

## SAFE STORAGE OF FIREARMS

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

**Senate Bill 79 as enacted**  
**Public Act 17 of 2023**  
**Sponsor: Sen. Rosemary Bayer**

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

**Senate Bill 80 as enacted**  
**Public Act 16 of 2023**  
**Sponsor: Sen. Kristen McDonald Rivet**

**Senate Bill 81 as enacted**  
**Public Act 15 of 2023**  
**Sponsor: Sen. Jeff Irwin**

**Senate Bill 82 as enacted**  
**Public Act 14 of 2023**  
**Sponsor: Sen. Kevin Hertel**

**House Committee: Judiciary**  
**Senate Committee: Civil Rights, Judiciary, and Public Safety**  
**Complete to 8-2-23**

## SUMMARY:

Senate Bills 79 to 82 do all of the following:

- Require an individual to keep a firearm being stored or left unattended on a premises unloaded and locked with a locking device or stored in a locked box or container if it is reasonably known that a minor is or is likely to be present on the premises. (SB 79)
- Establish penalties for a violation based on the consequences of a minor's obtaining the firearm as a result. (SB 79)
- Provide exceptions to those requirements and penalties. (SB 79)
- Require the Department of Health and Human Services to inform the public of the bill's penalties in consultation with the Department of the Attorney General, publish lethal means counseling literature, and provide that literature to federally licensed firearms dealers. (SB 79)
- Include the new felony offenses in the sentencing guidelines. (SB 80)
- 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. (SBs 81 and 82)

**Senate Bill 79** amends 1927 PA 372, the handgun licensure act, to require an individual who stores or leaves a *firearm* unattended on 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, *and* who knows or reasonably should know that a minor (individual less than 18 years of age) is, or is likely to be, present on those premises, to do one or more of the following:

- 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, store or lock the firearm in the individual's vehicle using either method described above and lock the 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** means a secure container, specifically designed for the storage of firearms, that is fully enclosed and locked by a padlock, key lock, combination lock or similar locking device to which a minor does not possess the key or combination, or otherwise have access.

**Locking device** means a trigger lock, cable lock, or similar lock that prevents a firearm from discharging.

#### Penalty for a violation

If an individual fails to store a firearm as required and, as a result of the violation, a minor obtains the firearm and any of the following occur, the individual is guilty of a crime as follows:

- If the minor possesses or exhibits the firearm in a public place or possesses or exhibits the firearm in the presence of another person in a careless, reckless, or threatening manner: a misdemeanor punishable by imprisonment for up to 93 days or a fine of up to \$500, or both
- If the minor discharges the firearm and injures themselves or another individual: a felony punishable by imprisonment for up to five years or a fine of up to \$5,000, or both.
- If the minor discharges the firearm and inflicts *serious impairment of a body function*<sup>1</sup> on themselves or another individual: a felony punishable by imprisonment for up to 10 years or a fine of up to \$7,500, or both.
- If the minor discharges the firearm and inflicts death on themselves or another individual: a felony punishable by imprisonment for up to 15 years or a fine of up to \$10,000, or both.

The criminal penalties could be imposed in addition to any penalty that may be imposed for any other criminal offense arising from the same conduct.

#### Exceptions

The above provisions do not apply in any of the following circumstances:

- A minor obtains a firearm with the permission of their parent or guardian and uses or possesses the firearm under the direct supervision of their parent or guardian, or any individual at least 18 years old who is authorized by the minor's parent or guardian, during any of the following:
  - The minor's employment.
  - Ranching or farming.
  - Target practice or instruction in the safe use of a firearm.
- A minor obtains a firearm with the permission of their parent or guardian and uses or possesses the firearm for the purposes of hunting, if the minor is in compliance with all applicable hunting laws.
- A minor obtains a firearm through their unlawful entry of premises or the motor vehicle where the firearm has been stored.
- A minor obtains a firearm while lawfully acting in self-defense or defense of another.

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<sup>1</sup> *Serious impairment of a body function* is defined here: <http://legislature.mi.gov/doc.aspx?mcl-257-58c>

Public information and literature

The Department of Health and Human Services (DHHS), in consultation with the Department of the Attorney General, must inform the public of the penalties for failing to store or leave a firearm as required.

DHHS also must publish lethal means counseling literature and provide that literature to federally licensed firearms dealers for use when selling a firearm under the act.

Federally licensed firearms dealers

A federally licensed firearms dealer is prohibited 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 additionally requires the sale to 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, the act requires a federally licensed firearms dealer to post a notice regarding firearms storage in a conspicuous manner at the entrances, exits, and all points of sale on the premises where firearms are sold.

The notice was previously required to state: “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 instead requires 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 MCL 28.429

**Senate Bill 80** amends the Code of Criminal Procedure to place the felonies established by Senate Bill 79 in the sentencing guidelines, as follows:

- Failure to store a firearm resulting in injury is a Class E felony against the public safety with a maximum term of imprisonment of five years.
- Failure to store a firearm resulting in serious impairment of a body function is a Class D felony against the public safety with a maximum term of imprisonment of 10 years.
- Failure to store a firearm resulting in death is a Class C felony against the public safety with a maximum term of imprisonment of 15 years.

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

MCL 777.11b

**Senate Bills 81 and 82** 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*** means equipment that is designed to prevent unauthorized access to, or operation or discharge of, a firearm and is either of the following:

- A device that, when installed on a firearm, is designed to prevent the firearm from being operated without first deactivating the device.
- A gun safe, gun case, lockbox, or other device that is designed, in light of materials used, to prevent access to a firearm by any means other than a key, a combination, biometric data, or other similar means.

However, the term does not include a glass-faced cabinet or other form of storage that is primarily designed to allow for the display of firearms.

The bills require a seller to provide to the purchaser, upon the retail sale or transfer of a firearm, 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 notice also must be posted in a conspicuous manner at all points of sale on the premises where firearms are sold.

The bills also state that it is the intent of this 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.

MCL 205.94// (SB 81)

MCL 205.54// (SB 82)

The bills will take effect on the ninety-first day after the legislature adjourns to end the 2023 legislative session.

## **FISCAL IMPACT:**

**Senate Bill 79** 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 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 their 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.

The bill also would have an indeterminate fiscal impact on the state and on local units of government that would depend on the number of individuals convicted under its provisions. 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 the minor obtains the firearms and possesses or exhibits it either in a public place or in a careless, reckless, or threatening manner in the presence of another person. If an individual fails to store or leave a firearm properly and a minor obtains the firearm and uses it to inflict injury, serious impairment, 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.

**Senate Bill 80** is a companion bill to SB 79 and amends sentencing guidelines to include failure to store a firearm resulting in injury, serious impairment, or death. The bill would not have a direct fiscal impact on the state or on local units of government.

**Senate Bills 81 and 82** 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.