



City of Albuquerque

Albuquerque Government
Center
One Civic Plaza
Albuquerque, NM 87102

Legislation Text

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CITY of ALBUQUERQUE

TWENTY THIRD COUNCIL

COUNCIL BILL NO. O-19-82 ENACTMENT NO. _____

SPONSORED BY: Patrick Davis

ORDINANCE

Adding A New Section To Chapter 12, Article 2 Of The Revised Ordinances Of Albuquerque Relating To Responsible Firearm Storage (Davis)

WHEREAS, the Albuquerque Police Department reports that 973 unattended and unsecured firearms were stolen from automobiles and residences in Albuquerque in just 11 months in 2017; and

WHEREAS, An analysis of more than 23,000 stolen firearms recovered by police between 2010 and 2016 found that the majority of these weapons were recovered in connection with crimes, including more than 1,500 violent acts such as murder, kidnapping, and armed robbery; and

WHEREAS, The practices of keeping firearms locked, unloaded, and storing ammunition in a locked location separate from firearms serve as protective measures that reduce youth suicide and unintentional injury in homes with children and teenagers where guns are stored; and

WHEREAS, In 12 states where child access prevention laws had been in effect for at least one year, unintentional firearm deaths fell by 23% among children under 15 years of age; and

WHEREAS, A study evaluating the association between youth-focused gun laws and suicides among youth found that child access prevention laws were associated with an 8.3% decrease in suicides among 14-17 year olds. Such laws reduced the risk of firearm suicide in this age group by 10.8%, and

WHEREAS, the National Rifle Association's "NRA Family" website includes numerous

recommendations for securing firearms from unauthorized access and theft and states, “no matter what your storage requirements or financial situation may be, there is a safe gun storage method to meet your needs”; and

WHEREAS, gun locks are available for free from the US Department of Justice’s Project ChildSafe, through numerous community organizations, and are available for purchase for in WalMart, firearms retailers and sporting goods stores across Albuquerque for as little as \$6.00; and

WHEREAS, the Albuquerque Police Department reports that 20% of non-fatal shootings in Albuquerque were the result of negligent use; and

WHEREAS, The Constitutions of the United States and the State of New Mexico recognize the right to bear arms, with reasonable restrictions; and

WHEREAS, persons in New Mexico who are not otherwise prohibited from possessing firearms are allowed to possess firearms in their homes and automobiles without permits or registration; and

WHEREAS, safe storage requirements do not unreasonably impact the right to bear or activities incident thereto.

BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF ALBUQUERQUE:

SECTION 1. A new Section “30” is added to Chapter 12, Article 2 ROA 1994, as follows:

“[§12-2-30. RESPONSIBLE FIREARMS STORAGE

(A) SHORT TITLE. This article may be cited as the “Responsible Firearms Storage Act”

(B) DEFINITIONS. As used in this article:

“FIREARM” any weapon that will or is designed to or may readily be converted to expel a projectile by the action of an explosion; the frame or receiver of any such weapon; or any firearm muffler or firearm silencer. “Firearm” includes any handgun, rifle or shotgun.

“IMMEDIATE POSSESSION OR CONTROL” For purposes of this article, a firearm is within immediate possession or control when it is:

a. On the person of its owner;

b. In a residence, hotel room or other similarly occupied space with its owner present in same; or

c. In a vehicle with its owner present in the same.

“OWNER” means the person who purchased the firearm, or the person whom the owner has

entrusted with the firearm's custody.

"UNATTENDED" means outside the immediate possession or control;

(C) REQUIREMENT TO SECURE UNATTENDED FIREARMS

(1) It is unlawful for any person to store or otherwise place or leave a firearm unattended without having rendered the firearm:

(a) Inoperable with a functioning, properly engaged, tamper-resistant mechanical lock or other equivalent safety device specifically designed for this purpose; or

(b) Securely stored by means of a locked safe, or similar secure and locked container or case with a functioning, tamper resistant locking mechanism.

(2) It is unlawful for any person to sell, gift, or otherwise exchange ownership of a firearm without an accompanying security device as described in subsection A(1), above.

(3) Nothing in this section shall be construed as affecting the lawful carrying or keeping of a firearm within the immediate possession and control of its owner.

(D) REQUIREMENT TO PREVENT ACCESS TO FIREARMS BY MINORS. It is unlawful for any person to leave any firearm unattended, unless the firearm is stored in compliance with subsection (C)(1) above, when the firearm could otherwise be accessible to: (1) a person under the age of 18 for rifles, shotguns and long guns; or (2) a person under the age of 21 for handguns.

(E) PENALTY; DEFENSES TO VIOLATION.

(A) Penalty. Any person convicted of a violation of this Section shall be subject to the penalty provisions set forth in § 1-1-99 of this Code of Ordinances, exclusively, and shall not be subject to any additional penalties prescribed under 12-1-99 of this Criminal Code.

(B) Prioritizing Compliance. The City may dismiss or decline to pursue its prosecution against any person charged with a violation of this Section upon such person's satisfactory demonstration of compliance.

(C) Affirmative Defense. Facts demonstrating that a lawfully possessed firearm was misappropriated by an unauthorized person having defeated the security measures required by subsection 12-6-3(A), above, constitutes an affirmative defense to penalties of this ordinance.

(F) EXCEPTIONS FOR SHOOTING SPORTS EVENTS, LICENSED RETAILERS AND LAW ENFORCEMENT. This ordinance shall not apply to premises being operated as a shooting sports event, or on the premises of otherwise licensed firearms retailers, shooting ranges, or law enforcement agencies, facilities, and vehicles.]”

SECTION 2. SEVERABILITY CLAUSE. If any section, paragraph, sentence, clause, word or

phrase of this Ordinance is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Ordinance. The Council hereby declares that it would have passed this Ordinance and each section, paragraph, sentence, clause, word or phrase thereof irrespective of any provision being declared unconstitutional or otherwise invalid.

SECTION 3. COMPILATION. SECTION 1 of this Ordinance shall amend, be incorporated in and made part of the Revised Ordinances of Albuquerque, New Mexico, 1994.

SECTION 4. EFFECTIVE DATE. This Ordinance shall take effect five days after publication by title and general summary.