




*Senate of Pennsylvania*

# *Senator Larry Farnese*

## *1st Senatorial District*

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### *MEMO*

**Date:** *March 25, 2011*  
**To:** *All Senators*  
**From:** *Senator Lawrence M. Farnese, Jr.*   
**Subject:** *Co-Sponsorship – Straw Purchasing Mandatory Minimum*

In the near future, I plan to introduce legislation that would refashion the current mandatory minimum sentence language for second or subsequent straw purchase offenses.

Currently, 18 Pa. C.S. 6111 (h)(1) provides that a second or subsequent violation of the section shall be punishable by a mandatory sentence of five years imprisonment. However, the Pennsylvania Supreme Court case of *Commonwealth v. Jarowecki*, decided December 30, 2009, ruled that identical language in a child pornography statute required that in order for this type of mandatory provision to apply, the second offense must have been committed after conviction for the first offense.

Because straw purchasers must have clean background checks in order to buy the guns in the first place, the court's interpretation of this language for child pornography violations makes little sense when considered for straw purchasing violations. Simply put, since a person convicted of straw purchasing would fail a subsequent PICS check and be unable to straw purchase a second time, the language must be changed. The current interpretation of the statute could not have been its original legislative intent.

My legislation proposes that language presently contained in the drug mandatory statute, 18 Pa.C.S. 7508 (a), which has been upheld by the courts

and recognized as valid in *Jarowecki*, be added to 18 Pa.C.S. 6111(h)(1). This language would require that a person, who at the time of sentencing has been convicted of another straw purchase offense, will serve a mandatory minimum of five years. Conviction of another offense will be deemed for any violation of the section, regardless of whether judgment of sentence has been imposed.

This change will be an essential tool for law enforcement in deterring straws from making multiple purchases.

If you would like to co-sponsor this legislation, please contact Brandie Pifer at 717-787-5662 or [bpifer@pasenate.com](mailto:bpifer@pasenate.com). If you have any questions, please contact Sally Keaveney at [skeaveney@pasenate.com](mailto:skeaveney@pasenate.com).