill would provide that a violation of the firearm storage requirements is a crime against the public safety. Failure to store a firearm resulting in injury would be a Class E felony with a maximum term of imprisonment of five years, and failure to store a firearm resulting in death would be a Class C felony with a maximum term of imprisonment of 15 years.

The bill also would delete several obsolete guidelines for offenses that have been repealed.

The bill is tie-barred to HB 4144, which means that it cannot take effect unless HB 4144 is also enacted.

MCL 777.11b

House Bills 4140 and 4141 would respectively amend the Use Tax Act and the General Sales Tax Act to exempt *firearm safety devices* from the sales and use taxes beginning 90 days after the applicable bill's effective date and through December 31, 2024.

Firearm safety devices would mean safes, lock boxes, trigger and barrel locks, and other items designed to enhance home firearm safety.

The bills would require a seller to provide to the purchaser, upon the retail sale or transfer of a firearm, and to post in a conspicuous manner at all points of sale on the premises where firearms are sold, a notice that says: "The state of Michigan has exempted the sale of firearm safety devices from the sales and use tax imposed by this state through December 31, 2024."

The bills also state that it is the intent of the legislature to annually appropriate sufficient funds from the general fund to the School Aid Fund to fully compensate for any loss of revenue to that fund resulting from the bills' enactment.

Proposed MCL 205.94// (HB 4140)

Proposed MCL 205.54// (HB 4141)

FISCAL IMPACT:

House Bill 4144 would have an indeterminate fiscal impact on the state and on local units of government. An individual who stores or leaves a firearm unattended, on premises either under their control or belonging to another, knowing the firearm is accessible to a minor, would be guilty of a misdemeanor. If an individual fails to store or leave a firearm properly and a minor obtains the firearm and uses it to inflict either injury or death, the individual would be guilty of a felony. New misdemeanor convictions would result in increased costs related to county jails and/or local misdemeanor probation supervision. Costs of local incarceration in county jails and local misdemeanor probation supervision, and how those costs are financed, vary by jurisdiction. New felony convictions would result in increased costs related to state prisons and

state probation supervision. In fiscal year 2022, the average cost of prison incarceration in a state facility was roughly \$47,900 per prisoner, a figure that includes various fixed administrative and operational costs. State costs for parole and felony probation supervision averaged about \$5,000 per supervised offender in the same year. Those costs are financed with state general fund/general purpose revenue. Any increase in penal fine revenue would increase funding for public and county law libraries, which are the constitutionally designated recipients of those revenues. The fiscal impact on local court systems would depend on how provisions of the bill affected court caseloads and related administrative costs. It is difficult to project the actual fiscal impact to courts due to variables such as law enforcement practices, prosecutorial practices, judicial discretion, case types, and complexity of cases.

The bill would have a fiscal impact on the Department of Health and Human Services. Through the bill, DHHS would be required to inform the public about penalties and to publish and provide literature for federally licensed firearms dealers. There would be negligible costs of up to \$500,000 tied to informing the public of penalties. Informing the public would present a minimal cost if DHHS published the materials on its website. However, costs could be more than \$500,000 if the department were to implement a statewide media campaign. The campaign costs would be created from design, production, and dissemination of information.

House Bill 4139 is a companion bill to HB 4144 and amends sentencing guidelines to include failure to store a firearm resulting in either injury or death. The bill would not have a direct fiscal impact on the state or on local units of government.

House Bills 4140 and 4141 would reduce combined sales and use tax revenue by an estimated \$1.0 to \$2.0 million on a full fiscal year basis, based on information from other states with similar provisions. Each bill includes an enacting section stating a legislative intent to hold the School Aid Fund harmless by recommending an appropriation from the general fund sufficient to offset any loss to the School Aid Fund. However, statements of legislative intent are only advisory in nature and cannot mandate an appropriation.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.