

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 401 Session of  
2009

INTRODUCED BY YOUNGBLOOD, CRUZ, BROWN, BISHOP AND JOSEPHS,  
FEBRUARY 13, 2009

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 13, 2009

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, providing for a safety performance  
3 standard for the manufacture of handguns, for the forfeiture  
4 of certain handguns and for enforcement relating to a safety  
5 standard for handguns; imposing penalties; and conferring  
6 powers and imposing duties on the Pennsylvania State Police.

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

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

11 SUBCHAPTER E

12 HANDGUN SAFETY STANDARDS

13 Sec.

14 6191. Definitions.

15 6192. Safety standard.

16 6193. Enforcement.

17 6194. Exemptions.

18 6195. Penalties.

19 § 6191. Definitions.

20 The following words and phrases when used in this subchapter

1 shall have the meanings given to them in this section unless the  
2 context clearly indicates otherwise:

3 "Antique firearm." Either of the following:

4 (1) A firearm, including a firearm with a matchlock,  
5 flintlock, percussion cap or similar type of ignition system,  
6 manufactured in or before 1898.

7 (2) A replica of a firearm described in paragraph (1) if  
8 the replica:

9 (i) is not designed or redesigned for using rimfire  
10 or conventional center fire fixed ammunition; or

11 (ii) uses rimfire or conventional center fire fixed  
12 ammunition which is no longer manufactured in the United  
13 States and which is not readily available in the ordinary  
14 channels of commercial trade.

15 "Authorized user." A person who owns a handgun or a person  
16 to whom the owner has given consent to use the handgun.

17 "Handgun." A firearm which has a short stock and is designed  
18 to be held and fired by the use of a single hand and any  
19 combination of parts from which a firearm can be assembled.

20 "Handgun manufacturer." A person engaged in the business of  
21 manufacturing handguns for the purpose of sale or distribution.

22 "Pawnbroker." A person whose business or occupation includes  
23 the taking or receiving, by the way of pledge or pawn, any  
24 firearm as security for the payment or repayment of money.

25 "Person." An individual, corporation, company, association,  
26 firm, partnership, society or joint stock company.

27 "Safety standard." The handgun safety performance standard  
28 described in section 6192 (relating to safety standard).

29 "Seller" or "dealer." A person:

30 (1) engaged in the business of selling firearms at

1 wholesale or retail;

2 (2) engaged in the business of repairing firearms or of  
3 making or fitting special barrels, stocks or trigger  
4 mechanisms to firearms; or

5 (3) who is a pawnbroker.

6 § 6192. Safety standard.

7 (a) Scope.--This section applies to all handguns  
8 manufactured, possessed, sold, offered for sale, traded,  
9 transferred, shipped, leased, distributed or acquired within  
10 this Commonwealth.

11 (b) Requirements.--The Pennsylvania State Police shall  
12 promulgate regulations prescribing a handgun safety performance  
13 standard. The safety standard shall include the following  
14 requirements:

15 (1) A handgun shall be personalized so that it can only  
16 be fired when operated by that handgun's authorized user or  
17 users.

18 (2) The technology establishing personalized handguns  
19 shall be incorporated into the design of a handgun and be  
20 part of its original equipment and not an accessory.

21 (3) No personalized handgun may be manufactured to  
22 permit the personalized characteristics to be readily  
23 deactivated.

24 (c) Formulation of testing procedures.--The Pennsylvania  
25 State Police shall formulate the necessary testing procedure to  
26 determine if a handgun complies with the safety standard.

27 (d) Designation of testing laboratories.--The Commissioner  
28 of Pennsylvania State Police shall designate one or more  
29 independent laboratories for determining whether handguns comply  
30 with the safety standard. The laboratories shall use the test

1 method formulated by the Pennsylvania State Police to determine  
2 compliance.

3 (e) Handgun manufacturer's compliance.--

4 (1) In accordance with subsection (b), handgun  
5 manufacturers wishing to manufacture, sell, offer for sale or  
6 transfer handguns in this Commonwealth shall submit a  
7 prototype of the handgun model for testing, at the  
8 manufacturer's cost, to one of the independent laboratories  
9 designated by the Pennsylvania State Police.

10 (2) The laboratory shall issue a report directly to the  
11 Pennsylvania State Police and a copy to the manufacturer  
12 indicating whether the submitted handgun met or did not meet  
13 the safety standard. If the submitted handgun did not meet  
14 the safety standard, the report shall describe the reasons  
15 therefor.

16 (3) If the handgun model fails to meet the safety  
17 standard it shall be unlawful for it to be manufactured,  
18 possessed, sold, offered for sale, traded, transferred,  
19 shipped, leased, distributed or acquired by anyone in this  
20 Commonwealth until:

21 (i) It has been modified to meet the safety  
22 standard.

23 (ii) It has passed the independent laboratory test  
24 on resubmission.

25 (4) If the handgun model meets the safety standard, the  
26 Pennsylvania State Police shall issue a certificate stating  
27 that the handgun model meets the safety standard; and the  
28 words, "certified personalized handgun" or an equivalent  
29 label, as established by the Pennsylvania State Police, shall  
30 be imprinted on the approved handguns at the manufacturer's

1 expense.

2 (5) If a handgun model is deemed to meet the safety  
3 standard, the manufacturer, seller or possessor may not alter  
4 the design of the handgun in any manner affecting the safety  
5 of the handgun.

6 § 6193. Enforcement.

7 (a) Noncompliant handguns prohibited.--On or after four  
8 years from the date of the adoption of the original safety  
9 standard by the Pennsylvania State Police, no handgun that fails  
10 to meet the standard may be manufactured, possessed, sold,  
11 offered for sale, traded, transferred, shipped, leased,  
12 distributed or acquired in this Commonwealth.

13 (b) Seizure.--If a police officer, during the course of  
14 official duties and operating within existing constitutional  
15 constraints on police searches and seizures, discovers a handgun  
16 which under the provisions of this subchapter does not meet the  
17 safety standard, the officer shall take possession of the  
18 handgun. The handgun shall be forfeited to the Commonwealth and  
19 shall be destroyed.

20 (c) Enjoining violators.--The Attorney General shall bring  
21 an action on behalf of the Commonwealth against a seller,  
22 manufacturer or possessor of handguns to enjoin further  
23 violations of this subchapter and for such other relief as may  
24 be appropriate.

25 § 6194. Exemptions.

26 The following handguns are exempt from this subchapter:

27 (1) Antique handguns legally purchased or acquired in  
28 accordance with current laws.

29 (2) Handguns manufactured prior to four years from the  
30 date of the adoption of the original safety standard.

1 However, such handguns may not be sold, offered for sale,  
2 traded, transferred, shipped, leased or distributed by  
3 dealers after four years from the date of the adoption of the  
4 original safety standard.

5 (3) Handguns purchased by police departments, sheriffs  
6 and law enforcement officers and members of the armed forces  
7 of the United States and all components of the armed forces,  
8 including reserve and Pennsylvania National Guard forces.

9 (4) Handguns possessed by law enforcement officers on  
10 official assignment in this Commonwealth from any state which  
11 by agreement permits police officers from this Commonwealth  
12 while on assignment in that state to carry firearms without  
13 registration.

14 (5) Handguns that are a part of the official equipment  
15 of any Federal agency.

16 § 6195. Penalties.

17 (a) Penalty for violation.--A person that violates this  
18 subchapter by manufacturing, possessing, selling, offering for  
19 sale, trading, transferring or acquiring a handgun which has not  
20 been certified by an independent testing laboratory as meeting  
21 the safety standard and is not subject to section 6194 (relating  
22 to exemptions) commits a felony of the third degree.

23 (b) Penalty for altering personalized handguns.--A person  
24 that violates this subchapter by altering the personalized  
25 characteristics of a handgun manufactured, possessed, sold,  
26 offered for sale, traded, transferred, shipped, leased,  
27 distributed or acquired, after four years from the date of the  
28 adoption of the original safety standard, commits a felony of  
29 the third degree.

30 (c) Entities subject to penalty.--The penalties set forth in

1 this section apply to all public and private manufacturers,  
2 possessors, sales, offers for sale, trades, transfers,  
3 shipments, leases, distributions or acquisitions of handguns.

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