

**SCOPE**  
Shooters Committee  
On  
Political Education

**POSITION STATEMENT**  
**A1094 & A5844A**  
**SAFE STORAGE OF FIREARMS**

**THE CONCEPT**

The theory behind these proposals is that by mandating a regimen of storage procedures for weapons, defined as rifles; shotguns; pistols; and revolvers, there will be a reduction in the firearms deaths and injuries in New York State, particularly those involving children. The specific objectives are the prevention of theft by individuals for use in other crimes, the deterring of spontaneous suicides, and a reduction in accidents. This is built on the premise that a significant number of weapons are currently stored in an unsecured manner and are, in fact, the source of weapons used criminally or negligently.

**POSITION**

We fully recognize the responsibility of firearms owners to store their firearms in a safe and secure manner. Individuals who behave in a reckless or negligent manner with respect to the handling or storage of firearms should be held accountable at law. This must, however, be dealt with in a manner that not only addresses the responsibilities but also recognizes the rights of firearms owners. These proposals take a sledgehammer approach when some fine-tuning would be more appropriate. We believe that this legislation must be amended to address these issues before it is acceptable.

**Nothing in the law can unreasonably impede the use of a firearm for self-defense.**

The United States Supreme Court in *District of Columbia v Heller*<sup>1</sup> held that a “prohibition against rendering any lawful firearm in the home inoperable for the purpose of immediate self-defense” violates the Second Amendment. No Constitutional right is unlimited and nothing in this decision should be construed to excuse reckless or negligent behavior but requirements for a “locked box” or “gun locking device” go way over this threshold and negate the right to immediate self-defense – and are thus unconstitutional.

**Accessibility of firearms in itself does not represent a threat to children.**

The sponsors put forth a series of statistics and an analysis arriving at the conclusion that 10% of today’s youth (exact age undefined) live in a home with a readily accessible weapon. By their definition, this represents 2.6 million children.<sup>2</sup> In 2006, firearms related accidental deaths to children 14 and under totaled 54 in the whole country. This includes all incidents regardless of the source of the firearm or the age of the shooter. Based on the proffered 22 million children living in a home where there is a firearm, this is a fatal incident rate of 0.0002%. This number has dropped more than 60% over the

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<sup>1</sup> 128 S. Ct. 2783 (2008)

<sup>2</sup> Shuster, M.A., Franke, T.M., Bastian, A.M., Sor, S., & Halton, N. *Firearms Storage Patterns in U.S. Homes with Children*, American Journal of Public Health 90.4 p 588-594 (2000)

past 10 years<sup>3</sup>. The primary reason has been education of both adults and children as to proper firearms handling and storage. New York has been particularly successful.<sup>4</sup>

**There is no correlation between access to firearms and suicide.**

The overall suicide rate is not related to the accessibility of firearms. Japan, with virtually a total prohibition on firearms ownership, has a suicide rate twice that of the United States. The same variation is true in Western Europe. France, Germany, Belgium, and Switzerland have higher suicide rates, despite a variety of firearms laws that vary from virtual prohibition to very liberal. The converse is also true; Italy, the United Kingdom, and the Netherlands all have lower rates while having a similar range of regulation.<sup>5</sup>

**Persons under eighteen years of age may legally possess rifles or shotguns.**

State law permits the possession of a rifle or a shotgun by a person sixteen years of age or older for any lawful purpose. This proposal would criminalize an otherwise lawful act. An individual sixteen or older can, in full compliance with the law, possess a rifle or shotgun and participate in such legal activities as firearms training, target shooting, or hunting. Under this proposal, a parent could be criminally charged for what is currently a completely legal activity.

**The storage standards must be related to the specified problem.**

The standard of safe storage for the purpose of keeping weapons out of the hands of children should not be the same as one designed to deter an adult burglar equipped with power tools. A simple locked closet or drawer should suffice. The concern here is that the wording of the proposal is such that every firearms owner could be required to purchase a safe or build a vault.

If standards are required, their development should be under the direction of an administrative agency such as the Division of Criminal Justice Services and include input from industry and the public. While law enforcement participation in the process is desirable, the State Police are a law enforcement agency and should not be in the business of writing the laws that they are going to enforce.

**RECOMMENDATION**

This is at best “feel good” legislation, trying to address a problem that doesn’t really exist. The death or injury of a child is indeed a tragic occurrence but the most frequent cause is not going to be addressed by this legislation. Individuals who put children at risk are not likely to be deterred by anything in the New York Penal Law.

Should the legislature wish to codify what is, in reality, personal responsibility and common sense, it should be done so in a manner that is consistent with the rights of firearms owners and specifies a level of security that is appropriate to the perceived risk.

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<sup>3</sup> National Center for Injury Prevention and Control, CDC Data, WISQARS Injury Mortality Reports, 1986-2006

<sup>4</sup> During 2006, there were 12 accidental firearm related fatalities in New York State, a rate of .06 per 100,000, among the lowest in the nation.

<sup>5</sup> World Health Organization. (2009) <http://www.who.int/>