

INSTITUTE FOR LEGISLATIVE ACTION

11250 WAPLES MILL ROAD

FAIRFAX, VIRGINIA 22030



NRA

February 25, 2021

Chairman Luke Clippinger
90 State Cir
Annapolis, Maryland, 21401

Dear Chairman Clippinger:

On behalf of our members in Maryland, I would like to communicate our opposition to House Bill 200.

Increasing the age restriction

HB200 would change § 4-104 by substituting the term “minor” for “child” throughout the section. This has the effect of applying the firearm storage requirement to situations involving anyone under the age of 18.

Limits the exceptions to rifles and shotguns

At present, the exceptions under which a child is permitted to have access to a firearm pertains to all “firearms.” HB200 would alter § 4-104 to limit that to only a rifle or shotgun.

Alteration of the certificate exception

HB200 would change § 4-104 by removing the certificate of firearm and hunter safety exception to the application of the statute. Meaning that even a responsible minor who has acquired such a certificate could no longer have access to firearm without adult supervision.

The language of the new proposed § 4-104(b)(4) appears contradictory.

(4) FOR A RIFLE OR SHOTGUN:

(I) the [child] MINOR:

1. has a certificate of firearm and hunter safety issued under § 10–301.1 of the Natural Resources Article;
AND

2. HAS BEEN GIVEN EXPRESS PERMISSION BY THE MINOR’S PARENT OR GUARDIAN TO ACCESS THE RIFLE OR SHOTGUN FOR THE PURPOSE OF ENGAGING IN A LAWFUL ACTIVITY; AND

(II) THE PERSON WHO STORES OR LEAVES THE FIREARM STORES OR LEAVES:

1. THE FIREARM UNLOADED; AND

2. ANY AMMUNITION THAT THE PERSON OWNS OR CONTROLS THAT IS SUITABLE FOR USE IN THE FIREARM IN A SECURE LOCATION WHERE A MINOR COULD NOT REASONABLY GAIN ACCESS TO THE AMMUNITION; OR

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At present, the exemption in § 4-104(b)(4) creates a means by which a responsible child may have unsupervised access to a firearm. You might imagine a scenario where a 15-year-old get off from school at 2:30pm before his parents get home and would want to go hunting.

Part (I) would appear to be aimed at continuing such a practice if the minor has “express permission” from their parent or guardian. However, part (II) would require a parent or guardian to store the ammunition for the firearm in a manner inaccessible to the minor. This appears to defeat the purpose of the exemption entirely.

Further, HB200 further alters the § 4-104(b)(4) exemption to limit it to a minor’s access to rifles and shotguns, rather than all firearms. So, a .22lr pistol could not be stored in such a manner to permit a 17-year-old just home from school to access it in order to plink or go hunting by themselves.

Loaded versus unloaded

HB200 would change § 4-104 by extending the storage requirement from covering only loaded firearms to both loaded and unloaded firearms.

“Could” versus “would”

The legislation changes the following existing language,

A person may not store or leave a loaded firearm in a location where the person knew or should have known that an unsupervised child **would** gain access to the firearm.

To

A person may not store or leave a firearm in a location where the person knew or should have known that an unsupervised minor **could** gain access to the firearm.

“Could” is also used in two new similar subsections.

This lowers the threshold for culpability. “Would” connotes that the person knew or should have known that the child was going to gain access to the firearm. “Could” connotes that the person knew or should have known that the child may possibly gain access to the firearm.

The “could” language implicates a larger array of firearm storage arrangements, and is therefore, far worse.

Increased penalties

The penalty for a violation of the existing storage provision is increased from a misdemeanor with a fine of up to \$1,000 to imprisonment up to 90 days or a \$1,000 fine or both.

The legislation also creates new penalties based on the severity of the result of not properly storing the firearm.

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If an unsupervised minor in fact gains access to the firearm it is a misdemeanor punishable by up to 2 years imprisonment or a fine of up to \$2,500 or both.

If an unsupervised minor in fact gains access to the firearm and an injury results, it is a misdemeanor punishable by up to 5 years imprisonment or a \$5,000 fine or both.

Legislation is unnecessary

MD Code, Criminal Law, § 3-204 provides,

(a) A person may not recklessly:

(1) engage in conduct that creates a substantial risk of death or serious physical injury to another;

The penalty for such conduct is a misdemeanor that carries up to five years imprisonment, a fine of up to \$5,000, or both.

There is recent caselaw (*Tabassi v. Carrol County Department of Social Services* (2018)) suggesting that this statute has been used to prosecute those who have left children with access to firearms.

Firearm accidents

The rate of fatal accidents involving firearms has been at or near all-time lows for the last six years for which data is available (through 2019). In 2019, there were 458 total such accidents - down 2,714 from the record high set in 1903. The rate of such accidents has fallen 96% between 1904 and 2019. The all-time low for the number of accidents was set in 2018, and the rate matched the record low set in 2014.

The rate of fatal accidents involving firearms among children has fallen 91% from 1975 to 2019, with the number of such accidents decreasing from 495 to 51. The rate decreased from 0.91 per 100,000 in 1975 to 0.08 in 2019.

For the foregoing reasons NRA opposes HB 200 and encourages an unfavorable report.

Sincerely,

D.J. Spiker
Maryland State Director
NRA-ILA

CC: Delegate Vanessa E. Atterbeary

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