

CHAPTER 35
FORMERLY
HOUSE BILL NO. 63
AS AMENDED BY
SENATE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO SAFE STORAGE OF FIREARMS.
BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 1456, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1456. ~~Unlawfully permitting a minor access to a firearm~~ Unsafe storage of a firearm; class A ~~or~~ B misdemeanor.

(a)(1) A person is guilty of ~~unlawfully permitting a minor access to~~ unsafe storage of a firearm when the person intentionally or recklessly stores or leaves a loaded firearm within the reach or easy access of ~~a minor an~~ unauthorized person, and where the minor the unauthorized person obtains the ~~firearm and uses it to inflict serious~~ firearm, and all of the following do apply: physical injury or death upon the minor or any other person.

a. The firearm was not stored in a locked box or container.

b. The firearm was not disabled with a tamper-resistant trigger lock which was properly engaged so as to render the firearm inoperable by a person other than the owner or other lawfully-authorized user.

c. The firearm was not stored in a location that a reasonable person would have believed to be secure from access by an unauthorized person.

d. The unauthorized person did not obtain the firearm as the result of an unlawful entry by any person.

(2) For the purposes of this section:

a. “Unauthorized person” means a child or person prohibited by state or federal law from owning or possessing a firearm.

b. “Stores or leaves” does not mean when the firearm is carried by or under the control of the owner or other lawfully-authorized user.

(b) ~~It shall be an affirmative defense to a prosecution under this section if:~~

(1) ~~The firearm was stored in a locked box or container or in a location which a reasonable person would have believed to be secure from access to a minor; or~~

(2) ~~The minor obtains the firearm as the result of an unlawful entry by any person; or~~

(3) ~~The serious physical injuries or death to the minor or any other person results from a target or sport shooting accident or hunting accident. [Repealed.]~~

(c)(1) ~~Unlawfully permitting a minor access to a firearm~~ Unsafe storage of a firearm is a class A ~~misdemeanor~~ B misdemeanor if paragraphs (c)(2)a., b., or c. of this section do not apply.

(2) Unsafe storage of a firearm is a class A misdemeanor if the unauthorized person does any of the following:

a. Commits or attempts to commit a crime with the firearm.

b. Uses the firearm to inflict serious physical injury or death upon any person, including the unauthorized person.

c. Transfers or attempts to transfer the firearm to another unauthorized person.

(d) The Superior Court has jurisdiction over an offense under this section.

(e) It is not an offense under this section if the firearm was manufactured in or before the year 1899 or is a replica of such firearm if the replica is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition.

Approved June 6, 2019