

112-18

OFFICE OF THE
DEMOCRATIC MINORITY



PETER J. CLINES, ESQ.
MINORITY COUNSEL

NASSAU COUNTY LEGISLATURE
THEODORE ROOSEVELT EXECUTIVE & LEGISLATIVE BUILDING
1550 FRANKLIN AVENUE - ROOM 131
MINEOLA, NEW YORK 11501
TELEPHONE: (516) 571-6232 - FAX: (516) 571-6125
email: PCLINES@NASSAUCOUNTYNY.GOV

Inter-Departmental Memo

To: Michael C Pulitzer, Clerk of the Legislature

From: Peter J. Clines, Esq., Minority Counsel *PJC*

CC: Hon. Richard Nicoletto, Presiding Officer

Hon. Kevan Abrahams, Minority Leader

Date: March 26, 2018

Re: LOCAL LAW TO PROTECT CHILD SAFETY BY REQUIRING SAFE STORAGE OF FIREARMS

Attached please find the above referenced proposed resolution which has been approved as to form per the Rules of the Legislature. Kindly distribute a copy to Presiding Officer Richard Nicoletto along with our request that this item be placed on the next available legislative agenda.

Kindly provide a time stamped hard copy acknowledgement of your receipt.

Thank you.


RECEIVED
NASSAU COUNTY LEGISLATURE
MAR 26 4 09 31 PM '18

Introduced by: Legislator Ellen Birnbaum

Co-sponsored by: Minority Leader Kevan Abrahams and Legislators Delia DeRiggi-Whitton, Siela Bynoe, Arnold Drucker, Joshua Lafazan, and Debra Mule

PROPOSED LOCAL LAW -2018

LOCAL LAW TO PROTECT CHILD SAFETY BY REQUIRING SAFE STORAGE OF FIREARMS

PETER J. CLINES MINORITY COUNSEL

APPROVED AS TO FORM

2018 JUN 27 4 03 17
CLERK OF COUNTY

BE IT ENACTED by the Legislature of the County of Nassau as follows:

Section 1. Chapter VIII of chapter 272 of the Laws of 1939 constituting the Nassau County Administrative Code, is hereby amended to add a new Title O, as follows:

TITLE O

SECURE STORAGE OF FIREARMS AND AMMUNITION

§ 8-134.1 Legislative Intent.

This local law shall be known as the “Nassau County Gun Storage Safety Law.” The Legislature hereby finds that injuries and fatalities attributable to unsecured or improperly stored firearms and inadequate controls on the storage and sale of ammunition are a serious threat to public health. The Legislature further finds and determines that reasonable regulation of the storage of firearms and the sale and storage of ammunition is necessary and proper to enhance safety in the home and reduce the incidence of violent crime while respecting the rights of gun owners.

In particular, the Legislature recognizes that the likelihood of death or injury from unintentional shootings or impulsive acts of domestic violence and self-inflicted harm are significantly increased in households where firearms are unsecured, unlocked and easily accessible to children.

Statistics show that firearms are frequently present in households with children and that the firearms in such homes are often stored in an unsafe, unsecure fashion. According to one estimate, thirty-five percent of U.S. households with children were reported to have at least one firearm in the home and of the homes with both children and firearms, fifty five percent were reported to have one or more unsecured firearms (i.e., firearms stored in an unlocked location), and forty three percent contained firearms without a trigger locking mechanism to prevent the weapon from being accidentally discharged.

Another study determined that based on child shooting deaths in which there was sufficient information available to make a determination, seventy percent could have been prevented if the firearm had been properly secured. The Legislature views such preventable childhood deaths as not merely tragic, but as a pediatric health crisis which our society must take action to address.

The Legislature also recognizes that some of the most horrific acts of violence in this country's recent history have involved the use of firearms in a school setting. Secure storage of firearms can also help avert tragedy by preventing children from accessing their parents' unsecured firearms and bringing them to school. In addition, proper firearm storage can also deter the theft of guns for use in crimes such as armed robbery or gang violence. In view of the foregoing, the Legislature finds that special vigilance over firearm security is necessary where children are present.

In view of the foregoing, it is the judgment of this Legislature that the most effective means of improving firearm storage practices is to place the responsibility for safe storage on gun owners themselves. Taking the steps reasonably necessary to keep firearms out of the hands of children and other unauthorized users must be considered an essential part of responsible gun ownership. Owners of firearms should be required to keep their guns locked or securely stored to prevent access by children.

In addition, this Legislature recognizes that it is ammunition that causes a firearm to become a lethal weapon and that loaded firearms present a threat to life and health when in the hands of children. Proper regulation of the sale of ammunition is therefore a key component of firearm safety.

Accordingly, this Legislature determines that appropriate regulation of the storage and possession of firearms and the storage, possession, and sale of ammunition is essential to safeguard the health and safety of the citizens of the County and that secure gun storage requirements must be imposed in locations where minor children reside or are frequently. Such regulation will promote the public interest by assisting in reducing serious injuries and fatalities caused by the accidental discharge of firearms and by impeding the use of stolen firearms in the commission of violent crimes.

§ 8-134.2. Definitions.

Whenever used in this Title, the following words shall have the meanings given to them by this section:

- A. "Ammunition" shall mean any projectile commonly known as a bullet or shell.**
- B. "Firearm" shall mean any weapon from which a shot is discharged by force of an explosive, or a weapon which acts by force of gunpowder, and shall include any weapon capable of being loaded with powder, ball or ammunition, including but not limited to handguns, pistols, rifles, shotguns, and machine guns, whether completed, assembled or from which any part or piece has been removed therefrom.**
- C. "Person" shall mean any natural person, firm, partnership, association, corporation, company or organization of any kind.**
- D. "Physical injury" means impairment of physical condition or substantial pain.**
- E. "Safety locking device" shall mean a design adaptation or attachable accessory that will prevent the use of the firearm by an unauthorized user, and includes, but is not limited to, a trigger lock, which prevents the pulling of the trigger without the use of a key, or a combination handle, which prevents the use of the weapon without the alignment of the combination tumblers.**
- F. "Safe storage depository" shall mean a safe or other secure container which, when locked, is incapable of being opened without the key, combination or other unlocking mechanism and is capable of preventing an unauthorized person from obtaining access to and possession of the firearm contained therein.**
- G. "Serious physical injury" means physical injury which creates a substantial risk of death, or which causes death or serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ.**

§ 8-134.3. Safe Storage of Firearms and Ammunition.

- A. Storage of Firearms and Ammunition for Sale. Firearms and ammunition for retail sale shall be kept secured at all times when the location in which they are held for sale is not open for business. The manner in which the firearms and ammunition for retail sale are to be secured must be approved by the Nassau County Police Department upon receipt of appropriate application for such approval. Such approval shall in no case be unreasonably withheld.**

B. Safe Storage Depositories or Safety Locking Devices Required.

- 1. No person who owns, controls or is custodian of a firearm shall store or otherwise leave such firearm out of his or her immediate possession or control without having first either:**
 - a. securely locked such firearm in an appropriate safe storage depository; or**
 - b. rendered such firearm incapable of being fired by use of a safety locking device appropriate to that firearm.**
- 2. This subsection (B) shall not apply to firearms for retail sale which are subject to the storage requirements of subsection A of this section.**
- 3. This subsection (B) shall apply to firearms which are stored in locations where minors reside or are regularly present.**

§ 8-134.4. Sale of Ammunition and Firearms.

A. Ammunition Purchases.

When a license is required for the type of firearm for which the ammunition is used, such ammunition shall only be sold to persons possessing such a valid firearms license. When purchasing any other type of ammunition, where a firearms license would not be required for the type of ammunition being purchased, a driver's license shall be required. A record shall be kept by the dealer of each sale of ammunition which shall show the type, caliber and quantity of ammunition sold, the name and address of the person receiving the same, the caliber, make, model, manufacturer's name and serial number of the firearm for which the purchaser is purchasing ammunition, the date and time of the transaction, and the identifying number of each firearm or driver's license. Such record shall be maintained for 10 years and shall be made available to state and local enforcement agencies upon request.

B. Display of Notice.

Every person engaged in the retail business of selling firearms shall:

- 1. distribute a copy of this local law to all purchasers of firearms or ammunition; and**
- 2. post a notice in a conspicuous place where such firearms are displayed or delivered to the purchaser stating, in no smaller than 24-point type and on no smaller than 8.5 x 11 paper stating in bold print the following warning:**

WARNING: PROTECTING CHILDREN THROUGH RESPONSIBLE FIREARM STORAGE IS THE LAW IN NASSAU COUNTY. WHEN NOT IN USE, FIREARMS MUST BE STORED IN A SECURE CONTAINER SUCH AS A SAFE OR BE RENDERED INCAPABLE OF BEING FIRED BY USE OF A GUN LOCKING DEVICE. THIS REQUIREMENT APPLIES WHEN SUCH GUNS ARE STORED IN LOCATIONS WHERE MINORS RESIDE OR ARE REGULARLY PRESENT. LEAVING FIREARMS ACCESSIBLE TO CHILDREN OR UNAUTHORIZED PERSONS MAY SUBJECT YOU TO IMPRISONMENT, FINE, OR BOTH. YOU MAY ALSO FACE ADDITIONAL CRIMINAL PENALTIES AND CIVIL LIABILITY IF THE FIREARM IS USED NEGLIGENTLY BY ANOTHER PERSON. THIS SECURE STORAGE REQUIREMENT SHALL APPLY WHEN FIREARMS ARE STORED IN LOCATIONS WHERE MINORS RESIDE OR ARE REGULARLY PRESENT.

OWNERS OF FIREARMS SHOULD FAMILIRIZE THEMSELVES WITH THE NASSAU COUNTY GUN STORAGE SAFETY LAW.

C. Local Law to be Distributed to Pistol License Applicants.

The Nassau County Police Department shall distribute a copy of this local law to every applicant for a pistol license.

§ 8-134.5. Report of Theft or Loss to Police Department.

Any theft or loss of ammunition or firearms, whether from a storage vault, safe storage depository or other location, shall be reported immediately upon discovery to the Nassau County Police Department. The Nassau County Police Department shall maintain a record of all such reported thefts, including the identity of the owner of the firearm or ammunition, the caliber, make, model, manufacturer's name and serial number of the firearm, the type of ammunition, the place where the theft or loss occurred, the manner in which such firearm or ammunition had been stored, and the time and date when the loss or theft was discovered.

§ 8-134.6. Penalties for Offenses.

A. Violations of Section 8-134.3.

Any person who shall violate or shall neglect or refuse to comply with Section 8-134.3 this title:

- 1. upon conviction of a first offense which does not result in physical injury, serious physical injury or death, shall be guilty of a violation punishable by a fine not exceeding \$250 or by imprisonment not exceeding 15 days;**
- 2. upon conviction of a second offense or of a first offense which results in**

physical injury, serious physical injury or death, shall be guilty of a misdemeanor punishable by a fine not exceeding \$1,000 or by imprisonment not exceeding one year, or by both such fine and imprisonment.

B. Violations of Section 8-134.4 or Section 8-134.5.

Any person who shall violate or shall neglect or refuse to comply with Section 8-134.4 or Section 8-134.5, upon conviction, shall be guilty of a violation punishable by a fine not exceeding \$250 or by imprisonment not exceeding 15 days.

§ 8-134.7. Severability. If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 2. SEQRA Determination.

It is hereby determined, pursuant to the provisions of the State Environmental Quality Review Act, 8 N.Y.E.C.L, section 0101 at seq. and its implementing regulations, Part 617 of 6 N.Y.C.R.R., and Section 1611 of the County Government Law of Nassau County, that the adoption of this local law is a "Type II" Action within the meaning of Section 617.5(c)(20) and (27) of 6 N.Y.C.R.R., and, accordingly, is of a class of actions which do not have a significant effect on the environment, and no further review is required.

Section 3. Effective Date.

This local law shall take effect sixty days after enactment and filing with the Secretary of State.

Introduced by: Legislator Ellen Birnbaum

Co-sponsored by: Minority Leader Kevan Abrahams and Legislators Delia DeRiggi-Whitton, Siela Bynoe, Arnold Drucker, Joshua Lafazan, and Debra Mule

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APPROVED AS TO FORM

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- B. **Safe Storage Depositories or Safety Locking Devices Required.**
 - 1. No person who owns, controls or is custodian of a firearm shall store or otherwise leave such firearm out of his or her immediate possession or control without having first either:

- a. securely locked such firearm in an appropriate safe storage depository; or
 - b. rendered such firearm incapable of being fired by use of a safety locking device appropriate to that firearm.
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A. Violations of Section 8-134.3.

Any person who shall violate or shall neglect or refuse to comply with Section 8-134.3 this title:

1. upon conviction of a first offense which does not result in physical injury, serious physical injury or death, shall be guilty of a violation punishable by a fine not exceeding \$250 or by imprisonment not exceeding 15 days;
2. upon conviction of a second offense or of a first offense which results in physical injury, serious physical injury or death, shall be guilty of a misdemeanor punishable by a fine not exceeding \$1,000 or by imprisonment not exceeding one year, or by both such fine and imprisonment.

B. Violations of Section 8-134.4 or Section 8-134.5.

Any person who shall violate or shall neglect or refuse to comply with Section 8-134.4 or Section 8-134.5, upon conviction, shall be guilty of a violation punishable by a fine not exceeding \$250 or by imprisonment not exceeding 15 days.

§ 8-134.7. Severability. If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 2. SEQRA Determination.

It is hereby determined, pursuant to the provisions of the State Environmental Quality Review Act, 8 N.Y.E.C.L, section 0101 at seq. and its implementing regulations, Part 617 of 6 N.Y.C.R.R., and Section 1611 of the County Government Law of Nassau County, that the adoption of this local law is a "Type II" Action within the meaning of Section 617.5(c)(20) and (27) of 6 N.Y.C.R.R., and, accordingly, is of a class of actions which do not have a significant effect on the environment, and no further review is required.

Section 3. Effective Date.

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