**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT “THE KINGSTON ACT” BY ADDING ARTICLE 6 TO CHAPTER 23, TITLE 16 SO AS TO TITLE THE ARTICLE “ACCESS TO FIREARMS BY CHILDREN”, DEFINE NECESSARY TERMS, AND TO CREATE THE OFFENSES OF UNSECURED FIREARM AND UNSUPERVISED CHILD FIREARM USE AND PROVIDE GRADUATED PENALTIES FOR VIOLATIONS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act may be cited as the “The Kingston Act”.

SECTION 2. Chapter 23, Title 16 of the 1976 Code is amended by adding:

“Article 6

Access to Firearms by Children

Section 16‑23‑610. (A) It is the intent of the General Assembly to recognize that historically parents and guardians of children in this State have supervised and trained children in the safe use of firearms for hunting, shooting sports, and self defense.

(B) The General Assembly finds that:

(1) Section 20, Article I of the South Carolina Constitution, 1895, guarantees the right of the people to bear arms, and this right shall not be infringed;

(2) firearm deaths and injuries involving minors are frequently caused by a lack of responsible adult supervision;

(3) children should be allowed to access firearms while under the direct supervision of a responsible adult; and

(4) adults who fail to supervise children who have access to firearms should be held accountable for this failure.

Section 16‑23‑620. As used in this article the term:

(1) ‘Firearm’ means:

(a) any weapon, including a starter gun, which will, or is designed to or may readily be converted to, expel a projectile by the action of an explosive;

(b) the frame or receiver of any such weapon;

(c) any firearm muffler or firearm silencer; or

(d) any destructive device.

(2) ‘Destructive device’ means:

(a) any explosive, incendiary, or poison gas;

(b) any type of weapon by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one‑half inch in diameter; and

(c) any combination of parts either designed or intended for use in converting any device into any destructive device described in subitem (a) or (b) and from which a destructive device may be readily assembled.

(3) ‘Responsible adult’ means a person eighteen years of age or older who:

(a) is not under the influence of drugs, alcohol, or some combination of the two;

(b) is not impaired in the ability to adequately provide for his own care;

(c) is not a resident of a nursing care facility, community residential care facility, psychiatric hospital, or any residential program operated or contracted for operation by the Department of Mental Health or the Department of Disabilities and Special Needs;

(d) is not prohibited from possessing a firearm pursuant to the Gun Control Act of 1968;

(e) is not prohibited from possessing a firearm pursuant to South Carolina law;

(f) is not prohibited from possessing a firearm as a result of an order of protection, bond condition, sentencing order, or other court order;

(g) is not on state or federal probation or parole;

(h) is not on the National Sex Offender Registry;

(i) is not on the sex offender registry in this State or any other state; and

(j) is not on the Central Registry and Database of Child Abuse and Neglect.

(4) ‘Direct supervision’ means supervision provided by a responsible adult who is physically present with the child and who maintains continual and undistracted involvement with the child while the child is in possession of a firearm. However, if a child is fourteen years of age or older and is in possession of a rifle or shotgun while working in agriculture or forestry or during the course of a lawful hunt, then ‘direct supervision’ means supervision provided by a responsible adult who is available if and when needed even if not physically present.

(5) ‘Physically present’ means within ten yards of the child if outdoors and within arms reach of the child if indoors.

(6) ‘Unsecured firearm’ means a firearm that is not secured by a locked:

(a) device that, when installed on a firearm, is designed to prevent the firearm from being operated without first deactivating the device; or

(b) safe, gun safe, lock box, or other device that is designed to be or can be used to store a firearm and that is designed to be unlocked only be means of a key, a combination, or other similar means. Zip ties, rope, string, bands, cords, and wire do not meet this definition.

(7) ‘Locked’ or ‘lock’ means the utilization of a mechanism that ensures a firearm cannot be used or accessed without utilizing the appropriate key, combination, or other similar means.

(8) ‘Child’ means a person seventeen years of age or less.

Section 16‑23‑630. (A) It is unlawful for a person to leave an unsecured firearm in a place where a child could access the firearm. The fact that a child is able to access an unsecured firearm constitutes prima facie evidence that the unsecured firearm was left in a place where a child could access it.

(B)(1) A person commits the offense of unsecured firearm in the third degree if the person leaves an unsecured firearm in a place where a child could access the firearm, and a child displays or discharges the firearm placing the child or another in reasonable fear of bodily injury or death.

(2) A person who violates the provisions of this subsection is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than one year.

(C)(1) A person commits the offense of unsecured firearm in the second degree if the person leaves an unsecured firearm in a place where a child could access the firearm, and a child discharges the firearm causing bodily injury to the child or another person.

(2) A person who violates the provisions of this subsection is guilty of a felony and, upon conviction, must be imprisoned not more than twenty years.

(D)(1) A person commits the offense of unsecured firearm in the first degree if the person leaves an unsecured firearm in a place where a child could access the firearm, and a child discharges the firearm causing death to the child or another person.

(2) A person who violates the provisions of this subsection is guilty of a felony and, upon conviction, must be imprisoned not more than thirty years.

Section 16‑23‑640. (A) It is unlawful for a person to authorize a child to use a firearm except when the child is under the direct supervision of a responsible adult.

(B)(1) A person commits the offense of unsupervised child firearm use in the third degree if the person permits a child to use a firearm while failing to ensure that the child is under the direct supervision of a responsible adult, and a child displays or discharges the firearm placing the child or another in reasonable fear of harm.

(2) A person who violates the provisions of this subsection is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than one year.

(C)(1) A person commits the offense of unsupervised child firearm use in the second degree if the person permits a child to use a firearm while failing to ensure that the child is under the direct supervision of a responsible adult, and a child discharges the firearm causing bodily injury to the child or another person.

(2) A person who violates the provisions of this subsection is guilty of a felony and, upon conviction, must be imprisoned not more than twenty years.

(D)(1) A person commits the offense of unsupervised child firearm use in the first degree if the person permits a child to use a firearm while failing to ensure that the child is under the direct supervision of a responsible adult, and a child discharges the firearm causing death to the child or another person.

(2) A person who violates the provisions of this subsection is guilty of a felony and, upon conviction, must be imprisoned not more than thirty years.

Section 16‑23‑650. Nothing in this article may be construed to limit a responsible adult’s ability to gift a child a rifle or shotgun as long as the responsible adult ensures that the firearm is locked and is not unsecured and ensures that a child, including the child to whom the firearm was gifted, cannot access the firearm without the direct supervision of a responsible adult.”

SECTION 3. This act takes effect upon approval by the Governor.

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