

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2440

Session of
1994

INTRODUCED BY MICHLOVIC, THOMAS, STEELMAN, CARN, ROONEY,
VAN HORNE, BISHOP, ITKIN, FREEMAN, JOSEPHS, LEVDANSKY AND
EVANS, JANUARY 4, 1994

REFERRED TO COMMITTEE ON JUDICIARY, JANUARY 4, 1994

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, adding assault weapons to firearms and
3 other dangerous articles.

4 The General Assembly hereby finds and declares that the
5 proliferation and use of assault weapons poses a threat to the
6 health, safety and security of all citizens of this
7 Commonwealth. The General Assembly has restricted the assault
8 weapons specified in 18 Pa.C.S. Ch. 61 Subch. D (relating to
9 assault weapons) based upon finding that each firearm has such a
10 high rate of fire and capacity for firepower that its function
11 as a legitimate sports or recreational firearm is substantially
12 outweighed by the danger that it can be used to kill and injure
13 human beings. It is the intent of the General Assembly in
14 enacting Subchapter D to place restrictions on the use of
15 assault weapons and to establish a registration and permit
16 procedure for their lawful sale and possession. It is not,
17 however, the intent of the General Assembly by this act to place
18 restrictions on the use of those weapons which are primarily

1 designed and intended for target practice or other legitimate
2 sports or recreational activities.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Chapter 61 of Title 18 of the Pennsylvania
6 Consolidated Statutes is amended by adding a subchapter to read:

7 CHAPTER 61

8 FIREARMS AND OTHER DANGEROUS ARTICLES

9 * * *

10 SUBCHAPTER D

11 ASSAULT WEAPONS

12 Sec.

13 6181. Definitions.

14 6182. Determination by court.

15 6183. Registration.

16 6184. Relinquishment of weapons.

17 6185. Licensed gun dealers.

18 6186. Penalties.

19 6187. Application of subchapter.

20 § 6181. Definitions.

21 The following words and phrases when used in this subchapter
22 shall have the meanings given to them in this section unless the
23 context clearly indicates otherwise:

24 "Assault weapon." The following automatic and semiautomatic
25 firearms known by the trade names specified:

26 (1) The following rifles:

27 (i) Avtomat Kalashnikovs (AK) series.

28 (ii) UZI and Galil.

29 (iii) Beretta AR-70.

30 (iv) Colt AR-15 series.

- (v) Daewoo K-1, K-2, Max 1 and Max 2.
- (vi) Fabrique Nationale FN/FAL, FN/LAR and FNC.
- (vii) FAMAS MAS223.
- (viii) Heckler & Koch HK-91, H-93, HK-94 and PSG-1.
- (ix) MAC 10 and MAC 11.
- (x) SKS with detachable magazine.
- (xi) SIG AMT and SIG 500 series.
- (xii) Springfield Armory BM59 and SAR-48.
- (xiii) Sterling MK-6.
- (xiv) Steyr AUG.
- (xv) Valmet M62 and M78.
- (xvi) Armalite AR-180 Carbine.
- (xvii) Bushmaster Assault Rifle.
- (xviii) Calico M-900.
- (xix) Mandall THE TAC-1 Carbine.
- (xx) Weaver Arm Nighthawk.

(2) The following pistols:

- (i) UZI.
- (ii) Encom MP-9 and MP-45.
- (iii) MAC 10 and MAC 11.
- (iv) INTRATEC TEC-9.
- (v) Mitchell Arms Spectre Auto.
- (vi) Sterling MK-7.

(3) The following shotguns:

- (i) Franchi SPAS 12 and LAW 12.
- (ii) Gilbert Equipment Company Striker 12 and SWD Street Sweeper.

(4) Any firearm declared by the court pursuant to section 6182 (relating to determination by court) to be an assault weapon.

1 "Automatic firearm." A firearm which uses a portion of the
2 force of a fired cartridge to expel the case of the fired
3 cartridge and load another cartridge into the firing chamber and
4 which automatically shoots more than one shot by a single
5 function of the trigger.

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

8 "Licensed gun dealer." A person who has a Federal firearms
9 license and any business license required by a State or local
10 governmental entity.

11 "Semiautomatic firearm." A firearm which uses a portion of
12 the force of a fired cartridge to expel the case of the fired
13 cartridge and load another cartridge into the firing chamber and
14 which requires a separate function of the trigger to fire each
15 cartridge.

16 § 6182. Determination by court.

17 (a) General rule.--Upon request by the commissioner filed in
18 a verified petition in the Commonwealth Court, the court shall
19 issue a declaration of temporary suspension of the manufacture,
20 sale, distribution, transportation or importation into this
21 Commonwealth, or the giving or lending of a firearm alleged to
22 be an assault weapon because the firearm is either of the
23 following:

24 (1) Another model by the same manufacturer or a copy by
25 another manufacturer of an assault weapon listed in section
26 6181 (relating to definitions), which is identical to one of
27 the assault weapons listed in that section except for slight
28 modifications or enhancements, including, but not limited to:
29 a folding or retractable stock; adjustable sight; case
30 deflector for left-handed shooters; shorter barrel; wooden,

1 plastic or metal stock; larger magazine size; different
2 caliber provided that the caliber exceeds .22 rimfire; or
3 bayonet mount. The court shall strictly construe this
4 paragraph so that a firearm which is merely similar in
5 appearance but not a prototype or copy can not be found to be
6 within the meaning of this paragraph.

7 (2) A firearm first manufactured or sold to the general
8 public in this Commonwealth 90 days after the effective date
9 of this subchapter, which has been redesigned, renamed or
10 renumbered from one of the firearms listed in section 6181,
11 or which is manufactured or sold by another company under a
12 licensing agreement to manufacture or sell one of the
13 firearms listed therein regardless of the company of
14 production or distribution, or the country of origin.

15 (b) Declaration of temporary suspension.--Upon the issuance
16 of a declaration of temporary suspension by the court and after
17 the commissioner has completed the notice requirements of
18 subsection (c)(1), the provisions of subsection (a) shall apply
19 with respect to those weapons.

20 (c) Notice.--

21 (1) Upon declaration of temporary suspension, the
22 commissioner shall immediately notify all police, sheriffs,
23 district attorneys and those requesting notice under
24 paragraph (2), shall notify industry and association
25 publications for those who manufacture, sell or use firearms
26 and shall publish notice in not less than ten newspapers of
27 general circulation in geographically diverse sections of
28 this Commonwealth of the fact that the declaration has been
29 issued.

30 (2) The commissioner shall maintain a list of any

persons who request to receive notice of any declaration of temporary suspension and shall furnish notice under paragraph (1) to all these persons immediately upon a court declaration. Notice shall also be furnished by the commissioner by certified mail, return receipt requested (or substantial equivalent if the person to receive same resides outside the United States), to any known manufacturer and Commonwealth distributor of the weapon subject of the temporary suspension order or their statutory agent for service. The notice shall be deemed effective upon mailing.

(d) Hearing.--After issuing a declaration of temporary suspension under this section, the court shall set a date for hearing on a permanent declaration that the weapon is an assault weapon. The hearing shall be set no later than 30 days from the date of issuance of the declaration of temporary suspension. The hearing may be continued for good cause thereafter. Any manufacturer or Commonwealth distributor of the weapon which is the subject of the temporary suspension order has the right, within 20 days of notification of the issuance of the order, to intervene in the action. Any manufacturer or Commonwealth distributor who fails to timely exercise its right of intervention or any other person who manufactures, sells or owns the assault weapon may, in the court's discretion, thereafter join the action as amicus curiae.

(e) Burden of proof.--At the hearing, the burden of proof is upon the commissioner to show by a preponderance of evidence that the weapon which is the subject of the declaration of temporary suspension is an assault weapon. If the court finds the weapon to be an assault weapon, it shall issue a declaration thereof. Any party to the matter may appeal the court's

1 decision. A declaration that the weapon is an assault weapon
2 shall remain in effect during the pendency of the appeal unless
3 ordered otherwise by the appellate court.

4 § 6183. Registration.

5 (a) General rule.--Any person who lawfully possesses an
6 assault weapon prior to 90 days after the effective date of this
7 subchapter shall register the firearm within one year of that
8 effective date with the commissioner in accordance with those
9 procedures which the Pennsylvania State Police may establish.
10 The registration shall contain a description of the firearm that
11 identifies it uniquely, including all identification marks, the
12 full name, address, date of birth and thumbprint of the owner,
13 and any other information as the department may deem
14 appropriate. The department may charge a fee for registration of
15 up to \$20 per person but not to exceed the actual processing
16 costs of the department.

17 (b) Certain sales, transfers, etc.--No assault weapon
18 possessed under this section may be sold or transferred on or
19 after 90 days following the effective date of this subchapter to
20 anyone within this Commonwealth other than to a licensed gun
21 dealer. Any person who obtains title to an assault weapon
22 registered under this section by bequest or intestate
23 succession, moves into this Commonwealth in lawful possession of
24 an assault weapon or lawfully possessed a firearm subsequently
25 declared to be an assault weapon under this subchapter shall,
26 within 90 days, either render the weapon permanently inoperable,
27 sell the weapon to a licensed gun dealer or remove the weapon
28 from this Commonwealth. A person who lawfully possessed a
29 firearm which was subsequently declared to be an assault weapon
30 under section 6182 (relating to determination by court) may

1 alternatively register the firearm within 90 days of that
2 declaration.

3 (c) Conditions of possession.--A person who has registered
4 an assault weapon under this section may possess it only under
5 the following conditions unless a permit allowing additional
6 uses is first obtained:

7 (1) At that person's residence, place of business or
8 other property owned by that person or on property owned by
9 another with the owner's express permission.

10 (2) While on the premises of a target range of a public
11 or private club or organization organized for the purpose of
12 practicing shooting at targets.

13 (3) While on a target range which holds a regulatory or
14 business license for the purpose of practicing shooting at
15 that target range.

16 (4) While on the premises of a shooting club.

17 (5) While attending any exhibition, display or
18 educational project which is about firearms and which is
19 sponsored by, conducted under the auspices of or approved by
20 a law enforcement agency or a nationally or State recognized
21 entity that fosters proficiency in or promotes education
22 about firearms.

23 (6) While transporting the assault weapon between any of
24 the places mentioned in this subsection.

25 (d) Prohibited registration or possession.--No person who is
26 under 18 years of age and no person who is prohibited from
27 possessing a firearm by this subchapter may register or possess
28 an assault weapon.

29 (e) Joint registration for family members.--The registration
30 procedures shall provide the option of joint registration for

1 assault weapons owned by family members residing in the same
2 household.

3 § 6184. Relinquishment of weapons.

4 Any individual may arrange in advance to relinquish an
5 assault weapon to a police or sheriff's department.

6 § 6185. Licensed gun dealers.

7 Any licensed gun dealer who lawfully possesses an assault
8 weapon under this subchapter, in addition to the uses allowed
9 hereunder, may transport the weapon between dealers or out of
10 this Commonwealth, display it at any gun show licensed by a
11 State or local governmental entity, sell it to a resident
12 outside this Commonwealth or sell it to a person who has been
13 issued a permit pursuant to this subchapter. Any transporting
14 allowed by this section must be done as required by this
15 subchapter.

16 § 6186. Penalties.

17 (a) Unlawful manufacture, importation, etc.--Any person who,
18 within this Commonwealth, manufactures or causes to be
19 manufactured, distributes, transports or imports into this
20 Commonwealth, keeps for sale or offers or exposes for sale, or
21 who gives or lends any assault weapon, except as provided by
22 this subchapter, commits a felony of the third degree.

23 (b) Unlawful possession.--Any person possessing an assault
24 weapon in violation of this subchapter commits a misdemeanor of
25 the first degree for a first offense and a felony of the third
26 degree for each subsequent offense.

27 § 6187. Application of subchapter.

28 This subchapter shall not apply to the use or possession of
29 assault weapons by State or local law enforcement agencies, the
30 military forces of this Commonwealth or the armed forces of the

1 United States.

2 Section 2. This act shall take effect in 60 days.