

Legislative Analysis



SAFE STORAGE OF FIREARMS

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

Senate Bill 79 (S-3) as passed by the Senate
Sponsor: Sen. Rosemary Bayer

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

Senate Bill 80 (S-2) as passed by the Senate
Sponsor: Sen. Kristen McDonald Rivet

Senate Bill 81 (S-1) as passed by the Senate
Sponsor: Sen. Jeff Irwin

Senate Bill 82 (S-1) as passed by the Senate
Sponsor: Sen. Stephanie Chang

House Committee: Judiciary

Senate Committee: Civil Rights, Judiciary, and Public Safety

Complete to 3-21-23

SUMMARY:

Senate Bills 79 to 82 would 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, with some exceptions, a range of penalties for a violation, based on the level of injury to a minor or other individual if the minor obtains the firearm. (SB 79)
- Require the Department of Health and Human Services to inform the public of the bill's penalties, publish lethal means counseling literature, and provide that literature to federally licensed firearms dealers. (SB 79)
- Revise the wording of a notice that a federally licensed firearms dealer must post on the premises where firearms are sold. (SB 79)
- Include the proposed 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 would amend 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, to do one or more of the following if the individual who knows or reasonably should know that a minor (individual less than 18 years of age) is, or is likely to be, present on the premises:

- 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 would mean a secure container 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.

Locking device would mean a trigger lock, cable lock, or similar lock that prevents a firearm from discharging.

The Department of Health and Human Services (MDHHS) would have to inform the public of the penalties for failing to store or leave a firearm as required. The department would also have to publish lethal means counseling literature and provide that literature to federally licensed firearms dealers for use when selling a firearm under the act.

Penalty for a violation

If an individual fails to store or leave a firearm as required and, as a result of the violation, a minor obtains the firearm and any of the following occur, the individual would be 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 to injure 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 to inflict death upon themselves or another individual: a felony punishable by imprisonment for up to 15 years or a fine of up to \$7,500, or both.

However, the penalties would not apply under any of the following circumstances:

- If the 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, hunting, or instruction in the safe use of a firearm.
- If the minor obtains the firearm through their unlawful entry of premises or the motor vehicle where the firearm has been stored.
- If the minor obtains a firearm while lawfully acting in self-defense or defense of another.

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.

Federally licensed firearms dealers

The act now prohibits a federally licensed firearms dealer 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 would require the sale to also 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, a federally licensed firearms dealer currently must post in a conspicuous manner at the entrances, exits, and all points of sale on the premises where firearms are sold a notice that says: “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 would instead require 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 proposed MCL 28.429

Senate Bill 80 would amend the Code of Criminal Procedure to place the felony penalties proposed by Senate Bill 79 in the sentencing guidelines portion of that act. Specifically, the bill would provide that a violation of the firearm storage requirements is a crime against the public safety. Failure to store a firearm resulting in injury would be a Class E felony with a maximum term of imprisonment of five years, and failure to store a firearm resulting in death would be a Class C felony with a maximum term of imprisonment of 15 years.

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

The bill is tie-barred to SB 79, which means that it cannot take effect unless SB 79 is also enacted.

MCL 777.11b

Senate Bills 81 and 82 would 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 would mean 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 would not include a glass-faced cabinet or other form of storage that is primarily designed to allow for the display of firearms.

The bills would 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 would also have to 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.

Proposed MCL 205.94// (SB 81)

Proposed MCL 205.54// (SB 82)

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 to 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 an individual fails to store or leave a firearm properly and a minor obtains the firearm and uses it to inflict either injury 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 either injury 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.