

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1325 Session of 2011

INTRODUCED BY STEVENSON, METCALFE, AUMENT, BOYD, CAUSER, CREIGHTON, CUTLER, DENLINGER, DeWEESE, J. EVANS, FLECK, GABLER, GEIST, GIBBONS, GILLEN, GROVE, HALUSKA, HARHART, HARRIS, HESS, HICKERNELL, HORNAMAN, HUTCHINSON, KAUFFMAN, KOTIK, LONGIETTI, MAJOR, MARSHALL, METZGAR, MICOZZIE, MILLARD, MILLER, MURT, OBERLANDER, PEIFER, PETRARCA, PICKETT, PYLE, RAPP, READSHAW, REICHLEY, ROAE, ROCK, SCAVELLO, SONNEY, STERN, SWANGER, TALLMAN AND WHITE, APRIL 8, 2011

REFERRED TO COMMITTEE ON JUDICIARY, APRIL 8, 2011

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, in firearms and other dangerous  
3 articles, further providing for licenses and for sale or  
4 transfer of firearms; and imposing duties on the Attorney  
5 General.

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

8 Section 1. Section 6109(i), (i.1), (m.1)(6) and (n) of Title  
9 18 of the Pennsylvania Consolidated Statutes are amended to  
10 read:

11 § 6109. Licenses.

12 \* \* \*

13 (i) Revocation.--

14 (1) A license to carry firearms may be revoked by the  
15 issuing authority for good cause. A license to carry firearms  
16 shall be revoked by the issuing authority for any reason

1       stated in subsection (e)(1) which occurs during the term of  
2       the [permit] license. Notice of revocation shall be provided  
3       in writing and shall state the specific reason for  
4       revocation. [Notice]

5       (2) The issuing authority shall immediately revoke the  
6       license of any licensee who is prohibited from possessing or  
7       acquiring firearms as provided by section 6105 or under the  
8       statutes of the United States. An individual whose license is  
9       revoked under this paragraph shall, upon request, immediately  
10      surrender the license to the issuing authority.

11      (3) Except as provided in paragraph (2), notice of  
12      revocation shall be sent by certified mail to the individual  
13      whose license is revoked[, and, at that time, notice shall  
14      also be provided to the Pennsylvania State Police by  
15      electronic means, including e-mail or facsimile transmission,  
16      that the license is no longer valid]. An individual whose  
17      license is revoked under this paragraph shall surrender the  
18      license to the issuing authority within five days of receipt  
19      of the notice.

20      (4) At the time an issuing authority commences  
21      revocation under paragraph (2) or (3), notice shall also be  
22      provided to the Pennsylvania State Police by electronic  
23      means, including e-mail or facsimile transmission, that a  
24      license is no longer valid.

25      (5) An individual whose license is revoked may appeal to  
26      the court of common pleas for the judicial district in which  
27      the individual resides.

28      (6) An individual who violates this section commits a  
29      summary offense.

30      (i.1) Notice to sheriff.--Notwithstanding any statute to the

1 contrary:

2 (1) Upon conviction of a person for a crime specified in  
3 section 6105(a) or (b) or upon conviction of a person for a  
4 crime punishable by imprisonment exceeding one year or upon a  
5 determination that the conduct of a person meets the criteria  
6 specified in section 6105(c)(1), (2), (3), (5), (6) or (9),  
7 the court shall determine if the defendant has a license to  
8 carry firearms issued pursuant to this section. If the  
9 defendant has such a license, the court shall notify the  
10 sheriff of the county [in which that person resides] which  
11 issued the license, on a form developed by the Pennsylvania  
12 State Police, of the identity of the person and the nature of  
13 the crime or conduct which resulted in the notification. The  
14 notification shall be transmitted by the judge within seven  
15 days of the conviction or determination.

16 (2) Upon adjudication that a person is incompetent or  
17 upon the involuntary commitment of a person to a mental  
18 institution for inpatient care and treatment under the act of  
19 July 9, 1976 (P.L.817, No.143), known as the Mental Health  
20 Procedures Act, or upon involuntary treatment of a person as  
21 described under section 6105(c)(4), the judge of the court of  
22 common pleas, mental health review officer or county mental  
23 health and mental retardation administrator shall notify the  
24 sheriff of the county in which that person resides, on a form  
25 developed by the Pennsylvania State Police, of the identity  
26 of the person who has been adjudicated, committed or treated  
27 and the nature of the adjudication, commitment or treatment.  
28 The notification shall be transmitted by the judge, mental  
29 health review officer or county mental health and mental  
30 retardation administrator within seven days of the

1 adjudication, commitment or treatment.

2 (3) Upon receipt of the notification under paragraph  
3 (2), the sheriff shall determine if such person has a license  
4 to carry a firearm issued pursuant to this section and, if  
5 the license was issued by a sheriff in another county, shall  
6 provide notice of the identity of the person and the nature  
7 of the commitment, treatment or adjudication to the issuing  
8 sheriff. The notification shall be provided as follows:

9 (i) as soon as practicable, by electronic mail,  
10 telephone or facsimile transmission; and

11 (ii) within seven days, on a form developed by the  
12 Pennsylvania State Police.

13 (4) Upon arrest of a person for a crime specified in  
14 section 6105(a) or (b) or upon arrest of a person for a crime  
15 punishable by imprisonment exceeding one year, a law  
16 enforcement officer shall determine if the person has a  
17 license to carry firearms issued pursuant to this section. If  
18 the person has such a license, the law enforcement officer or  
19 the law enforcement agency employing the law enforcement  
20 officer shall notify the sheriff of the county which issued  
21 the license of the identity of the person and the nature of  
22 the crime which resulted in the notification. Notice shall be  
23 provided as follows:

24 (i) as soon as practicable, notice shall be provided  
25 by electronic mail, telephone or facsimile transmission;  
26 and

27 (ii) within seven days of the arrest, notice shall  
28 be provided on a form developed by the Pennsylvania State  
29 Police.

30 (5) Upon indictment of a person for a crime specified in

1 section 6105(a) or (b) or upon indictment of a person for a  
2 crime punishable by imprisonment exceeding one year, a  
3 prosecutor shall determine if the person has a license to  
4 carry firearms issued pursuant to this section. If the person  
5 has such a license, the prosecutor shall notify the sheriff  
6 of the county which issued the license of the identity of the  
7 person and nature of the crime which resulted in the  
8 notification. Notice shall be provided as follows:

9 (i) as soon as practicable, notice shall be provided  
10 by electronic mail, telephone or facsimile transmission;  
11 and

12 (ii) within seven days of the indictment, notice  
13 shall be provided on a form developed by the Pennsylvania  
14 State Police.

15 \* \* \*

16 (m.1) Temporary emergency licenses.--

17 \* \* \*

18 (6) [A] Except as provided in section 6111(f)(3.1), a  
19 person who holds a temporary emergency license to carry a  
20 firearm shall have the same rights to carry a firearm as a  
21 person issued a license to carry a firearm under this  
22 section. A licensee under this subsection shall be subject to  
23 all other duties, restrictions and penalties under this  
24 section, including revocation pursuant to subsection (i).

25 \* \* \*

26 [(n) Definition.--As used in this section, the term  
27 "licensee" means an individual who is licensed to carry a  
28 firearm under this section.]

29 (n) Definitions.--As used in this section, the following  
30 words and phrases shall have the meanings given to them in this

1 subsection:

2 "Licensee." An individual who is licensed to carry a firearm  
3 under this section.

4 "Prosecutor." A prosecutor as defined in section 4953.1(c)  
5 (relating to retaliation against prosecutor or judicial  
6 official).

7 Section 2. Section 6111(a), (b) introductory paragraph and  
8 (1.1) and (f) (3) and (4) of Title 18 are amended and subsection  
9 (f) is amended by adding a paragraph to read:

10 § 6111. Sale or transfer of firearms.

11 (a) [Time and manner] Manner of delivery.--

12 [(1) Except as provided in paragraph (2), no seller  
13 shall deliver a firearm to the purchaser or transferee  
14 thereof until 48 hours shall have elapsed from the time of  
15 the application for the purchase thereof, and, when  
16 delivered, the firearm shall be securely wrapped and shall be  
17 unloaded.

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

26 (b) Duty of seller.--No licensed importer, licensed  
27 manufacturer or licensed dealer shall sell or deliver any  
28 firearm to another person, other than a licensed importer,  
29 licensed manufacturer, licensed dealer or licensed collector,  
30 [until the conditions of subsection (a) have been satisfied and]

1 until he has:

2 \* \* \*

3 (1.1) [On the date of publication in the Pennsylvania  
4 Bulletin of a notice by the Pennsylvania State Police that  
5 the instantaneous records check has been implemented,] In the  
6 event of an electronic failure under section 6111.1(b)(2)  
7 (relating to Pennsylvania State Police) for purposes of a  
8 firearm which exceeds the barrel and related lengths set  
9 forth in section 6102, obtained a completed application/  
10 record of sale from the potential buyer or transferee and all  
11 of the following shall apply:

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

25 (ii) The form of the application/record of sale  
26 shall be no more than one page in length and shall be  
27 promulgated by the Pennsylvania State Police and provided  
28 by the licensed importer, licensed manufacturer or  
29 licensed dealer.

30 (iii) For purposes of conducting the criminal

1 history, juvenile delinquency and mental health records  
2 background check which shall be completed within ten days  
3 of receipt of the information from the dealer, the  
4 application/record of sale shall include the name,  
5 address, birthdate, gender, race, physical description  
6 and Social Security number of the purchaser or transferee  
7 and the date of application.

8 (iv) No information regarding the type of firearm  
9 need be included other than an indication that the  
10 firearm exceeds the barrel lengths set forth in section  
11 6102.

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

29 \* \* \*

30 (f) Application of section.--



1           \* \* \*

2           (3) Except as provided in (3.1), the provisions  
3 contained in [subsection (a)] subsections (a) and (b)(1.1),  
4 (3), (4), (5), (6) and (7) shall not apply to any law  
5 enforcement officer whose current identification as a law  
6 enforcement officer shall be construed as a valid license to  
7 carry a firearm or any person who possesses a valid license  
8 to carry a firearm under section 6109 (relating to licenses).

9           (3.1) The exceptions in paragraph (3) shall not apply to  
10 any person who possesses a temporary emergency license to  
11 carry a firearm under section 6109(m.1).

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

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

27           (iii) The statement issued under subparagraph (ii)  
28 shall be issued by the district attorney, or his  
29 designee, of the county of residence if the transferee or  
30 purchaser resides in a municipality where there is no

1 chief of police. Otherwise, the statement shall be issued  
2 by the chief of police in the municipality in which the  
3 purchaser or transferee resides.]

4 \* \* \*

5 Section 3. The Attorney General shall:

6 (1) Contact the Bureau of Alcohol, Tobacco and Firearms  
7 or other appropriate Federal agency to determine if the  
8 provisions of this act allow a Pennsylvania license to carry  
9 a firearm to serve as an alternative to the background check  
10 for firearm purchases pursuant to 18 U.S.C. § 922(t)(3)(A).

11 (2) Transmit to the Legislative Reference Bureau, for  
12 publication in the Pennsylvania Bulletin, notice of a  
13 determination under paragraph (1) that a Pennsylvania license  
14 to carry a firearm fulfills the requirements of 18 U.S.C. §  
15 922(t)(3)(A).

16 Section 4. This act shall take effect as follows:

17 (1) Section 3 and this section shall take effect  
18 immediately.

19 (2) The remainder of this act shall take effect 30 days  
20 after publication of the notice under section 3.