

City of Philadelphia



(Bill No. 060804)

AN ORDINANCE

Amending Chapter 10-800 of The Philadelphia Code, entitled “Safety,” by adding a new Section 10-834, entitled “Responsibility to Avoid Possession and Discharge of Firearms by Children” to prohibit adults from allowing children to have unsupervised access to firearms; all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Chapter 10-800 of The Philadelphia Code, entitled “Safety” is amended by adding a new Section 10-834 to read as follows:

§10-834. Responsibility to Avoid Possession and Discharge of Firearms by Children.

(a) Legislative Findings

The Council of the City of Philadelphia finds that:

1. The unintentional firearm-related death rate for children 0-14 years old is nine times higher in the U.S. than in the 25 other industrialized countries combined;

2. In 2003, there were 130 firearm deaths of children and teens in Pennsylvania, including 41 suicides and 4 accidents;

3. During the past year the following Philadelphia children have killed themselves and others in accidental shootings after finding loaded and unlocked firearms in their homes:

a. 3 year old Talib Bailey-Hankerson, who shot himself in the face with a firearm he found at the home of his mother’s boyfriend

b. 13-year-old Jevon Chestnut who shot himself while playing with a gun inside his house in North Philadelphia

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c. *12 year old Marquette Cooper who was killed with his father's loaded handgun that he found in his home*

d. *An unidentified 15 year old boy killed and a 16 year old girl shot after playing with a loaded handgun in his home in Northeast Philadelphia;*

4. *The American Academy of Pediatrics has adopted a policy on firearms that states that loaded firearms and unlocked firearms and ammunition represent a serious danger to children and adolescents and encourages legislation mandating trigger locks, lock boxes, and other safe storage of firearms until guns are fully removed from the environment of children;*

5. *A comprehensive review of state by state surveys of firearms ownership patterns by the Rand Corporation found that only 39% of homes with children and firearms regularly keep their firearm locked, unloaded, and separate from ammunition and 43% had at least one unlocked firearm in the home where children were present.*

6. *Recently published controlled studies in prominent medical journals conclude that storing household guns as locked, unloaded, or separate from the ammunition is associated with significant reductions in the risk of unintentional and self-inflicted firearm injuries and deaths among adolescents and children.*

(b) *Definitions.*

As used in this section the following words shall have the meanings ascribed herein:

1. *"Adult" means any person who is 18 years of age or older.*
2. *"Child" means any person who is younger than 18 years of age.*

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3. *“Firearm” means any device designed, made or adapted to expel a projectile through a barrel by using the energy generated by an explosive or burning substance or any device readily convertible to that use.*

4. *“Range” means any public or private facility at which firearms training or practice, or both, is conducted under controlled circumstances intended to encourage the safe handling of firearms and at which procedures or facilities are in place that are intended to prevent the projectiles discharged from the firearms from causing any damage to persons or property.*

(c) *It is unlawful for a child intentionally, knowingly, recklessly or with criminal negligence to discharge a firearm within the city.*

(d) *It is unlawful for any adult intentionally, knowingly, recklessly or with criminal negligence to facilitate, suffer or permit the discharge of a firearm by a child. If an adult intentionally, knowingly, recklessly or with criminal negligence allows a child to obtain unsupervised access to the firearm, such facilitation, sufferance or permission shall be inferred.*

(e) *It is unlawful for any adult intentionally, knowingly, recklessly or with criminal negligence to facilitate, suffer or permit the handling or physical possession of a firearm by a child by allowing the child to obtain unsupervised access to the firearm.*

(f) *It is a defense to prosecution under subsections (c), (d) or (e) that:*

1. *the firearm was handled, possessed or discharged upon a range and under the supervision of an adult, or*

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2. *the child's access to firearms was obtained as a result of an unlawful entry, or*

3. *the discharge, handling or possession of the firearm was justified as provided under Pennsylvania law.*

(g) *It is additionally a defense to prosecution under subsection (d) or (e) that the actor had taken reasonable precautions under the attendant circumstances to ensure that a child would not have the ability to obtain access to the firearm without supervision.*

Such precautions could include, but need not be limited to:

1. *storage of the firearm in a place where, at the time the access was obtained, an unsupervised child would not reasonably have been expected to have been able to gain access, or*

2. *storage of the firearm in a locked safe, locked rack, locked hard case, locked soft case, locked drawer, locked cabinet or other locked container, or*

3. *installation of a lock on the firearm to prevent its normal function and discharge.*

(h) *Violation of this section is a Class III offense punishable by incarceration of not more than 30 days and a fine in an amount provided for in Section 1-109 of the Philadelphia Code. To the extent that any conduct in violation of this section also constitutes a violation of state law, then the conduct shall be punishable under the applicable state law. Violation of this section by a child shall constitute a delinquent act as defined by the Juvenile Act, 42 Pa. C.S. §6302 and shall be punishable according to the provisions of SUBCHAPTER D of the Juvenile Act, 42 Pa. C.S. §§6351-58.*

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SECTION 2. This Section shall go into effect immediately upon becoming law.

Explanation:

[Brackets] indicate matter deleted.
Italics indicate new matter added.

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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on December 14, 2006. The Bill was Signed by the Mayor on January 23, 2007.



Patricia Rafferty
Chief Clerk of the City Council