



HOUSE BILL No. 5747

May 4, 2000, Introduced by Reps. Koetje, Hart, Birkholz, Julian, Tabor, Mead, Kowall, Pumford, Gosselin, Howell, DeRossett, Caul, Richardville, Faunce, Ehardt, Pappageorge, DeWeese, Hager, Rocca and DeVuyst and referred to the Committee on Conservation and Outdoor Recreation.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
(MCL 600.101 to 600.9948) by adding section 2951a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 2951A. (1) THIS SECTION DOES NOT APPLY TO A PERSON IF
2 ANY OF THE FOLLOWING CIRCUMSTANCES EXIST:

3 (A) THE PERSON EQUIPS THE FIREARM WITH A TRIGGER LOCK OR
4 OTHER LOCKING OR SAFETY DEVICE OR MECHANISM, OTHER THAN THAT
5 FIREARM'S SAFETY, THAT IS DESIGNED TO RENDER A FIREARM TEMPORAR-
6 ILY INOPERABLE OR OTHERWISE INCAPABLE OF BEING DISCHARGED.

7 (B) THE PERSON PLACES THE FIREARM IN A CONTAINER, COMPART-
8 MENT, OR LOCATION THAT A REASONABLE PERSON WOULD BELIEVE IS
9 SECURE FROM ACCESS BY THAT JUVENILE.

10 (C) THE PERSON PLACES THE FIREARM IN A LOCKED STORAGE
11 CONTAINER, COMPARTMENT, OR CASE THAT IS OPERATED BY A KEY OR

1 COMBINATION OR IS EQUIPPED WITH A LOCKING DEVICE OR OTHER DEVICE
2 DESIGNED TO PREVENT UNAUTHORIZED ACCESS TO, OR OPERATION OF, THAT
3 FIREARM BY THAT JUVENILE.

4 (D) THE PERSON UNLOADS THE FIREARM IN CHAMBER AND MAGAZINE
5 AND STORES THE AMMUNITION FOR THAT FIREARM IN A LOCKED CONTAINER,
6 COMPARTMENT, OR CASE THAT IS OPERATED BY A KEY OR COMBINATION OR
7 IS EQUIPPED WITH A LOCKING DEVICE OR OTHER DEVICE DESIGNED TO
8 PREVENT UNAUTHORIZED ACCESS TO THAT AMMUNITION BY THAT JUVENILE.

9 (E) THE PERSON CARRIES THE FIREARM ON HIS OR HER PERSON, OR
10 KEEPS THE FIREARM WITHIN SUCH CLOSE PROXIMITY THAT THE FIREARM
11 CAN BE READILY RETRIEVED BY THE INDIVIDUAL AS IF IT WAS CARRIED
12 ON HIS OR HER PERSON.

13 (F) THE PERSON PERMITS OR ALLOWS ACCESS BY THAT JUVENILE TO
14 THE FIREARM TO LAWFULLY USE, POSSESS, OR TRANSPORT THE FIREARM ON
15 THE PERSON'S OWN PROPERTY OR AS OTHERWISE PROVIDED BY LAW INCLUD-
16 ING, BUT NOT LIMITED TO, ANY OF THE FOLLOWING:

17 (i) FOR LAWFUL HUNTING OR TARGET SHOOTING.

18 (ii) FOR LAWFUL SELF-DEFENSE OR THE LAWFUL DEFENSE OF
19 ANOTHER PERSON.

20 (G) ANOTHER INDIVIDUAL GAINED ACCESS TO THE FIREARM BY
21 UNLAWFUL MEANS.

22 (2) IT IS A REBUTTABLE PRESUMPTION THAT THE PERSON IS EXEMPT
23 UNDER SUBSECTION (1) IF THE PERSON PRESENTS A CERTIFICATE OF
24 INSPECTION ISSUED UNDER SECTION 9 OF 1927 PA 172, MCL 28.429, OR
25 PRESENTS PROOF OF PURCHASE OF A TRIGGER LOCK OR OTHER LOCKING OR
26 SAFETY DEVICE OR MECHANISM THAT MEETS THE REQUIREMENTS OF

1 SUBSECTION (1)(A), OR A CONTAINER, COMPARTMENT, OR CASE THAT
2 MEETS THE REQUIREMENTS OF SUBSECTION (1)(C).

3 (3) A PERSON WHO LEAVES A FIREARM UNATTENDED IN ANY PLACE IN
4 WHICH THE PERSON KNOWS OR RECKLESSLY DISREGARDS THAT A JUVENILE
5 MAY BE LAWFULLY PRESENT, NOT UNDER ADULT SUPERVISION, AND ABLE TO
6 GAIN ACCESS TO A FIREARM UNDER CIRCUMSTANCES THAT WOULD VIOLATE
7 SECTION 223A OF THE MICHIGAN PENAL CODE, 1931 PA 328,
8 MCL 750.223A, IS LIABLE FOR ANY DEATH, INJURY, OR DAMAGES CAUSED
9 BY THE DISCHARGE OF THAT FIREARM IF A JUVENILE GAINS ACCESS TO
10 AND POSSESSES THAT FIREARM AND THE ACCESS CREATES A SUBSTANTIAL
11 AND UNJUSTIFIABLE RISK THAT INJURY OR DEATH WOULD OCCUR.

12 (4) A PERSON WHO OBTAINS A FIREARM THAT IS LEFT UNATTENDED
13 IN VIOLATION OF THIS SECTION IS NOT ENTITLED TO RECOVER DAMAGES
14 UNDER THIS SECTION, AND THE PERSON'S ESTATE IS NOT ENTITLED TO
15 RECOVER DAMAGES UNDER THIS SECTION, IF THE PERSON COMMITTED OR
16 ATTEMPTED TO COMMIT A CRIME WHILE POSSESSING THE FIREARM.

17 (5) THIS SECTION APPLIES REGARDLESS OF WHETHER THE PERSON IS
18 CHARGED WITH OR CONVICTED OF THE VIOLATION OF SECTION 223A OF THE
19 MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.223A.

20 (6) AS USED IN THIS SECTION:

21 (A) "FIREARM" MEANS THAT TERM AS DEFINED IN SECTION 222 OF
22 THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.222.

23 (B) "JUVENILE" MEANS THAT TERM AS DEFINED IN SECTION 223A OF
24 THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.223A.

25 Enacting section 1. This amendatory act takes effect
26 September 1, 2000.

1 Enacting section 2. This amendatory act does not take
2 effect unless Senate Bill No. _____ or House Bill No. 5745
3 (request no. 03163'99 *****) of the 90th Legislature is enacted
4 into law.