
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 149

Session of
1997

INTRODUCED BY ALLEN, WOGAN, HORSEY, CLARK, YOUNGBLOOD, EGOLF, FICHTER, HERSHEY, B. SMITH, TIGUE, ARGALL, DENT, TRELLO, WAUGH, LYNCH, BATTISTO, GODSHALL, BELARDI, READSHAW, LEH, SHANER, BARD, FAIRCHILD, BEBKO-JONES, WOJNAROSKI, BROWNE, HUTCHINSON, COWELL, MICOZZIE, MICHLOVIC, SAYLOR, CLYMER, DALLY, DIGIROLAMO, SATHER, HESS, BLAUM, BAKER, MAITLAND, ZUG, DEMPSEY, RAMOS, STERN, BOSCOLA, SCRIMENTI, MCGILL, TRUE, PISTELLA, E. Z. TAYLOR, FARGO, ROONEY, GIGLIOTTI, MILLER, GRUPPO, SEMMEL, D. W. SNYDER, PHILLIPS, RAYMOND, BARRAR, BELFANTI, J. TAYLOR, LUCYK, STEVENSON, C. WILLIAMS, STEELMAN, CASORIO, OLASZ, ORIE, PETRARCA, BENNINGHOFF, KAISER, JAMES, EACHUS AND ROSS, JANUARY 29, 1997

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, APRIL 7, 1997

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, further providing for FIREARMS AND FOR <—
3 the expungement of certain arrest records relating to sexual
4 offenses.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 ~~Section 1. Section 9122 of Title 18 of the Pennsylvania~~ <—
8 ~~Consolidated Statutes is amended by adding a subsection to read:~~

9 SECTION 1. SECTIONS 6105(F), 6106(A) AND (B), 6109(A), 6111, <—
10 6111.1(B)(2) AND (K), 6112 AND 6122 OF TITLE 18 OF THE
11 PENNSYLVANIA CONSOLIDATED STATUTES ARE AMENDED TO READ:

12 § 6105. PERSONS NOT TO POSSESS, USE, MANUFACTURE, CONTROL, SELL
13 OR TRANSFER FIREARMS.

1 * * *

2 (F) OTHER EXEMPTIONS AND PROCEEDINGS.--

3 (1) UPON APPLICATION TO THE COURT OF COMMON PLEAS UNDER
4 THIS SUBSECTION BY AN APPLICANT SUBJECT TO THE PROHIBITIONS
5 UNDER SUBSECTION (C)(4), THE COURT MAY GRANT SUCH RELIEF AS
6 IT DEEMS APPROPRIATE IF THE COURT DETERMINES THAT THE
7 APPLICANT MAY POSSESS A FIREARM WITHOUT RISK TO THE APPLICANT
8 OR ANY OTHER PERSON.

9 (2) IF APPLICATION IS MADE UNDER THIS SUBSECTION FOR
10 RELIEF FROM THE DISABILITY IMPOSED UNDER SUBSECTION (C)(6),
11 NOTICE OF SUCH APPLICATION SHALL BE GIVEN TO THE PERSON WHO
12 HAD PETITIONED FOR THE PROTECTION FROM ABUSE ORDER, AND SUCH
13 PERSON SHALL BE A PARTY TO THE PROCEEDINGS. NOTICE OF ANY
14 COURT ORDER OR AMENDMENT TO A COURT ORDER RESTORING FIREARMS
15 POSSESSION OR CONTROL SHALL BE GIVEN TO THE PERSON WHO HAD
16 PETITIONED FOR THE PROTECTION FROM ABUSE ORDER.

17 (3) ALL HEARINGS CONDUCTED UNDER THIS SUBSECTION SHALL
18 BE CLOSED UNLESS OTHERWISE REQUESTED TO BE OPEN BY THE
19 APPLICANT.

20 (4) THE OWNER OF ANY SEIZED OR CONFISCATED FIREARMS
21 SHALL BE PROVIDED WITH A SIGNED AND DATED WRITTEN RECEIPT BY
22 THE APPROPRIATE LAW ENFORCEMENT AGENCY. THIS RECEIPT SHALL
23 INCLUDE, BUT NOT LIMITED TO, A DETAILED IDENTIFYING
24 DESCRIPTION INDICATING THE SERIAL NUMBER AND CONDITION OF THE
25 FIREARM. IN ADDITION, THE APPROPRIATE LAW ENFORCEMENT AGENCY
26 SHALL BE LIABLE TO THE LAWFUL OWNER OF SAID CONFISCATED OR
27 SEIZED FIREARM FOR ANY LOSS, DAMAGE OR SUBSTANTIAL DECREASE
28 IN VALUE OF SAID FIREARM THAT IS A DIRECT RESULT OF A LACK OF
29 REASONABLE CARE BY THE APPROPRIATE LAW ENFORCEMENT.

30 * * *

§ 6106. FIREARMS NOT TO BE CARRIED WITHOUT A LICENSE.

(A) OFFENSE DEFINED.--[ANY]

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2), 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.

(2) A PERSON, WHO IS OTHERWISE ELIGIBLE TO POSSESS VALID LICENSE UNDER THIS CHAPTER, BUT 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 AND HAS NOT COMMITTED ANY OTHER CRIMINAL VIOLATION, COMMITS A MISDEMEANOR OF THE FIRST DEGREE.

(B) EXCEPTIONS.--THE PROVISIONS OF SUBSECTION (A) SHALL NOT APPLY TO:

(1) CONSTABLES, SHERIFFS, PRISON OR JAIL WARDENS, OR THEIR DEPUTIES, POLICEMEN 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 ASSEMBLY OR TARGET

1 PRACTICE, THE CARTRIDGES OR SHELLS ARE CARRIED IN A SEPARATE
2 CONTAINER AND THE RIFLE, PISTOL OR REVOLVER IS UNLOADED.

3 (5) OFFICERS OR EMPLOYEES OF THE UNITED STATES DULY
4 AUTHORIZED TO CARRY A CONCEALED FIREARM.

5 (6) AGENTS, MESSENGERS AND OTHER EMPLOYEES OF COMMON
6 CARRIERS, BANKS, OR BUSINESS FIRMS, WHOSE DUTIES REQUIRE THEM
7 TO PROTECT MONEYS, VALUABLES AND OTHER PROPERTY IN THE
8 DISCHARGE OF SUCH DUTIES.

9 (7) ANY PERSON ENGAGED IN THE BUSINESS OF MANUFACTURING,
10 REPAIRING, OR DEALING IN FIREARMS, OR THE AGENT OR
11 REPRESENTATIVE OF ANY SUCH PERSON, HAVING IN HIS POSSESSION,
12 USING OR CARRYING A FIREARM IN THE USUAL OR ORDINARY COURSE
13 OF SUCH BUSINESS.

14 (8) ANY PERSON WHILE CARRYING A FIREARM UNLOADED AND IN
15 A SECURE WRAPPER FROM THE PLACE OF PURCHASE TO HIS HOME OR
16 PLACE OF BUSINESS, OR TO A PLACE OF REPAIR OR BACK TO HIS
17 HOME OR PLACE OF BUSINESS, OR IN MOVING FROM ONE PLACE OF
18 ABODE OR BUSINESS TO ANOTHER OR FROM HIS HOME TO A VACATION
19 OR RECREATIONAL HOME OR DWELLING OR BACK, OR TO RECOVER
20 STOLEN PROPERTY UNDER SECTION 6111.1(B)(4) (RELATING TO
21 PENNSYLVANIA STATE POLICE) OR TO A LOCATION TO WHICH THE
22 PERSON HAS BEEN DIRECTED TO SURRENDER FIREARMS UNDER 23
23 PA.C.S. § 6108 (RELATING TO RELIEF) OR BACK UPON RETURN OF
24 THE SURRENDERED FIREARM.

25 (9) PERSONS LICENSED TO HUNT, TAKE FURBEARERS OR FISH IN
26 THIS COMMONWEALTH, IF SUCH PERSONS ARE ACTUALLY HUNTING,
27 TAKING FURBEARERS OR FISHING OR ARE GOING TO THE PLACES WHERE
28 THEY DESIRE TO HUNT, TAKE FURBEARERS OR FISH OR RETURNING
29 FROM SUCH PLACES.

30 (10) PERSONS TRAINING DOGS, IF SUCH PERSONS ARE ACTUALLY

1 TRAINING DOGS DURING THE REGULAR TRAINING SEASON.

2 (11) ANY PERSON WHILE CARRYING A FIREARM IN ANY VEHICLE,
3 WHICH PERSON POSSESSES A VALID AND LAWFULLY ISSUED LICENSE
4 FOR THAT FIREARM WHICH HAS BEEN ISSUED UNDER THE LAWS OF THE
5 UNITED STATES OR ANY OTHER STATE.

6 (12) A PERSON WHO HAS A LAWFULLY ISSUED LICENSE TO CARRY
7 A FIREARM PURSUANT TO SECTION 6109 (RELATING TO LICENSES) AND
8 THAT SAID LICENSE EXPIRED WITHIN SIX MONTHS PRIOR TO THE DATE
9 OF ARREST AND THAT THE INDIVIDUAL IS OTHERWISE ELIGIBLE FOR
10 RENEWAL OF THE LICENSE.

11 * * *

12 § 6109. LICENSES.

13 (A) PURPOSE OF LICENSE.--A LICENSE TO CARRY A FIREARM SHALL
14 BE FOR THE PURPOSE OF CARRYING A FIREARM CONCEALED ON OR ABOUT
15 ONE'S PERSON OR IN A VEHICLE [WITHIN] THROUGHOUT THIS
16 COMMONWEALTH.

17 * * *

18 § 6111. SALE OR TRANSFER OF FIREARMS.

19 (A) TIME AND MANNER OF DELIVERY.--

20 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2), NO SELLER SHALL
21 DELIVER A FIREARM TO THE PURCHASER OR TRANSFEREE THEREOF
22 UNTIL 48 HOURS SHALL HAVE ELAPSED FROM THE TIME OF THE
23 APPLICATION FOR THE PURCHASE THEREOF, AND, WHEN DELIVERED,
24 THE FIREARM SHALL BE SECURELY WRAPPED AND SHALL BE UNLOADED.

25 (2) THIRTY DAYS AFTER PUBLICATION IN THE PENNSYLVANIA
26 BULLETIN THAT THE INSTANTANEOUS CRIMINAL HISTORY RECORDS
27 CHECK SYSTEM HAS BEEN ESTABLISHED IN ACCORDANCE WITH THE
28 BRADY HANDGUN VIOLENCE PREVENTION ACT (PUBLIC LAW 103-159, 18
29 U.S.C. § 921 ET SEQ.), NO SELLER SHALL DELIVER A FIREARM TO
30 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
(RELATING TO DEFINITIONS), 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 FOR A PERIOD OF 20 YEARS AND ONE COPY TO BE
[RETAINED BY] PROVIDED TO THE PURCHASER OR TRANSFeree. THE
FORM OF THIS 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. 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) ON AND AFTER THE EARLIER OF THE DATE OF
PUBLICATION IN THE PENNSYLVANIA BULLETIN OF A NOTICE BY THE
PENNSYLVANIA STATE POLICE THAT THE INSTANTANEOUS RECORDS

1 CHECK HAS BEEN IMPLEMENTED OR THE DATE OF JULY 1, 1998, ALL
2 OF THE FOLLOWING SHALL APPLY:

3 (I) FOR PURPOSES OF A FIREARM WHICH EXCEEDS THE
4 BARREL AND RELATED LENGTHS SET FORTH IN SECTION 6102,
5 OBTAINED A COMPLETED APPLICATION/RECORD OF SALE FROM THE
6 POTENTIAL BUYER OR TRANSFEREE TO BE FILLED OUT IN
7 TRIPLICATE, THE ORIGINAL COPY TO BE SENT TO THE
8 PENNSYLVANIA STATE POLICE, POSTMARKED VIA FIRST CLASS
9 MAIL, WITHIN 14 DAYS OF SALE, ONE COPY TO BE RETAINED BY
10 THE LICENSED IMPORTER, LICENSED MANUFACTURER OR LICENSED
11 DEALER FOR A PERIOD OF 20 YEARS AND ONE COPY TO BE
12 [RETAINED BY] PROVIDED TO THE PURCHASER OR TRANSFEREE.

13 (II) THE FORM OF THE APPLICATION/RECORD OF SALE
14 SHALL BE NO MORE THAN ONE PAGE IN LENGTH AND SHALL BE
15 PROMULGATED BY THE PENNSYLVANIA STATE POLICE AND PROVIDED
16 BY THE LICENSED IMPORTER, LICENSED MANUFACTURER OR
17 LICENSED DEALER.

18 (III) FOR PURPOSES OF CONDUCTING THE CRIMINAL
19 HISTORY, JUVENILE DELINQUENCY AND MENTAL HEALTH RECORDS
20 BACKGROUND CHECK WHICH SHALL BE COMPLETED WITHIN TEN DAYS
21 OF RECEIPT OF THE INFORMATION FROM THE DEALER, THE
22 APPLICATION/RECORD OF SALE SHALL INCLUDE THE NAME,
23 ADDRESS, BIRTHDATE, GENDER, RACE, PHYSICAL DESCRIPTION
24 AND SOCIAL SECURITY NUMBER OF THE PURCHASER OR TRANSFEREE
25 AND THE DATE OF APPLICATION.

26 (IV) NO INFORMATION REGARDING THE TYPE OF FIREARM
27 NEED BE INCLUDED OTHER THAN AN INDICATION THAT THE
28 FIREARM EXCEEDS THE BARREL LENGTHS SET FORTH IN SECTION
29 6102.

30 (V) UNLESS IT HAS BEEN DISCOVERED PURSUANT TO A

1 CRIMINAL HISTORY, JUVENILE DELINQUENCY AND MENTAL HEALTH
2 RECORDS BACKGROUND CHECK THAT THE POTENTIAL PURCHASER OR
3 TRANSFEREE IS PROHIBITED FROM POSSESSING A FIREARM
4 PURSUANT TO SECTION 6105 (RELATING TO PERSONS NOT TO
5 POSSESS, USE, MANUFACTURE, CONTROL, SELL OR TRANSFER
6 FIREARMS), NO INFORMATION ON THE APPLICATION/RECORD OF
7 SALE PROVIDED PURSUANT TO THIS SUBSECTION SHALL BE
8 RETAINED AS PRECLUDED BY SECTION 6111.4 (RELATING TO
9 REGISTRATION OF FIREARMS) BY THE PENNSYLVANIA STATE
10 POLICE EITHER THROUGH RETENTION OF THE APPLICATION/RECORD
11 OF SALE OR BY ENTERING THE INFORMATION ONTO A COMPUTER,
12 AND, FURTHER, AN APPLICATION/RECORD OF SALE RECEIVED BY
13 THE PENNSYLVANIA STATE POLICE PURSUANT TO THIS SUBSECTION
14 SHALL BE DESTROYED WITHIN 72 HOURS OF THE COMPLETION OF
15 THE CRIMINAL HISTORY, JUVENILE DELINQUENCY AND MENTAL
16 HEALTH RECORDS BACKGROUND CHECK.

17 (1.2) FEES COLLECTED UNDER PARAGRAPH (3) AND SECTION
18 6111.2 (RELATING TO FIREARM SALES SURCHARGE) SHALL BE
19 TRANSMITTED TO THE PENNSYLVANIA STATE POLICE WITHIN 14 DAYS
20 OF COLLECTION.

21 (1.3) IN ADDITION TO THE CRIMINAL PENALTY UNDER SECTION
22 6119 (RELATING TO VIOLATION PENALTY), ANY PERSON WHO
23 KNOWINGLY AND INTENTIONALLY MAINTAINS OR FAILS TO DESTROY ANY
24 INFORMATION SUBMITTED TO THE PENNSYLVANIA STATE POLICE FOR
25 PURPOSES OF A BACKGROUND CHECK PURSUANT TO PARAGRAPHS (1.1)
26 AND (1.4) OR VIOLATES § 6111.4 (RELATING TO REGISTRATION OF
27 FIREARMS) SHALL BE SUBJECT TO A CIVIL PENALTY OF [UP TO] \$250
28 PER VIOLATION, ENTRY OR FAILURE TO DESTROY.

29 (1.4) PRIOR TO JANUARY 1, 1997, AND FOLLOWING
30 IMPLEMENTATION OF THE INSTANTANEOUS RECORDS CHECK BY THE

1 PENNSYLVANIA STATE POLICE ON OR BEFORE OCTOBER 11, 1999, NO
2 APPLICATION/RECORD OF SALE SHALL BE COMPLETED FOR THE
3 PURCHASE OR TRANSFER OF A FIREARM WHICH EXCEEDS THE BARREL
4 LENGTHS SET FORTH IN SECTION 6102. A STATEMENT SHALL BE
5 SUBMITTED BY THE DEALER TO THE PENNSYLVANIA STATE POLICE,
6 POSTMARKED VIA FIRST CLASS MAIL, WITHIN 14 DAYS OF THE SALE,
7 CONTAINING THE NUMBER OF FIREARMS SOLD WHICH EXCEED THE
8 BARREL AND RELATED LENGTHS SET FORTH IN SECTION 6102, THE
9 AMOUNT OF SURCHARGE AND OTHER FEES REMITTED AND A LIST OF THE
10 UNIQUE APPROVAL NUMBERS GIVEN PURSUANT TO PARAGRAPH (4),
11 TOGETHER WITH A STATEMENT THAT THE BACKGROUND CHECKS HAVE
12 BEEN PERFORMED ON THE FIREARMS CONTAINED IN THE STATEMENT.
13 THE FORM OF THE STATEMENT RELATING TO PERFORMANCE OF
14 BACKGROUND CHECKS SHALL BE PROMULGATED BY THE PENNSYLVANIA
15 STATE POLICE.

16 (2) INSPECTED PHOTOIDENTIFICATION OF THE POTENTIAL
17 PURCHASER OR TRANSFEREE, INCLUDING, BUT NOT LIMITED TO, A
18 DRIVER'S LICENSE, OFFICIAL PENNSYLVANIA PHOTOIDENTIFICATION
19 CARD OR OFFICIAL GOVERNMENT PHOTOIDENTIFICATION CARD. IN THE
20 CASE OF A POTENTIAL BUYER OR TRANSFEREE WHO IS A MEMBER OF A
21 RECOGNIZED RELIGIOUS SECT OR COMMUNITY WHOSE TENETS FORBID OR
22 DISCOURAGE THE TAKING OF PHOTOGRAPHS OF MEMBERS OF THAT SECT
23 OR COMMUNITY, A SELLER SHALL ACCEPT A VALID-WITHOUT-PHOTO
24 DRIVER'S LICENSE OR A COMBINATION OF DOCUMENTS, AS PRESCRIBED
25 BY THE PENNSYLVANIA STATE POLICE, CONTAINING THE APPLICANT'S
26 NAME, ADDRESS, DATE OF BIRTH AND THE SIGNATURE OF THE
27 APPLICANT.

28 (3) REQUESTED BY MEANS OF A TELEPHONE CALL THAT THE
29 PENNSYLVANIA STATE POLICE CONDUCT A CRIMINAL HISTORY,
30 JUVENILE DELINQUENCY HISTORY AND A MENTAL HEALTH RECORD

1 CHECK. THE REQUESTER SHALL BE CHARGED A FEE EQUIVALENT TO THE
2 COST OF PROVIDING THE SERVICE BUT NOT TO EXCEED \$2 PER BUYER
3 OR TRANSFEREE.

4 (4) RECEIVED A UNIQUE APPROVAL NUMBER FOR THAT INQUIRY
5 FROM THE PENNSYLVANIA STATE POLICE AND RECORDED THE DATE AND
6 THE NUMBER ON THE APPLICATION/RECORD OF SALE FORM.

7 (5) ISSUED A RECEIPT CONTAINING THE INFORMATION FROM
8 PARAGRAPH (4), INCLUDING THE UNIQUE APPROVAL NUMBER OF THE
9 PURCHASER. THIS RECEIPT SHALL BE PRIMA FACIE EVIDENCE OF THE
10 PURCHASER'S OR TRANSFEREE'S COMPLIANCE WITH THE PROVISIONS OF
11 THIS SECTION.

12 (6) UNLESS IT HAS BEEN DISCOVERED PURSUANT TO A CRIMINAL
13 HISTORY, JUVENILE DELINQUENCY AND MENTAL HEALTH RECORDS
14 BACKGROUND CHECK THAT THE POTENTIAL PURCHASER OR TRANSFEREE
15 IS PROHIBITED FROM POSSESSING A FIREARM PURSUANT TO SECTION
16 6105, NO INFORMATION RECEIVED VIA TELEPHONE FOLLOWING THE
17 IMPLEMENTATION OF THE INSTANTANEOUS BACKGROUND CHECK SYSTEM
18 FROM A PURCHASER OR TRANSFEREE WHO HAS RECEIVED A UNIQUE
19 APPROVAL NUMBER SHALL BE RETAINED BY THE PENNSYLVANIA STATE
20 POLICE.

21 (C) DUTY OF OTHER PERSONS.--ANY PERSON WHO IS NOT A LICENSED
22 IMPORTER, MANUFACTURER OR DEALER AND WHO DESIRES TO SELL OR
23 TRANSFER A FIREARM TO ANOTHER UNLICENSED PERSON SHALL DO SO ONLY
24 UPON THE PLACE OF BUSINESS OF A LICENSED IMPORTER, MANUFACTURER,
25 DEALER OR COUNTY SHERIFF'S OFFICE, THE LATTER OF WHOM SHALL
26 FOLLOW THE PROCEDURE SET FORTH IN THIS SECTION AS IF HE WERE THE
27 SELLER OF THE FIREARM. THE PROVISIONS OF THIS SECTION SHALL NOT
28 APPLY TO TRANSFERS BETWEEN SPOUSES OR TO TRANSFERS BETWEEN A
29 PARENT AND CHILD OR TO TRANSFERS BETWEEN GRANDPARENT AND
30 GRANDCHILD.

1 (D) DEFENSE.--COMPLIANCE WITH THE PROVISIONS OF THIS SECTION
2 SHALL BE A DEFENSE TO ANY CRIMINAL COMPLAINT UNDER THE LAWS OF
3 THIS COMMONWEALTH OR OTHER CLAIM OR CAUSE OF ACTION UNDER THIS
4 CHAPTER ARISING FROM THE SALE OR TRANSFER OF ANY FIREARM.

5 (E) NONAPPLICABILITY OF SECTION.--THIS SECTION SHALL NOT
6 APPLY TO THE FOLLOWING:

7 (1) ANY FIREARM MANUFACTURED ON OR BEFORE 1898.

8 (2) ANY FIREARM WITH A MATCHLOCK, FLINTLOCK OR
9 PERCUSSION CAP TYPE OF IGNITION SYSTEM.

10 (3) ANY REPLICA OF ANY FIREARM DESCRIBED IN PARAGRAPH

11 (1) IF THE REPLICA:

12 (I) IS NOT DESIGNED OR REDESIGNED TO USE RIMFIRE OR
13 CONVENTIONAL CENTER FIRE FIXED AMMUNITION; OR

14 (II) USES RIMFIRE OR CONVENTIONAL CENTER FIRE FIXED
15 AMMUNITION WHICH IS NO LONGER MANUFACTURED IN THE UNITED
16 STATES AND WHICH IS NOT READILY AVAILABLE IN THE ORDINARY
17 CHANNELS OF COMMERCIAL TRADE.

18 (F) APPLICATION OF SECTION.--

19 (1) FOR THE PURPOSES OF THIS SECTION ONLY, EXCEPT AS
20 PROVIDED BY PARAGRAPH (2), "FIREARM" SHALL MEAN ANY WEAPON
21 WHICH IS DESIGNED TO OR MAY READILY BE CONVERTED TO EXPEL ANY
22 PROJECTILE BY THE ACTION OF AN EXPLOSIVE OR THE FRAME OR
23 RECEIVER OF ANY SUCH WEAPON.

24 (2) THE PROVISIONS CONTAINED IN SUBSECTIONS (A) AND (C)
25 SHALL ONLY APPLY TO PISTOLS OR REVOLVERS WITH A BARREL LENGTH
26 OF LESS THAN 15 INCHES, ANY SHOTGUN WITH A BARREL LENGTH OF
27 LESS THAN 18 INCHES, ANY RIFLE WITH A BARREL LENGTH OF LESS
28 THAN 16 INCHES OR ANY FIREARM WITH AN OVERALL LENGTH OF LESS
29 THAN 26 INCHES.

30 (3) THE PROVISIONS CONTAINED IN SUBSECTION (A) SHALL NOT

1 APPLY TO ANY LAW ENFORCEMENT OFFICER WHOSE CURRENT
2 IDENTIFICATION AS A LAW ENFORCEMENT OFFICER SHALL BE
3 CONSTRUED AS A VALID LICENSE TO CARRY A FIREARM OR ANY PERSON
4 WHO POSSESSES A VALID LICENSE TO CARRY A FIREARM UNDER
5 SECTION 6109 (RELATING TO LICENSES).

6 (4) (I) THE PROVISIONS OF SUBSECTION (A) SHALL NOT
7 APPLY TO ANY PERSON WHO PRESENTS TO THE SELLER OR
8 TRANSFEROR A WRITTEN STATEMENT ISSUED BY THE OFFICIAL
9 DESCRIBED IN SUBPARAGRAPH (III) DURING THE TEN-DAY PERIOD
10 ENDING ON THE DATE OF THE MOST RECENT PROPOSAL OF SUCH
11 TRANSFER OR SALE BY THE TRANSFEREE OR PURCHASER STATING
12 THAT THE TRANSFEREE OR PURCHASER REQUIRES ACCESS TO A
13 FIREARM BECAUSE OF A THREAT TO THE LIFE OF THE TRANSFEREE
14 OR PURCHASER OR ANY MEMBER OF THE HOUSEHOLD OF THAT
15 TRANSFEREE OR PURCHASER.

16 (II) THE ISSUING OFFICIAL SHALL NOTIFY THE
17 APPLICANT'S LOCAL POLICE AUTHORITY THAT SUCH A STATEMENT
18 HAS BEEN ISSUED. IN COUNTIES OF THE FIRST CLASS THE CHIEF
19 OF POLICE SHALL NOTIFY THE POLICE STATION OR SUBSTATION
20 CLOSEST TO THE APPLICANT'S RESIDENCE.

21 (III) THE STATEMENT ISSUED UNDER SUBPARAGRAPH (II)
22 SHALL BE ISSUED BY THE DISTRICT ATTORNEY, OR HIS
23 DESIGNEE, OF THE COUNTY OF RESIDENCE IF THE TRANSFEREE OR
24 PURCHASER RESIDES IN A MUNICIPALITY WHERE THERE IS NO
25 CHIEF OF POLICE. OTHERWISE, THE STATEMENT SHALL BE ISSUED
26 BY THE CHIEF OF POLICE IN THE MUNICIPALITY IN WHICH THE
27 PURCHASER OR TRANSFEREE RESIDES.

28 (G) PENALTIES.--

29 (1) ANY PERSON, LICENSED DEALER, LICENSED MANUFACTURER
30 OR LICENSED IMPORTER WHO KNOWINGLY OR INTENTIONALLY SELLS,

1 DELIVERS OR TRANSFERS A FIREARM IN VIOLATION OF THIS SECTION
2 COMMITS A MISDEMEANOR OF THE SECOND DEGREE.

3 (2) ANY PERSON, LICENSED DEALER, LICENSED MANUFACTURER
4 OR LICENSED IMPORTER WHO KNOWINGLY OR INTENTIONALLY SELLS,
5 DELIVERS OR TRANSFERS A FIREARM UNDER CIRCUMSTANCES INTENDED
6 TO PROVIDE A FIREARM TO ANY PERSON, PURCHASER OR TRANSFEREE
7 WHO IS UNQUALIFIED OR INELIGIBLE TO CONTROL, POSSESS OR USE A
8 FIREARM UNDER THIS CHAPTER COMMITS A FELONY OF THE THIRD
9 DEGREE AND SHALL IN ADDITION BE SUBJECT TO REVOCATION OF THE
10 LICENSE TO SELL FIREARMS FOR A PERIOD OF THREE YEARS.

11 (3) ANY PERSON, LICENSED DEALER, LICENSED MANUFACTURER
12 OR LICENSED IMPORTER WHO KNOWINGLY AND INTENTIONALLY REQUESTS
13 A CRIMINAL HISTORY, JUVENILE DELINQUENCY [OR], MENTAL HEALTH
14 RECORD CHECK OR OTHER CONFIDENTIAL INFORMATION PURSUANT TO
15 SECTION 6109 (RELATING TO LICENSES) FROM THE PENNSYLVANIA
16 STATE POLICE OR OTHER LAW ENFORCEMENT AGENCY UNDER THIS
17 CHAPTER FOR ANY PURPOSE OTHER THAN COMPLIANCE WITH THIS
18 CHAPTER OR KNOWINGLY AND INTENTIONALLY DISSEMINATES ANY
19 CRIMINAL HISTORY, JUVENILE DELINQUENCY [OR], MENTAL HEALTH
20 RECORD [INFORMATION] OR OTHER CONFIDENTIAL INFORMATION
21 PURSUANT TO SECTION 6109 TO ANY PERSON OTHER THAN THE SUBJECT
22 OF THE INFORMATION COMMITS A FELONY OF THE THIRD DEGREE.

23 (4) ANY PERSON, PURCHASER OR TRANSFEREE WHO IN
24 CONNECTION WITH THE PURCHASE, DELIVERY OR TRANSFER OF A
25 FIREARM UNDER THIS CHAPTER KNOWINGLY AND INTENTIONALLY MAKES
26 ANY MATERIALLY FALSE ORAL OR WRITTEN STATEMENT OR WILLFULLY
27 FURNISHES OR EXHIBITS ANY FALSE IDENTIFICATION INTENDED OR
28 LIKELY TO DECEIVE THE SELLER, LICENSED DEALER OR LICENSED
29 MANUFACTURER COMMITS A FELONY OF THE THIRD DEGREE.

30 (5) NOTWITHSTANDING SECTION 306 (RELATING TO LIABILITY

1 FOR CONDUCT OF ANOTHER; COMPLICITY) OR ANY OTHER STATUTE TO
2 THE CONTRARY, ANY PERSON, LICENSED IMPORTER, LICENSED DEALER
3 OR LICENSED MANUFACTURER WHO KNOWINGLY AND INTENTIONALLY
4 SELLS, DELIVERS OR TRANSFERS A FIREARM IN VIOLATION OF THIS
5 CHAPTER WHO HAS REASON TO BELIEVE THAT THE FIREARM IS
6 INTENDED TO BE USED IN THE COMMISSION OF A CRIME OR ATTEMPT
7 TO COMMIT A CRIME SHALL BE CRIMINALLY LIABLE FOR SUCH CRIME
8 OR ATTEMPTED CRIME.

9 (6) NOTWITHSTANDING ANY ACT OR STATUTE TO THE CONTRARY,
10 ANY PERSON, LICENSED IMPORTER, LICENSED MANUFACTURER OR
11 LICENSED DEALER WHO KNOWINGLY AND INTENTIONALLY SELLS OR
12 DELIVERS A FIREARM IN VIOLATION OF THIS CHAPTER WHO HAS
13 REASON TO BELIEVE THAT THE FIREARM IS INTENDED TO BE USED IN
14 THE COMMISSION OF A CRIME OR ATTEMPT TO COMMIT A CRIME SHALL
15 BE LIABLE IN THE AMOUNT OF THE CIVIL JUDGMENT FOR INJURIES
16 SUFFERED BY ANY PERSON SO INJURED BY SUCH CRIME OR ATTEMPTED
17 CRIME.

18 (H) SUBSEQUENT VIOLATION PENALTY.--

19 (1) A SECOND OR SUBSEQUENT VIOLATION OF THIS SECTION
20 SHALL BE A FELONY OF THE SECOND DEGREE AND SHALL BE
21 PUNISHABLE BY A MANDATORY MINIMUM SENTENCE OF IMPRISONMENT OF
22 FIVE YEARS. A SECOND OR SUBSEQUENT OFFENSE SHALL ALSO RESULT
23 IN PERMANENT REVOCATION OF ANY LICENSE TO SELL, IMPORT OR
24 MANUFACTURE A FIREARM.

25 (2) NOTICE OF THE APPLICABILITY OF THIS SUBSECTION TO
26 THE DEFENDANT [SHALL NOT BE REQUIRED PRIOR TO CONVICTION,
27 BUT] AND REASONABLE NOTICE OF THE COMMONWEALTH'S INTENTION TO
28 PROCEED UNDER THIS SECTION SHALL BE PROVIDED [AFTER
29 CONVICTION AND BEFORE SENTENCING.] PRIOR TO TRIAL. THE
30 APPLICABILITY OF THIS SECTION SHALL BE DETERMINED AT

1 SENTENCING. THE COURT SHALL CONSIDER EVIDENCE PRESENTED AT
2 TRIAL, SHALL AFFORD THE COMMONWEALTH AND THE DEFENDANT AN
3 OPPORTUNITY TO PRESENT NECESSARY ADDITIONAL EVIDENCE AND
4 SHALL DETERMINE BY A PREPONDERANCE OF THE EVIDENCE IF THIS
5 SECTION IS APPLICABLE.

6 (3) THERE SHALL BE NO AUTHORITY FOR A COURT TO IMPOSE ON
7 A DEFENDANT TO WHICH THIS SUBSECTION IS APPLICABLE A LESSER
8 SENTENCE THAN PROVIDED FOR IN PARAGRAPH (1), TO PLACE THE
9 DEFENDANT ON PROBATION OR TO SUSPEND SENTENCE. NOTHING IN
10 THIS SECTION SHALL PREVENT THE SENTENCING COURT FROM IMPOSING
11 A SENTENCE GREATER THAN THAT PROVIDED IN THIS SECTION.
12 SENTENCING GUIDELINES PROMULGATED BY THE PENNSYLVANIA
13 COMMISSION ON SENTENCING SHALL NOT SUPERSEDE THE MANDATORY
14 SENTENCES PROVIDED IN THIS SECTION.

15 (4) IF A SENTENCING COURT REFUSES TO APPLY THIS
16 SUBSECTION WHERE APPLICABLE, THE COMMONWEALTH SHALL HAVE THE
17 RIGHT TO APPELLATE REVIEW OF THE ACTION OF THE SENTENCING
18 COURT. THE APPELLATE COURT SHALL VACATE THE SENTENCE AND
19 REMAND THE CASE TO THE SENTENCING COURT FOR IMPOSITION OF A
20 SENTENCE IN ACCORDANCE WITH THIS SECTION IF IT FINDS THAT THE
21 SENTENCE WAS IMPOSED IN VIOLATION OF THIS SUBSECTION.

22 (I) CONFIDENTIALITY.--[INFORMATION FURNISHED BY A POTENTIAL
23 PURCHASER OR TRANSFEREE UNDER THIS SECTION OR ANY APPLICANT FOR
24 A LICENSE TO CARRY A FIREARM AS PROVIDED BY SECTION 6109 SHALL
25 BE CONFIDENTIAL AND NOT SUBJECT TO PUBLIC DISCLOSURE.] ALL
26 INFORMATION PROVIDED BY THE POTENTIAL PURCHASER, TRANSFEREE OR
27 APPLICANT, INCLUDING, BUT NOT LIMITED TO, THE POTENTIAL
28 PURCHASER, TRANSFEREE OR APPLICANT'S NAME OR IDENTITY, FURNISHED
29 BY A POTENTIAL PURCHASER OR TRANSFEREE UNDER THIS SECTION OR ANY
30 APPLICANT FOR A LICENSE TO CARRY A FIREARM AS PROVIDED BY

1 SECTION 6109 SHALL BE CONFIDENTIAL AND NOT SUBJECT TO PUBLIC
2 DISCLOSURE. IN ADDITION TO ANY OTHER SANCTION OR PENALTY IMPOSED
3 BY THIS CHAPTER, ANY PERSON, LICENSED DEALER, STATE OR LOCAL
4 GOVERNMENTAL AGENCY OR DEPARTMENT THAT VIOLATES THIS SUBSECTION
5 SHALL BE LIABLE IN CIVIL DAMAGES IN THE AMOUNT OF \$1,000 PER
6 OCCURRENCE OR THREE TIMES THE ACTUAL DAMAGES INCURRED AS A
7 RESULT OF THE VIOLATION, WHICHEVER IS GREATER, AS WELL AS
8 REASONABLE ATTORNEY FEES.

9 § 6111.1. PENNSYLVANIA STATE POLICE.

10 * * *

11 (B) DUTY OF PENNSYLVANIA STATE POLICE.--

12 * * *

13 (2) IN THE EVENT OF ELECTRONIC FAILURE, SCHEDULED
14 COMPUTER DOWNTIME OR SIMILAR EVENT BEYOND THE CONTROL OF THE
15 PENNSYLVANIA STATE POLICE, THE PENNSYLVANIA STATE POLICE
16 SHALL IMMEDIATELY NOTIFY THE REQUESTING LICENSEE OF THE
17 REASON FOR AND ESTIMATED LENGTH OF THE DELAY. IF THE FAILURE
18 OR EVENT LASTS FOR A PERIOD EXCEEDING 48 HOURS, THE DEALER
19 SHALL NOT BE SUBJECT TO ANY PENALTY FOR [FAILURE TO COMPLETE
20 AN] COMPLETING A TRANSACTION ABSENT THE COMPLETION OF AN
21 INSTANTANEOUS RECORDS CHECK FOR THE REMAINDER OF THE FAILURE
22 OR SIMILAR EVENT, BUT THE DEALER SHALL OBTAIN A COMPLETED
23 APPLICATION/RECORD OF SALE FOLLOWING THE PROVISIONS OF
24 SECTION 6111(B)(1) AND (1.1) (RELATING TO SALE OR TRANSFER OF
25 FIREARMS) AS IF AN INSTANTANEOUS RECORDS CHECK HAS NOT BEEN
26 ESTABLISHED FOR ANY SALE OR TRANSFER OF A FIREARM FOR THE
27 PURPOSE OF A SUBSEQUENT BACKGROUND CHECK.

28 * * *

29 (K) [DEFINITION.--FOR THE PURPOSES OF THIS SECTION ONLY, THE
30 TERM "FIREARM" SHALL HAVE THE SAME MEANING AS IN SECTION 6111.2

(RELATING TO FIREARM SALES SURCHARGE).] DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SUBSECTION:

"FIREARM." THE TERM SHALL HAVE THE SAME MEANING AS IN SECTION 6111.2 (RELATING TO FIREARM SALES SURCHARGE).

"PHYSICIAN." ANY LICENSED PSYCHIATRIST OR CLINICAL PSYCHOLOGIST AS DEFINED IN THE ACT OF JULY 9, 1976 (P.L.817, NO.143), KNOWN AS THE MENTAL HEALTH PROCEDURES ACT.

§ 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 AS DEFINED IN SECTION 6113(D) (RELATING TO LICENSING OF DEALERS) WITHOUT BEING LICENSED AS PROVIDED IN THIS [SUBCHAPTER] CHAPTER.

§ 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. FAILURE TO PRODUCE SUCH LICENSE, EITHER AT THE TIME OF ARREST OR AT THE PRELIMINARY HEARING, SHALL CREATE A REBUTTABLE PRESUMPTION OF NONLICENSURE.

* * *

SECTION 2. SECTION 6141 OF TITLE 18 IS REPEALED.

SECTION 3. TITLE 18 IS AMENDED BY ADDING A SECTION TO READ:

§ 6141.1. PURCHASE OF RIFLES AND SHOTGUNS OUTSIDE THIS COMMONWEALTH.

NOTHING IN THIS CHAPTER SHALL BE CONSTRUED TO PROHIBIT A PERSON IN THIS COMMONWEALTH WHO MAY LAWFULLY PURCHASE, POSSESS, USE, CONTROL, SELL, TRANSFER OR MANUFACTURE A FIREARM WHICH EXCEEDS THE BARREL AND RELATED LENGTHS SET FORTH IN SECTION 6102

1 (RELATING TO DEFINITIONS), FROM LAWFULLY PURCHASING OR OTHERWISE
2 OBTAINING SUCH A FIREARM IN A JURISDICTION OUTSIDE THIS
3 COMMONWEALTH.

4 SECTION 4. SECTION 9122 OF TITLE 18 IS AMENDED BY ADDING A
5 SUBSECTION TO READ:

6 § 9122. Expungement.

7 * * *

8 (b.1) Prohibition.--A court shall not have the authority to
9 order expungement of the defendant's arrest record where the
10 defendant was placed on Accelerated Rehabilitative Disposition
11 for a violation of any offense set forth in any of the following
12 where the victim is under 18 years of age:

13 Section 3121 (relating to rape).

14 Section 3122.1 (relating to statutory sexual assault).

15 Section 3123 (relating to involuntary deviate sexual
16 intercourse).

17 Section 3124.1 (relating to sexual assault).

18 Section 3125 (relating to aggravated indecent assault).

19 Section 3126 (relating to indecent assault).

20 Section 5902(b) (relating to prostitution and related
21 offenses).

22 Section 5903 (relating to obscene and other sexual
23 materials and performances).

24 * * *

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

<—

26 SECTION 5. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

<—

27 (1) THE AMENDMENT OF 18 PA.C.S. § 6111(B)(1.1) SHALL
28 TAKE EFFECT IMMEDIATELY.

29 (2) THIS SECTION SHALL TAKE EFFECT IMMEDIATELY.

30 (3) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 60

1 DAYS.