

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 565 Session of
1999

INTRODUCED BY FORCIER, METCALFE, LYNCH, SEYFERT, FAIRCHILD,
GEIST, LEH, MCILHINNEY, ROHRER AND STEVENSON,
FEBRUARY 10, 1999

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 10, 1999

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, further providing for the registration
3 and sale of certain firearms.

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

6 Section 1. Section 6101 of Title 18 of the Pennsylvania
7 Consolidated Statutes is amended to read:

8 § 6101. Short title of subchapter.

9 This subchapter shall be known and may be cited as the
10 [Pennsylvania Uniform Firearms Act of 1995] Firearms Rights
11 Restoration Act of 1999.

12 Section 2. Title 18 is amended by adding a section to read:

13 § 6101.1. Legislative intent.

14 It is the intent of the General Assembly to restore the
15 rights of the citizens of this Commonwealth, guaranteed by both
16 the Second Amendment of the Constitution of the United States
17 and section 21 of Article 1 of the Constitution of Pennsylvania,
18 to keep and bear arms in defense of themselves.

1 Section 3. Sections 6105(c)(3) and (e)(2), 6106(a) and
2 (b)(12), 6109(k), 6110.1(b), 6111(b)(1.2) and (1.3), (g)(3.1)
3 and (i), 6111.1(k), 6111.2, 6111.3(b), 6111.4, 6115(b)(1) and
4 6122 of Title 18 are amended to read:

5 § 6105. Persons not to possess, use, manufacture, control, sell
6 or transfer firearms.

7 * * *

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

12 * * *

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

21 * * *

22 (e) Proceedings.--

23 * * *

24 [(2) Upon application to the court of common pleas
25 pursuant to paragraph (1) by an applicant who is subject to
26 the prohibition under subsection (c)(3), the court shall
27 grant such relief if a period of ten years, not including any
28 time spent in incarceration, has passed since the applicant's
29 most recent conviction under subsection (c)(3).]

30 * * *

1 § 6106. Firearms not to be carried without a license.

2 (a) Offense defined.--

3 (1) Except as provided in paragraph (2), any person who
4 carries a firearm in any vehicle or any person who carries a
5 firearm concealed on or about his person, except in his place
6 of abode or fixed place of business, without a valid and
7 lawfully issued license under this chapter commits a felony
8 of the third degree.

9 (2) A person who is otherwise eligible to possess a
10 valid license under this chapter but carries a firearm in any
11 vehicle or any person who carries a firearm concealed on or
12 about his person, except in his place of abode or fixed place
13 of business, without a valid and lawfully issued license and
14 has not committed any other criminal violation commits a
15 misdemeanor of the [first] third degree.

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

18 * * *

19 (12) A person who has a valid lawfully issued license to
20 carry a firearm pursuant to section 6109 (relating to
21 licenses) and [that said license] the license either has not
22 expired or has expired within six months prior to the date of
23 arrest and [that] the individual is otherwise eligible for
24 renewal of the license.

25 * * *

26 § 6109. Licenses.

27 * * *

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

1 § 6110.1. Possession of firearm by minor.

2 * * *

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

5 (1) who is under the supervision of a parent,
6 grandparent, legal guardian or an adult acting with the
7 expressed consent of the minor's custodial parent or legal
8 guardian and the minor is engaged in lawful activity,
9 including safety training, lawful target shooting, engaging
10 in an organized competition involving the use of a firearm or
11 the firearm is unloaded and the minor is transporting it for
12 a lawful purpose; [or]

13 (2) who is lawfully hunting or trapping in accordance
14 with 34 Pa.C.S. (relating to game)[.]; or

15 (3) who is in possession of the firearm in the person's
16 place of abode.

17 * * *

18 § 6111. Sale or transfer of firearms.

19 * * *

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

26 * * *

27 (1.2) Fees collected under paragraph (3) [and section
28 6111.2 (relating to firearm sales surcharge)] shall be
29 transmitted to the Pennsylvania State Police within 14 days
30 of collection.

1 (1.3) [In addition to the criminal penalty under section
2 6119 (relating to violation penalty), any] Any person who
3 knowingly and intentionally maintains or fails to destroy any
4 information submitted to the Pennsylvania State Police for
5 purposes of a background check pursuant to paragraphs (1.1)
6 [and], (1.4) or (6) or communicates such information to any
7 person not entitled to receive it or violates section 6111.4
8 shall be subject to [a civil penalty of \$250] a term of
9 imprisonment of not more than five years and a fine of not
10 more than \$100,000 per violation, entry or failure to
11 destroy.

12 * * *

13 (g) Penalties.--

14 * * *

15 (3.1) Any person, licensed dealer, licensed manufacturer
16 or licensed importer who knowingly and intentionally obtains
17 or furnishes information collected or maintained pursuant to
18 section 6109 for any purpose other than compliance with this
19 chapter or who knowingly or intentionally disseminates,
20 publishes or otherwise makes available such information to
21 any person other than the subject of the information [commits
22 a felony of the third degree] shall be subject to a term of
23 imprisonment for not more than five years and a fine of not
24 more than \$100,000 per violation.

25 * * *

26 (i) Confidentiality.--All information provided by the
27 potential purchaser, transferee or applicant, including, but not
28 limited to, the potential purchaser, transferee or applicant's
29 name or identity, furnished by a potential purchaser or
30 transferee under this section or any applicant for a license to

1 carry a firearm as provided by section 6109 shall be
2 confidential and not subject to public disclosure. In addition
3 to any other sanction or penalty imposed by this chapter, any
4 person, licensed dealer, State or local governmental agency or
5 department that violates this subsection shall be liable in
6 civil damages in the amount of [\$1,000] \$100,000 per occurrence
7 or three times the actual damages incurred as a result of the
8 violation, whichever is greater, as well as reasonable attorney
9 fees.

10 § 6111.1. Pennsylvania State Police.

11 * * *

12 (k) Definitions.--As used in this section, the following
13 words and phrases shall have the meanings given to them in this
14 subsection:

15 "Firearm." The term shall [have the same meaning as in
16 section 6111.2 (relating to firearm sales surcharge)] mean any
17 weapon which is designed to or may readily be converted to expel
18 any projectile by the action of an explosion or the frame or the
19 receiver of any such weapon.

20 "Physician." Any licensed psychiatrist or clinical
21 psychologist as defined in the act of July 9, 1976 (P.L.817,
22 No.143), known as the Mental Health Procedures Act.

23 [§ 6111.2. Firearm sales surcharge.

24 (a) Surcharge imposed.--There is hereby imposed on each sale
25 of a firearm subject to tax under Article II of the act of March
26 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, an
27 additional surcharge of \$3. This shall be referred to as the
28 Firearm Sale Surcharge. All moneys received from this surcharge
29 shall be deposited in the Firearm Instant Records Check Fund.

30 (b) Increases or decreases.--Five years from the effective

1 date of this subsection, and every five years thereafter, the
2 Pennsylvania State Police shall provide such information as
3 necessary to the Legislative Budget and Finance Committee for
4 the purpose of reviewing the need to increase or decrease the
5 instant check fee. The committee shall issue a report of its
6 findings and recommendations to the General Assembly for a
7 statutory change in the fee.

8 (c) Revenue sources.--Funds received under the provisions of
9 this section and section 6111(b)(3) (relating to sale or
10 transfer of firearms), as estimated and certified by the
11 Secretary of Revenue, shall be deposited within five days of the
12 end of each quarter into the fund.

13 (d) Definition.--As used in this section only, the term
14 "firearm" shall mean any weapon which is designed to or may
15 readily be converted to expel any projectile by the action of an
16 explosion or the frame or receiver of any such weapon.]

17 § 6111.3. Firearm Records Check Fund.

18 * * *

19 (b) Source.--The source of the fund shall be moneys
20 collected and transferred under section [6111.2 (relating to
21 firearm sales surcharge) and moneys collected and transferred
22 under section] 6111(b)(3).

23 § 6111.4. Registration of firearms.

24 Notwithstanding any section of this chapter to the contrary,
25 [nothing in this chapter shall be construed to allow any] no
26 government or law enforcement agency or any agent thereof [to]
27 may create, maintain or operate any registry of firearm
28 ownership within this Commonwealth. For the purposes of this
29 section only, the term "firearm" shall include any weapon that
30 is designed to or may readily be converted to expel any

1 projectile by the action of an explosive or the frame or
2 receiver of any such weapon. For the purposes of this section
3 only, the term "registry" shall include the maintenance of any
4 information, whether compiled or not, concerning either the
5 legal possession or legal transfer of firearms by Commonwealth
6 residents. "Registry" shall not include the maintenance of
7 information on the possession of any firearm prohibited by law
8 or the transfer of any firearm prohibited by law. An individual
9 violating this section shall be imprisoned for a term of up to
10 five years and fined up to \$100,000 per violation.

11 § 6115. Loans on, or lending or giving firearms prohibited.

12 * * *

13 (b) Exception.--

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

16 (i) The person who receives the firearm is licensed
17 to carry a firearm under section 6109 (relating to
18 licenses).

19 (ii) The person who receives the firearm is exempt
20 from licensing.

21 (iii) The person who receives the firearm is engaged
22 in a hunter safety program certified by the Pennsylvania
23 Game Commission or a firearm training program or
24 competition sanctioned or approved by the National Rifle
25 Association.

26 (iv) The person who receives the firearm meets all
27 of the following:

28 (A) Is under 18 years of age.

29 (B) Pursuant to section 6110.1 (relating to
30 possession of firearm by minor) is under the

1 supervision, guidance and instruction of a
2 responsible individual who:

3 (I) is 21 years of age or older; and

4 (II) is not prohibited from owning or
5 possessing a firearm under section 6105 (relating
6 to persons not to possess, use, manufacture,
7 control, sell or transfer firearms).

8 (v) The person who receives the firearm is lawfully
9 hunting or trapping and is in compliance with the
10 provisions of Title 34 (relating to game).

11 (v.1) The person who receives the firearm possesses
12 it only in the person's place of abode as provided in
13 section 6110.1(b)(3).

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

16 * * *

17 [§ 6122. Proof of license and exception.

18 (a) General rule.--When carrying a firearm concealed on or
19 about one's person or in a vehicle, an individual licensed to
20 carry a firearm shall, upon lawful demand of a law enforcement
21 officer, produce the license for inspection. Failure to produce
22 such license either at the time of arrest or at the preliminary
23 hearing shall create a rebuttable presumption of nonlicensure.

24 (b) Exception.--An individual carrying a firearm on or about
25 his person or in a vehicle and claiming an exception under
26 section 6106(b) (relating to firearms not to be carried without
27 a license) shall, upon lawful demand of a law enforcement
28 officer, produce satisfactory evidence of qualification for
29 exception.]

30 Section 4. This act shall take effect immediately.