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HOUSE BILL 130

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

Linda M. Trujillo

AN ACT

RELATING TO FIREARMS; CREATING CRIMINAL PENALTIES AND CIVIL LIABILITY FOR NEGLIGENT STORAGE OF A FIREARM WHEN THE OWNER OF THE FIREARM REASONABLY KNEW OR SHOULD HAVE KNOWN THAT A MINOR WOULD HAVE ACCESS TO THE FIREARM OR WHEN AN INJURY OR DEATH RESULTED FROM A MINOR OBTAINING ACCESS TO A FIREARM; IMPOSING CIVIL LIABILITY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Criminal Code is enacted to read:

"[NEW MATERIAL] NEGLIGENT STORAGE OF A FIREARM--MINORS.--

A. Negligent storage of an unloaded firearm consists of the owner of a firearm keeping an unloaded firearm within any premises that are under the owner's custody or control and storing or leaving the unloaded firearm in a

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1 location where the owner knows or reasonably should know that a
2 minor is likely to gain access to the firearm without the
3 permission of the minor's parent or legal guardian, unless the
4 owner takes reasonable action to secure the firearm against
5 access by a minor.

6 B. Whoever commits negligent storage of an unloaded
7 firearm pursuant to Subsection A of this section is guilty of a
8 petty misdemeanor and, notwithstanding the provisions of
9 Section 31-19-1 NMSA 1978, is subject to a fine of two hundred
10 fifty dollars (\$250).

11 C. Negligent storage of a loaded firearm consists
12 of the owner of a firearm keeping a loaded firearm within any
13 premises that are under the owner's custody or control and
14 storing or leaving a loaded firearm in a location where the
15 owner knows or reasonably should know that a minor is likely to
16 gain access to the firearm without the permission of the
17 minor's parent or legal guardian, unless the owner takes
18 reasonable action to secure the firearm against access by a
19 minor.

20 D. Whoever commits negligent storage of a loaded
21 firearm pursuant to Subsection C of this section is guilty of a
22 petty misdemeanor and shall be sentenced pursuant to Section
23 31-19-1 NMSA 1978.

24 E. Negligent storage of a firearm leading to
25 threatening behavior consists of the owner of a firearm keeping

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1 a firearm, whether loaded or unloaded, within any premises that
2 are under the owner's custody or control and storing or leaving
3 the firearm and failing to secure it in a location where a
4 minor gains access to the firearm and then possesses it in a
5 public place or exhibits it in a threatening manner toward
6 another person.

7 F. Whoever commits negligent storage of a firearm
8 leading to threatening behavior pursuant to Subsection E of
9 this section is guilty of a misdemeanor and, notwithstanding
10 the provisions of Section 31-19-1 NMSA 1978, the court shall
11 sentence the person to be imprisoned in the county jail for a
12 definite term not to exceed nine months or to the payment of a
13 fine of not more than seven hundred fifty dollars (\$750) or to
14 both such imprisonment and fine in the discretion of the judge.

15 G. Negligent storage of a firearm leading to death
16 or injury consists of the owner of a firearm keeping a loaded
17 firearm within any premises that are under the owner's custody
18 or control and storing or leaving the firearm and failing to
19 secure it in a location where a minor gains access to the
20 firearm and then uses the firearm and causes death or injury to
21 the minor or to another person.

22 H. Whoever commits negligent storage of a firearm
23 leading to death or injury pursuant to Subsection G of this
24 section is guilty of a fourth degree felony and shall be
25 sentenced pursuant to the provisions of Section 31-18-15 NMSA

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1 1978.

2 I. A person is not guilty of negligent storage of
3 an unloaded firearm, negligent storage of a loaded firearm,
4 negligent storage of a firearm leading to threatening behavior
5 or negligent storage of a firearm leading to death or injury
6 if:

7 (1) the minor was supervised by a person older
8 than eighteen years old and use of the firearm was for hunting,
9 sporting or other lawful purposes;

10 (2) the minor was engaged in the lawful
11 defense of people or property; or

12 (3) the property where the firearm was stored
13 was entered unlawfully by the minor.

14 J. A person who violates a provision of this
15 section shall be subject to civil liability to any person
16 injured by the violation for damages, attorney fees and costs
17 of the action as determined by the court.

18 K. As used in this section:

19 (1) "firearm" means any weapon that will or is
20 designed to or may readily be converted to expel a projectile
21 by the action of an explosion. "Firearm" includes any handgun,
22 rifle or shotgun;

23 (2) "loaded firearm" means a firearm that is
24 loaded with ammunition, whether or not a round is in the
25 chamber;

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1 (3) "minor" means a person under the age of
2 eighteen; and

3 (4) "secure" means to take steps that a
4 reasonable person would take to prevent access to a firearm by
5 a minor, including placing a firearm in a locked container or
6 temporarily rendering the firearm inoperable by a trigger lock
7 or other means."

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