

CRIMES CODE (18 PA.C.S.) - SALE OR TRANSFER OF FIREARMS

Act of Oct. 25, 2012, P.L. 1626, No. 199

CL. 18

Session of 2012

No. 2012-199

HB 898

AN ACT

Amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for sale or transfer of firearms.

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

Section 1. Section 6111(h) of Title 18 of the Pennsylvania Consolidated Statutes is amended to read:

§ 6111. Sale or transfer of firearms.

\* \* \*

(h) Subsequent violation penalty.--

(1) A second or subsequent violation of this section shall be a felony of the second degree [and shall be punishable by]. **A person who at the time of sentencing has been convicted of another offense under this section shall be sentenced to** a mandatory minimum sentence of imprisonment of five years. A second or subsequent offense shall also result in permanent revocation of any license to sell, import or manufacture a firearm.

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

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

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

**(5) For the purposes of this subsection, a person shall be deemed to have been convicted of another offense under this section whether or not judgment of sentence has been imposed for that violation.**

\* \* \*

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

APPROVED--The 25th day of October, A.D. 2012.

TOM CORBETT