

Pennsylvania State Law
PA Stat. Ann. (Purdon)
Title 18. Crimes and Offenses

Chapter 61. Firearms and Other Dangerous Articles

6101. Short title or subchapter. This subchapter shall be known and may be cited as the "**Pennsylvania Uniform Firearms Act of 1995**".

6102. Definitions. Subject to additional definitions contained in subsequent provisions of this subchapter which are applicable to specific provisions of this subchapter, the following words and phrases, when used in this subchapter shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

"Commissioner". The Commissioner of the Pennsylvania State Police.

"Conviction". A conviction, a finding of guilty or the entering of a plea of guilty or nolo contendere, whether or not judgment of sentence has been imposed, as determined by the law of the jurisdiction in which the prosecution was held. The term does not include a conviction which has been expunged or overturned or for which an individual has been pardoned unless the pardon expressly provides that the individual may not possess or transport firearms.

"County treasurer". The county treasurer or, in home rule or optional plan counties, the person whose duties encompass those of a county treasurer.

"Crime punishable by imprisonment exceeding one year". Does not include any of the following:

(1) Federal or state offenses pertaining to antitrust, unfair trade practices, restraints of trade or regulation of business.

(2) State offenses classified as misdemeanors and punishable by a term of imprisonment not to exceed two years.

"Firearm". Any pistol or revolver with a barrel less than 15 inches, any shotgun with a barrel less than 18 inches, or any rifle with a barrel less than 16 inches, or any pistol, revolver, rifle or shotgun with an overall length of less than 26 inches. The barrel length of a firearm shall be determined by measuring from the muzzle of the barrel to the face of the closed action, bolt or cylinder, whichever is applicable.

"Fund". The Firearm Ownership Fund established in section 6111.3.

"Law enforcement officer". Any person employed by any police department or organization of the Commonwealth or political subdivision thereof who is empowered to effect an arrest with or without warrant and who is authorized to carry a firearm in the performance of that person's duties.

"Loaded". A firearm is loaded if the firing chamber, the nondetachable magazine or in the case of a revolver, any of the chambers of the cylinder contain ammunition capable of being fired. In the case of a firearm which utilizes a detachable magazine, the term shall mean a magazine suitable for use in said firearm which magazine contains such ammunition and has been inserted in the firearm or is in the same container or, where the container has multiple compartments, the same compartment thereof as the firearm.

"Sheriff". (1) Except as provided in paragraph (2), the sheriff of the county.

(2) In a city of the first class, the chief or head of the police department.

6103. Crimes committed with firearms. If any person commits or attempts to commit a crime enumerated in section 6105 when armed with a firearm contrary to the provisions of this subchapter, that person may, in addition to the punishment provided for the crime, also be punished as provided by this subchapter.

6104. Evidence of intent. In the trial of a person for committing or attempting to commit a crime enumerated in section 6106, the fact that the person was armed with a firearm, used or attempted to be used, and no license to carry the same, shall be evidence of that person's intention to commit the offense.

6105. Persons not to possess, use, manufacture, control, sell or transfer firearms.

(a) Offense defined.

(1) A person who has been convicted of an offense enumerated in subsection (b), within or without this Commonwealth, regardless of the length of sentence or whose conduct meets the criteria in subsection (c) shall not possess, use, control, sell, transfer or manufacture or obtain a license to possess, use, control, sell, transfer or manufacture a firearm in this Commonwealth.

(2) A person who is prohibited from possessing, using, controlling, selling, transferring or manufacturing a firearm under paragraph (1) or subsection (b) or (c) shall have a reasonable period of time, not to exceed 60 days from the date of the imposition of the disability under this subsection, in which to sell or transfer that person's firearms to another eligible person who is not a member of the prohibited person's household.

(b) Enumerated offenses. Contact the Pennsylvania Attorney General's Office for offenses that apply to subsection (a).

(c) Other persons. In addition to any person who has been convicted of any offense listed under subsection (b), the following person shall be subject to the prohibition of subsection (a).

(1) A person who is a fugitive from justice.

(2) A person who has been convicted of an offense under the act of April 14, 1972, known as the Controlled Substance, Drug, Device and Cosmetic Act that may be punishable by a term of imprisonment exceeding two years.

(3) A person who has been convicted of driving under the influence of alcohol or controlled substances as provided in 75 Pa.C.S. § 3731 (relating to driving under influence of alcohol, or controlled substance) on three or more separate occasions within a five year period. For the purposes of this paragraph only, the prohibition of subsection (a) shall only apply to transfers or purchases of firearms after the third conviction.

(4) A person who has been adjudicated as an incompetent or who has been involuntarily committed in a mental institution for inpatient care and treatment under section 302, 303, 304 of the provisions of the act of July 9, 1976 known as the Mental Health Procedures Act.

(5) A person who, being an alien, is illegally or unlawfully in the United States.

(6) A person who is the subject of an active protection from abuse order is-

sued pursuant to 23 Pa.C.S. §6108 (relating to relief), which order provided for the confiscation of firearms during the period of time the order is in effect. This prohibition shall terminate upon the expiration or vacation of an active protection from abuse order or portion thereof relating to the confiscation of firearms.

(7) A person who was adjudicated delinquent by a court pursuant to 42 Pa.C.S. § 6341 (relating to adjudication) or under any equivalent Federal statute or statute of any other state as a result of conduct which if committed by an adult would constitute an offense under section 2502, 2503, 2702, 2706, 2704, 2901, 3121, 3123, 3301, 3502, 3701 and 3923.

(8) A person who was adjudicated delinquent by a court pursuant to 42 Pa.C.S. § 6341 or under any equivalent Federal statute or statute of any other state as a result of conduct which if committed by an adult would constitute an offense enumerated in subsection (b) with the exception of those crimes set forth in paragraph (7). This prohibition shall terminate 15 years after the last applicable delinquent adjudication or upon the person reaching the age of 30, whichever is earlier.

(d) Exemption. A person who has been convicted of a crime specified in subsection (a) or (b) or a person whose conduct meets the criteria in subsection (c)(1), (2), (5), or (7) may make application to the court of common pleas of the county where the principal residence of the applicant is situated for relief from the disability imposed by this section upon the possession, transfer or control of a firearm. The court shall grant such relief if it determines that any of the following apply.

(1) The conviction has been vacated under circumstances where all appeals have been exhausted or where the right to appeal has expired.

(2) The conviction has been the subject of a full pardon by the Governor.

(3) Each of the following conditions is met:

(i) The Secretary of the Treasury of the United States has relieved the applicant of an applicable disability imposed by Federal law upon the possession, ownership or control of a firearm as a result of the applicant's prior conviction, except that the court may waive this condition if the court determines the Congress of the United States has not appropriated sufficient funds to enable the Secretary of the Treasury to grant relief to applicants eligible for the relief.

(ii) A period of ten years, not including any time spent in incarceration, has elapsed since the most recent conviction of the applicant of a crime enumerated in subsection (b) or a felony violation of The Controlled Substance, Drug, Device and Cosmetic Act.

(e) Proceedings.

(1) If a person convicted of an offense under subsection (a), (b), (c)(1), (2), (5) or (7) makes application to the court, a hearing shall be held in open court to determine whether the requirements of this section have been met. The commissioner and the district attorney of the county where the application is filed and any victim or survivor of a victim of the offense upon which the disability is based may be parties to the proceeding.

(2) Upon application to the court of common pleas pursuant to paragraph (1) by an applicant who is subject to the prohibition under subsection (c)(3), the court grant such relief of ten years, not including any time spent in incarceration has passed since the applicant's most recent conviction under subsection (c)(3).

(f) Other exemptions and proceedings.

(1) Upon application to the court of common pleas under this subsection by an applicant subject to the prohibitions under subsection (c)(4), the court may grant such relief as it deems appropriate if the court determines that the applicant may possess a firearm without risk to the applicant or any other person.

(2) If application is made under this subsection for relief from the disability imposed under subsection (c)(6), notice of such application shall be given to the person who had petitioned for the protection from abuse order or amendment to a court order restoring firearms possession or control shall be given to the person who had petitioned for the protection from abuse order.

(3) All hearings conducted under this subsection shall be closed.

(g) Other restrictions. Nothing in this section shall exempt a person from disability in relation to the possession or control of a firearm which is imposed as a condition of probation or parole or which is imposed pursuant to the provision of any law other than this section.

(h) License prohibition. Any person who is prohibited from possessing, using, controlling, selling, purchasing, transferring or manufacturing any firearm under this section shall not be eligible for or permitted to obtain a license to carry a firearm under section 6109 (relating to licenses).

(i) Firearm. As used in this section only, the term "firearm" shall include any weapons which are designed to or may readily be converted to expel any projectile by the action of an explosive or the frame or receiver of any such weapon.

6106. Firearms not to be carried without a license.

(a) Offense defined. Any person who carries a firearm in any vehicle or any person who carries a firearm concealed on or about his person, except in his place of abode or fixed place of business, without a valid and lawfully issued license under this chapter commits a felony of the third degree.

(b) Exceptions. The provisions of subsection (a) shall not apply to:

(1) Constables, sheriffs, prison or jail wardens, or their deputies, policeman of this Commonwealth or its political subdivisions, or other law enforcement officers.

(2) Members of the army, navy or marine corps of the United States or of the National Guard or organized reserves when on duty.

(3) The regularly enrolled members of any organization duly organized to purchase or receive such weapons from the United States or from this Commonwealth.

(4) Any persons engaged in target shooting with rifle, pistol, or revolver, if such persons are at or are going to or from their places of assembly or target practice and if, while going to or from their places of assemble or target practice, the cartridges or shells are carried in a separate container and the rifle, pistol or revolver is unloaded.

(5) Officers or employees of the United States duly authorized to carry a concealed firearm.

(6) Agents, messengers and other employees of common carriers, bands, or business firms, whose duties require them to protect moneys, valuables and other property in the discharge of such duties.

(7) Any person engaged in the business of manufacturing, repairing, or dealing in firearms, or the agent or representative of any such person, having in

his possession, using, or carrying a firearms in the usual or ordinary course of such business.

(8) Any person while carrying a firearm unloaded and in a secure wrapper from the place of purchase to his home or place of business, or to a place of repair or back to his home or place of business, or in moving from one place of abode or business to another or from his home to a vacation or recreational home or dwelling or back, or to recover stolen property under section 6111.1(b)(4) (relating to Pennsylvania State Police) or to a location to which the person has been directed to surrender firearms under 23 Pa.C.S. § 6108 (relating to relief) or back upon return of the surrendered firearm.

(9) Person licensed to hunt, take forbearers or fish in this Commonwealth, if such person are actually hunting, taking, forbearers or fishing or are going to the places where they desire to hunt, take forbearers or fish or returning for such places.

(10) Person training dogs, if such person are actually training dogs during the regular training session.

(11) Any person while carrying a firearm in any vehicle, which person possesses a valid and lawfully issued license for that firearm which has been under the laws of the United States or any other state.

(c) Sportsman's firearm permit.

(1) Before any exception shall be granted under paragraph (b)(9) or (10) of this section to any person 18 years of age or older licensed to hunt, trap, or fish or who has been issued a permit relating to hunting dogs, such person shall, at the time of securing his hunting, furtaking, or fishing license or any time after such license has been issued, secure a sportsman's firearm permit from the county treasurer. The sportsman's firearm permit shall be issued immediately and be valid throughout this Commonwealth for a period of five years from the date of issue for any legal firearm when carried in conjunction with a valid hunting, furtaking, or fishing license or permit relating to hunting dog's. The sportsman's firearm permit shall be in triplicate on a form to be published by the Pennsylvania State Police. * * *

(2) Any firearm who sells or attempts to sell a sportsman's firearm permit for a fee in excess of that amount fixed under this subsection commits a summary offense.

6109. Licenses.

(a) Purpose of license. A license to carry a firearm shall be for the purpose of carrying a firearm concealed on or about one's person or in a vehicle within this Commonwealth.

(b) Place of application. An individual who is 21 years of age or older may apply to a sheriff for a license to carry a firearm concealed on or about his person or in a vehicle within this Commonwealth. If the applicant is a resident of this Commonwealth, he shall make application with the sheriff of the county in which he resides or, if a resident of a city of the first class, with the chief of police of that city.

(c) Form of application and control. The application for a license to carry a firearm shall be uniform throughout this Commonwealth and shall be on a form proscribed by the Pennsylvania State Police. The form may contain provisions, to exceeding one pate, to assure compliance with this section. Issuing authorities shall use only the application form prescribed by the Pennsylvania State Police. One of the following reasons for obtaining a firearm

license shall be set forth in the application: self-defense, employment, hunting and fishing, target shooting, gun collecting or another reason. The application form shall be dated and signed by the applicant and shall contain the following statement:

I have never been convicted of a crime of violence in the Commonwealth of Pennsylvania or elsewhere. I am of sound mind and have never been committed to a mental institution. I hereby certify that the statements contained herein are true and correct to the best of my knowledge and belief. I understand that, if I knowingly make any false statements herein, I am subject to penalties prescribed by law. I authorize the sheriff, or his designee, or, in case of first class cities, the chief or head of the police department, or his designee, to inspect only those record or documents relevant to information required for this application.

(d) Sheriff to conduct investigation. The sheriff to whom the application is made shall investigate the applicant's record of criminal convictions, shall investigate whether or not the applicant is under indictment for or has ever been convicted of a crime punishable by imprisonment exceeding one year, shall investigate whether the applicant's character and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety and shall investigate whether the applicant would be precluded from receiving a license under subsection (c)(1) or section 6105(h)(relating to persons not to possess, use, manufacture, control, sell or transfer firearms) and shall conduct a criminal background, juvenile delinquency or mental health check following the procedures set forth in section 6111 (relating to firearm ownership).

(e) Issuance of license.

(1) A license to carry a firearm shall be for the purpose of carrying a firearm concealed on or about one's person or in a vehicle and shall be issued if, after an investigation not to exceed 45 days, it appears that the applicant is an individual concerning whom no good cause exists to deny the license. A license shall not be issued to any of the following:

(i) An individual whose character and reputation is such that the individual would be likely to act in a manner dangerous to public safety.

(ii) An individual who has been convicted of an offense under the act of April 14, 1972.

(iii) An individual convicted of a crime enumerated in section 6105.

(iv) An individual who, within the past ten years, has been adjudicated delinquent for a crime enumerated in section 6105 or for an offense under the Controlled Substance, Drug, Device and Cosmetic Act.

(v) An individual who is not of sound mind or who ever been committed to a mental institution.

(vi) An individual who is addicted to or is an unlawful user of marijuana or a stimulant, depressant or narcotic drug.

(vii) An individual who is a habitual drunkard.

(viii) An individual who is charged with or has been convicted of a crime punishable by imprisonment for a term exceeding one year except as provided for in section 6123.

(ix) A resident of another state who does not possess a current license or permit or similar document to carry a firearm issued by that state if a license is provided for by the laws of that state, as published annually in the Federal Register by the Bureau of Alcohol, Tobacco and Firearms of the De-

partment of the Treasury under 18 U.S.C. § 921(a)(19)

(x) An alien who is illegally in the United States.

(xi) An individual who has been discharged from the armed forces of the United States under dishonorable conditions.

(xii) An individual who is a fugitive of justice.

(xiii) An individual who is otherwise prohibited from possessing, using, manufacturing, controlling, purchasing, selling or transferring a firearm as provided by section 6105.

(3) The license shall bear the name, address, date of birth, race, sex, citizenship, Social Security number, height, weight, color of hair, color of eyes and signature of the licensee; the signature of the sheriff issuing the license; the reason for issuance; and the period of validation. The sheriff may also require a photograph of the licensee on the license. The original license shall be issued to the applicant. The first copy of the license shall be forwarded to the commissioner within seven days of the date of issue, and a second copy shall be retained by the issuing authority for a period of six years.

(f) Term of license.

(1) A license to carry a firearm issued under subsection (c) shall be valid throughout this Commonwealth for a period of five years unless sooner revoked.

(2) At least 60 days prior to the expiration date of each license, the issuing sheriff shall send to the licensee an application for the renewal of license. Failure to receive a renewal application shall not relieve a licensee from the responsibility to renew the license.

(g) Grant or denial of license. Upon the request of an application for a license to carry a firearm, the sheriff shall, within 45 days, issue or refuse to issue a license on the basis of the investigation under subsection (d) and the accuracy of the information contained in the application. If the sheriff refuses to issue a license, the sheriff shall notify the applicant in writing of the refusal and the specific reasons. The notice shall be sent by certified mail to the applicant at the address set forth in the application.

(h) Fee. The fee for a license to carry a firearm is \$19.00. * * * A person who sells or attempts to sell a license to carry a firearm for a fee in excess of the amounts fixed under this subsection commits a summary offense.

(i) Revocation. A notice to carry firearms may be revoked by the issuing authority for good cause. Notice of revocation shall be in writing and shall state the specific reasons for revocation. Notice shall be sent by certified mail, and, at that time, a copy shall be forwarded to the commissioner. An individual whose license is revoked shall surrender the license to the issuing authority within five days of receipt of the notice. An individual who violates this section commits a summary offense.

(j) Immunity. A sheriff who complies in good faith with this section shall be immune from liability resulting or arising from the action or misconduct with a firearm committed by an individual to whom a license to carry a firearm has been issued.

(k) Reciprocity. The Attorney General may enter into reciprocity agreements with other states providing for the mutual recognition of each state's license to carry a firearm.

6110.1. Possession of firearm by minor.

(a) Firearm. Except as provided in subsection (b), a person under 18 years of age shall not possess or transport a firearm anywhere in this Commonwealth.

(b) Exception. Subsection (a) shall not apply to a person under 18 years of age:

(1) Who is under the supervision of a parent, grandparent, legal guardian or an adult acting with the expressed consent of the minor's custodial parent or legal guardian and the minor is engaged in lawful activity, including safety training, lawful target shooting, engaging in organized competition involving the use of a firearm;

(2) Who is lawfully hunting or trapping in accordance with 34 Pa.C.S. (Relating to game).

(c) Responsibility of adult. Any person who knowingly and intentionally delivers or provides to the minor a firearm in violation of subsection (a) commits a felony of the third degree.

(d) Forfeiture. Any firearm in the possession of a person under 18 years of age in violation of this section shall be promptly seized by the arresting law enforcement officer and upon conviction or adjudication of delinquency shall be forfeited or, if stole, returned to the lawful owner.

6111. Sale of firearms.

(a) Time and manner of delivery.

(1) Except as provided in paragraph (2), no seller shall deliver a firearm to the purchaser or transferee thereof until 48 hours shall have elapsed from the time of the application for the purchase thereof, and when delivered, the firearm shall be securely wrapped and shall be unloaded.

(2) Thirty days after publication in the Pennsylvania Bulletin that the Instantaneous Criminal History Records Check System has been established in accordance with the Brady Handgun Violence Act, no seller shall deliver a firearm to the purchaser thereof until the provisions of this section have been satisfied, and, when delivered, the firearm shall be securely wrapped and shall be unloaded.

(b) Duty of seller. No licensed importer, licensed manufacturer or licensed dealer shall sell or deliver any firearm to another person, other than a licensed importer, licensed manufacturer, licensed dealer or licensed collector, until the conditions of subsection (a) have been satisfied and until he has:

(1) For purposes of a firearm as defined in section 6102, obtained a completed application/record of sale from the potential buyer or transferee to be filled out in triplicate, the original copy to be sent to the Pennsylvania State Police, postmarked via first class mail, within 14 days of the sale, one copy to be retained by the licensed importer, licensed manufacturer or licensed dealer and one copy to be retained by the purchaser or transferee. The form of this application/record of sale shall be not more than one page in length and shall be promulgated by the Pennsylvania State Police and provided by the licensed importer, licensed manufacturer or licensed dealer. The application/record of sale shall include the name, address, birthdate, gender, race, physical description and Social Security number of the purchaser or transferee, the date of the application and the caliber, length of barrel, make, model and manufacturer's number of the firearm to be purchased or transferred.

(1.1) For purposes of a firearm which exceeds the barrel and related lengths set forth in section 6102, obtained a completed application/record of sale from the potential buyer or transferee to be filled out in triplicate, the original copy to be sent to the Pennsylvania State Police, postmarked via first class mail, within 14 days of sale, one copy to be retained by the licensed importer, licensed manufacturer or licensed dealer and one copy to be retained by the purchaser or transferee. The form of the application/record of sale shall be no more than one page in length and shall be promulgated by the Pennsylvania State Police and provided by the licensed importer, licensed manufacturer or licensed dealer. For purposes of conducting the criminal history, juvenile delinquency and mental health records background check which shall be completed within ten days of receipt of the information from the dealer, the application shall include the name, address, birthrate, gender, race, physical description and Social Security number of the purchaser or transferee and the date of the application. No information regarding the type of firearm need be included other than an indication that the firearm exceeds the barrel lengths set forth in section 6102. Unless it has been discovered pursuant to a criminal history, juvenile delinquency and mental health records background check that the potential purchaser or transferee is prohibited from possessing a firearm pursuant to section 6105, no information on the application/record of sale provided pursuant to this subsection shall be retained as precluded by section 6111.4 by the Pennsylvania State Police either through retention of the application/record of sale or by entering the information onto a computer, and, further, an application/record of sale received by the Pennsylvania State Police pursuant to this subsection shall be destroyed within 72 hours of the completion of the criminal history, juvenile delinquency and mental health record background check.

(1.2) Fees collected under paragraph (3) and section 6111.2 shall be transmitted to the Pennsylvania State Police within 14 days of collection.

(1.3) In addition to the criminal penalty under section 6119, any person knowingly and intentionally maintains or fails to destroy any information submitted to the Pennsylvania State Police for purposes of a background check pursuant to paragraphs (1.1) and (1.4) shall be subject to a civil penalty of up to \$250 per entry or failure to destroy.

(1.4) Prior to January 1, 1997, and following implementation of the instantaneous records check by the Pennsylvania State Police on or before October 11, 1999, no application/record of sale shall be completed for the purchaser or transfer of a firearm which exceeds the barrel lengths set forth in section 6102. A statement shall be submitted by the dealer to the Pennsylvania State Police, postmarked via first class mail, within 14 days of the sale, containing the number of firearms sold which exceed the barrel and related lengths set forth in section 6102, the amount of surcharge and other fees remitted and a list of the unique approval numbers give pursuant to paragraph (4), together with a statement that the background checks have been performed on the firearms contained in the statement. The form of the statement relating to performance of background checks shall be promulgated by the Pennsylvania State Police.

(2) Inspected photoidentification of the potential purchaser or transferee, including, but not limited to , a driver's license, official Pennsylvania photoidentification card or official government photoidentification card. In the case of a potential buyer or transferee who is a member of a recognized

of a religious sect or community, a seller shall accept a valid-without-photo driver's license or a combination of documents proscribed by the Pennsylvania State Police, containing the applicant's name, address, date of birth and the signature of the applicant.

(3) Requested by means of a telephone call that the Pennsylvania State Police conduct a criminal history, juvenile delinquency history and a mental health record check. The requestor shall be charged a fee equivalent to the cost of providing the service but not to exceed \$2 per buyer or transferee.

(4) Received a unique approval number for that inquiry from the Pennsylvania State Police and recorded the date and the number on the application/record of sale form.

(5) Issued a receipt containing the information from paragraph (4), including the unique approval number of the purchaser. This receipt shall be prima facie evidence of the purchaser's or transferee's compliance with the provisions of this section.

(6) Unless it has been discovered pursuant to a criminal history, juvenile delinquency and mental health records background check that the potential purchaser or transferee is prohibited from possessing a firearm pursuant to section 6105, no information received via telephone following the implementation of the instantaneous background check system from a purchaser or transferee who has received a unique approval number shall be retained by the Pennsylvania State Police.

(c) Duty of other persons. Any person who is not a licensed importer, manufacturer or dealer and who desires to sell or transfer a firearm to another unlicensed person shall do so only upon the place of business of a licensed importer, manufacturer, dealer or county sheriff's office, the latter of whom shall follow the procedure set forth in this section as if he were the seller or the firearm. The provisions of this section shall not apply to transfers between spouses or to transfers between a parent and child or to transfers between grandparent and grandchild.

(d) Defense. Compliance with the provisions of this section shall be a defense to any criminal complaint under the laws of this Commonwealth arising from the sale or transfer of any firearm.

(e) Nonapplicability of section. This section shall not apply to the following:

(1) Any firearm manufactured on or before 1898.

(2) Any firearm with a matchlock, flintlock or percussion cap type of ignition system.

(3) Any replica of any firearm described in paragraph (1) if the replica:

(i) is not designed or redesigned to use rimfire or conventional centerfire fixed ammunition; or

(ii) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.

(f) Application of section.

(1) For the purposes of this section only, except as provided by paragraph (2), "firearm" shall mean any weapon which is designed to or may readily be converted to expel any projectile by the action of an explosive or the frame or receiver of any such weapon.

(2) The provisions contained in subsection (a) and (c) shall only apply to pistols or revolvers with a barrel length of less than 15 inches, any shotgun

with a barrel length of less than 18 inches, any rifle with a barrel length of less than 16 or any firearm with an overall length of less than 26 inches.

(3) The provisions contained in subsection (a) shall not apply to any law enforcement officer whose current identification as a law enforcement officer shall be construed as a valid license to carry a firearm or any person who possesses a valid license to carry a firearm under section 6109.

(4)(i) The provisions of subsection (a) shall not apply to any person who presents to the seller or transferor a written statement issued by the official described in subparagraph (iii) during the ten-day period ending on the date of the most recent proposal of such transfer or sale by the transferee or purchaser stating that the transferee or purchaser requires access to a firearm because of a threat to the life of the transferee or purchaser or any member of the household of that transferee or purchaser.

(ii) The issuing official shall notify the applicant's local police authority that such a statement has been issued. In counties of the first class the chief of police shall notify the police station or substation closest to the applicant's residence.

(iii) The statement issued under subparagraph (ii) shall be issued by the district attorney, or his designee, of the county of residence if the transferee or purchaser resides in a municipality where there is no chief of police. Otherwise, the statement shall be issued by the chief of police in the municipality in which the purchaser or transferee resides.

(g) Penalties.

(1) Any person, licensed dealer, licensed manufacturer or licensed importer who knowingly or intentionally sells, delivers or transfers a firearm in violation of this section commits a misdemeanor of the second degree.

(2) Any person, licensed dealer, licensed manufacturer or licensed importer who knowingly or intentionally sells, delivers or transfers a firearm under circumstances intended to provide a firearm to any person, purchaser or transferee who is unqualified or ineligible to control, possess or use a firearm under this chapter commits a felony of the third degree and shall in addition be subject to revocation of the license to sell firearms for a period of three years.

(3) Any person, licensed dealer, licensed manufacturer or licensed importer who knowingly and intentionally requests a criminal history, juvenile delinquency or mental health record check from the Pennsylvania State Police under this chapter for any purpose other than compliance with this chapter or knowingly and intentionally discriminates any criminal history, juvenile delinquency or mental health record information to any person other than the subject of the information commits a felony of the third degree.

(4) Any person, purchaser or transferee who in connection with the purchase, delivery or transfer of a firearm under this chapter knowingly and intentionally makes any materially false oral or written statement or willfully furnishes or exhibits any false identification intended or likely to deceive the seller, licensed dealer or licensed manufacturer commits a felony of the third degree.

(5) Notwithstanding section 306 or any other statute to the contrary, any person, licensed importer, licensed dealer or licensed manufacturer who knowingly and intentionally sells, delivers or transfers a firearm in violation of this chapter who has reason to believe the firearm is intended to be used in the commission of a crime or attempt to commit a crime shall be criminally

liable for such crime or attempted crime.

(6) Notwithstanding any act or statute to the contrary, any person, licensed importer, licensed manufacturer or licensed dealer who knowingly and intentionally sells or delivers a firearm in violation of this chapter who has reason to believe that the firearm is intended to be used in the commission of a crime or attempt to commit a crime shall be liable in the amount of the civil judgement for injuries suffered by any person so injured by such crime or attempted crime.

(h) Subsequent violation penalty.

(1) A second or subsequent violation of this section shall be a felony of the second degree and shall be punishable by a mandatory minimum sentence of imprisonment of five years. A second or subsequent offense shall also result in permanent revocation of any license to sel, import or manufacturer a firearm.

(2) Notice of the applicability of this subsection to the defendant shall not be required prior to conviction, but reasonable notice of the Commonwealth's intention to proceed under this section shall be provided after conviction and before sentencing. The applicability of this section shall be determined at sentencing. The court shall consider evidence presented at trial, shall afford the Commonwealth and the defendant an opportunity to present necessary additional evidence and shall determine by a preponderance of the evidence if this section is applicable.

(3) There shall be no authority for a court to impose on a defendant which this subsection is applicable a lesser sentence than provided for in paragraph (1), to place the defendant on probation or to suspend sentence. Nothing in this section shall prevent the sentencing court from imposing a sentence greater than that provided in this section. Sentencing guidelines promulgated by the Pennsylvania Commission on Sentencing shall not supersede the mandatory sentences provided in this section.

(4) If a sentencing court refuses to apply this subsection where applicable, the Commonwealth shall have the right to appellate review of the action of the sentencing court. The appellate court shall vacate the sentence and remand the case to the sentencing court for imposition of a sentence in accordance with this section if it finds that the sentence was imposed in violation of this subsection.

(i) Confidentiality. Information furnished by a potential purchaser or transferee under this section or any applicant for a license to carry a firearm as provided by section 6109 shall be confidential and not subject to public disclosure.

6111.1. Pennsylvania State Police.

(a) Administration. The Pennsylvania State Police shall have the responsibility to administer the provisions of this chapter.

(b) Duty of Pennsylvania State Police.

(1) Upon receipt of a request for a criminal history, juvenile delinquency, history and mental health record check of the potential purchaser or transferee, the Pennsylvania State Police shall immediately during the licensee's call or by return call forthwith:

(i) Review the Pennsylvania State Police criminal history and fingerprint records to determine if the potential purchaser or transferee is prohibited from receipt or possession of a firearms under Federal or State law;

(ii) Review the juvenile delinquency and mental health records of the Pennsylvania State Police to determine whether the potential purchaser or transferee is prohibited from receipt or possession of a firearm under Federal or State law; and

(iii) Inform the licensee making the inquiry either:

(A) That the potential purchase or transfer is prohibited; or

(B) Provide the licensee with a unique approval number.

(2) In the event of electronic failure or similar event beyond control of the Pennsylvania State Police, the Pennsylvania State Police shall immediately notify the requesting licensee of the reason for and estimated length of the delay. If the failure or event lasts for a period exceeding 48 hours, the dealer shall not be subject to any penalty for failure to complete an instantaneous records check for the remainder of the failure or similar event, but the dealer shall obtain a completed application/record of sale following the provisions of section 6111(b)(1) and (1.1) as if an instantaneous records check has not been established for any sale or transfer of a firearm for the purpose of a subsequent background check.

(3) The Pennsylvania State Police shall fully comply, execute and enforce the directives of this section within four years of the enactment of this subsection.

(4) The Pennsylvania State Police and any local law enforcement agency shall make all reasonable efforts to determine the lawful owner of any firearm confiscated by the Pennsylvania State Police or any local law enforcement agency and return said firearm to its lawful owner if the owner is not otherwise prohibited from possessing the firearm. When a court of law has determined that the Pennsylvania State Police or any local law enforcement agency have failed to exercise the duty under this subsection, reasonable attorney fees shall be awarded to any lawful owner of said firearms who has sought judicial enforcement of this subsection.

(c) Establishing a telephone number. The Pennsylvania State Police shall establish a telephone number which shall be operational seven days a week between the hours of 8 a.m. and 10 p.m. local time for purposes of responding to inquiries as described in this section from licensed manufacturers, licensed importers and licensed dealers. The Pennsylvania State Police shall employ and train such personnel as are necessary to administer expeditiously the provisions of this section.

(d) Distribution. The Pennsylvania State Police shall provide, without charge, summaries of uniform firearm laws and firearm safety brochures pursuant to section 6125.

(e) Challenge in records. Any person who is denied the right to receive, sell, transfer, possess, carry, manufacture or purchase a firearm as a result of the procedures established by this section may challenge the accuracy of that person's criminal history, juvenile delinquency history or mental health record under the procedures of Chapter 91.

(f) Notification of mental health commitment. Notwithstanding any statute to the contrary, judges of the courts of common pleas shall notify the Pennsylvania State Police on a form developed by the Pennsylvania State Police of the identity of any individual who has been adjudicated incompetent or who has been involuntarily committed to a mental institution for inpatient care and treatment under the act of July 9, 1976 known as the Mental Health Procedures Act, or who has been involuntarily treated as described in section

6105(c)(4). The notification shall be transmitted by the judge to the Pennsylvania State Police within seven days of the adjudication, commitment or treatment.

(g) Review by court.

(1) Upon receipt of a copy of the order of a court of competent jurisdiction which vacates a final order or an involuntary certification issued by a mental health review officer, the Pennsylvania State Police shall expunge all records of the involuntary treatment received under subsection (f).

(2) A person who is involuntarily committed pursuant to section 302 of the Mental Health Procedures Act may petition the court to review the sufficiency of the evidence upon which the commitment was based. If the court determines that the evidence upon which the involuntary commitment was based was insufficient, the court shall order that the record of the commitment submitted in the Pennsylvania State Police be expunged. A petition filed under this subsection shall toll the 60-day period set forth under section 6105(a)(2).

(3) The Pennsylvania State Police shall expunge all records of an involuntary commitment of an individual who is discharged from a mental health facility based upon the initial review by the physician occurring within two hours of arrival under section 302(b) of the Mental Health Procedures Act and the physician's determination that no severe mental disability existed pursuant to section 302(b) of the Mental Health Procedures Act. The physician shall provide signed confirmation of the determination of the lack of severe mental disability following the initial examination under 302(b) of the Mental Health Procedures Act to the Pennsylvania State Police.

(b) Juvenile registry.

(1) The contents of law enforcement records and files compiled under 42 Pa.C.S. § concerning a child shall not be disclosed to the public except if the child is 14 years of age or older at the time of the alleged conduct and if any of the following apply:

(i) The child has been adjudicated delinquent by a court as a result of an act or acts which constitute any offense enumerated in section 6105.

(ii) A petition alleging delinquency has been filed by a law enforcement agency alleging that the child has committed an act or acts which constitute an offense enumerated in section 6105 and the child previously has been adjudicated delinquent by a court as a result of an act or acts which included the elements of one of such crimes.

(2) Notwithstanding any provision of this subsection, the contents of law enforcement records and files concerning any child adjudicated delinquent for the commission of any criminal activity described in paragraph (1) shall be recorded in the registry of the Pennsylvania State Police for the limited purposes of this chapter.

(i) Reports. The Pennsylvania State Police shall annually compile and report to the General Assembly, on or before December 31, the following information for the previous year:

(1) Number of firearm sales, including the types of firearms;

(2) Number of applications for sale of firearms denied, number of challenges of the denials, and number of final reversals of initial denials;

(3) Summary of the Pennsylvania State Police's activities, including the average time taken to complete a criminal history, juvenile delinquency history or mental health record check; and

(4) Uniform crime reporting statistics compiled by the Pennsylvania State

Police based on the National Incident-based Reporting System.

(j) Other criminal information. The Pennsylvania State Police shall be authorized to obtain any crime statistics necessary for the purposes of this chapter from any local law enforcement agency.

(j.1.) Delinquency and mental health records. The provisions of this section which relate to juvenile delinquency and mental health records checks shall be applicable when the data has been made available to the Pennsylvania State Police but not later than October 11, 1999.

(j.2) Records check. The provisions of this section which relate to the instantaneous records check conducted by telephone shall be applicable 30 days following notice by the Pennsylvania State Police pursuant to section 6111(a)(2).

(k) Definition. For the purposes of this section only, the term "**firearm**" shall have the same meaning as in section 6111.2.

6111.2. Firearms sales surcharge.

(a) Surcharge imposed. There is hereby imposed on each sale of a firearm subject to tax under Article 11 of March 4, 1971 known as the Tax Reform Code of 1971, an additional surcharge of \$3. This shall be referred to as the Firearms Sale Surcharge. All moneys received from this surcharge shall be deposited in the Firearms Instant Records Check Fund. * * * *

6111.3. Firearm instant records check fund.

(a) Establishment. The Firearm Ownership Fund is hereby established as a restricted account in the State Treasury, separate and apart from all other public money or funds of the Commonwealth, to be appropriated annually by the General Assemble, for use in carrying out the provisions of section 6111.

(b) Source. The source of the fund shall be moneys collected and transferred under section 6111.2 and moneys collected and transferred under section 6111(b)(3).

6111.4. Registration of firearms. Notwithstanding any section of this chapter to the contrary, nothing in this chapter shall be construed to allow any government or law enforcement agency or any agent thereof to create, maintain or operate any registry of firearm ownership within this Commonwealth. For the purposes of this section only, the term "**firearm**" shall include any weapon that is designed to or may readily be converted to expel any projectile by the action of an explosive or the frame or receiver of such weapon.

6111.5. Rules and regulations. The Pennsylvania State Police shall in the manner provided by law promulgate the rules and regulations necessary to carry out this chapter, including regulations to ensure the identity, confidentiality and security of all records and data provided pursuant hereto.

6112. Retail dealer required to be licensed. No retail dealer shall sell, or otherwise transfer or expose for sale or transfer, or have in his possession with intent to sell or transfer, any firearm without being licensed as provided in this subchapter.

6113. Licensing of dealers.

(a) General rule. The chief or head of any police force or police department

of a city, and, elsewhere, the sheriff of the county, shall grant to reputable applicants licenses, in form prescribed by the Pennsylvania State Police, effective for not more than one year from date of issue, permitting the licensee to sell firearms direct to the consumer, subject to the following conditions in addition to those specified in section 6111 of this title (relating to sale of firearms), for breach of any of which the license shall be forfeited and the licensee subject to punishment as provided in this subchapter:

- (1) The business shall be carried on only in the building designated in the license.
- (2) The license, or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be read.
- (3) No firearm shall be sold in violation of any provision of this subchapter.
- (4) No firearm shall be sold under any circumstances unless the purchaser is personally known to the seller or shall present clear evidence of his identity.
- (5) A true record in triplicate shall be made of every firearm sold, in a book kept for the purpose, the form of which may be prescribed by the Pennsylvania State Police, and shall be personally signed by the purchaser and by the person effecting the sale, each in the presence of the other, and shall contain the information required by section 6111 of this title.
- (6) No firearm or imitation thereof, or placard advertising the sale thereof, shall be displayed in any part of any premises where it can readily be seen from the outside. In the event that the Commissioner of the Pennsylvania State Police shall find a clear and present danger to public safety within the commonwealth or any area thereof firearms, rifles and shotguns shall be stored by licensee during the hours when licensee is closed for business safeguarded pursuant to regulations to be established by the Pennsylvania State Police by the licensee during the hours when the licensee is closed for business.
- (7) The dealer shall possess all applicable current revenue licenses. * * * *

6115. Loans on, or lending or giving firearms prohibited.

(a) No person shall make any loan secured by mortgage, deposit, or pledge of a firearm; nor shall any person lend or give a firearm to another or otherwise deliver a firearm contrary to the provisions of this subchapter.

(b) Exception.

(1) Subsection (a) shall not apply if any of the following apply:

- (i) The person who receives the firearm is licensed to carry a firearm under section 6109.
- (ii) The person who receives the firearm is licensed to carry a firearm under section 6109.
- (iii) The person who receives the firearm is engaged in a hunter safety program certified by the Pennsylvania Game Commission or a firearm training program or competition sanctioned or approved by the National Rifle Association.
- (iv) The person who receives the firearm meets all of the following:
 - (A) Is under 18 years of age.
 - (B) Pursuant to section 6110.1 is under the supervision, guidance and instruction of a responsible individual who:
 - (i) Is 21 years of age or older; and

(ii) is not prohibited from owning or possessing a firearm under section 6105.

(v) The person who receives the firearm is lawfully hunting or trapping and is in compliance with the provisions of Title 34.

(vi) A bank or other chartered lending institution is able to adequately secure firearms in its possession.

(2) Nothing in this section shall be construed to prohibit the transfer of a firearm under 20 Pa.C.S. Ch. 21 or by bequest if the individual receiving the firearm is not precluded from owning or possessing a firearm under section 6105.

(3) Nothing in this section shall be construed to prohibit the loaning or giving of a firearm to another in one's dwelling or place of business if the firearm is retained within the dwelling or place of business.

6116. False evidence of identity. No person shall, in purchasing or otherwise securing delivery of a firearm or in applying for a license to carry the same, give false information or offer false evidence of his identity. The furnishing of false information or offering false evidence of identity is a violation of section 4904 (relating to unsworn falsification to authorities).

6117. Altering or obliterating marks of identification.

(a) **Offense defined.** No person shall change, alter, remove, or obliterate the name of the maker, model, manufacturer's number, or other mark of identification on any firearm.

(b) **Presumption.** Possession of any firearm upon which any such mark shall have been changed, altered, removed, or obliterated, shall be prima facie evidence that the possessor has changed, altered, removed, or obliterated the same.

(c) **Penalty.** A violation of this section constitutes a felony of the second degree.

(d) **Appellate review.** If a sentencing court refuses to apply this section where applicable, the Commonwealth shall have the right to appellate review of the action of the sentencing court. The appellate court shall vacate the sentence and remand the case to the sentencing court for imposition of a sentence in accordance with this section if it finds that the sentence was imposed in violation of this section.

6118. Antique firearms.

(a) **General rule.** This subchapter shall not apply to antique firearms.

(b) **Exception.** Subsection (a) shall not apply to the extent that such antique firearms, reproductions or replicas of firearms are concealed weapons as provided in section 6106 (relating to firearms not to be carried without a license), nor shall it apply to the provisions of section 6105 (relating to former convict not to own a firearm, etc.) if such antique firearms, reproductions or replicas of firearms are suitable for use.

(c) **Definition.** For the purpose of this section "antique firearm" means:

(1) Any firearm, including any firearm with a matchlock, flintlock, percussion cap or similar type of ignition system, manufactured on or before 1898; and

(2) Any replica of any firearm described in paragraph (1) if such replica:

(i) Is not designed or redesigned for using rimfire or conventional center-

fire fixed ammunition; or

(ii) Uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade. * * * *

6119. Violation penalty. Except as otherwise provided, an offense under this subchapter constitutes a misdemeanor of the first degree.

6120. Limitation on municipal regulation of firearms and ammunition.

(a) **General rule.** No county, municipality or township may in any manner regulate the lawful ownership, possession, transfer or transportation of firearms, ammunition, or ammunition components when carried or transported for purposes not prohibited by the laws of this Commonwealth.

(b) **Definition.** For the purposes of this section, the term "**firearms**" shall not include "**air rifles**" as defined in section 6304 (relating to sale and use of air rifles).

6121. Certain bullets prohibited.

(a) **Offense defined.** It is unlawful for any person to possess, use or attempt to use a KTW teflon-coated bullet or other armor-piercing ammunition while committing or attempting to commit a crime of violence as defined in section 6102 (relating to definitions). * * * *

(d) **Definition.** As used in this section the term "**armor-piercing ammunition**" means ammunition which, when or if fired from any firearm as defined in section 6102 that is used or attempted to be used in violation of subsection (a) under the test procedure of the National Institute of Law Enforcement and Criminal Justice Standard for the Ballistics Resistance of Police Body Armor promulgated December 1978, is determined to be capable of penetrating bullet-resistant apparel or body armor meeting the requirements of Type IIA of Standard NILECJ-STD-0101.01 as formulated by the United States Department of Justice and published in December of 1978.

6122. Proof of license and exception.

(a) **General rule.** When carrying a firearm concealed on or about one's person or in a vehicle, an individual licensed to carry a firearm shall, upon lawful demand of a law enforcement officer, produce the license for inspection.

(b) **Exception.** An individual carrying a firearm on or about his person or in a vehicle and claiming an exception under section 6106(b) shall, upon lawful demand of a law enforcement officer, produce satisfactory evidence of qualification for exception.

6123. Waiver of disability or pardons. A waiver of disability from Federal authorities as provided for in 18 U.S.C. § 925 (relating to exceptions; relief from disabilities), a full pardon from the Governor or an overturning of a conviction shall remove any corresponding disability under this subchapter except the disability under section 6105 (relating to former convict not to own a firearm, etc.) * * * *

6124. Administrative regulations. The commissioner may establish form specification and regulations, consistent with section 6109(c), with respect to

uniform forms control, including the following:

- (1) License to carry firearms.
- (2) Firearm registration.
- (3) Dealer's license.
- (4) Application for purchase of a firearm.
- (5) Record of sale of firearms.

Chapter 63. Minors

6302. Sale or lease of weapons and explosives.

(a) **Offense defined.** A person is guilty of a misdemeanor of the first degree if he sells or causes to be sold or leases to any person under 18 years of age any deadly weapon, cartridge, gunpowder, or other similar dangerous explosive substance.

(b) **Exception.** The provisions of subsection (a) of this section shall not prohibit hunting by minors under 18 years of age permitted under Title 34 (relating to game).

6303. Sale of starter pistols.

(a) **Offense defined.** A person is guilty of a misdemeanor of the first degree if he sells, causes to be sold, gives or furnishes to any person under the age of 18 years, or if he, being under the age of 18 years, purchases, accepts, receives or possesses, any pistol commonly referred to as a "starter pistol" specially designed to receive and discharge blank cartridges only or similar pistol.

(b) **Exception.** Nothing in this section shall prohibit the use of starter pistols for the purpose of starting or officiating at athletic events, use in dramatic productions, or other similar events.

Chapter 73. Trade and Commerce

7306. Incendiary devices.

(a) **Offense defined.** A person is guilty of a misdemeanor of the first degree if he owns, manufactures, sells, transfers, uses or possesses any incendiary device or similar device or parts thereof, including but not limited to a "Molotov cocktail".

(b) **Exception.** The provisions of subsection (a) of this section shall not apply to authorized personnel of the United States, the Commonwealth or any political subdivision, who use incendiary devices as part of their duties.

(c) **Definition.** As used in this section the phrase "incendiary device," means any inflammable liquid enclosed in a readily breakable container that can be equipped with an ignitor of any type.

Publisher's Notes:

1. The following jurisdictions restrict the sale, possession, or receipt of firearms, such as destructive devices [i.e., (a) grenades (or other explosive or incendiary devices), or (b) fully automatic weapons, or (c) short-barreled rifles, or (d) short-barreled shotguns, or (e) silencers, or (f) other (specified)] [An asterisk (*) next to a name indicates another listing]

Philadelphia (a),(f) = Other military-type weapons

2. A permit to purchase must be obtained before a firearm may be sold or delivered to a purchaser or recipient in the following jurisdictions [An asterisk (*) next to a name indicates another listing]

Mc Keesport*
Swissvale*

3. The following jurisdictions restrict the age at which it is lawful for a person to purchase or receive a firearm [An asterisk (*) next to a name indicates another listing]

Harrisburg
Scott*
Springfield
Swissvale*
Upper Southampton

4. The following jurisdictions restrict the sale of firearms [i.e., (a) requirement for a State or local license to sell firearms, or (b) recordkeeping requirements imposed as a condition of lawful sale of firearms, or (c) other (specified)] [An asterisk (*) next to a name indicates another listing]

Mc Keesport* (a)
Mt. Lebanon (a)
Scott* (a)