

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2582 Session of
2006

INTRODUCED BY DIVEN, BALDWIN, BOYD, CAPPELLI, CLYMER, COHEN,
CORRIGAN, CRAHALLA, CREIGHTON, DeWEESE, GINGRICH, MANN,
MARSICO, PETRONE, PISTELLA, E. Z. TAYLOR, J. TAYLOR, WATSON,
WILT AND YOUNGBLOOD, APRIL 5, 2006

REFERRED TO COMMITTEE ON JUDICIARY, APRIL 5, 2006

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and
2 Judicial Procedure) of the Pennsylvania Consolidated
3 Statutes, further providing for possession of weapon on
4 school property; providing for school zone firearm safety
5 areas; further providing for the definition of "delinquent
6 act"; and imposing penalties.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Section 912 of Title 18 of the Pennsylvania
10 Consolidated Statutes is amended to read:

11 § 912. Possession of weapon on school property.

12 (a) Definition.--Notwithstanding the definition of "weapon"
13 in section 907 (relating to possessing instruments of crime),
14 "weapon" for purposes of this section shall include but not be
15 limited to any knife, cutting instrument, cutting tool, nun-
16 chuck stick[, firearm, shotgun, rifle] and any other tool,
17 instrument or implement capable of inflicting serious bodily
18 injury. The term shall not include any weapons which are
19 designed to or may readily be converted to expel any projectile

1 by the action of an explosive or the frame or receiver of any
2 weapon, such as a firearm, shotgun or rifle.

3 (b) Offense defined.--A person commits a misdemeanor of the
4 first degree if he possesses a weapon in the buildings of, on
5 the grounds of, or in any conveyance providing transportation to
6 or from any elementary or secondary publicly-funded educational
7 institution, any elementary or secondary private school licensed
8 by the Department of Education or any elementary or secondary
9 parochial school.

10 (c) Defense.--It shall be a defense that the weapon is
11 possessed and used in conjunction with a lawful supervised
12 school activity or course or is possessed for other lawful
13 purpose.

14 Section 2. Chapter 61 of Title 18 is amended by adding a
15 subchapter to read:

16 SUBCHAPTER D

17 SCHOOL ZONE FIREARM SAFETY

18 Sec.

19 6181. Scope.

20 6182. Definitions.

21 6183. Firearms prohibited in school zones.

22 6184. Penalties.

23 6185. Public signs.

24 6186. Authority of court in sentencing.

25 6187. Appeal by Commonwealth.

26 § 6181. Scope.

27 This subchapter relates to school zone firearm safety.

28 § 6182. Definitions.

29 The following words and phrases when used in this subchapter
30 shall have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 "Crime of violence." The following offenses under this title
3 or any offense equivalent to any of the following offenses under
4 the prior laws of this Commonwealth or under the statutes of any
5 other state or of the United States:

6 Section 908 (relating to prohibited offensive weapons).

7 Section 911 (relating to corrupt organizations).

8 Section 912 (relating to possession of weapon on school
9 property).

10 Section 2502 (relating to murder).

11 Section 2503 (relating to voluntary manslaughter).

12 Section 2504 (relating to involuntary manslaughter), if the
13 offense is based on the reckless use of a firearm.

14 Section 2702 (relating to aggravated assault).

15 Section 2703 (relating to assault by prisoner).

16 Section 2704 (relating to assault by life prisoner).

17 Section 2709.1 (relating to stalking).

18 Section 2716 (relating to weapons of mass destruction).

19 Section 2901 (relating to kidnapping).

20 Section 2902 (relating to unlawful restraint).

21 Section 2910 (relating to luring a child into a motor
22 vehicle).

23 Section 3121 (relating to rape).

24 Section 3123 (relating to involuntary deviate sexual
25 intercourse).

26 Section 3125 (relating to aggravated indecent assault).

27 Section 3301 (relating to arson and related offenses).

28 Section 3302 (relating to causing or risking catastrophe).

29 Section 3502 (relating to burglary).

30 Section 3503 (relating to criminal trespass), if the offense

1 is graded a felony of the second degree or higher.

2 Section 3701 (relating to robbery).

3 Section 3702 (relating to robbery of motor vehicle).

4 Section 3921 (relating to theft by unlawful taking or

5 disposition).

6 Section 3923 (relating to theft by extortion).

7 Section 3925 (relating to receiving stolen property).

8 Section 4912 (relating to impersonating a public servant).

9 Section 4952 (relating to intimidation of witnesses or

10 victims).

11 Section 4953 (relating to retaliation against witness, victim

12 or party).

13 Section 5121 (relating to escape).

14 Section 5122 (relating to weapons or implements for escape).

15 Section 5501(3) (relating to riot).

16 Section 5515 (relating to prohibiting of paramilitary

17 training).

18 Section 5516 (relating to facsimile weapons of mass

19 destruction).

20 Section 6301 (relating to corruption of minors).

21 Section 6302 (relating to sale or lease of weapons and

22 explosives).

23 "Firearm." A weapon that is designed to or may readily be

24 converted to expel any projectile by the actions of an explosive

25 or the frame or receiver of any such weapon, such as a firearm,

26 shotgun or rifle.

27 "Real property." Any property in which any of the

28 instruction, extracurricular activities, housing or training

29 provided by a school, or recreational activities not sponsored

30 by a school, are regularly conducted, whether or not any such

1 activities, instruction, extracurricular activities, housing or
2 training are being conducted or provided at the particular time
3 a criminal offense is committed.

4 "School." Any elementary or secondary publicly funded
5 educational institution, any elementary or secondary private
6 school licensed by the Department of Education or any elementary
7 or secondary parochial school.

8 "School transportation vehicle." A passenger transportation
9 vehicle, such as a car, bus or van used by a school to transport
10 students.

11 § 6183. Firearms prohibited in school zones.

12 (a) Offense defined.--No person shall possess, use or
13 control a firearm in the following locations:

14 (1) Within 100 yards of the real property of a school.

15 (2) On a school transportation vehicle.

16 (b) Exceptions.--Subsection (a) shall not apply to any of
17 the following:

18 (1) A person who is legally licensed to carry a
19 concealed firearm pursuant to section 6109 (relating to
20 licenses).

21 (2) A person who is legally permitted to carry a
22 concealed weapon without a license pursuant to section
23 6106(b) (relating to firearms not to be carried without a
24 license).

25 (3) A person who is lawfully transporting a firearm.

26 (4) A person who lawfully possesses, uses or controls a
27 firearm in the person's residence or place of business.

28 (5) A person who possesses, uses or controls a firearm
29 in conjunction with a lawfully supervised school activity or
30 course.

1 § 6184. Penalties.

2 (a) Simple possession of firearm.--Any person who possesses,
3 uses or controls a firearm in violation of section 6183
4 (relating to firearms prohibited in school zones) commits a
5 felony of the third degree. A sentence imposed for violation of
6 this subsection shall be imposed consecutively to any sentence
7 imposed pursuant to any other provision of this title or other
8 statute.

9 (b) Possession of firearm without discharge during another
10 crime.--Any person who possesses, uses or controls a firearm in
11 violation of section 6183 during the commission or attempted
12 commission of a crime of violence but does not discharge the
13 firearm commits a felony of the third degree and shall, upon
14 conviction, be sentenced to a minimum of at least two years of
15 confinement, which shall be served consecutively to any sentence
16 imposed pursuant to any other provision of this title or other
17 statute and shall be in addition to any sentence for the crime
18 of violence.

19 (c) Possession and discharge of firearm during another
20 crime.--A person who possesses, uses or controls a firearm in
21 violation of section 6183 and discharges the firearm during the
22 commission or attempted commission of a crime of violence
23 commits a felony of the second degree and shall, upon
24 conviction, be sentenced to a minimum of at least four years of
25 confinement, which shall be served consecutively to any sentence
26 imposed pursuant to any other provision of this title or other
27 statute and shall be in addition to any sentence for the crime
28 of violence.

29 § 6185. Public signs.

30 Within 60 days of the effective date of this subchapter, the

1 Secretary of Education shall develop a method by which to mark
2 school zone firearm safety areas, including the use of signs or
3 other markings suitable to the situation. Signs or other
4 markings shall be located in a visible place on or near each
5 school and on and in each school transportation vehicle
6 indicating that such area is a school zone firearm safety area
7 and that the zone extends to 100 yards from the boundary of
8 school property. The Department of Education shall assist each
9 school with the posting of notice as required in this
10 subsection.

11 § 6186. Authority of court in sentencing.

12 There shall be no authority for a court to impose on a
13 defendant to which this section is applicable a lesser sentence
14 than provided for in section 6184(a) (relating to penalties), to
15 place the defendant on probation or to suspend the sentence.
16 Nothing in this section shall prevent the sentencing court from
17 imposing a sentence greater than that provided in section 6184.
18 Sentencing guidelines promulgated by the Pennsylvania Commission
19 on Sentencing shall not supersede the mandatory sentences
20 provided in this subchapter.

21 § 6187. Appeal by Commonwealth.

22 If a sentencing court refuses to apply this subchapter where
23 applicable, the Commonwealth shall have the right to appellate
24 review of the action of the sentencing court. The appellate
25 court shall vacate the sentence and remand the case to the
26 sentencing court for imposition of a sentence in accordance with
27 this subchapter if it finds that the sentence was imposed in
28 violation of this subchapter.

29 Section 3. Paragraph (2) of the definition of "delinquent
30 act" in section 6302 of Title 42 is amended by adding a

1 subparagraph to read:

2 § 6302. Definitions.

3 The following words and phrases when used in this chapter
4 shall have, unless the context clearly indicates otherwise, the
5 meanings given to them in this section:

6 * * *

7 "Delinquent act."

8 * * *

9 (2) The term shall not include:

10 * * *

11 (vi) Firearms prohibited in school zones, as defined
12 in 18 Pa.C.S. § 6183 (relating to firearms prohibited in
13 school zones), where the child was 15 years of age or
14 older at the time of the alleged conduct.

15 * * *

16 Section 4. This act shall take effect in 60 days.