

Second Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 08-0047.01 Michael Dohr

SENATE BILL 08-049

SENATE SPONSORSHIP

Windels,

HOUSE SPONSORSHIP

(None),

Senate Committees
State, Veterans & Military Affairs
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING MEASURES TO PREVENT INJURIES RESULTING FROM THE**
102 **UNSUPERVISED ACCESS TO FIREARMS BY MINORS, AND, IN**
103 **CONNECTION THEREWITH, REDUCING THE INCIDENCE OF**
104 **TEENAGE SUICIDE.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Makes it an unclassified misdemeanor if:

- ! A person keeps a firearm within any premises that are under his or her custody or control; and
- ! He or she knows or reasonably should know that a minor is

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

able to gain access to the firearm without the permission of the minor's parent or legal guardian; and

! The minor obtains access to the firearm; and

! The minor uses the firearm to cause death or serious bodily injury to himself, herself, or another person or carries the firearm to a public or private school or to any school-sponsored event.

Outlines exceptions to the crime.

Requires a licensed gun dealer to provide a written warning regarding storage requirements for a firearm to each person to whom the dealer sells or transfers a firearm and to post the same warning at each purchase counter. Requires a gun show promoter to post the same warning at each entrance of a gun show. Directs the director of the office of suicide prevention in the department of public health and environment to convene a workgroup to make recommendations to the general assembly regarding the language of the warning and any other issues.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that:

4 (a) Lives lost due to firearm suicides by teenage youth are an
5 especially large problem in Colorado. Since 2000, 108 minors have died
6 by suicide by using firearms in Colorado.

7 (b) A recent and comprehensive study of the effectiveness of laws
8 to prevent minors' access to firearms shows a significant decrease in
9 firearm suicides by minors in states that have adopted these laws;

10 (c) The intent of this act is to save lives by creating awareness and
11 ensuring accountability regarding the need to keep firearms away from
12 minors who may use the firearms to attempt suicide or unintentionally kill
13 or injure themselves or others. Therefore, the act holds an adult
14 accountable if he or she leaves a firearm easily accessible to a minor and
15 the minor improperly gains access to the firearm and injures or kills
16 himself, herself, or others. This act uses accountability and education to

1 impress upon adults that their firearms should be inaccessible to minors.

2 (2) The general assembly encourages the district attorney to
3 consider, among other factors, the impact of the injury or death on the
4 person alleged to have violated this act when deciding whether to
5 prosecute an alleged violation. This declaration shall not restrict, in any
6 manner, the factors that a district attorney may consider when deciding
7 whether to prosecute alleged violations of this act.

8 **SECTION 2.** Part 1 of article 12 of title 18, Colorado Revised
9 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
10 read:

11 **18-12-112. Criminal storage of a firearm - information-posting**
12 **requirements - definitions - repeal.** (1) EXCEPT AS OTHERWISE
13 PROVIDED IN SUBSECTION (3) OF THIS SECTION, A PERSON COMMITS THE
14 CRIME OF CRIMINAL STORAGE OF A FIREARM IF:

15 (a) THE PERSON KEEPS A FIREARM WITHIN ANY PREMISES THAT ARE
16 UNDER HIS OR HER CUSTODY OR CONTROL; AND

17 (b) BY THE PERSON'S CRIMINAL NEGLIGENCE A MINOR IS ABLE TO
18 GAIN ACCESS TO THE FIREARM WITHOUT THE PERMISSION OF THE MINOR'S
19 PARENT OR LEGAL GUARDIAN; AND

20 (c) THE MINOR OBTAINS ACCESS TO THE FIREARM; AND

21 (d) THE MINOR USES THE FIREARM TO CAUSE DEATH OR BODILY
22 INJURY TO HIMSELF, HERSELF, OR ANOTHER PERSON OR CARRIES THE
23 FIREARM TO A PUBLIC OR PRIVATE PRESCHOOL, ELEMENTARY SCHOOL,
24 JUNIOR HIGH SCHOOL, MIDDLE SCHOOL, OR HIGH SCHOOL OR TO ANY
25 SCHOOL-SPONSORED EVENT, ACTIVITY, OR PERFORMANCE, WHETHER
26 OCCURRING ON SCHOOL GROUNDS OR ELSEWHERE.

27 (2) A PERSON WHO VIOLATES SUBSECTION (1) OF THIS SECTION IS

1 GUILTY OF AN UNCLASSIFIED MISDEMEANOR AND SHALL BE PUNISHED BY
2 A FINE OF AT LEAST FIFTY DOLLARS AND NOT MORE THAN ONE THOUSAND
3 DOLLARS. ANY FINES COLLECTED PURSUANT TO THIS SUBSECTION (2)
4 SHALL BE CREDITED TO THE SUICIDE PREVENTION COORDINATION CASH
5 FUND CREATED IN SECTION 25-1.5-101 (1) (w) (II), C.R.S.

6 (3) SUBSECTION (1) OF THIS SECTION SHALL NOT APPLY IF:

7 (a) THE MINOR OBTAINS POSSESSION WHILE DEFENDING HIS OR HER
8 RESIDENCE FROM UNLAWFUL ENTRY BY A PERSON;

9 (b) THE MINOR ACTS IN LAWFUL SELF-DEFENSE OR DEFENSE OF
10 ANOTHER PERSON;

11 (c) THE MINOR OBTAINS POSSESSION OF THE FIREARM WHILE
12 UNDER THE DIRECT SUPERVISION OF THE MINOR'S PARENT OR GUARDIAN
13 UNDER ONE OR MORE OF THE FOLLOWING CIRCUMSTANCES:

14 (I) WHILE ATTENDING A HUNTER SAFETY OR FIREARM SAFETY
15 COURSE;

16 (II) WHILE PRACTICING THE USE OF A FIREARM OR PRACTICING
17 TARGET SHOOTING AT AN ESTABLISHED RANGE AUTHORIZED BY THE
18 GOVERNING BODY OF THE JURISDICTION IN WHICH THE RANGE IS LOCATED
19 OR AT ANY OTHER AREA WHERE THE DISCHARGE OF A FIREARM IS NOT
20 PROHIBITED;

21 (III) WHILE HUNTING OR TRAPPING PURSUANT TO A VALID LICENSE
22 ISSUED TO THE MINOR PURSUANT TO ARTICLE 4 OF TITLE 33, C.R.S.;

23 (IV) WHILE ENGAGING IN AN ORGANIZED COMPETITION INVOLVING
24 THE USE OF FIREARMS OR PARTICIPATING IN OR PRACTICING FOR A
25 PERFORMANCE BY A GROUP ORGANIZED UNDER SECTION 501 (c) (3) OF THE
26 FEDERAL "INTERNAL REVENUE CODE" AS DETERMINED BY THE FEDERAL
27 INTERNAL REVENUE SERVICE, WHICH GROUP USES FIREARMS AS PART OF

1 ITS PERFORMANCE;

2 (V) WHILE ENGAGING IN WORK ACTIVITIES ON A FARM OR RANCH,
3 WHICH WORK ACTIVITIES REQUIRE CARRYING OR USING A FIREARM; OR

4 (VI) WHILE TRAVELING WITH THE UNLOADED FIREARM TO OR
5 FROM AN ACTIVITY DESCRIBED IN SUBPARAGRAPH (I), (II), (III), (IV), OR
6 (V) OF THIS PARAGRAPH (c);

7 (d) THE FIREARM IS TAKEN DURING THE COURSE OF A BURGLARY,
8 AS DESCRIBED IN SECTION 18-4-202, 18-4-203, OR 18-4-204, OR A
9 ROBBERY, AS DESCRIBED IN SECTION 18-4-301 OR 18-4-302;

10 (e) THE PERSON IN POSSESSION OF THE FIREARM IS A PEACE
11 OFFICER OR A MEMBER OF THE ARMED FORCES OR NATIONAL GUARD AND
12 THE MINOR OBTAINS THE FIREARM DURING THE PERFORMANCE OF THE
13 PERSON'S DUTIES;

14 (f) THE FIREARM IS KEPT IN A LOCKED CONTAINER OR IN A
15 LOCATION THAT A REASONABLE PERSON WOULD BELIEVE TO BE SECURE;

16 (g) THE FIREARM IS LOCKED WITH A LOCKING DEVICE THAT HAS
17 RENDERED THE FIREARM INOPERABLE;

18 (h) THE FIREARM IS KEPT ON PREMISES THAT ARE UNDER THE
19 PERSON'S CUSTODY OR CONTROL AND THE PERSON HAS NO REASONABLE
20 EXPECTATION, BASED ON OBJECTIVE FACTS AND CIRCUMSTANCES, THAT
21 A MINOR IS LIKELY TO BE PRESENT ON THE PREMISES; OR

22 (i) THE FIREARM AND CORRESPONDING AMMUNITION ARE SECURED
23 SEPARATELY, OR, IF SECURED TOGETHER, THE AMMUNITION IS STORED IN
24 A LOCKED AND SECURE LOCATION.

25 (4) (a) (I) THE FOLLOWING WARNING SHALL BE PROVIDED OR
26 POSTED AS REQUIRED IN PARAGRAPHS (b), (c), AND (d) OF THIS
27 SUBSECTION (4):

1 IF YOU KEEP A FIREARM WITHIN ANY PREMISES
2 UNDER YOUR CUSTODY OR CONTROL AND A
3 MINOR OBTAINS IT AND USES IT TO CAUSE
4 INJURY OR DEATH OR A MINOR CARRIES THE
5 FIREARM TO A PUBLIC OR PRIVATE SCHOOL OR
6 TO A SCHOOL-SPONSORED ACTIVITY, YOU MAY
7 BE GUILTY OF A CRIME. ==

8 (II) A PERSON REQUIRED TO POST OR PROVIDE THE WARNING
9 DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) MAY OBTAIN A
10 COPY OF THE WARNING FROM THE OFFICE OF SUICIDE PREVENTION IN THE
11 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT.

12 (b) A LICENSED GUN DEALER, AS DEFINED IN SECTION 12-26.1-106
13 (6), C.R.S., WITH EACH FIREARM SALE OR TRANSFER SHALL DELIVER A
14 WRITTEN COPY OF THE WARNING SPECIFIED IN PARAGRAPH (a) OF THIS
15 SUBSECTION (4) TO THE PURCHASER OR TRANSFEREE.

16 (c) A LICENSED GUN DEALER, AS DEFINED IN SECTION 12-26.1-106
17 (6), C.R.S., THAT SELLS FIREARMS SHALL POST CONSPICUOUSLY AT EACH
18 PURCHASE COUNTER THE WARNING SPECIFIED IN PARAGRAPH (a) OF THIS
19 SUBSECTION (4).

20 (d) A GUN SHOW PROMOTER, AS DEFINED IN SECTION 12-26.1-106
21 (4), C.R.S., SHALL POST CONSPICUOUSLY AT EACH ENTRANCE TO A GUN
22 SHOW, AS DEFINED IN SECTION 12-26.1-106 (3), C.R.S., THE WARNING
23 SPECIFIED IN PARAGRAPH (a) OF THIS SUBSECTION (4).

24 (e) A PERSON WHO VIOLATES THIS SUBSECTION (4) IS GUILTY OF AN
25 UNCLASSIFIED MISDEMEANOR AND SHALL BE PUNISHED BY A FINE OF AT
26 LEAST FIFTY DOLLARS AND NOT MORE THAN ONE THOUSAND DOLLARS.
27 ANY FINES COLLECTED PURSUANT TO THIS PARAGRAPH (e) SHALL BE

1 CREDITED TO THE SUICIDE PREVENTION COORDINATION CASH FUND
2 CREATED IN SECTION 25-1.5-101 (1) (w) (II), C.R.S.

3 (5) FOR PURPOSES OF THIS SECTION, UNLESS THE CONTEXT
4 OTHERWISE REQUIRES:

5 (a) "AMMUNITION" MEANS A CARTRIDGE, SHELL, OR OTHER DEVICE
6 CONTAINING EXPLOSIVE OR INCENDIARY MATERIAL DESIGNED AND
7 INTENDED FOR USE IN A FIREARM.

8 (b) "MINOR" MEANS AN INDIVIDUAL WHO IS SIXTEEN OR
9 SEVENTEEN YEARS OF AGE.

10 (c) "FIREARM" SHALL HAVE THE SAME MEANING AS SET FORTH IN
11 SECTION 18-9-120(1)(c).

12 (6) (a) THE DIRECTOR OF THE OFFICE OF SUICIDE PREVENTION IN
13 THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT SHALL CONVENE
14 A WORKGROUP BY OCTOBER 1, 2008, TO MAKE RECOMMENDATIONS TO
15 THE GENERAL ASSEMBLY REGARDING THE LANGUAGE OF THE WARNING IN
16 SUBSECTION (4) OF THIS SECTION AND TO ADDRESS ANY OTHER ISSUES
17 RELATED TO THE IMPLEMENTATION OF THIS SECTION.

18 (b) THE DIRECTOR OF THE OFFICE OF SUICIDE PREVENTION IN THE
19 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT SHALL INVITE
20 REPRESENTATIVES OF THE FOLLOWING INTERESTS TO PARTICIPATE IN THE
21 WORKGROUP:

- 22 (I) GUN SAFETY ADVOCATES;
- 23 (II) GUN DEALERS;
- 24 (III) GUN OWNERS;
- 25 (IV) SUICIDE PREVENTION ADVOCATES;
- 26 (V) ANTI-DOMESTIC VIOLENCE ADVOCATES;
- 27 (VI) LAW ENFORCEMENT AGENCIES;

1 (VII) DISTRICT ATTORNEYS; AND

2 (VIII) CHILD DEVELOPMENT ADVOCATES.

3 (c) BY JANUARY 1, 2009, THE DIRECTOR OF THE OFFICE OF SUICIDE
4 PREVENTION IN THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
5 SHALL SUBMIT ANY RECOMMENDATIONS THAT THE WORKGROUP HAS
6 DEVELOPED TO THE MEMBERS OF JUDICIARY COMMITTEES OF THE HOUSE
7 OF REPRESENTATIVES AND THE SENATE, OR ANY SUCCESSOR COMMITTEES.

8 (d) THIS SUBSECTION (6) IS REPEALED, EFFECTIVE JULY 1, 2009.

9 **SECTION 3. Effective date - applicability.** This act shall take
10 effect July 1, 2008, and shall apply to offenses committed on or after said
11 date.

12 **SECTION 4. Safety clause.** The general assembly hereby finds,
13 determines, and declares that this act is necessary for the immediate
14 preservation of the public peace, health, and safety.