

1 State of Arkansas
2 91st General Assembly
3 Regular Session, 2017
4

As Engrossed: H3/10/17

A Bill

HOUSE BILL 1630

5 By: Representative Tucker
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For An Act To Be Entitled

8 AN ACT TO PROTECT CHILDREN FROM UNATTENDED LOADED
9 FIREARMS; TO CREATE THE OFFENSE OF NEGLIGENTLY
10 ALLOWING ACCESS TO A FIREARM BY A CHILD; AND FOR
11 OTHER PURPOSES.
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Subtitle

14 TO PROTECT CHILDREN FROM UNATTENDED
15 LOADED FIREARMS; AND TO CREATE THE
16 OFFENSE OF NEGLIGENTLY ALLOWING ACCESS TO
17 A FIREARM BY A CHILD.
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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23 SECTION 1. Arkansas Code § 5-73-101, concerning definitions concerning
24 weapons, is amended to add additional subdivisions to read as follows:

25 (11) "Readily dischargeable firearm" means a firearm that is loaded
26 with ammunition, whether or not a round is in the chamber; and

27 (12) "Secure" means to take steps that a reasonable person would take
28 to prevent access to a readily dischargeable firearm by a child, including
29 without limitation placing a readily dischargeable firearm in a locked
30 container or temporarily rendering the readily dischargeable firearm
31 inoperable by a trigger lock or other means.
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33 SECTION 2. Arkansas Code Title 5, Chapter 73, Subchapter 1, is amended
34 to add an additional section to read as follows:

35 5-73-134. Negligently allowing access to a firearm by a child.

36 (a) As used in this section, "child" means a person under seventeen



1 (17) years of age.

2 (b) A person commits the offense of negligently allowing access to a
3 firearm by a child if a child gains access to a readily dischargeable firearm
4 and the person negligently:

5 (1) Failed to secure the readily dischargeable firearm; or

6 (2) Left the readily dischargeable firearm in a place in which
7 the person knew or should have known the child could gain access to the
8 readily dischargeable firearm.

9 (c) A person does not commit negligently allowing access to a firearm
10 by a child if the child's access to the readily dischargeable firearm:

11 (1) Was supervised by a person older than:

12 (A) Twenty-one (21) years of age and the possession was in
13 accordance with § 5-73-119(e)(10); or

14 (B) Eighteen (18) years of age and the readily
15 dischargeable firearm was used for hunting, sporting, or other lawful
16 purposes;

17 (2) Consisted of lawful defense by the child of himself,
18 herself, another person, or property; or

19 (3) Occurred during a time when the person was engaged in an
20 agricultural enterprise.

21 (d) It is an affirmative defense to prosecution under this section
22 that the child's access to the readily dischargeable firearm was obtained by
23 entering premises or a vehicle in violation of § 5-39-101 et seq.

24 (e)(1) Negligently allowing access to a firearm by a child is a Class
25 A misdemeanor if the child discharges the readily dischargeable firearm and
26 causes death or physical injury to himself, herself, or another person.

27 (2) Negligently allowing access to a firearm by a child is a
28 Class B misdemeanor if the child:

29 (A) Discharges the readily dischargeable firearm but does
30 not result in an injury to any person; or

31 (B) Displays the readily dischargeable firearm in a:

32 (i) Public place; or

33 (ii) Threatening manner.

34 (3) Otherwise, negligently allowing access to a firearm by a
35 child is a Class C misdemeanor.

36 (f) A law enforcement officer or other person may not arrest a person

1 for negligently allowing access to a firearm by a child before the seventh
2 day after the date on which the offense is committed if:

3 (1) The person is a member of the family of the child who
4 discharged the readily accessible firearm; and

5 (2) The child in discharging the readily accessible firearm
6 caused death or serious physical injury to himself or herself.

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/s/Tucker