



Legislation Text

File #: 160331, Version: 1

Amending Section 10-834 of The Philadelphia Code, entitled "Responsibility to Avoid Possession and Discharge of Firearms by Children," by requiring safe storage of firearms and ammunition; 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 to read as follows:

CHAPTER 10-800. SAFETY.

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

(a) Legislative Findings. The Council of the City of Philadelphia finds that:

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7. *In 47 states, a parent can leave a loaded, unlocked gun on a dining room table or a nightstand and face no legal consequence for leaving that gun within a child's reach.*

8. *According to a January 13, 2014, report by Diane Sawyer entitled Kids and Guns: By the Numbers, 31 percent of U.S. households in 2012 had at least one child and one gun in the home.*

9. *The American Academy of Pediatrics adds that guns cause twice as many deaths in young people as cancer, five times as many deaths as heart disease, and fifteen times as many deaths as infections.*

10. *Several states have taken steps to protect children from tragic gun accidents by requiring guns to be stored in a locked container or disabled with a trigger lock anytime they are not in use.*

11. *Massachusetts, California, Minnesota, and the District of Columbia have passed laws criminalizing the act of leaving a gun where a child may access it.*

12. *Statistics and research prove that these laws are effective. States that have enacted these laws substantially decreased the number of unintentional child firearm deaths.*

* * *

(c) (1) *All firearms kept in a home in which one or more individuals younger than 18 years of age reside or regularly visit shall be kept unloaded and stored in a locked container, except when an authorized user is*

carrying it on his or her person or has the firearm under his or her immediate control.

(2) All ammunition kept in a home in which one or more individuals younger than 18 years of age reside or regularly visit shall be stored in a separate place from the firearm, except when an authorized user is carrying it on his or her person or has the firearm under his or her immediate control.

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

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

1. the firearm was handled, possessed or discharged upon a range and under the supervision of an adult, or
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)] (h) It is additionally a defense to prosecution under subsection [(d) or] (e) or (f) 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)] (i) 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.

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

Explanation:

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