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Summary: South Carolina Omnibus Firearm Safety Act of 2024

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

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**VERSIONS OF THIS BILL**

[11/30/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/848_20231130.docx)

A bill

TO AMEND the south carolina code of laws by enacting the “South Carolina Omnibus Firearm Safety act of 2024” by adding article 2 to CHAPTER 23, TITLE 16 so as TO REQUIRE THAT ANY FIREARM TRANSFER MUST BE PRECEDED BY A CRIMINAL BACKGROUND CHECK PERFORMED BY A LICENSED FIREARMS DEALER WITH THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM, AND TO PROVIDE FOR EXCEPTIONS, NOTICE, AND CRIMINAL PENALTIES FOR VIOLATIONS OF THIS PROVISION; BY ADDING ARTICLE 12 TO CHAPTER 31, TITLE 23 SO AS TO PROVIDE FOR THE AUTHORITY OF LAW ENFORCEMENT OFFICERS TO SEIZE A PERSON’S FIREARMS AND AMMUNITION IF THE PERSON POSES A RISK OF IMMINENT PERSONAL INJURY TO HIMSELF OR OTHER INDIVIDUALS, TO ESTABLISH CRITERIA ADDRESSING APPLICATION FOR AND ISSUANCE OF A WARRANT, TO REQUIRE THE PROBATE COURT TO HOLD A HEARING WITHIN SEVEN DAYS OF EXECUTION OF THE WARRANT TO DETERMINE WHETHER THE FIREARMS AND AMMUNITION MAY BE RETURNED TO THE PERSON, AND FOR OTHER PURPOSES; BY ADDING CHAPTER 24 TO TITLE 16 so as TO DEFINE NECESSARY TERMS, TO CREATE THE TIERED OFFENSES OF CRIMINAL STORAGE OF A FIREARM, TO PROVIDE EXCEPTIONS, TO MAKE CERTAIN PROVISIONS FOR WHEN AN INJURED CHILD IS RELATED TO THE PERSON WHO VIOLATES THE CHAPTER, AND TO REQUIRE UPON THE RETAIL SALE OR TRANSFER OF A FIREARM THAT THE SELLER GIVE NOTICE THAT IT IS UNLAWFUL FOR A PERSON TO STORE OR LEAVE A FIREARM WITHIN EASY REACH OF A CHILD; BY AMENDING SECTIONs 16-23-420 AND 16-23-430, RELATING TO POSSESSION OF A FIREARM ON SCHOOL PROPERTY AND CARRYING OF A WEAPON ON SCHOOL PROPERTY, RESPECTIVELY, BOTH SO AS TO INCREASE THE PENALTIES FOR the OFFENSEs; and BY ADDING article 9 to chapter 31, title 23 SO AS TO PROVIDE THAT RESIDENTS OF THIS STATE WHO OWN OR POSSESS FIREARMS SHALL OBTAIN AND CARRY LIABILITY INSURANCE THAT COVERS LOSSES OR DAMAGES RESULTING FROM ANY NEGLIGENT OR ACCIDENTAL USE OF THE FIREARM, TO PROVIDE THAT PROOF OF INSURANCE MUST BE DISPLAYED UPON DEMAND BY LAW ENFORCEMENT OFFICERS, AND TO PROVIDE PENALTIES FOR VIOLATIONS.

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

SECTION 1. This act may be known and cited as the “South Carolina Omnibus Firearm Safety Act of 2024”.

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

Article 2

Background Checks for Firearm Sales and Transfers

 Section 16‑23‑100. As used in this article:

 (1) “Firearm” means a weapon, including a starter gun, that will, is designed to, or may readily be converted to expel a projectile by the action of an explosive, the frame or receiver of such a weapon, a firearm muffler or firearm silencer, or a destructive device. The term does not include an antique firearm.

 (2) “Licensed dealer” means the holder of any federal firearms licensed under 18 U.S.C. Section 923(a).

 (3) “Transfer” means to sell, furnish, give, lend, deliver, or otherwise provide, with or without consideration.

 (4) “Transferee” means a person who receives or intends to receive a firearm in a sale or transfer.

 (5) “Transferor” means a person who is not a licensed dealer and who, pursuant to the provisions of this article, transfers or attempts to transfer a firearm to an unlicensed transferee.

 Section 16‑23‑110. (A)(1) It is unlawful for a transferor to transfer a firearm to an unlicensed transferee unless a licensed dealer has first taken possession of the firearm for the purpose of complying with Section 16‑23‑120.

 (2) Upon taking possession of a firearm from a transferor under subsection (A)(1), a licensed dealer shall comply with all requirements of this article and all applicable federal law as if the licensed dealer were transferring the firearm from the inventory of the licensed dealer to the unlicensed transferee.

 (3) If a transfer of a firearm pursuant to subsection (A) will not be completed for any reason after a licensed dealer takes possession of the firearm, including because the transfer of the firearm to, or receipt of the firearm by, the unlicensed transferee would violate this chapter, then the return of the firearm to the transferor by the licensed dealer shall not constitute the transfer of a firearm for the purposes of this article.

 (B) Subsection (A) shall not apply to:

 (1) a law enforcement agency or any law enforcement officer, armed private security professional, or member of the armed forces, to the extent the officer, professional, or member is acting within the course and scope of his employment and official duties;

 (2) a transfer that is a loan or bona fide gift between spouses, between domestic partners, between parents and their children, including stepparents and their stepchildren, between siblings, between aunts or uncles and their nieces or nephews, or between grandparents and their grandchildren, if the transferor has no reason to believe that the transferee will use or intends to use the firearm in a crime or is prohibited from possessing firearms under state or federal law;

 (3) a transfer to an executor, administrator, trustee, or personal representative of an estate or a trust that occurs by the operation of law upon the death of another person;

 (4) a temporary transfer that is necessary to prevent imminent death or great bodily harm, including harm to self, family, household members, or others, if the possession by the transferee lasts only as long as immediately necessary to prevent imminent death or great bodily harm, including the harm of domestic violence, dating partner violence, sexual assault, stalking, or domestic abuse; or

 (5) a temporary transfer if the transferor has no reason to believe that the transferee will use or intends to use the firearm in a crime or is prohibited from possessing firearms under state or federal law and if the transferee’s possession of the firearm is exclusively:

 (a) at a shooting range or in a shooting gallery or other area designated for the purpose of target shooting;

 (b) while reasonably necessary for the purposes of hunting, trapping, or fishing if the transferor:

 (i) has no reason to believe that the transferee intends to use the firearm in a place where it is illegal; and

 (ii) has reason to believe that the transferee will comply with all licensing and permit requirements for such hunting, trapping, or fishing; or

 (c) while in the presence of the transferor.

 Section 16‑23‑120. (A) For any sale or transfer of a firearm, it is unlawful for a licensed dealer to deliver a firearm to any transferee unless the licensed dealer contacts the National Instant Criminal Background Check System (NICS) to conduct a background check on the transferee and complies with all applicable provisions of 18 U.S.C. Section 922(t).

 (B) It is unlawful for a licensed dealer to transfer the possession of, or title to, a firearm to a transferee who is not so licensed unless the licensed dealer has provided the transferee with a notice of the prohibition under Section 16-23-110 and the transferee has certified that he has been provided with this notice on a form prescribed by the South Carolina Law Enforcement Division. The licensed dealer must retain a copy of the notice certified by the transferee for at least five years.

 Section 16‑23‑130. A person who violates the provisions of this article is guilty of a Class A misdemeanor and, upon conviction, must be imprisoned not more than three years, fined not more than two thousand dollars, or both.

SECTION 3. Chapter 31, Title 23 of the S.C. Code is amended by adding:

Article 12

Seizure of Firearms and Ammunition from a Person Posing

a Risk of Imminent Personal Injury to Self or Others

 Section 23‑31‑1210. A solicitor, assistant solicitor, or two law enforcement officers may file a verified complaint with any probate court, for issuance of a warrant to seize any firearms and ammunition of a person if the solicitor, assistant solicitor, or law enforcement officers have probable cause to believe that:

 (1) the person poses a risk of imminent personal injury to himself or to other individuals;

 (2) the person possesses one or more firearms; and

 (3) the firearms are within or upon any person or property.

Upon a receipt of an application that establishes the requisite grounds for the warrant as provided in Section 23‑31‑1220, a judge may issue a warrant commanding a proper law enforcement officer to enter into or upon such property, search the person and property, and take into the officer’s custody any and all firearms and ammunition. The solicitor, assistant solicitor, or law enforcement officers must not file a complaint before conducting an independent investigation and determining that probable cause exists and that there is no reasonable alternative available to prevent the person from causing imminent personal injury to himself or to others with the firearms.

 Section 23‑31‑1220. (A) A warrant may be issued on an affidavit sworn to by the complainant or complainants before the judge and establishing the grounds for issuing the warrant, and the affidavit must be made part of the seizure file. In determining whether grounds for the application exist or whether there is probable cause to believe the grounds exist, the judge shall consider:

 (1) recent threats or acts of violence by the person directed toward other persons;

 (2) recent threats or acts of violence by the person directed toward himself; and

 (3) recent acts of cruelty to animals by the person, including acts that violate Chapter 1, Title 47.

 (B) In evaluating whether any recent threats or acts of violence constitute probable cause to believe that the person poses a risk of imminent personal injury to himself or to others, the judge may consider other factors including, but not limited to:

 (1) the reckless use, display, or brandishing of a firearm by the person;

 (2) a history of the use, attempted use, or threatened use of physical force by the person against other persons;

 (3) prior involuntary confinement of the person in a hospital for persons with psychiatric disabilities; and

 (4) the illegal use of controlled substances or abuse of alcohol by the person.

 Section 23‑31‑1230. If the judge is satisfied that the grounds for the application exist or that there is probable cause to believe that they exist, the judge shall issue a warrant naming or describing the person or property to be searched. The warrant must be directed to a proper law enforcement officer, must state the grounds or probable cause for its issuance, and must command the law enforcement officer to search within a reasonable time the person or property named for any and all firearms and ammunition. A copy of the warrant must be given to the person named therein together with a notice informing the person that the person has the right to a hearing pursuant to this section and the right to be represented by counsel at the hearing.

 Section 23‑31‑1240. The applicant for the warrant shall file a copy of the application for the warrant and all affidavits upon which the warrant is based with the clerk of the probate court for the county in which the search will be conducted no later than the next business day following the execution of the warrant. Prior to the execution and return of the warrant, the clerk of the court may not disclose any information pertaining to the application for the warrant or any affidavits upon which the warrant is based. The warrant must be executed and returned with reasonable promptness consistent with due process of law and must be accompanied by a written inventory of all firearms and ammunition seized.

 Section 23‑31‑1250. (A) Not later than seven days after execution of the warrant pursuant to this article, the probate court for the county where the person named in the warrant resides shall hold a hearing to determine whether any seized firearms and ammunition should be returned to the person named in the warrant or should continue to be held by the State. At the hearing, the State has the burden of proving all material facts by clear and convincing evidence.

 (B) If, after the hearing, the court finds by clear and convincing evidence that the person poses a risk of imminent personal injury to himself or to other individuals, the court may order that the firearms and ammunition seized pursuant to the warrant to continue to be held by the State for a period not to exceed one year.

 (C) If the court does not find clear and convincing evidence that the person poses a risk of imminent injury to himself or other individuals, the court shall order the seized firearms and ammunition to be returned to the person named in the warrant.

 (D) If the court finds that the person poses a risk of imminent personal injury to himself or to other individuals, the court shall give notice to the Department of Mental Health, which may take such action pursuant to Chapters 22, 23, and 24 of Title 44, as it deems appropriate.

 Section 23‑31‑1260. Any person whose firearms and ammunition have been ordered seized pursuant to this article, or the person’s legal representative, may transfer any seized firearms and ammunition in accordance with applicable state or federal law, to any person eligible to possess the seized firearms and ammunition. The person, or the person’s legal representative, may not request transfer until the court enters an order to continue to hold the seized firearms and ammunition pursuant to Section 23‑31‑1250(B). Upon notification in writing by the person, or the person’s legal representative, and the transferee, the law enforcement agency holding the seized firearms and ammunition shall deliver the seized firearms and ammunition to the transferee within ten days of receiving written notification from the person, or the person’s legal representative, and the transferee of the transfer request.

SECTION 4. Title 16 of the S.C. Code is amended by adding:

 CHAPTER 24

 Child Firearm Accident Prevention

 Section 16-24-10. As used in this chapter:

 (1) “Trigger‑locking device” means a device which prevents a firearm from functioning and which, when applied to the weapon, renders the weapon inoperable.

 (2) “Loaded firearm” means a firearm which has an unexpended cartridge or shell, consisting of a case which holds a charge of powder and a bullet or shot, in, or attached in any manner to, the firearm, including, but not limited to, in the firing chamber, magazine, or clip. A muzzleloader firearm is considered to be loaded when it is capped or primed and has a powder charge and ball or shot in the barrel or cylinder.

 (3) “Child” means a person under eighteen years of age.

 Section 16-24-20. (A) Except as provided in Section 16‑24‑40, a person who keeps a loaded firearm on premises which are under his custody or control where he knows or reasonably should know that a child is likely to gain access to the firearm without the supervision of the person who has custody or control of the premises must store the loaded firearm in a secure location.

 (1) If the firearm is not stored in a secure location and the child obtains access to the firearm and causes death to himself, herself, or any other person, the person is guilty of criminal storage of a firearm in the first degree.

 (2) If the firearm is not stored in a secure location and the child obtains access to the firearm and causes injury to himself, herself, or any other person or causes the firearm to discharge, but death does not occur, he is guilty of criminal storage of a firearm in the second degree.

 (B)(1) A person who violates subsection (A)(1) is guilty of the misdemeanor of criminal storage of a firearm in the first degree and, upon conviction, must be imprisoned for not more than three years or fined not more than two thousand dollars, or both.

 (2) A person who violates subsection (A)(2) is guilty of the misdemeanor of criminal storage of a firearm in the second degree and, upon conviction, must be imprisoned for not more than one year or fined not more than one thousand dollars, or both.

 Section 16-24-30. This chapter does not apply when:

 (1) the child obtains the firearm as a result of an illegal entry to any premises of any person;

 (2) the firearm is kept in a location which a reasonable person would believe to be secure;

 (3) the firearm is carried on the person so that it can be readily retrieved;

 (4) the firearm is equipped with a trigger‑locking device and the device is on;

 (5) the person is a law enforcement officer or a member of the armed forces or national guard and the child obtains the firearm during, or incidental to, the performance of the person’s duties;

 (6) the child obtains, or obtains and discharges, the firearm in a lawful act of self‑defense or defense of another person or persons; or

 (7) a loaded firearm is kept on any premises which are under the custody or control of a person who has no reasonable expectation, based on objective facts and circumstances, that a child is likely to be present on the premises.

 Section 16-24-40. (A) If a person who violates this chapter is related within the third degree of consanguinity to a child who is injured or who dies as the result of an accidental shooting, the solicitor prosecuting the violation shall consider the impact of the injury or death on that person when deciding whether to prosecute the person for the violation.

 (B) The provisions of this chapter do not otherwise restrict, in any manner, the factors that a solicitor may consider when deciding whether to prosecute a person who violates this chapter.

 Section 16-24-50. (A) If a person who violates this chapter is related within the third degree of consanguinity to a child who is injured or who dies as the result of an accidental shooting, the arrest of the person for the violation of this chapter shall not occur until at least seven days after the date upon which the accidental shooting occurred.

 (B) In addition to the limitation contained in subsection (A), if the person to be arrested for violating this chapter is related within the third degree of consanguinity to a child who suffers serious bodily injury as a result of an accidental shooting, a law enforcement officer shall consider the health status of the injured child before arresting the person for violating this chapter.

 Section 16-24-60. (A) Upon the retail sale or transfer of a firearm, the seller shall deliver a written warning to the purchaser that states, in block letters not less than one‑fourth inch in height:

“IT IS UNLAWFUL, AND PUNISHABLE BY IMPRISONMENT AND FINE, FOR ANY PERSON TO STORE OR LEAVE A FIREARM IN ANY PLACE WITHIN THE REACH OR EASY ACCESS OF A CHILD UNDER THE AGE OF EIGHTEEN”.

 (B) A retail dealer who sells firearms shall conspicuously post at each purchase counter the following warning in block letters not less than one inch in height:

“IT IS UNLAWFUL TO STORE OR LEAVE A FIREARM IN ANY PLACE WITHIN THE REACH OR EASY ACCESS OF A CHILD UNDER THE AGE OF EIGHTEEN”.

 (C) A person who knowingly violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than one thousand dollars nor more than five thousand dollars.

SECTION 5. Sections 16‑23‑420 and 16‑23‑430 of the S.C. Code are amended to read:

 Section 16-23-420. (A) It is unlawful for a person to possess a firearm of any kind on any premises or property owned, operated, or controlled by a private or public school, college, university, technical college, other post‑secondary institution, or in any publicly owned building, without the express permission of the authorities in charge of the premises or property. The provisions of this subsection related to any premises or property owned, operated, or controlled by a private or public school, college, university, technical college, or other post‑secondary institution, do not apply to a person who is authorized to carry a concealed weapon pursuant to Article 4, Chapter 31, Title 23 when the weapon remains inside an attended or locked motor vehicle and is secured in a closed glove compartment, closed console, closed trunk, or in a closed container secured by an integral fastener and transported in the luggage compartment of the vehicle.

 (B) It is unlawful for a person to enter the premises or property described in subsection (A) and to display, brandish, or threaten others with a firearm.

 (C) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined not more than five ten thousand dollars or imprisoned not more than five ten years, or both.

 (D) This section does not apply to a guard, law enforcement officer, or member of the armed forces, or student of military science. A married student residing in an apartment provided by the private or public school whose presence with a weapon in or around a particular building is authorized by persons legally responsible for the security of the buildings is also exempted from the provisions of this section.

 (E) For purposes of this section, the terms “premises” and “property” do not include state or locally owned or maintained roads, streets, or rights-of-way of them, running through or adjacent to premises or property owned, operated, or controlled by a private or public school, college, university, technical college, or other post-secondary institution, which are open full time to public vehicular traffic.

 (F) This section does not apply to a person who is authorized to carry concealed weapons pursuant to Article 4, Chapter 31 of , Title 23 when upon any premises, property, or building that is part of an interstate highway rest area facility.

 Section 16-23-430. (A) It shall beis unlawful for any person, except state, county, or municipal law enforcement officers or personnel authorized by school officials, to carry on his person, while on any elementary or secondary school property, a knife, with a blade over two inches long, a blackjack, a metal pipe or pole, firearms, or any other type of weapon, device, or object which may be used to inflict bodily injury or death.

 (B) This section does not apply to a person who is authorized to carry a concealed weapon pursuant to Article 4, Chapter 31, Title 23 when the weapon remains inside an attended or locked motor vehicle and is secured in a closed glove compartment, closed console, closed trunk, or in a closed container secured by an integral fastener and transported in the luggage compartment of the vehicle.

 (C) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined not more than one two thousand dollars or imprisoned not more than five ten years, or both. Any weapon or object used in violation of this section may be confiscated by the law enforcement division making the arrest.

SECTION 6. Chapter 31, Title 23 of the S.C. Code is amended by adding:

Article 9

Firearm Liability Insurance

 Section 23‑31‑9010. (A) A resident of this State who owns or possesses a firearm shall obtain and continuously maintain in full force and effect a homeowner’s, renter’s, or gun liability insurance policy that covers losses or damages resulting from any negligent or accidental use of the firearm including, but not limited to, death, injury, and property damage. Proof of insurance must be displayed upon demand by a law enforcement officer.

 (B) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be sentenced not more than thirty days, fined one thousand dollars, or both.

SECTION 7. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 8. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 9. This act takes effect upon approval by the Governor.

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