

---

THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

HOUSE BILL

No. 16

Session of  
2001

---

INTRODUCED BY L. I. COHEN, BISHOP, M. COHEN, CURRY, FRANKEL,  
JOSEPHS, MICHLOVIC, THOMAS, C. WILLIAMS AND YOUNGBLOOD,  
FEBRUARY 5, 2001

---

---

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 5, 2001

---

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, adding a definition of "collector";  
3 further providing for the sale or transfer of firearms; and  
4 imposing a duty to report lost or stolen firearms.

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

7 Section 1. Section 6102 of Title 18 of the Pennsylvania  
8 Consolidated Statutes is amended by adding a definition to read:  
9 § 6102. Definitions.

10 Subject to additional definitions contained in subsequent  
11 provisions of this subchapter which are applicable to specific  
12 provisions of this subchapter, the following words and phrases,  
13 when used in this subchapter shall have, unless the context  
14 clearly indicates otherwise, the meanings given to them in this  
15 section:

16 "Collector." Any person who acquires, holds or disposes of  
17 firearms as curios or relics and who is licensed to do so in  
18 accordance with 18 U.S.C. § 923 (relating to licenses).

1       \* \* \*

2       Section 2. Section 6111 of Title 18, amended December 20,  
3       2000 (P.L.728, No.101), is amended to read:

4       § 6111. Sale or transfer of firearms.

5       (a) Time and manner of delivery.--

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

11          (2) Thirty days after publication in the Pennsylvania  
12      Bulletin that the Instantaneous Criminal History Records  
13      Check System has been established in accordance with the  
14      Brady Handgun Violence Prevention Act (Public Law 103-159, 18  
15      U.S.C. § 921 et seq.), no seller shall deliver a firearm to  
16      the purchaser thereof until the provisions of this section  
17      have been satisfied, and, when delivered, the firearm shall  
18      be securely wrapped and shall be unloaded.

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

25          (1) For purposes of a firearm as defined in section 6102  
26      (relating to definitions), obtained a completed  
27      application/record of sale from the potential buyer or  
28      transferee to be filled out in triplicate, the original copy  
29      to be sent to the Pennsylvania State Police, postmarked via  
30      first class mail, within 14 days of the sale, one copy to be

1 retained by the licensed importer, licensed manufacturer or  
2 licensed dealer for a period of 20 years and one copy to be  
3 provided to the purchaser or transferee. The form of this  
4 application/record of sale shall be no more than one page in  
5 length and shall be promulgated by the Pennsylvania State  
6 Police and provided by the licensed importer, licensed  
7 manufacturer or licensed dealer. The application/record of  
8 sale shall include the name, address, birthdate, gender,  
9 race, physical description and Social Security number of the  
10 purchaser or transferee, the date of the application and the  
11 caliber, length of barrel, make, model and manufacturer's  
12 number of the firearm to be purchased or transferred.

13 (1.1) On the date of publication in the Pennsylvania  
14 Bulletin of a notice by the Pennsylvania State Police that  
15 the instantaneous records check has been implemented, all of  
16 the following shall apply:

17 (i) In the event of an electronic failure under  
18 section 6111.1(b)(2) (relating to Pennsylvania State  
19 Police) for purposes of a firearm which exceeds the  
20 barrel and related lengths set forth in section 6102,  
21 obtained a completed application/record of sale from the  
22 potential buyer or transferee to be filled out in  
23 triplicate, the original copy to be sent to the  
24 Pennsylvania State Police, postmarked via first class  
25 mail, within 14 days of sale, one copy to be retained by  
26 the licensed importer, licensed manufacturer or licensed  
27 dealer for a period of 20 years and one copy to be  
28 provided to the purchaser or transferee.

29 (ii) The form of the application/record of sale  
30 shall be no more than one page in length and shall be

1 promulgated by the Pennsylvania State Police and provided  
2 by the licensed importer, licensed manufacturer or  
3 licensed dealer.

4 (iii) For purposes of conducting the criminal  
5 history, juvenile delinquency and mental health records  
6 background check which shall be completed within ten days  
7 of receipt of the information from the dealer, the  
8 application/record of sale shall include the name,  
9 address, birthdate, gender, race, physical description  
10 and Social Security number of the purchaser or transferee  
11 and the date of application.

12 (iv) No information regarding the type of firearm  
13 need be included other than an indication that the  
14 firearm exceeds the barrel lengths set forth in section  
15 6102.

16 (v) Unless it has been discovered pursuant to a  
17 criminal history, juvenile delinquency and mental health  
18 records background check that the potential purchaser or  
19 transferee is prohibited from possessing a firearm  
20 pursuant to section 6105 (relating to persons not to  
21 possess, use, manufacture, control, sell or transfer  
22 firearms), no information on the application/record of  
23 sale provided pursuant to this subsection shall be  
24 retained as precluded by section 6111.4 (relating to  
25 registration of firearms) by the Pennsylvania State  
26 Police either through retention of the application/record  
27 of sale or by entering the information onto a computer,  
28 and, further, an application/record of sale received by  
29 the Pennsylvania State Police pursuant to this subsection  
30 shall be destroyed within 72 hours of the completion of

1 the criminal history, juvenile delinquency and mental  
2 health records background check.

3 (1.2) Fees collected under paragraph (3) and section  
4 6111.2 (relating to firearm sales surcharge) shall be  
5 transmitted to the Pennsylvania State Police within 14 days  
6 of collection.

7 (1.3) In addition to the criminal penalty under section  
8 6119 (relating to violation penalty), any person who  
9 knowingly and intentionally maintains or fails to destroy any  
10 information submitted to the Pennsylvania State Police for  
11 purposes of a background check pursuant to paragraphs (1.1)  
12 and (1.4) or violates section 6111.4 shall be subject to a  
13 civil penalty of \$250 per violation, entry or failure to  
14 destroy.

15 (1.4) Following implementation of the instantaneous  
16 records check by the Pennsylvania State Police on or before  
17 December 31, 1998, no application/record of sale shall be  
18 completed for the purchase or transfer of a firearm which  
19 exceeds the barrel lengths set forth in section 6102. A  
20 statement shall be submitted by the dealer to the  
21 Pennsylvania State Police, postmarked via first class mail,  
22 within 14 days of the sale, containing the number of firearms  
23 sold which exceed the barrel and related lengths set forth in  
24 section 6102, the amount of surcharge and other fees remitted  
25 and a list of the unique approval numbers given pursuant to  
26 paragraph (4), together with a statement that the background  
27 checks have been performed on the firearms contained in the  
28 statement. The form of the statement relating to performance  
29 of background checks shall be promulgated by the Pennsylvania  
30 State Police.

1           (2) Inspected photoidentification of the potential  
2 purchaser or transferee, including, but not limited to, a  
3 driver's license, official Pennsylvania photoidentification  
4 card or official government photoidentification card. In the  
5 case of a potential buyer or transferee who is a member of a  
6 recognized religious sect or community whose tenets forbid or  
7 discourage the taking of photographs of members of that sect  
8 or community, a seller shall accept a valid-without-photo  
9 driver's license or a combination of documents, as prescribed  
10 by the Pennsylvania State Police, containing the applicant's  
11 name, address, date of birth and the signature of the  
12 applicant.

13           (3) Requested by means of a telephone call that the  
14 Pennsylvania State Police conduct a criminal history,  
15 juvenile delinquency history and a mental health record  
16 check. The purchaser and the licensed dealer shall provide  
17 such information as is necessary to accurately identify the  
18 purchaser. The requester shall be charged a fee equivalent to  
19 the cost of providing the service but not to exceed \$2 per  
20 buyer or transferee.

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

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

29           (6) Unless it has been discovered pursuant to a criminal  
30 history, juvenile delinquency and mental health records

1 background check that the potential purchaser or transferee  
2 is prohibited from possessing a firearm pursuant to section  
3 6105, no information received via telephone following the  
4 implementation of the instantaneous background check system  
5 from a purchaser or transferee who has received a unique  
6 approval number shall be retained by the Pennsylvania State  
7 Police, except for the purpose of enforcing subsection (c.1).

8 (7) For purposes of the enforcement of 18 U.S.C. §  
9 922(d)(9), (g)(1) and (s)(1) (relating to unlawful acts), in  
10 the event the criminal history or juvenile delinquency  
11 background check indicates a conviction for a misdemeanor  
12 that the Pennsylvania State Police cannot determine is or is  
13 not related to an act of domestic violence, the Pennsylvania  
14 State Police shall issue a temporary delay of the approval of  
15 the purchase or transfer. During the temporary delay, the  
16 Pennsylvania State Police shall conduct a review or  
17 investigation of the conviction with courts, local police  
18 departments, district attorneys and other law enforcement or  
19 related institutions as necessary to determine whether or not  
20 the misdemeanor conviction involved an act of domestic  
21 violence. The Pennsylvania State Police shall conduct the  
22 review or investigation as expeditiously as possible. No  
23 firearm may be transferred by the dealer to the purchaser who  
24 is the subject of the investigation during the temporary  
25 delay. The Pennsylvania State Police shall notify the dealer  
26 of the termination of the temporary delay and either deny the  
27 sale or provide the unique approval number under paragraph  
28 (4).

29 (c) Duty of other persons.--Any person who is not a licensed  
30 importer, manufacturer or dealer and who desires to sell or

1 transfer a firearm to another unlicensed person shall do so only  
2 upon the place of business of a licensed importer, manufacturer,  
3 dealer or county sheriff's office, the latter of whom shall  
4 follow the procedure set forth in this section as if he were the  
5 seller of the firearm. The provisions of this section shall not  
6 apply to transfers between spouses or to transfers between a  
7 parent and child or to transfers between grandparent and  
8 grandchild.

9 (c.1) Firearm trafficking prevention.--Except as provided in  
10 this subsection, a person may not purchase more than one firearm  
11 within a 30-day period.

12 (1) This subsection shall not apply to:

13 (i) a law enforcement agency;

14 (ii) an agency authorized to perform law enforcement  
15 duties;

16 (iii) a State or county correctional facility;

17 (iv) a private security company licensed to do  
18 business within this Commonwealth;

19 (v) purchases by a licensed dealer;

20 (vi) the exchange or replacement of a firearm by a  
21 seller for a firearm purchased from the seller by the  
22 same person seeking the exchange or replacement within a  
23 30-day period immediately preceding the date of exchange  
24 or replacement; or

25 (vii) a person whose firearm is stolen or  
26 irretrievably lost and who provides the firearms dealer  
27 or county sheriff with a copy of an official police  
28 report or an official summary of the report, a copy of  
29 which shall be attached to the application or record of  
30 sale for the purchase or transfer of the firearm



1           purchased.

2           (2) The purchase or transfer of more than one firearm in  
3           a 30-day period may be made under the following  
4           circumstances:

5                 (i) the purchase of the firearms is by a collector  
6                 for a private collection or a collector series;

7                 (ii) the purchase of the firearms is a bulk purchase  
8                 from an estate sale;

9                 (iii) the purchase of not more than two firearms is  
10                a multiple purchase for the purposes of taking advantage  
11                of a licensed dealer's discounted price available only  
12                for a multiple purchase, provided that the purchaser is  
13                prohibited from purchasing a firearm for the following  
14                30-day period unless approved for multiple purchase under  
15                paragraph (1); or

16                (iv) the purchaser completes an enhanced background  
17                check in accordance with subsection (c.2).

18           (c.2) Enhanced background check.--For the purpose of  
19           purchasing more than one firearm in accordance with subsection  
20           (c.1)(2)(iv), and in addition to the procedure required under  
21           this section, a person must:

22                 (1) Complete an affidavit with the chief law enforcement  
23                 officer in the county where the purchase is to be completed  
24                 which contains the name, address, birthdate, gender, race,  
25                 physical description and Social Security number of the  
26                 purchaser, the date of application, the caliber, length of  
27                 barrel, make, model and manufacturer's number of each firearm  
28                 to be purchased and a statement describing the purpose of  
29                 purchasing the firearms.

30                 (2) Complete a fingerprint and photograph record with

1 the chief law enforcement officer where the purchase is to be  
2 completed.

3 (d) Defense.--Compliance with the provisions of this section  
4 shall be a defense to any criminal complaint under the laws of  
5 this Commonwealth or other claim or cause of action under this  
6 chapter arising from the sale or transfer of any firearm.

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

9 (1) Any firearm manufactured on or before 1898.

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

12 (3) Any replica of any firearm described in paragraph

13 (1) if the replica:

14 (i) is not designed or redesigned to use rimfire or  
15 conventional center fire fixed ammunition; or

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

20 (f) Application of section.--

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

26 (2) The provisions contained in subsections (a) [and  
27 (c)], (c), (c.1) and (c.2) shall only apply to pistols or  
28 revolvers with a barrel length of less than 15 inches, any  
29 shotgun with a barrel length of less than 18 inches, any  
30 rifle with a barrel length of less than 16 inches or any

1 firearm with an overall length of less than 26 inches.

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

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

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

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

30 (g) Penalties.--

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

5           (2) Any person, licensed dealer, licensed manufacturer  
6 or licensed importer who knowingly or intentionally sells,  
7 delivers or transfers a firearm under circumstances intended  
8 to provide a firearm to any person, purchaser or transferee  
9 who is unqualified or ineligible to control, possess or use a  
10 firearm under this chapter or who knowingly and intentionally  
11 purchases or transfers more than one firearm in a 30-day  
12 period to a person in violation of subsection (c.1) commits a  
13 felony of the third degree and shall in addition be subject  
14 to revocation of the license to sell firearms for a period of  
15 three years.

16           (3) Any person, licensed dealer, licensed manufacturer  
17 or licensed importer who knowingly and intentionally requests  
18 a criminal history, juvenile delinquency or mental health  
19 record check or other confidential information from the  
20 Pennsylvania State Police under this chapter for any purpose  
21 other than compliance with this chapter or knowingly and  
22 intentionally disseminates any criminal history, juvenile  
23 delinquency or mental health record or other confidential  
24 information to any person other than the subject of the  
25 information commits a felony of the third degree.

26           (3.1) Any person, licensed dealer, licensed manufacturer  
27 or licensed importer who knowingly and intentionally obtains  
28 or furnishes information collected or maintained pursuant to  
29 section 6109 for any purpose other than compliance with this  
30 chapter or who knowingly or intentionally disseminates,

1 publishes or otherwise makes available such information to  
2 any person other than the subject of the information commits  
3 a felony of the third degree.

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

12 (5) Notwithstanding section 306 (relating to liability  
13 for conduct of another; complicity) or any other statute to  
14 the contrary, any person, licensed importer, licensed dealer  
15 or licensed manufacturer who knowingly and intentionally  
16 sells, delivers or transfers a firearm in violation of this  
17 chapter who has reason to believe that the firearm is  
18 intended to be used in the commission of a crime or attempt  
19 to commit a crime shall be criminally liable for such crime  
20 or attempted crime.

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

30 (h) Subsequent violation penalty.--

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

7           (2) Notice of the applicability of this subsection to  
8 the defendant and reasonable notice of the Commonwealth's  
9 intention to proceed under this section shall be provided  
10 prior to trial. The applicability of this section shall be  
11 determined at sentencing. The court shall consider evidence  
12 presented at trial, shall afford the Commonwealth and the  
13 defendant an opportunity to present necessary additional  
14 evidence and shall determine by a preponderance of the  
15 evidence if this section is applicable.

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

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

1 sentence was imposed in violation of this subsection.

2 (i) Confidentiality.--All information provided by the  
3 potential purchaser, transferee or applicant, including, but not  
4 limited to, the potential purchaser, transferee or applicant's  
5 name or identity, furnished by a potential purchaser or  
6 transferee under this section or any applicant for a license to  
7 carry a firearm as provided by section 6109 shall be  
8 confidential and not subject to public disclosure. In addition  
9 to any other sanction or penalty imposed by this chapter, any  
10 person, licensed dealer, State or local governmental agency or  
11 department that violates this subsection shall be liable in  
12 civil damages in the amount of \$1,000 per occurrence or three  
13 times the actual damages incurred as a result of the violation,  
14 whichever is greater, as well as reasonable attorney fees.

15 (j) Exemption.--The provisions of subsections (a) and (b)  
16 shall not apply to sales between Federal firearms licensees.

17 Section 3. Section 6111.4 of Title 18 is amended to read:

18 § 6111.4. Registration of firearms.

19 [Notwithstanding any section of this chapter to the contrary]  
20 Except for the limited purpose of enforcing the provisions of  
21 section 6111(c.1) (relating to sale or transfer of firearms),  
22 nothing in this chapter shall be construed to allow any  
23 government or law enforcement agency or any agent thereof to  
24 create, maintain or operate any registry of firearm ownership  
25 within this Commonwealth. For the purposes of this section only,  
26 the term "firearm" shall include any weapon that is designed to  
27 or may readily be converted to expel any projectile by the  
28 action of an explosive or the frame or receiver of any such  
29 weapon.

30 Section 4. Title 18 is amended by adding a section to read:

1   § 6127. Duty to report lost or stolen firearms.

2       (a) General rule.--Any person who owns or has control of a  
3   firearm that becomes lost or stolen shall report the loss or  
4   theft of the firearm within 14 days of the date on which the  
5   person discovered or should have discovered that the firearm had  
6   been lost or stolen. The report shall be made to and consist of  
7   such information as required by the Pennsylvania State Police.

8       (b) Penalty.--Any person who violates this section commits a  
9   misdemeanor of the second degree.

10       Section 5. This act shall take effect in 60 days.