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HOUSE BILL 239  
**44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999**

INTRODUCED BY  
Patsy Trujillo Knauer

FOR THE COURTS, CORRECTIONS AND CRIMINAL JUSTICE COMMITTEE AND  
THE LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE

AN ACT

RELATING TO FIREARMS; ENACTING THE CHILDREN AND FIREARMS  
SAFETY ACT; REQUIRING FIREARMS DEALERS TO ATTACH SAFETY LOCKS  
TO FIREARMS THAT ARE CONVEYED TO ANOTHER PERSON; ESTABLISHING  
A DUTY TO SAFEGUARD FIREARMS 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  
"Children and Firearms Safety Act".

Section 2. DEFINITIONS.--As used in the Children and  
Firearms Safety Act:

- A. "child" means a person who is less than  
eighteen years of age;
- B. "firearm" means a handgun, rifle, shotgun or  
any other weapon that is designed to expel a projectile by

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1 action of an explosion;

2 C. "firearms dealer" means a person who is a  
3 licensed dealer of firearms, as provided in 18 USCA Sections  
4 921 and 923; and

5 D. "safeguard" means securing a firearm with a  
6 safety lock or keeping a firearm in a locked box or container.

7 Section 3. CONVEYANCE OF FIREARMS BY FIREARMS DEALERS--  
8 SAFETY LOCKS REQUIRED-- DOCUMENTS REQUIRED-- PENALTY--  
9 EXCEPTION. --

10 A. A firearms dealer who sells, gives, lends or  
11 transfers ownership of a firearm to another person shall also  
12 provide that person with a safety lock for the firearm. The  
13 firearms dealer shall attach the safety lock to the firearm  
14 before he transfers possession of the firearm and it shall  
15 remain attached while the firearm is on the business premises  
16 of the firearms dealer.

17 B. If a safety lock cannot be attached to a  
18 firearm because the firearm lacks a trigger guard, a firearms  
19 dealer shall place the firearm in a locked box or locked  
20 container before he transfers possession of the firearm and it  
21 shall remain in the locked box or locked container while the  
22 firearm is on the business premises of the firearms dealer.

23 C. A firearms dealer who sells, gives, lends or  
24 transfers ownership of a firearm to another person shall  
25 provide that person with a written form that advises the

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1 person of safe storage practices for firearms.

2 D. A firearms dealer who sells, gives, lends or  
3 transfers ownership of a firearm to another person shall  
4 provide the person with a written form, to be signed by the  
5 person and returned to the firearms dealer, which acknowledges  
6 that the firearms dealer provided the person with:

7 (1) a safety lock, a locked box or a locked  
8 container for the firearm; and

9 (2) a written form that advises the person of  
10 safe storage practices for firearms.

11 E. A firearms dealer who fails to comply with the  
12 provisions of Subsection A, B, C or D of this subsection is  
13 guilty of a misdemeanor and shall be sentenced pursuant to the  
14 provisions of Section 31-19-1 NMSA 1978.

15 F. The requirements set forth in this section do  
16 not apply to a firearms dealer who sells, gives, lends or  
17 transfers ownership of a firearm that is a curio or relic to  
18 another person.

19 G. A firearms dealer who complies with the  
20 provisions of Subsections A, B, C and D of this section:

21 (1) is not responsible to another person with  
22 regard to the safety or appropriate use of a safety lock, a  
23 locked box or a locked container; and

24 (2) is not liable to another person in a  
25 civil action, when the action is based upon the firearms

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1 dealer supplying the other person with a safety lock, a locked  
2 box or a locked container.

3 H. The provisions of Subsection A or B of this  
4 section shall not be interpreted to prevent a firearms dealer  
5 from charging a customer for the expense of supplying a safety  
6 lock, a locked box or a locked container.

7 Section 4. DUTY TO SAFEGUARD FIREARMS FROM POSSESSION BY  
8 A CHILD--PENALTY--EXCEPTION.--

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

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

21 C. It is unlawful for a person to fail to  
22 safeguard a firearm when, as a direct result thereof, a child  
23 gains possession of the firearm and uses the firearm to cause  
24 an injury to another person. A person who commits the offense  
25 of failing to safeguard a firearm, as provided in this

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1 subsection, is guilty of a fourth degree felony and shall be  
2 sentenced pursuant to the provisions of Section 31-18-15 NMSA  
3 1978.

4 D. It is unlawful for a person to fail to  
5 safeguard a firearm when, as a direct result thereof, a child  
6 gains possession of the firearm and uses the firearm to cause  
7 the death of another person. A person who commits the offense  
8 of failing to safeguard a firearm, as provided in this  
9 subsection, is guilty of a third degree felony and shall be  
10 sentenced pursuant to the provisions of Section 31-18-15 NMSA  
11 1978.

12 E. The penalties for failure to safeguard a  
13 firearm are not applicable if a child gains possession of a  
14 firearm as the direct result of an unlawful entry by any other  
15 person.

16 Section 5. RULES. --The department of public safety,  
17 after consultation with the department of health, shall adopt  
18 rules regarding:

19 A. an approved design for safety locks to be used  
20 by a firearms dealer;

21 B. a written form provided by a firearms dealer  
22 that advises a person of safe storage practices for firearms;  
23 and

24 C. a written form that a person shall sign and  
25 return to a firearms dealer that acknowledges that the

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firearms dealer provided the person with:

(1) a safety lock, a locked box or a locked container for the firearm; and

(2) a written form that advises the person of safe storage practices for firearms.

Section 6. EFFECTIVE DATE. --The effective date of the provisions of this act is July 1, 1999.

1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

3  
4  
5  
6 March 8, 1999

7  
8 Mr. Speaker:

9  
10 Your JUDICIARY COMMITTEE, to whom has been referred

11  
12 HOUSE BILL 239

13  
14 has had it under consideration and reports same with  
15 recommendation that it DO NOT PASS, but that

16  
17 HOUSE JUDICIARY COMMITTEE SUBSTITUTE  
18 FOR HOUSE BILL 239

19 DO PASS, and thence referred to the APPROPRIATIONS  
20 AND FINANCE COMMITTEE.

FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

HJC/CSHB 239

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Respectfully submitted,

\_\_\_\_\_  
R. David Pederson, Chairman

Adopted \_\_\_\_\_

(Chief Clerk)

Not Adopted \_\_\_\_\_

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 7 For 3 Against

Yes: 7

No: Godbey, Mallory, T. Taylor

Excused: Luna, Sanchez

Absent: None

J:\99BillsWP\H0239

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HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 239

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

AN ACT

RELATING TO FIREARMS; REQUIRING LICENSED FIREARMS DEALERS TO  
POST A NOTICE REGARDING FAILURE TO SAFEGUARD A FIREARM;  
REQUIRING LICENSED FIREARMS DEALERS TO PROVIDE A PERSON WHO  
BUYS A FIREARM WITH THE OPPORTUNITY TO PURCHASE A SAFETY LOCK  
OR LOCKED CONTAINER.

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

Section 1. FIREARMS DEALER--REQUIRED SIGN ON BUSINESS  
PREMISES. --A federally licensed dealer of firearms shall  
prominently display in a conspicuous place on his business  
premises the following sign, to be printed in letters not less  
than one inch in height:

"KNOWINGLY OR NEGLIGENTLY FAILING TO SAFEGUARD A FIREARM  
THAT ENDANGERS THE LIFE OR HEALTH OF A CHILD COULD BE A  
VIOLATION OF NEW MEXICO LAW (SECTION 30-6-1 NMSA 1978)".

Section 2. FIREARMS DEALER--SAFETY LOCK OR LOCKED  
CONTAINER--INFORMATION REGARDING SAFE STORAGE OF A FIREARM --

A. A federally licensed firearms dealer shall

1 provide a person who buys a firearm with the opportunity to  
2 purchase a safety lock or a locked container for the firearm.  
3 A person who buys a firearm shall sign and return to the  
4 firearms dealer a written form that acknowledges that the  
5 firearms dealer provided the buyer with the opportunity to  
6 purchase a safety lock or locked container for the firearm.  
7 The department of public safety, after consultation with the  
8 department of health, shall adopt rules regarding the written  
9 form.

10 B. A federally licensed firearms dealer shall  
11 provide a person who buys a firearm with a written form that  
12 advises the person of safe storage practices for firearms.  
13 The department of public safety, after consultation with the  
14 department of health, shall adopt rules regarding the written  
15 form.

16 Section 3. EFFECTIVE DATE. --The effective date of the  
17 provisions of this act is July 1, 1999.

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1 FORTY- FOURTH LEGISLATURE  
2 FIRST SESSION, 1999

3  
4 March 15, 1999

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7 Mr. Speaker:

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9 Your APPROPRIATIONS AND FINANCE COMMITTEE, to  
10 whom has been referred

11 HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR  
12 HOUSE BILL 239

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14 has had it under consideration and reports same with  
15 recommendation that it DO PASS.

16  
17 Respectfully submitted,

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22 Max Coll, Chairman  
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FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

HJC/HB 239

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Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 13 For 0 Against

Yes: 13

Excused: Buffett, Garcia, M H., Marquardt, Watchman

Absent: None

J: \99BillSWP\H0239

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