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SENATE BILL 132

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Dede Feldman

AN ACT

**RELATING TO FIREARMS; ENACTING THE CHILD ACCESS PREVENTION
ACT; ESTABLISHING A DUTY TO SAFEGUARD HANDGUNS FROM POSSESSION
BY CHILDREN; PRESCRIBING CRIMINAL PENALTIES.**

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

**Section 1. SHORT TITLE.--This act may be cited as the
"Child Access Prevention Act".**

**Section 2. DEFINITIONS.--As used in the Child Access
Prevention Act:**

**A. "child" means a person who is less than
eighteen years of age;**

**B. "handgun" means a loaded or unloaded pistol,
revolver or firearm that will, is designed to or may readily
be converted to expel a projectile by the action of an
explosion and the barrel length of which, not including a**

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1 revolving, detachable or magazine breech, does not exceed
2 twelve inches; and

3 C. "safeguard" means securing a handgun with a
4 safety lock or keeping a handgun in a locked box or container.

5 Section 3. DUTY TO SAFEGUARD FIREARMS FROM POSSESSION BY
6 A CHILD--PENALTY--EXCEPTIONS. --

7 A. A person who owns, possesses or stores a
8 handgun, and who knows or reasonably should know that a child
9 is likely to gain access to the handgun without the lawful
10 permission of the child's parent or guardian or a person in
11 charge of the child, shall safeguard the handgun.

12 B. It is unlawful for a person to fail to
13 safeguard a handgun when, as a direct result thereof, a child
14 gains possession of the handgun and exhibits the handgun in a
15 public place. A person who commits the offense of failing to
16 safeguard a handgun, as provided in this subsection, is guilty
17 of a misdemeanor and shall be sentenced pursuant to the
18 provisions of Section 31-19-1 NMSA 1978.

19 C. It is unlawful for a person to fail to
20 safeguard a handgun when, as a direct result thereof, a child
21 gains possession of the handgun and uses the handgun to cause
22 an injury to himself or to another person. A person who
23 commits the offense of failing to safeguard a handgun, as
24 provided in this subsection, is guilty of a fourth degree
25 felony and shall be sentenced pursuant to the provisions of

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1 Section 31-18-15 NMSA 1978.

2 D. It is unlawful for a person to fail to
3 safeguard a handgun when, as a direct result thereof, a child
4 gains possession of the handgun and uses the handgun to cause
5 the death of himself or another person. A person who commits
6 the offense of failing to safeguard a handgun, as provided in
7 this subsection, is guilty of a third degree felony and shall
8 be sentenced pursuant to the provisions of Section 31-18-15
9 NMSA 1978.

10 E. The penalties for failure to safeguard a
11 handgun are not applicable if a child:

12 (1) is the child of the handgun owner and
13 inflicts a gunshot wound upon himself;

14 (2) gains possession of the handgun as a
15 result of fraudulent or unlawful activity committed by the
16 child;

17 (3) intentionally or unintentionally removes
18 a safety lock from the handgun or intentionally or
19 unintentionally removes the handgun from a locked box or
20 container;

21 (4) gains possession of the handgun as a
22 result of fraudulent or unlawful activity committed by another
23 person;

24 (5) is in attendance at a hunter's safety
25 course or a handgun safety course;

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1 (6) is using the handgun for target shooting
2 at an established range authorized by the governing body of
3 the jurisdiction in which the range is located or in an area
4 where the discharge of a handgun without legal justification
5 is not prohibited by law;

6 (7) is engaged in an organized competition
7 involving the use of a handgun;

8 (8) is participating in or practicing for a
9 performance by an organization that has been granted exemption
10 from federal income tax by the United States commissioner of
11 internal revenue as an organization described in Section
12 501(c)(3) of the United States Internal Revenue Code of 1986,
13 as amended;

14 (9) is engaged in legal hunting or trapping
15 activities;

16 (10) is traveling, with an unloaded handgun
17 in his possession, to or from an activity described in
18 Paragraph (5), (6), (7), (8) or (9) of this subsection; or

19 (11) is on real property under the control of
20 the child's parent, grandparent or legal guardian and the
21 child is being supervised by his parent, grandparent or legal
22 guardian.

23 Section 4. EFFECTIVE DATE. -- The effective date of the
24 provisions of this act is July 1, 2001.