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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 282      Session of  
1995

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Report of the Committee of Conference

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To the Members of the Senate and House of Representatives:

We, the undersigned, Committee of Conference on the part of the Senate and House of Representatives for the purpose of considering Senate Bill No. 282, entitled:

"An act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, DEFINING "POLICE OFFICER"; further providing for buying or exchanging Federal food order coupons, stamps ~~or~~, authorization cards OR ACCESS DEVICES and for fraudulent traffic in food orders; PROHIBITING THE OPERATION OF CERTAIN ESTABLISHMENTS; AND PROVIDING FOR LOCAL OPTION,"

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respectfully submit the following bill as our report:

DAVID W. HECKLER

D. MICHAEL FISHER

(Committee on the part of the Senate.)

ROBERT W. GODSHALL

MERLE H. PHILLIPS

WILLIAM R. LLOYD, JR.

(Committee on the part of the House of Representatives.)

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AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, defining "police officer"; defining  
3 "law enforcement officer" and "loaded" for purposes of the  
4 Uniform Firearms Act of 1995; further providing for certain  
5 prohibited criminal conduct, for administration, for fees and  
6 for notification; prohibiting the provision of butane to  
7 minors; further providing for buying or exchanging Federal  
8 food order coupons, stamps, authorization cards or access  
9 devices and for fraudulent traffic in food orders;  
10 prohibiting the operation of certain establishments;  
11 providing for local option; and making repeals.

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

14 Section 1. Section 103 of Title 18 of the Pennsylvania  
15 Consolidated Statutes is amended by adding a definition to read:

16 § 103. Definitions.

17 Subject to additional definitions contained in subsequent  
18 provisions of this title which are applicable to specific  
19 provisions of this part, the following words and phrases when  
20 used in this title shall have, unless the context clearly  
21 indicates otherwise, the meanings given to them in this section:

22 \* \* \*

23 "Police officer." The term shall include the sheriff of a  
24 county of the second class and deputy sheriffs of a county of  
25 the second class who have successfully completed the  
26 requirements under the act of June 18, 1974 (P.L.359, No.120),  
27 referred to as the Municipal Police Education and Training Law.

28 \* \* \*

29 Section 2. Section 913(c) and (e) of Title 18 are amended to  
30 read:

31 § 913. Possession of firearm or other dangerous weapon in court  
32 facility.

33 \* \* \*

34 (c) Exceptions.--Subsection (a) shall not apply to:

1 (1) The lawful performance of official duties by an  
2 officer, agent or employee of the United States, the  
3 Commonwealth or a political subdivision who is authorized by  
4 law to engage in or supervise the prevention, detection,  
5 investigation or prosecution of any violation of law.

6 (2) The lawful performance of official duties by a court  
7 official.

8 (3) The carrying of rifles and shotguns by instructors  
9 and participants in a course of instruction provided by the  
10 Pennsylvania Game Commission under 34 Pa.C.S. § 2704  
11 (relating to eligibility for license).

12 (4) Associations of veteran soldiers and their  
13 auxiliaries or members of organized armed forces of the  
14 United States or the Commonwealth, including reserve  
15 components, when engaged in the performance of ceremonial  
16 duties with county approval.

17 (5) The carrying of a dangerous weapon or firearm  
18 unloaded and in a secure wrapper by an attorney who seeks to  
19 employ the dangerous weapon or firearm as an exhibit or as a  
20 demonstration and who possesses written authorization from  
21 the court to bring the dangerous weapon or firearm into the  
22 court facility.

23 \* \* \*

24 (e) Facilities for checking firearms.--Each county shall  
25 make available[, at or near the main entrance to the courthouse]  
26 by July 1, 1996, lockers or similar facilities at no charge or  
27 cost for the temporary checking of firearms by persons carrying  
28 firearms under section 6106(b) or 6109. Notice of the location  
29 of the facility shall be posted as required under subsection  
30 (d).

1 \* \* \*

2 Section 3. Section 6102 of Title 18 is amended by adding  
3 definitions to read:

4 § 6102. Definitions.

5 Subject to additional definitions contained in subsequent  
6 provisions of this subchapter which are applicable to specific  
7 provisions of this subchapter, the following words and phrases,  
8 when used in this subchapter shall have, unless the context  
9 clearly indicates otherwise, the meanings given to them in this  
10 section:

11 \* \* \*

12 "Law enforcement officer." Any person employed by any police  
13 department or organization of the Commonwealth or political  
14 subdivision thereof who is empowered to effect an arrest with or  
15 without warrant and who is authorized to carry a firearm in the  
16 performance of that person's duties.

17 "Loaded." A firearm is loaded if the firing chamber, the  
18 nondetachable magazine, or in the case of a revolver, any of the  
19 chambers of the cylinder, contain ammunition capable of being  
20 fired. In the case of a firearm which utilizes a detachable  
21 magazine, the term shall mean a magazine suitable for use in  
22 said firearm which magazine contains such ammunition and has  
23 been inserted in the firearm or is in the same container or,  
24 where the container has multiple compartments, the same  
25 compartment thereof as the firearm.

26 \* \* \*

27 Section 4. Sections 6105(a), (b), (c), (d) and (f), 6106(a)  
28 and (b), 6109(a), (f) and (h), 6110.1(b) and 6111 heading, (b),  
29 (e), (f) and (g) of Title 18 are amended to read:

30 § 6105. Persons not to possess, use, manufacture, control, sell

1 or transfer firearms.

2 (a) Offense defined.--

3 (1) A person who has been convicted of an offense  
4 enumerated in subsection (b), within or without this  
5 Commonwealth, regardless of the length of sentence or [any of  
6 the offenses enumerated in subsection (b) or] whose conduct  
7 meets the criteria in subsection (c) shall not possess, use,  
8 control, sell, transfer or manufacture or obtain a license to  
9 possess, use, control, sell, transfer or manufacture a  
10 firearm in this Commonwealth.

11 (2) A person who is prohibited from possessing, using,  
12 controlling, selling, transferring or manufacturing a firearm  
13 under paragraph (1) or subsection (b) or (c) shall have a  
14 reasonable period of time not to exceed 60 days from the date  
15 of the imposition of the disability under this subsection in  
16 which to sell or transfer that person's firearms to another  
17 eligible person who is not a member of the prohibited  
18 person's household.

19 (b) Enumerated offenses.--The following offenses shall apply  
20 to subsection (a):

21 Section 908 (relating to prohibited offensive weapons).

22 Section 911 (relating to corrupt organizations).

23 Section 912 (relating to possession of weapon on school  
24 property).

25 Section 2502 (relating to murder).

26 Section 2503 (relating to voluntary manslaughter).

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

29 Section 2702 (relating to aggravated assault).

30 Section 2703 (relating to assault by prisoner).

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

2 Section 2709 (relating to harassment and stalking) if the  
3 offense relates to stalking.

4 Section 2901 (relating to kidnapping).

5 Section 2902 (relating to unlawful restraint).

6 Section 2910 (relating to luring a child into a motor  
7 vehicle).

8 Section 3121 (relating to rape).

9 Section 3123 (relating to involuntary deviate sexual  
10 intercourse).

11 Section 3125 (relating to aggravated indecent assault).

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

13 Section 3302 (relating to causing or risking  
14 catastrophe).

15 Section 3502 (relating to burglary).

16 Section 3503 (relating to criminal trespass) if the  
17 offense is graded a felony of the second degree or higher.

18 Section 3701 (relating to robbery).

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

20 Section 3921 (relating to theft by unlawful taking or  
21 disposition) upon conviction of the second felony offense.

22 Section 3923 (relating to theft by extortion) when the  
23 offense is accompanied by threats of violence.

24 Section 3925 (relating to receiving stolen property) upon  
25 conviction of the second felony offense.

26 Section 4912 (relating to impersonating a public servant)  
27 if the person is impersonating a law enforcement officer.

28 Section 4952 (relating to intimidation of witnesses or  
29 victims).

30 Section 4953 (relating to retaliation against witness or

1 victim).

2 Section 5121 (relating to escape).

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

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

6 Section 5515 (relating to prohibiting of paramilitary  
7 training).

8 Section 6110.1 (relating to possession of firearm by  
9 minor).

10 Section 6301 (relating to corruption of minors).

11 Section 6302 (relating to sale or lease of weapons and  
12 explosives).

13 Any offense equivalent to any of the above-enumerated  
14 offenses under the prior laws of this Commonwealth, or any  
15 offense equivalent to any of the above-enumerated offenses  
16 under the statutes of any other state or of the United  
17 States.

18 (c) Other persons.--In addition to any person who has been  
19 convicted of any offense listed under subsection (b), the  
20 following persons shall be subject to the prohibition of  
21 subsection (a):

22 (1) A person who is a fugitive from justice.

23 (2) A person who has been convicted of an offense under  
24 the act of April 14, 1972 (P.L.233, No.64), known as The  
25 Controlled Substance, Drug, Device and Cosmetic Act, that may  
26 be punishable by a term of imprisonment exceeding two years.

27 (3) A person who has been convicted of driving under the  
28 influence of alcohol or controlled substance as provided in  
29 75 Pa.C.S. § 3731 (relating to driving under influence of  
30 alcohol or controlled substance) on three or more separate

1 occasions within a five-year period. For the purposes of this  
2 paragraph only, the prohibition of subsection (a) shall only  
3 apply to transfers or purchases of firearms after the third  
4 conviction.

5 (4) A person who has been adjudicated as an incompetent  
6 or who has been involuntarily committed to a mental  
7 institution for inpatient care and treatment under [sections]  
8 section 302, 303 [and] or 304 of the provisions of the act of  
9 July 9, 1976 (P.L.817, No.143), known as the Mental Health  
10 Procedures Act.

11 (5) A person who, being an alien, is illegally or  
12 unlawfully in the United States.

13 (6) A person who is the subject of an active protection  
14 from abuse order issued pursuant to 23 Pa.C.S. § 6108  
15 (relating to relief), which order provided for the  
16 confiscation of firearms during the period of time the order  
17 is in effect. This prohibition shall terminate upon the  
18 expiration or vacation of an active protection from abuse  
19 order or portion thereof relating to the confiscation of  
20 firearms.

21 (7) A person who was adjudicated delinquent by a court  
22 pursuant to 42 Pa.C.S. § 6341 (relating to adjudication) or  
23 under any equivalent Federal statute or statute of any other  
24 state as a result of conduct which if committed by an adult  
25 would constitute an offense under sections 2502, 2503, 2702,  
26 2703 (relating to assault by prisoner), 2704, 2901, 3121,  
27 3123, 3301, 3502, 3701 and 3923.

28 (8) A person who was adjudicated delinquent by a court  
29 pursuant to 42 Pa.C.S. § 6341 or under any equivalent Federal  
30 statute or statute of any other state as a result of conduct

1       which if committed by an adult would constitute an offense  
2       enumerated in subsection (b) with the exception of those  
3       crimes set forth in paragraph (7). This prohibition shall  
4       terminate 15 years after the last applicable delinquent  
5       adjudication or upon the person reaching the age of 30,  
6       whichever is earlier.

7       (d) Exemption.--A person who has been convicted of a crime  
8       specified in subsection (a)[,] or (b) or a person whose conduct  
9       meets the criteria in subsection (c)(1), (2), (5) or (7) may  
10      make application to the court of common pleas of the county  
11      where the principal residence of the applicant is situated for  
12      relief from the disability imposed by this section upon the  
13      [ownership,] possession, transfer or control of a firearm. The  
14      court [may] shall grant such relief if it determines that any of  
15      the following apply:

16           (1) The conviction has been vacated under circumstances  
17           where all appeals have been exhausted or where the right to  
18           appeal has expired.

19           (2) The conviction has been the subject of a full pardon  
20           by the Governor.

21           (3) Each of the following conditions is met:

22                   (i) The Secretary of the Treasury of the United  
23                   States has relieved the applicant of an applicable  
24                   disability imposed by Federal law upon the possession,  
25                   ownership or control of a firearm as a result of the  
26                   applicant's prior conviction, except that the court may  
27                   waive this condition if the court determines that the  
28                   Congress of the United States has not appropriated  
29                   sufficient funds to enable the Secretary of the Treasury  
30                   to grant relief to applicants eligible for the relief.

1           (ii) A period of ten years, not including any time  
2           spent in incarceration, has elapsed since the most recent  
3           conviction of the applicant of a crime enumerated in  
4           subsection (b) or a felony violation of The Controlled  
5           Substance, Drug, Device and Cosmetic Act.

6           \* \* \*

7           (f) Other exemptions and proceedings.--

8           (1) Upon application to the court of common pleas under  
9           this subsection [(e)] by an applicant subject to the  
10          prohibitions under subsection (c)(4), the court may grant  
11          such relief as it deems appropriate if the court determines  
12          that the applicant may possess a firearm without risk to the  
13          applicant or any other person [and that a period of five  
14          years has elapsed since the applicant's most recent  
15          adjudication or commitment under subsection (c)(4)].

16          (2) If application is made under this subsection for  
17          relief from the disability imposed under subsection (c)(6),  
18          notice of such application shall be given to the person who  
19          had petitioned for the protection from abuse order, and such  
20          person shall be a party to the proceedings. Notice of any  
21          court order or amendment to a court order restoring firearms  
22          possession or control shall be given to the person who had  
23          petitioned for the protection from abuse order.

24          (3) All hearings conducted under this subsection shall  
25          be closed.

26          \* \* \*

27          § 6106. Firearms not to be carried without a license.

28          (a) Offense defined.--[No person shall carry] Any person who  
29          carries a firearm in any vehicle or any person who carries a  
30          firearm concealed on or about his person, except in his place of

1 abode or fixed place of business, without a [license therefor as  
2 provided in this subchapter.] valid and lawfully issued license  
3 under this chapter commits a felony of the third degree.

4 (b) Exceptions.--The provisions of subsection (a) shall not  
5 apply to:

6 (1) Constables, sheriffs, prison or jail wardens, or  
7 their deputies, policemen of this Commonwealth or its  
8 political subdivisions, or other law-enforcement officers.

9 (2) Members of the army, navy or marine corps of the  
10 United States or of the National Guard or organized reserves  
11 when on duty.

12 (3) The regularly enrolled members of any organization  
13 duly organized to purchase or receive such weapons from the  
14 United States or from this Commonwealth.

15 (4) Any persons engaged in target shooting with rifle,  
16 pistol, or revolver, if such persons are at or are going to  
17 or from their places of assembly or target practice and if,  
18 while going to or from their places of assembly or target  
19 practice, the cartridges or shells are carried in a separate  
20 container and the rifle, pistol or revolver is unloaded.

21 (5) Officers or employees of the United States duly  
22 authorized to carry a concealed firearm.

23 (6) Agents, messengers and other employees of common  
24 carriers, banks, or business firms, whose duties require them  
25 to protect moneys, valuables and other property in the  
26 discharge of such duties.

27 (7) Any person engaged in the business of manufacturing,  
28 repairing, or dealing in firearms, or the agent or  
29 representative of any such person, having in his possession,  
30 using or carrying a firearm in the usual or ordinary course

1 of such business.

2 (8) Any person while carrying a firearm unloaded and in  
3 a secure wrapper from the place of purchase to his home or  
4 place of business, or to a place of repair or back to his  
5 home or place of business, or in moving from one place of  
6 abode or business to another or from his home to a vacation  
7 or recreational home or dwelling or back, or to recover  
8 stolen property under section 6111.1(b)(4) (relating to  
9 Pennsylvania State Police) or to a location to which the  
10 person has been directed to surrender firearms under 23  
11 Pa.C.S. § 6108 (relating to relief) or back upon return of  
12 the surrendered firearm.

13 (9) Persons licensed to hunt, take furbearers or fish in  
14 this Commonwealth, if such persons are actually hunting,  
15 taking furbearers or fishing or are going to the places where  
16 they desire to hunt, take furbearers or fish or returning  
17 from such places.

18 (10) Persons training dogs, if such persons are actually  
19 training dogs during the regular training season.

20 (11) Any person while carrying a firearm in any vehicle  
21 which person possesses a valid and lawfully issued license  
22 for that firearm which has been issued under the laws of the  
23 United States or any other state.

24 \* \* \*

25 § 6109. Licenses.

26 (a) Purpose of license.--A license to carry a firearm shall  
27 be for the purpose of carrying a firearm concealed on or about  
28 one's person or in a vehicle within this Commonwealth. [Any  
29 person who carries a firearm concealed on or about his person or  
30 in a vehicle within this Commonwealth without a valid and

1 lawfully issued license under this section commits a felony of  
2 the third degree.]

3 \* \* \*

4 (f) Term of license.--

5 (1) A license to carry a firearm issued under subsection  
6 (e) shall be valid throughout this Commonwealth for a period  
7 of five years unless sooner revoked.

8 (2) At least 60 days prior to the expiration of each  
9 license, the issuing sheriff shall send to the licensee an  
10 application for renewal of license. Failure to receive a  
11 renewal application shall not relieve a licensee from the  
12 responsibility to renew the license.

13 \* \* \*

14 (h) Fee.--The fee for a license to carry a firearm is  
15 [\$17.50.] \$19. This includes a renewal notice processing fee of  
16 \$1.50. This includes an administrative fee of \$5 under section  
17 14(2) of the act of July 6, 1984 (P.L.614, No.127), known as the  
18 Sheriff Fee Act. No fee other than that provided by this  
19 paragraph or the Sheriff Fee Act may be assessed by the sheriff  
20 for the performance of any background check made pursuant to  
21 this act. The fee is payable to the sheriff to whom the  
22 application is submitted and is payable at the time of  
23 application for the license. Except for the administrative fee  
24 of \$5 under section 14(2) of the Sheriff Fee Act, all other fees  
25 shall be refunded if the application is denied but shall not be  
26 refunded if a license is issued and subsequently revoked. A  
27 person who sells or attempts to sell a license to carry a  
28 firearm for a fee in excess of the amounts fixed under this  
29 subsection commits a summary offense.

30 \* \* \*

1 § 6110.1. Possession of firearm by minor.

2 \* \* \*

3 (b) Exception.--Subsection (a) shall not apply to a person  
4 under 18 years of age [who is under the supervision of a parent,  
5 grandparent, legal guardian or an adult acting with the  
6 expressed consent of the minor's custodial parent or legal  
7 guardian and]:

8 (1) who is under the supervision of a parent,  
9 grandparent, legal guardian or an adult acting with the  
10 expressed consent of the minor's custodial parent or legal  
11 guardian and the minor is engaged in lawful activity,  
12 including [lawfully hunting or trapping,] safety training,  
13 lawful target shooting [at an established range or], engaging  
14 in an organized competition involving the use of a firearm or  
15 the firearm is unloaded and the minor is transporting it for  
16 a lawful purpose; or

17 [(2) the firearm is unloaded and the minor is  
18 transporting it for a lawful purpose.]

19 (2) who is lawfully hunting or trapping in accordance  
20 with 34 Pa.C.S. (relating to game).

21 \* \* \*

22 § 6111. [Firearm ownership] Sale or transfer of firearms.

23 \* \* \*

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

30 [(1) Obtained a completed application/record of sale

1 from the potential buyer or transferee to be filled out in  
2 quadruplicate, the original copy to be sent to the  
3 Pennsylvania State Police, one copy to be retained by the  
4 licensed importer, licensed manufacturer or licensed dealer,  
5 one copy to be retained by the purchaser or transferee and  
6 one copy to be sent to the chief of police or sheriff of the  
7 county or head of the police force or police department of  
8 the city in which the purchaser or transferee resides. The  
9 form of this application/record of sale shall be promulgated  
10 by the Pennsylvania State Police and provided by the licensed  
11 importer, licensed manufacturer or licensed dealer. The  
12 application/record of sale shall include the name, address,  
13 birthdate, gender, race, physical description and Social  
14 Security number of the purchaser or transferee, the date of  
15 the application and, in the case of a firearm as defined in  
16 section 6102 (relating to definitions), the caliber, length  
17 of barrel, make, model, manufacturer's number and the firearm  
18 to be purchased or transferred. When delivered to the  
19 purchaser or transferee, the firearm shall be securely  
20 wrapped and shall be unloaded.]

21 (1) For purposes of a firearm as defined in section 6102  
22 (relating to definitions), obtained a completed  
23 application/record of sale from the potential buyer or  
24 transferee to be filled out in triplicate, the original copy  
25 to be sent to the Pennsylvania State Police, postmarked via  
26 first class mail, within 14 days of the sale, one copy to be  
27 retained by the licensed importer, licensed manufacturer or  
28 licensed dealer and one copy to be retained by the purchaser  
29 or transferee. The form of this application/record of sale  
30 shall be no more than one page in length and shall be

1 promulgated by the Pennsylvania State Police and provided by  
2 the licensed importer, licensed manufacturer or licensed  
3 dealer. The application/record of sale shall include the  
4 name, address, birthdate, gender, race, physical description  
5 and Social Security number of the purchaser or transferee,  
6 the date of the application and the caliber, length of  
7 barrel, make, model and manufacturer's number of the firearm  
8 to be purchased or transferred.

9 (1.1) For purposes of a firearm which exceeds the barrel  
10 and related lengths set forth in section 6102, obtained a  
11 completed application/record of sale from the potential buyer  
12 or transferee to be filled out in triplicate, the original  
13 copy to be sent to the Pennsylvania State Police, postmarked  
14 via first class mail, within 14 days of sale, one copy to be  
15 retained by the licensed importer, licensed manufacturer or  
16 licensed dealer and one copy to be retained by the purchaser  
17 or transferee. The form of the application/record of sale  
18 shall be no more than one page in length and shall be  
19 promulgated by the Pennsylvania State Police and provided by  
20 the licensed importer, licensed manufacturer or licensed  
21 dealer. For purposes of conducting the criminal history,  
22 juvenile delinquency and mental health records background  
23 check which shall be completed within ten days of receipt of  
24 the information from the dealer, the application/record of  
25 sale shall include the name, address, birthdate, gender,  
26 race, physical description and Social Security number of the  
27 purchaser or transferee and the date of application. No  
28 information regarding the type of firearm need be included  
29 other than an indication that the firearm exceeds the barrel  
30 lengths set forth in section 6102. Unless it has been

1 discovered pursuant to a criminal history, juvenile  
2 delinquency and mental health records background check that  
3 the potential purchaser or transferee is prohibited from  
4 possessing a firearm pursuant to section 6105 (relating to  
5 persons not to possess, use, manufacture, control, sell or  
6 transfer firearms), no information on the application/record  
7 of sale provided pursuant to this subsection shall be  
8 retained as precluded by section 6111.4 (relating to  
9 registration of firearms) by the Pennsylvania State Police  
10 either through retention of the application/record of sale or  
11 by entering the information onto a computer, and further an  
12 application/record of sale received by the Pennsylvania State  
13 Police pursuant to this subsection shall be destroyed within  
14 72 hours of the completion of the criminal history, juvenile  
15 delinquency and mental health records background check.

16 (1.2) Fees collected under paragraph (3) and section  
17 6111.2 (relating to firearm sales surcharge) shall be  
18 transmitted to the Pennsylvania State Police within 14 days  
19 of collection.

20 (1.3) In addition to the criminal penalty under section  
21 6119 (relating to violation penalty), any person who  
22 knowingly and intentionally maintains or fails to destroy any  
23 information submitted to the Pennsylvania State Police for  
24 purposes of a background check pursuant to paragraphs (1.1)  
25 and (1.4) shall be subject to a civil penalty of up to \$250  
26 per entry or failure to destroy.

27 (1.4) Prior to January 1, 1997, and following  
28 implementation of the instantaneous records check by the  
29 Pennsylvania State Police on or before October 11, 1999, no  
30 application/record of sale shall be completed for the

1 purchase or transfer of a firearm which exceeds the barrel  
2 lengths set forth in section 6102. A statement shall be  
3 submitted by the dealer to the Pennsylvania State Police,  
4 postmarked via first class mail, within 14 days of the sale,  
5 containing the number of firearms sold which exceed the  
6 barrel and related lengths set forth in section 6102, the  
7 amount of surcharge and other fees remitted and a list of the  
8 unique approval numbers given pursuant to paragraph (4)  
9 together with a statement that the background checks have  
10 been performed on the firearms contained in the statement.  
11 The form of the statement relating to performance of  
12 background checks shall be promulgated by the Pennsylvania  
13 State Police.

14 (2) Inspected photoidentification of the potential  
15 purchaser or transferee, including, but not limited to, a  
16 driver's license, official Pennsylvania photoidentification  
17 card or official government photoidentification card. In the  
18 case of a potential buyer or transferee who is a member of a  
19 recognized religious sect or community whose tenets forbid or  
20 discourage the taking of photographs of members of that sect  
21 or community, a seller shall accept a valid-without-photo  
22 driver's license or a combination of documents, as prescribed  
23 by the Pennsylvania State Police, containing the applicant's  
24 name, address, date of birth and the signature of the  
25 applicant.

26 (3) Requested by means of a telephone call that the  
27 Pennsylvania State Police conduct a criminal history,  
28 juvenile delinquency history and a mental health record  
29 check. The requester shall be charged a fee equivalent to the  
30 cost of providing the service but not to exceed \$2 per buyer

1 or transferee.

2 (4) Received a unique approval number for that inquiry  
3 from the Pennsylvania State Police and recorded the date and  
4 the number on the application/record of sale form.

5 (5) Issued a receipt containing the information from  
6 paragraph (4), including the unique approval number of the  
7 purchaser. This receipt shall be prima facie evidence of the  
8 purchaser's or transferee's compliance with the provisions of  
9 this section.

10 (6) Unless it has been discovered pursuant to a criminal  
11 history, juvenile delinquency and mental health records  
12 background check that the potential purchaser or transferee  
13 is prohibited from possessing a firearm pursuant to section  
14 6105, no information received via telephone following the  
15 implementation of the instantaneous background check system  
16 from a purchaser or transferee who has received a unique  
17 approval number shall be retained by the Pennsylvania State  
18 Police.

19 \* \* \*

20 (e) Nonapplicability of section.--[As provided by section  
21 6118 (relating to antique firearms), this] This section shall  
22 not apply to the following:

23 (1) Any firearm manufactured on or before 1898[,  
24 included any].

25 (2) Any firearm with a matchlock, flintlock[, ] or  
26 percussion cap [or similar] type of ignition system.

27 [(2)] (3) Any replica of any firearm described in  
28 paragraph (1) if the replica:

29 (i) is not designed or redesigned to use rimfire or  
30 conventional center fire fixed ammunition; or

1 (ii) uses rimfire or conventional center fire fixed  
2 ammunition which is no longer manufactured in the United  
3 States and which is not readily available in the ordinary  
4 channels of commercial trade.

5 (f) Application of section.--

6 (1) For the purposes of this section only, except as  
7 provided by paragraph (2), "firearm" shall mean any weapon  
8 which is designed to or may readily be converted to expel any  
9 projectile by the action of an explosive or the frame or  
10 receiver of any such weapon.

11 (2) The provisions contained in subsections (a) and (c)  
12 shall only apply to pistols or revolvers with a barrel length  
13 of less than 15 inches, any shotgun with a barrel length of  
14 less than 18 inches, any rifle with a barrel length of less  
15 than 16 inches or any firearm with an overall length of less  
16 than 26 inches.

17 (3) The provisions contained in subsection (a) shall not  
18 apply to any law enforcement officer [as defined in section  
19 5515 (relating to prohibiting of paramilitary training)]  
20 whose current identification as a law enforcement officer  
21 shall be construed as a valid license to carry a firearm or  
22 any person who possesses a valid license to carry a firearm  
23 under section 6109 (relating to licenses).

24 (4) (i) The provisions of subsection (a) shall not  
25 apply to any person who presents to the seller or  
26 transferor a written statement issued by the official  
27 described in subparagraph (iii) during the ten-day period  
28 ending on the date of the most recent proposal of such  
29 transfer or sale by the transferee or purchaser stating  
30 that the transferee or purchaser requires access to a

1 firearm because of a threat to the life of the transferee  
2 or purchaser or any member of the household of that  
3 transferee or purchaser.

4 (ii) The issuing official shall notify the  
5 applicant's local police authority that such a statement  
6 has been issued. In counties of the first class the chief  
7 of police shall notify the police station or substation  
8 closest to the applicant's residence.

9 (iii) The statement issued under subparagraph (ii)  
10 shall be issued by the district attorney, or his  
11 designee, of the county of residence [of] if the  
12 transferee or purchaser[. If such county of residence is  
13 a county of the first class, the issuing official shall  
14 be the chief of police, or his designee, having  
15 jurisdiction in that county.] resides in a municipality  
16 where there is no chief of police. Otherwise, the  
17 statement shall be issued by the chief of police in the  
18 municipality in which the purchaser or transferee  
19 resides.

20 (g) Penalties.--

21 (1) Any person, licensed dealer, licensed manufacturer  
22 or licensed importer who knowingly or intentionally sells,  
23 delivers or transfers a firearm in violation of this section  
24 commits a misdemeanor of the second degree.

25 (2) Any person, licensed dealer, licensed manufacturer  
26 or licensed importer who knowingly or intentionally sells,  
27 delivers or transfers a firearm under circumstances intended  
28 to provide a firearm to any person, purchaser or transferee  
29 who is unqualified or ineligible to control, possess or use a  
30 firearm under this chapter commits a felony of the third

1 degree and shall in addition be subject to revocation of the  
2 license to sell firearms for a period of three years.

3 (3) Any person, licensed dealer, licensed manufacturer  
4 or licensed importer who knowingly and intentionally requests  
5 a criminal history, juvenile delinquency or mental health  
6 record check from the Pennsylvania State Police under this  
7 chapter for any purpose other than compliance with this  
8 chapter or knowingly and intentionally disseminates any  
9 criminal history, juvenile delinquency or mental health  
10 record information to any person other than the subject of  
11 the information commits a felony of the third degree.

12 (4) Any person, purchaser or transferee who in  
13 connection with the purchase, delivery or transfer of a  
14 firearm under this chapter knowingly and intentionally makes  
15 any materially false oral or written statement or willfully  
16 furnishes or exhibits any false identification intended or  
17 likely to deceive the seller, licensed dealer or licensed  
18 manufacturer commits a felony of the third degree.

19 (5) Notwithstanding section 306 (relating to liability  
20 for conduct of another; complicity) or any other statute to  
21 the contrary, any person, licensed importer, licensed dealer  
22 or licensed manufacturer who knowingly and intentionally  
23 sells, delivers or transfers a firearm in violation of this  
24 chapter who has reason to believe that the firearm is  
25 intended to be used in the commission of a crime or attempt  
26 to commit a crime shall be criminally liable for such crime  
27 or attempted crime.

28 (6) Notwithstanding any act or statute to the contrary,  
29 any person, licensed importer, licensed manufacturer or  
30 licensed dealer who knowingly and intentionally sells or

1 delivers a firearm in violation of this chapter who has  
2 reason to believe that the firearm is intended to be used in  
3 the commission of a crime or attempt to commit a crime shall  
4 be liable in the amount of the civil judgment for injuries  
5 suffered by any person so injured by such crime or attempted  
6 crime.

7 \* \* \*

8 Section 5. Section 6111.1(b), (d), (e), (f), (g), (h) and  
9 (i) of Title 18 are amended and the section is amended by adding  
10 subsections to read:

11 § 6111.1. Pennsylvania State Police.

12 \* \* \*

13 (b) Duty of Pennsylvania State Police.--

14 (1) Upon receipt of a request for a criminal history,  
15 juvenile delinquency history and mental health record check  
16 of the potential purchaser or transferee, the Pennsylvania  
17 State Police shall immediately during the licensee's call or  
18 by return call forthwith:

19 (i) review the Pennsylvania State Police criminal  
20 history and fingerprint records to determine if the  
21 potential purchaser or transferee is prohibited from  
22 receipt or possession of a firearm under Federal or State  
23 law;

24 (ii) review the juvenile delinquency and mental  
25 health records of the Pennsylvania State Police to  
26 determine whether the potential purchaser or transferee  
27 is prohibited from receipt or possession of a firearm  
28 under Federal or State law; and

29 (iii) inform the licensee making the inquiry either:

30 (A) that [its criminal history records

1 demonstrate that the potential purchaser or  
2 transferee is so] the potential purchase or transfer  
3 is prohibited; or

4 (B) provide the licensee with a unique approval  
5 number.

6 (2) In the event of electronic failure or similar  
7 [emergency] event beyond the control of the Pennsylvania  
8 State Police, the Pennsylvania State Police shall immediately  
9 notify the requesting licensee of the reason for and  
10 estimated length of the delay. If the failure or event lasts  
11 for a period exceeding 48 hours, the dealer shall not be  
12 subject to any penalty for failure to complete an  
13 instantaneous records check for the remainder of the failure  
14 or similar event, but the dealer shall obtain a completed  
15 application/record of sale following the provisions of  
16 section 6111(b)(1) and (1.1) (relating to sale or transfer of  
17 firearms) as if an instantaneous records check has not been  
18 established for any sale or transfer of a firearm for the  
19 purpose of a subsequent background check.

20 (3) The Pennsylvania State Police shall fully comply,  
21 execute and enforce the directives of this section within  
22 four years of the enactment of this subsection.

23 (4) The Pennsylvania State Police and any local law  
24 enforcement agency shall make all reasonable efforts to  
25 determine the lawful owner of any firearm confiscated by the  
26 Pennsylvania State Police or any local law enforcement agency  
27 and return said firearm to its lawful owner if the owner is  
28 not otherwise prohibited from possessing the firearm. When a  
29 court of law has determined that the Pennsylvania State  
30 Police or any local law enforcement agency have failed to

1 exercise the duty under this subsection, reasonable attorney  
2 fees shall be awarded to any lawful owner of said firearm who  
3 has sought judicial enforcement of this subsection.

4 \* \* \*

5 (d) Distribution.--The Pennsylvania State Police shall  
6 [distribute copies] provide, without charge, summaries of  
7 uniform firearm laws and firearm safety brochures pursuant to  
8 section 6125 (relating to distribution of uniform firearm laws  
9 and firearm safety brochures).

10 (e) Challenge to records.--Any person who is denied the  
11 right to receive, sell, transfer, possess, carry, manufacture or  
12 purchase a firearm as a result of the procedures established by  
13 this section may challenge the accuracy of that person's  
14 criminal history, juvenile delinquency history or mental health  
15 record under the procedures of [2 Pa.C.S. Ch. 5 Subch. A  
16 (relating to practice and procedure of Commonwealth agencies)]  
17 Chapter 91 (relating to criminal history record information).

18 (f) Notification of mental health commitment.--  
19 Notwithstanding any statute to the contrary, judges of the  
20 courts of common pleas shall notify the Pennsylvania State  
21 Police on a form developed by the Pennsylvania State Police of  
22 the identity of any individual who has been adjudicated  
23 incompetent or who has been involuntarily [treated as described  
24 in section 6105(c)(4) (relating to persons not to possess, use,  
25 manufacture, control, sell or transfer firearms).] committed to  
26 a mental institution for inpatient care and treatment under the  
27 act of June 9, 1976 (P.L.817, No.143), known as the Mental  
28 Health Procedures Act, or who has been involuntarily treated as  
29 described in section 6105(c)(4) (relating to persons not to  
30 possess, use, manufacture, control, sell or transfer firearms).

1 The notification shall be transmitted by the judge to the  
2 Pennsylvania State Police within seven days of the adjudication,  
3 commitment or treatment.

4 (g) [Mental health treatment professionals.--Notwithstanding  
5 any statute to the contrary, any mental health treatment  
6 professional who has been licensed to provide mental health  
7 services to the general public pursuant to the laws of this  
8 Commonwealth may in the exercise of that professional's  
9 professional judgment notify any law enforcement official of any  
10 individual under that professional's care who that professional  
11 reasonably believes to be a danger to that individual or others.  
12 Mental health professionals who make such a report in good faith  
13 shall be immune from any civil or criminal liability that may  
14 arise from their decision to report an individual under their  
15 care.] Review by court.--

16 (1) Upon receipt of a copy of the order of a court of  
17 competent jurisdiction which vacates a final order or an  
18 involuntary certification issued by a mental health review  
19 officer, the Pennsylvania State Police shall expunge all  
20 records of the involuntary treatment received under  
21 subsection (f).

22 (2) A person who is involuntarily committed pursuant to  
23 section 302 of the Mental Health Procedures Act may petition  
24 the court to review the sufficiency of the evidence upon  
25 which the commitment was based. If the court determines that  
26 the evidence upon which the involuntary commitment was based  
27 was insufficient, the court shall order that the record of  
28 the commitment submitted to the Pennsylvania State Police be  
29 expunged. A petition filed under this subsection shall toll  
30 the 60-day period set forth under section 6105(a)(2).

1           (3) The Pennsylvania State Police shall expunge all  
2 records of an involuntary commitment of an individual who is  
3 discharged from a mental health facility based upon the  
4 initial review by the physician occurring within two hours of  
5 arrival under section 302(b) of the Mental Health Procedures  
6 Act and the physician's determination that no severe mental  
7 disability existed pursuant to section 302(b) of the Mental  
8 Health Procedures Act. The physician shall provide signed  
9 confirmation of the determination of the lack of severe  
10 mental disability following the initial examination under  
11 section 302(b) of the Mental Health Procedures Act to the  
12 Pennsylvania State Police.

13       (h) Juvenile registry.--

14           (1) The contents of law enforcement records and files  
15 compiled under 42 Pa.C.S. § 6308 (relating to law enforcement  
16 records) concerning a child shall not be disclosed to the  
17 public except if the child is 14 years of age or older at the  
18 time of the alleged conduct and if any of the following  
19 apply:

20           (i) The child has been adjudicated delinquent by a  
21 court as a result of an act or acts which constitute any  
22 offense enumerated in section 6105.

23           (ii) A petition alleging delinquency has been filed  
24 by a law enforcement agency alleging that the child has  
25 committed an act or acts which constitute an offense  
26 enumerated in section 6105 and the child previously has  
27 been adjudicated delinquent by a court as a result of an  
28 act or acts which included the elements of one of such  
29 crimes.

30           [(iii) The child is a dangerous juvenile offender.]

1           (2) Notwithstanding any provision of this subsection,  
2           the contents of law enforcement records and files concerning  
3           any child adjudicated delinquent for the commission of any  
4           criminal activity described in paragraph (1) shall be  
5           recorded in the registry of the Pennsylvania State Police for  
6           the limited purposes of this chapter.

7           (i) Reports.--The Pennsylvania State Police shall annually  
8           compile and report to the General Assembly, on or before  
9           December 31, the following information for the previous year:

10           (1) number of firearm sales, including the types of  
11           firearms;

12           (2) number of applications for sale of firearms denied;  
13           number of challenges of the denials; and number of final  
14           reversals of initial denials;

15           (3) summary of the Pennsylvania State Police's  
16           activities, including the average time taken to complete a  
17           criminal history, juvenile delinquency history or mental  
18           health record check; and

19           (4) uniform crime reporting statistics compiled by the  
20           Pennsylvania State Police based on the National Incident-  
21           based Reporting System.

22           \* \* \*

23           (j.1) Delinquency and mental health records.--The provisions  
24           of this section which relate to juvenile delinquency and mental  
25           health records checks shall be applicable when the data has been  
26           made available to the Pennsylvania State Police but not later  
27           than October 11, 1999.

28           (j.2) Records check.--The provisions of this section which  
29           relate to the instantaneous records check conducted by telephone  
30           shall be applicable 30 days following notice by the Pennsylvania

1 State Police pursuant to subsection (a)(2).

2 \* \* \*

3 Section 6. Sections 6111.2, 6111.3 heading, 6113(a),  
4 6117(a), 6118, 6123 and 6125 of Title 18 are amended to read:

5 § 6111.2. Firearm sales surcharge.

6 (a) Surcharge imposed.--There is hereby imposed on each sale  
7 of a firearm subject to tax under Article II of the act of March  
8 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, an  
9 additional surcharge of \$3. This shall be referred to as the  
10 Firearm [Ownership] Sale Surcharge. All moneys received from  
11 this surcharge shall be deposited in the Firearm [Ownership]  
12 Instant Records Check Fund.

13 (b) Increases or decreases.--Five years from the effective  
14 date of this subsection, and every five years thereafter, the  
15 Pennsylvania State Police shall provide such information as  
16 necessary to the Legislative Budget and Finance Committee for  
17 the purpose of reviewing the need to increase or decrease the  
18 instant check fee. The committee shall issue a report of its  
19 findings and recommendations to the General Assembly for a  
20 statutory change in the fee.

21 (c) Revenue sources.--Funds received under the provisions of  
22 this section and section 6111(b)(3) [(relating to firearm  
23 ownership)], as estimated and certified by the Secretary of  
24 Revenue, shall be deposited within five days of the end of each  
25 quarter into the fund. [The provisions of Article II of the Tax  
26 Reform Code of 1971 shall apply to the surcharge imposed by  
27 subsection (a).]

28 (d) Definition.--As used in this section only, the term  
29 "firearm" shall mean any weapon which is designed to or may  
30 readily be converted to expel any projectile by the action of an

1 explosion or the frame or receiver of any such weapon.

2 § 6111.3. Firearm [Ownership] Instant Records Check Fund.

3 \* \* \*

4 § 6113. Licensing of dealers.

5 (a) General rule.--The chief or head of any police force or  
6 police department of a city, and, elsewhere, the sheriff of the  
7 county, shall grant to reputable applicants licenses, in form  
8 prescribed by the Pennsylvania State Police, effective for [not  
9 more than] three years from date of issue, permitting the  
10 licensee to sell firearms direct to the consumer, subject to the  
11 following conditions in addition to those specified in section  
12 6111 (relating to [firearm ownership] sale or transfer of  
13 firearms), for breach of any of which the license shall be  
14 forfeited and the licensee subject to punishment as provided in  
15 this subchapter:

16 (1) The business shall be carried on only upon the  
17 premises designated in the license or at a lawful gun show or  
18 meet.

19 (2) The license, or a copy thereof, certified by the  
20 issuing authority, shall be displayed on the premises where  
21 it can easily be read.

22 (3) No firearm shall be sold in violation of any  
23 provision of this subchapter.

24 (4) No firearm shall be sold under any circumstances  
25 unless the purchaser is personally known to the seller or  
26 shall present clear evidence of the purchaser's identity.

27 (5) A true record in triplicate shall be made of every  
28 firearm sold, in a book kept for the purpose, the form of  
29 which may be prescribed by the Pennsylvania State Police, and  
30 shall be personally signed by the purchaser and by the person

1 effecting the sale, each in the presence of the other, and  
2 shall contain the information required by section 6111.

3 (6) No firearm as defined in section 6102 (relating to  
4 definitions) shall be displayed in any part of any premises  
5 where it can readily be seen from the outside. In the event  
6 that the Commissioner of the Pennsylvania State Police shall  
7 find a clear and present danger to public safety within this  
8 Commonwealth or any area thereof, firearms shall be stored  
9 and safeguarded pursuant to regulations to be established by  
10 the Pennsylvania State Police by the licensee during the  
11 hours when the licensee is closed for business.

12 (7) The dealer shall possess all applicable current  
13 revenue licenses.

14 \* \* \*

15 § 6117. Altering or obliterating marks of identification.

16 (a) Offense defined.--No person shall change, alter, remove,  
17 or obliterate the manufacturer's number [or other mark of  
18 identification] integral to the frame or receiver of any firearm  
19 which shall have the same meaning as provided in section 6105  
20 (relating to persons not to possess, use, manufacture, control,  
21 sell or transfer firearms).

22 \* \* \*

23 § 6118. Antique firearms.

24 (a) General rule.--This subchapter shall not apply to  
25 antique firearms.

26 (b) Exception.--Subsection (a) shall not apply to the extent  
27 that such antique firearms, reproductions or replicas of  
28 firearms are concealed weapons as provided in section 6106  
29 (relating to firearms not to be carried without a license), nor  
30 shall it apply to the provisions of section 6105 (relating to

1 persons not to possess, use, manufacture, control, sell or  
2 transfer firearms) if such antique firearms, reproductions or  
3 replicas of firearms are suitable for use.

4 (c) Definition.--As used in this section, the term "antique  
5 firearm" means:

6 (1) [any firearm, including any] Any firearm with a  
7 matchlock, flintlock[, ] or percussion cap [or similar] type  
8 of ignition system[, manufactured on or before 1898; and].

9 (2) Any firearm manufactured on or before 1898.

10 [(2) any] (3) Any replica of any firearm described in  
11 paragraph [(1)] (2) if such replica:

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

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

18 § 6123. Waiver of disability or pardons.

19 A waiver of disability from Federal authorities as provided  
20 for in 18 U.S.C. § 925 (relating to exceptions; relief from  
21 disabilities), a full pardon from the Governor or an overturning  
22 of a conviction shall remove any corresponding disability under  
23 this subchapter except the disability under section 6105  
24 (relating to [former convict not to own a firearm, etc.] persons  
25 not to possess, use, manufacture, control, sell or transfer  
26 firearms).

27 § 6125. Distribution of uniform firearm laws and firearm safety  
28 brochures.

29 [(a) General rule.--It shall be the duty of the Pennsylvania  
30 State Police to distribute to every licensed firearm dealer in

1 this Commonwealth copies of this subchapter. A copy of this  
2 subchapter shall be provided without charge by every licensed  
3 firearm dealer to every firearm, shotgun or rifle purchaser.

4 (b) Safety brochures.--It shall be the duty of the  
5 Pennsylvania State Police to distribute to every licensed  
6 firearm dealer in this Commonwealth copies of firearm safety  
7 brochures. The brochures shall be written by the Pennsylvania  
8 State Police with the cooperation of the Pennsylvania Game  
9 Commission and written to provide for the safe use and operation  
10 of firearms, shotguns or rifles. The brochures shall be  
11 provided, without charge, by every licensed firearm dealer to  
12 every firearm, shotgun or rifle purchaser.] It shall be the duty  
13 of the Pennsylvania State Police beginning January 1, 1996, to  
14 distribute to every licensed firearm dealer in this Commonwealth  
15 firearms safety brochures at no cost to the dealer. The  
16 brochures shall be written by the Pennsylvania State Police,  
17 with the cooperation of the Pennsylvania Game Commission, and  
18 shall include a summary of the major provisions of this  
19 subchapter, including, but not limited to, the duties of the  
20 sellers and purchasers and the transferees of firearms. The  
21 brochure or a copy thereof shall be provided without charge to  
22 each purchaser.

23 Section 7. Title 18 is amended by adding sections to read:  
24 § 6126. Firearms Background Check Advisory Committee.

25 (a) Establishment.--There is hereby established the Firearms  
26 Background Check Advisory Committee which shall consist of six  
27 members as follows:

28 (1) The Governor or a designee.

29 (2) The Attorney General or a designee.

30 (3) The Majority Leader of the Senate or a designee.

1           (4) The Minority Leader of the Senate or a designee.

2           (5) The Majority Leader of the House of Representatives  
3           or a designee.

4           (6) The Minority Leader of the House of Representatives  
5           or a designee.

6           (b) Duties.--To facilitate compliance with this chapter and  
7           the intent thereof, the Firearms Background Check Advisory  
8           Committee shall, as follows:

9           (1) Review the operations and procedures of the  
10           Pennsylvania State Police relating to the implementation and  
11           administration of the criminal history, juvenile delinquency  
12           and mental health records background checks.

13           (2) Advise the Pennsylvania State Police relating to the  
14           development and maintenance of the instantaneous records  
15           check system.

16           (3) Provide annual reports to the Governor and the  
17           General Assembly on the advisory committee's findings and  
18           recommendations, including discussions concerning conformance  
19           with the Preamble of the act of June 13, 1995 (1st Sp.Sess.,  
20           P.L. \_\_\_\_\_, No.17), entitled, "An act amending Titles 18  
21           (Crimes and Offenses) and 42 (Judiciary and Judicial  
22           Procedure) of the Pennsylvania Consolidated Statutes, further  
23           providing for the possession of firearms; establishing a  
24           selected Statewide juvenile offender registry; and making an  
25           appropriation."

26           (c) Terms.--Members or their designees shall serve a term of  
27           office concurrent with the term of office for which the member  
28           was elected. Any vacancy shall be filled by the appointing  
29           authority.

30           (d) Chairperson.--The Governor shall appoint the chairperson

1 of the advisory committee.

2 (e) Expiration.--This section shall expire July 1, 2001, or  
3 at the end of two years following the implementation of the  
4 instant records check, whichever is sooner.

5 § 6315. Selling or furnishing butane to minors.

6 (a) Offense defined.--A person commits a summary offense if  
7 he knowingly sells or knowingly furnishes, or purchases with the  
8 intent to sell or furnish, butane to a person who is less than  
9 18 years of age, except where the relationship of parent and  
10 child, guardian and ward or adult instructor and pupil exists  
11 between such person and the person who is less than 18 years of  
12 age.

13 (b) Penalty.--A person who is convicted of violating  
14 subsection (a) shall be sentenced to pay a fine of not less than  
15 \$250 for the first violation and a fine of \$500 for each  
16 subsequent violation.

17 (c) Definition.--As used in this section, the term "butane"  
18 means any product which contains 90% by weight or more of n-  
19 butane, iso-butane or both. It does not include products which  
20 contain n-butane, iso-butane or both as a secondary component,  
21 or within the formulation as a solvent or propellant.

22 Section 8. Sections 7313 and 7314 of Title 18 are amended to  
23 read:

24 § 7313. Buying or exchanging Federal food order coupons,  
25 stamps, authorization cards or access devices.

26 (a) Offense defined.--A person [is guilty of a misdemeanor  
27 of the third degree] commits the offense of buying or exchanging  
28 Federal food order coupons, stamps, authorization cards or  
29 access devices if he, not being authorized to do so by the  
30 United States Department of Agriculture, [shall buy or exchange]

1 buys or exchanges Federal food order coupons, stamps,  
2 authorization cards or access devices for currency, or if he  
3 [shall accept or cause] accepts or causes to be accepted Federal  
4 food order coupons, stamps, authorization cards or access  
5 devices in exchange for any merchandise or article except food,  
6 as defined by the United States Department of Agriculture, or  
7 Federal food order coupons, stamps, authorization cards or  
8 access devices in exchange for merchandise or articles, not  
9 defined by the United States Department of Agriculture to be  
10 surplus foods.

11 (b) Grading.--A person who violates this section commits a  
12 felony of the third degree if the amount involved is \$1,000 or  
13 more. If the amount involved is less than \$1,000, the person  
14 commits a misdemeanor of the first degree. Amounts involved in  
15 buying or exchanging Federal food order coupons, stamps,  
16 authorization cards or access devices committed pursuant to one  
17 scheme or course of conduct, whether from the same person or  
18 several persons, shall be aggregated in determining the grade of  
19 the offense.

20 (c) Definitions.--As used in this section, the following  
21 words and phrases shall have the meanings given to them in this  
22 subsection:

23 "Access device." The Pennsylvania ACCESS card or electronic  
24 benefit transfer card.

25 "Authorization card." The paper authorization to participate  
26 that a person signs and then exchanges for the designated amount  
27 of food coupons at a bank.

28 § 7314. Fraudulent traffic in food orders.

29 (a) Offense defined.--A person [is guilty of a summary  
30 offense] commits the offense of fraudulent traffic in food

1 orders if he, whether acting for himself or for another,  
2 directly or indirectly, furnishes or delivers to any person  
3 money, merchandise, or anything other than food, on or in  
4 exchange for a food order, or furnishes or delivers food on or  
5 in exchange for a food order to any person, other than the  
6 original recipient of the order, or in quantities or for prices  
7 other than those itemized on the food order at the time the food  
8 is furnished or delivered.

9 (a.1) Grading.--A person who violates this section commits a  
10 felony of the third degree if the amount involved is \$1,000 or  
11 more. If the amount involved is less than \$1,000, the person  
12 commits a misdemeanor of the first degree. Amounts involved in  
13 fraudulent traffic in food orders committed pursuant to one  
14 scheme or course of conduct, whether from the same person or  
15 several persons, shall be aggregated in determining the grade of  
16 the offense.

17 (b) Additional penalty.--In addition to the penalties  
18 otherwise prescribed, the defendant shall also be [adjudged]  
19 ordered to pay to the agency which shall have issued such food  
20 order, the face amount thereof.

21 (c) Exception.--Subsection (a) of this section shall not  
22 apply to the negotiation of a food order after food to the full  
23 amount of the order shall have been furnished thereon to the  
24 original recipient of the order.

25 (d) Definition.--As used in this section, the term "food  
26 order" means any order issued by or under the authority of any  
27 public relief or assistance agency, authorizing the furnishing  
28 and delivery of food to any person therein named or described.

29 Section 9. Title 18 is amended by adding a section to read:  
30 § 7328. Operation of certain establishments prohibited without

1           local option.

2           (a) Offense defined.--A person commits a misdemeanor of the  
3 third degree if that person operates an establishment commonly  
4 referred to as a bottle club in a municipality or part of a  
5 split municipality where the operation of such establishments  
6 has been disapproved by the voters in accordance with subsection  
7 (b). The provisions of this subsection shall not apply to the  
8 first 30-day time period following the adoption of the  
9 disapproval referendum under subsection (b).

10          (b) Local option; election to be held.--

11           (1) In any municipality or any part of a municipality  
12 where such municipality is split so that each part is  
13 separated by another municipality, an election may be held on  
14 the date of the primary election immediately preceding any  
15 general or municipal election, but not more than once in four  
16 years, to determine the will of the electors with respect to  
17 prohibiting the operation, within the limits of the  
18 municipality or part of a split municipality, of  
19 establishments commonly referred to as bottle clubs. Where an  
20 election shall have been held at the primary election  
21 preceding a general or municipal election in any year,  
22 another election may be held under the provisions of this  
23 subsection at the primary election occurring the fourth year  
24 after such prior election. Whenever electors equal to at  
25 least 25% of the highest vote cast for any office in the  
26 municipality or part of a split municipality at the last  
27 preceding general election shall file a petition with the  
28 county board of elections of the county, or the governing  
29 body of the municipality adopts by majority vote a resolution  
30 to place the question on the ballot and a copy of the

1 resolution is filed with the board of elections of the  
2 county, for a referendum on the question of prohibiting the  
3 operation of establishments commonly referred to as bottle  
4 clubs, the said county board of elections shall cause a  
5 question to be placed on the ballot or on the voting machine  
6 board and submitted at the primary election immediately  
7 preceding the general or municipal election. The question  
8 shall be in the following form:

9 Do you favor the prohibition of the operation of  
10 establishments, commonly referred to as bottle clubs in  
11 \_\_\_\_\_ of \_\_\_\_\_ ?

12 (2) In the case of a tie vote, the status quo shall  
13 obtain. If a majority of the electors voting on the question  
14 votes "yes," then an establishment commonly referred to as a  
15 bottle club shall not be operated in the municipality or part  
16 of a split municipality after 30 days from the certification  
17 of the vote on the question; but if a majority of the  
18 electors voting on the question votes "no," then the  
19 operation of these establishments shall be permitted in the  
20 municipality or part of a split municipality, unless and  
21 until at a later election a majority of the voting electors  
22 votes "yes" on the question.

23 (3) Proceedings under this subsection shall be in  
24 accordance with the provisions of the act of June 3, 1937  
25 (P.L.1333, No.320), known as the Pennsylvania Election Code.

26 (c) Definition.--As used in this section, the term "bottle  
27 club" means an establishment operated for profit or pecuniary  
28 gain, which admits patrons upon the payment of a fee, has a  
29 capacity for the assemblage of 20 or more persons, and in which  
30 alcoholic liquors, alcohol or malt or brewed beverages are not

1 legally sold but where alcoholic liquors, alcohol or malt or  
2 brewed beverages are either provided by the operator or agents  
3 or employees of the operator for consumption on the premises or  
4 are brought into or kept at the establishment by the patrons or  
5 persons assembling there for use and consumption. The term shall  
6 not include a licensee under the act of April 12, 1951 (P.L.90,  
7 No.21), known as the Liquor Code, or any organization as set  
8 forth in section 6 of the act of December 19, 1990 (P.L.1200,  
9 No.202), known as the Solicitation of Funds for Charitable  
10 Purposes Act.

11 Section 10. As much of 42 Pa.C.S. § 6308(d)(1)(i) and (ii)  
12 as reads "an act or acts which constitute a crime of violence as  
13 defined in 18 Pa.C.S. § 6102 (relating to definitions) or" and  
14 (d)(2) are repealed.

15 Section 11. Until such time as the amendatory provisions of  
16 18 Pa.C.S. § 6111(b) which are set forth in this act take  
17 effect, the Pennsylvania State Police shall only apply the  
18 provision of 18 Pa.C.S. § 6111(b)(1) as it existed on the day  
19 prior to the effective date of this act to any firearm which  
20 meets the standards in the definition of "firearm" set forth in  
21 18 Pa.C.S. § 6102.

22 Section 12. Any license which was previously issued under 18  
23 U.S.C. § 923 to sell firearms which has not been revoked or  
24 suspended shall serve as a valid authorization to sell any  
25 firearm as defined in 18 Pa.C.S. § 6113. The provisions of this  
26 section shall no longer be applicable after January 1, 1996, or  
27 the expiration date for any license issued under 18 U.S.C. §  
28 923, whichever is later in time.

29 Section 13. This act shall take effect as follows:

30 (1) The addition of the definition of "police officer"

1 in 18 Pa.C.S. § 103 shall take effect in 60 days.

2 (2) The addition of 18 Pa.C.S. § 6111(b)(1.1) shall take  
3 effect January 1, 1997.

4 (3) The addition of 18 Pa.C.S. § 6126 shall take effect  
5 July 1, 1996.

6 (4) The amendment or addition of 18 Pa.C.S. §§ 6315,  
7 7313 and 7314 shall take effect in 60 days.

8 (5) The addition of 18 Pa.C.S. § 7328 shall take effect  
9 immediately.

10 (6) The remainder of this act shall take effect  
11 immediately.