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## GUNS; TRIGGER LOCKS, LAWSUITS

### House Bill 5781

Sponsor: Rep. Susan Tabor

### House Bill 5782

Sponsor: Rep. Larry DeVuyst

Committee: Conservation and Outdoor  
Recreation

Complete to 5-12-00

## A SUMMARY OF HOUSE BILLS 5781 AND 5782 AS INTRODUCED 5-11-00

The bills would prohibit the sale of firearms unless accompanied by trigger locks or locking containers, provide immunity from liability for firearms dealers if they comply with the requirements of the legislation, and generally prohibit local units of government from bringing a civil action against a manufacturer of firearms or ammunition. House Bill 5781 would amend Public Act 372 of 1972, which regulates the selling, purchasing, possessing, and carrying of certain firearms (MCL 28.435). House Bill 5782 would amend the Code of Criminal Procedure (MCL 777.11) to include violations in the statutory sentencing guidelines.

Trigger locks with sale of firearms. Under House Bill 5781, a federally licensed firearms dealer would be prohibited from selling a firearm in the state unless the sale included a commercially available trigger lock or other device designed to disable the firearm and prevent its discharge, or a commercially available gun case or storage container that can be secured to prevent unauthorized access to the firearm. In the alternative, a sale could be made if the purchaser presented to the dealer such a trigger lock or container and gave the dealer a copy of a purchase receipt for the item that the dealer could keep on file. In addition, a sale could not be made unless the dealer gave the purchaser, free of charge, a brochure or pamphlet that includes safety information on the use and storage of the firearm in a home environment. Both dealer and purchaser would have to sign a statement that the sale was in compliance with these requirements, and the dealer would have to keep the statement and the receipt given to him or her by the purchaser (if applicable) for at least six years.

The requirement to include a trigger lock or locking container would not apply to a sale of a firearm to a police officer or a police agency, nor would it apply to the sale of an antique firearm, as that term is defined in the Michigan Penal Code. Further, the requirement would not apply if the seller was not a federally licensed firearms dealer.

Notice to purchasers of liability. A federally licensed firearms dealer would be required to post in a conspicuous manner at the entrances, exits, and all points of sale a notice that said, "You may be criminally and civilly liable for any harm caused by a person less than 18 years of age who lawfully gains unsupervised access to your firearm if unlawfully stored."

House Bills 5781 and 5782 (5-12-00)

Immunity for dealers. A federally licensed firearms dealer would not be liable for damages arising from the use or misuse of a firearm if the sale of the firearm complied with the bill, any other applicable state law, and applicable federal law. The bill states that its provisions would not create a civil action or liability for damages arising from the use or misuse of a firearm or ammunition for a person, other than a federally licensed firearms dealer, who produces a firearm or ammunition.

Prohibition against lawsuits. The bill would prohibit a local unit of government from bringing a civil action against any person who produces a firearm or ammunition. The authority to bring a civil action under the bill would be reserved exclusively to the state and could be brought only by the attorney general. The court would be required to award costs and reasonable attorney fees to each defendant named in a civil action filed in violation of this provision.

The bill provides several exceptions to the prohibition against lawsuits, including:

- a breach of contract, other contract action, or an action based on a provision of the Uniform Commercial Code, in which the political subdivision was the purchaser and owner of the firearm or ammunition;
- expressed or implied warranties arising from the purchase of a firearm or ammunition by an employee or agent of the political subdivision; and
- a product liability, personal injury, or wrongful death action when an employee or agent or property of the political subdivision has been injured or damaged as a result of a defect in the design or manufacture of the firearm purchased and owned by the political subdivision.

However, the above exceptions would not allow an action based on any of the following:

- a firearm's or ammunition's inherent potential to cause injury, damage, or death;
- failure to warn the purchaser, transferee, or user of the firearm's or ammunition's inherent potential to cause injury, damage, or death;
- failure to sell with or incorporate into the product a device or mechanism to prevent a firearm or ammunition from being discharged by an unauthorized person, unless specifically provided for by contract.

Applicability of lawsuit provisions. The bill specifies that these provisions would not create a civil action. Further, it specifies that they are intended only to clarify the current status of the law in this state, and therefore would apply to a civil action pending on the date the bill took effect.

Penalties for violations. A person who violated the provisions of the bill would be guilty of a misdemeanor, punishable by up to 93 days imprisonment, a fine of up to \$500, or both. A second conviction would be a misdemeanor, punishable by imprisonment for up to one year, a fine of up to \$1,000, or both. A third or subsequent conviction would be a felony, punishable by up to two years imprisonment, a fine of up to \$5,000, or both.

Sentencing guidelines. House Bill 5782 would amend the Code of Criminal Procedure to place the crime of “firearms sale without trigger lock or other device or gun case or storage container” in the statutory sentencing guidelines. The crime would be a class F crime against public safety with a two year statutory maximum sentence.

Analyst: D. Martens

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.