SENATE AMENDED

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THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1845 Session of 2007

INTRODUCED BY SABATINA, BLACKWELL, BRENNAN, CRUZ, JAMES, JOSEPHS, W. KELLER, KENNEY, KIRKLAND, MELIO, MURT, M. O'BRIEN, PAYTON, ROEBUCK, SIPTROTH, K. SMITH, SWANGER, R. TAYLOR, THOMAS, WATERS, YOUNGBLOOD, GERBER, HARPER AND HARHAI, SEPTEMBER 27, 2007

AS AMENDED ON SECOND CONSIDERATION, IN SENATE, OCTOBER 7, 2008

AN ACT

Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, FURTHER PROVIDING FOR SENTENCE FOR MURDER AND MURDER OF UNBORN CHILD; PROVIDING FOR THE OFFENSE OF CRIMINAL HOMICIDE OF LAW ENFORCEMENT OFFICER AND FOR THE OFFENSE OF ASSAULT OF LAW ENFORCEMENT OFFICER; IMPOSING PENALTIES; further providing for false reports to law enforcement authorities; in firearms, further providing for ineligibility for possession or dealing, for required licensure, for emergency prohibitions, for licenses, for possession with altered manufacturer's number, for sale or transfer~~, for the Pennsylvania State Police and for registration~~, FOR ~~REGISTRATION~~ PENNSYLVANIA STATE POLICE, FOR ALTERING OR OBLITERATING MARKS OF IDENTIFICATION, FOR FIREARM TRACING AND FOR PROCEDURE; ESTABLISHING THE STRAW PURCHASE PREVENTION EDUCATION PROGRAM AND THE STRAW PURCHASE PREVENTION EDUCATION FUND; further providing for limitation of actions; PRESCRIBING SENTENCES FOR OFFENSES COMMITTED AGAINST LAW ENFORCEMENT OFFICER; and abrogating a regulation. <—— <—— <—— <——

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

~~Section 1. Sections 4906(c) and 6105(b) of Title 18 of the Pennsylvania Consolidated Statutes are amended to read:~~ <——

SECTION 1. SECTION 1102(A), (B) AND (C) OF TITLE 18 OF THE <——

PENNSYLVANIA CONSOLIDATED STATUTES ARE AMENDED TO READ:

§ 1102. SENTENCE FOR MURDER [AND], MURDER OF [AN] UNBORN CHILD AND MURDER OF LAW ENFORCEMENT OFFICER.

(A) FIRST DEGREE.--

(1) A PERSON WHO HAS BEEN CONVICTED OF A MURDER OF THE FIRST DEGREE OR OF MURDER OF A LAW ENFORCEMENT OFFICER OF THE FIRST DEGREE SHALL BE SENTENCED TO DEATH OR TO A TERM OF LIFE IMPRISONMENT IN ACCORDANCE WITH 42 PA.C.S. § 9711 (RELATING TO SENTENCING PROCEDURE FOR MURDER OF THE FIRST DEGREE).

(2) THE SENTENCE FOR A PERSON WHO HAS BEEN CONVICTED OF FIRST DEGREE MURDER OF AN UNBORN CHILD SHALL BE THE SAME AS THE SENTENCE FOR MURDER OF THE FIRST DEGREE, EXCEPT THAT THE DEATH PENALTY SHALL NOT BE IMPOSED. THIS PARAGRAPH SHALL NOT AFFECT THE DETERMINATION OF AN AGGRAVATING CIRCUMSTANCE UNDER 42 PA.C.S. § 9711(D)(17) FOR THE KILLING OF A PREGNANT WOMAN.

(B) SECOND DEGREE.--A PERSON WHO HAS BEEN CONVICTED OF MURDER OF THE SECOND DEGREE [OR], OF SECOND DEGREE MURDER OF AN UNBORN CHILD OR OF SECOND DEGREE MURDER OF A LAW ENFORCEMENT OFFICER SHALL BE SENTENCED TO A TERM OF LIFE IMPRISONMENT.

(C) ATTEMPT, SOLICITATION AND CONSPIRACY [TO COMMIT MURDER OR MURDER OF AN UNBORN CHILD].--NOTWITHSTANDING SECTION 1103(1) (RELATING TO SENTENCE OF IMPRISONMENT FOR FELONY), A PERSON WHO HAS BEEN CONVICTED OF ATTEMPT, SOLICITATION OR CONSPIRACY TO COMMIT MURDER [OR], MURDER OF AN UNBORN CHILD OR MURDER OF A LAW ENFORCEMENT OFFICER WHERE SERIOUS BODILY INJURY RESULTS MAY BE SENTENCED TO A TERM OF IMPRISONMENT WHICH SHALL BE FIXED BY THE COURT AT NOT MORE THAN 40 YEARS. WHERE SERIOUS BODILY INJURY DOES NOT RESULT, THE PERSON MAY BE SENTENCED TO A TERM OF IMPRISONMENT WHICH SHALL BE FIXED BY THE COURT AT NOT MORE THAN 20 YEARS.

* * *

SECTION 1.1. TITLE 18 IS AMENDED BY ADDING SECTIONS TO READ:

§ 2507. CRIMINAL HOMICIDE OF LAW ENFORCEMENT OFFICER.

(A) MURDER OF A LAW ENFORCEMENT OFFICER OF THE FIRST DEGREE.--A PERSON COMMITS MURDER OF A LAW ENFORCEMENT OFFICER OF THE FIRST DEGREE WHO INTENTIONALLY KILLS A LAW ENFORCEMENT OFFICER WHILE IN THE PERFORMANCE OF DUTY KNOWING THE VICTIM IS A LAW ENFORCEMENT OFFICER.

(B) MURDER OF A LAW ENFORCEMENT OFFICER OF THE SECOND DEGREE.--A PERSON COMMITS MURDER OF A LAW ENFORCEMENT OFFICER OF THE SECOND DEGREE WHO ENGAGES AS A PRINCIPAL OR AN ACCOMPLICE IN THE PERPETRATION OF A FELONY DURING WHICH A LAW ENFORCEMENT OFFICER IS KILLED WHILE IN THE PERFORMANCE OF DUTY.

(C) MANSLAUGHTER OF A LAW ENFORCEMENT OFFICER IN THE FIRST DEGREE.--A PERSON COMMITS A FELONY IN THE FIRST DEGREE WHO DOES ANY OF THE FOLLOWING:

(1) WITHOUT LAWFUL JUSTIFICATION KILLS A LAW ENFORCEMENT OFFICER WHILE IN THE PERFORMANCE OF DUTY AND WITH KNOWLEDGE THAT THE VICTIM WAS A LAW ENFORCEMENT OFFICER, IF AT THE TIME OF THE KILLING:

(I) THE PERSON IS ACTING UNDER A SUDDEN AND INTENSE PASSION RESULTING FROM SERIOUS PROVOCATION BY THE VICTIM KILLED; OR

(II) THE PERSON IS ACTING UNDER A SUDDEN AND INTENSE PASSION RESULTING FROM SERIOUS PROVOCATION BY ANOTHER INDIVIDUAL WHOM THE ACTOR ENDEAVORS TO KILL, BUT THE PERSON NEGLIGENTLY OR ACCIDENTALLY CAUSES THE DEATH OF THE VICTIM.

(2) INTENTIONALLY OR KNOWINGLY KILLS A LAW ENFORCEMENT OFFICER WHILE IN THE PERFORMANCE OF DUTY AND WITH KNOWLEDGE

THAT THE VICTIM WAS A LAW ENFORCEMENT OFFICER, IF AT THE TIME OF THE KILLING THE PERSON BELIEVES THE CIRCUMSTANCES TO BE SUCH THAT, IF THEY EXISTED, WOULD JUSTIFY THE KILLING UNDER CHAPTER 5 (RELATING TO GENERAL PRINCIPLES OF JUSTIFICATION), BUT HIS BELIEF IS UNREASONABLE.

(D) MANSLAUGHTER OF A LAW ENFORCEMENT OFFICER IN THE SECOND DEGREE.--A PERSON COMMITS A FELONY OF THE SECOND DEGREE WHO, AS A DIRECT RESULT OF THE DOING OF AN UNLAWFUL OR LAWFUL ACT IN A RECKLESS OR GROSSLY NEGLIGENT MANNER, CAUSES THE DEATH OF A LAW ENFORCEMENT OFFICER WHILE IN THE PERFORMANCE OF DUTY AND THE PERSON KNEW OR SHOULD HAVE KNOWN THE VICTIM WAS A LAW ENFORCEMENT OFFICER.

(E) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SUBSECTION:

"LAW ENFORCEMENT OFFICER." THIS TERM SHALL HAVE THE SAME MEANING AS THE TERM "PEACE OFFICER" IS GIVEN UNDER SECTION 501 (RELATING TO DEFINITIONS).

"PERPETRATION OF A FELONY." AS DEFINED UNDER SECTION 2502(D) (RELATING TO MURDER).

§ 2702.1. ASSAULT OF LAW ENFORCEMENT OFFICER.

(A) ASSAULT OF A LAW ENFORCEMENT OFFICER IN THE FIRST DEGREE.--A PERSON COMMITS A FELONY OF THE FIRST DEGREE WHO ATTEMPTS TO CAUSE OR INTENTIONALLY OR KNOWINGLY CAUSES BODILY INJURY TO A LAW ENFORCEMENT OFFICER, WHILE IN THE PERFORMANCE OF DUTY AND WITH KNOWLEDGE THAT THE VICTIM IS A LAW ENFORCEMENT OFFICER, BY DISCHARGING A FIREARM.

(B) PENALTIES.--NOTWITHSTANDING SECTION 1103(1) (RELATING TO SENTENCE OF IMPRISONMENT FOR FELONY), A PERSON CONVICTED UNDER SUBSECTION (A) SHALL BE SENTENCED TO A TERM OF IMPRISONMENT

FIXED BY THE COURT AT NOT MORE THAN 40 YEARS.

(C) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SUBSECTION:

"LAW ENFORCEMENT OFFICER." THE TERM SHALL HAVE THE SAME MEANING AS THE TERM "PEACE OFFICER" IS GIVEN UNDER SECTION 501 (RELATING TO DEFINITIONS).

"FIREARM." AS DEFINED UNDER 42 PA.C.S. § 9712(E) (RELATING TO SENTENCES FOR OFFENSES COMMITTED WITH FIREARMS).

SECTION 1.2. SECTIONS 4906(C) AND 6105(B) OF TITLE 18 ARE AMENDED TO READ:

§ 4906. False reports to law enforcement authorities.

* * *

(c) Grading.--

(1) If the violation of subsection (a) or (b) occurs during a declared state of emergency and the false report causes the resources of the law enforcement authority to be diverted from dealing with the declared state of emergency, the offense shall be graded one step greater than that set forth in the applicable subsection.

(2) If the violation of subsection (a) or (b) relates to a false report of the theft or loss of a firearm, as defined in section 5515 (relating to prohibiting of paramilitary training), the offense shall be graded one step greater than that set forth in the applicable subsection.

§ 6105. Persons not to possess, use, manufacture, control, sell or transfer firearms.

* * *

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

Section 908 (relating to prohibited offensive weapons).

Section 911 (relating to corrupt organizations).

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

Section 2502 (relating to murder).

Section 2503 (relating to voluntary manslaughter).

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

Section 2702 (relating to aggravated assault).

Section 2703 (relating to assault by prisoner).

Section 2704 (relating to assault by life prisoner).

Section 2709.1 (relating to stalking).

Section 2716 (relating to weapons of mass destruction).

Section 2901 (relating to kidnapping).

Section 2902 (relating to unlawful restraint).

Section 2910 (relating to luring a child into a motor vehicle <u>or structure</u>).

Section 3121 (relating to rape).

Section 3123 (relating to involuntary deviate sexual intercourse).

Section 3125 (relating to aggravated indecent assault).

Section 3301 (relating to arson and related offenses).

Section 3302 (relating to causing or risking catastrophe).

Section 3502 (relating to burglary).

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

Section 3701 (relating to robbery).

Section 3702 (relating to robbery of motor vehicle).

Section 3921 (relating to theft by unlawful taking or

disposition) upon conviction of the second felony offense.

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

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

Section 4906 (relating to false reports to law enforcement authorities) if the fictitious report involved the theft of a firearm as provided in section 4906(c)(2).

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

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

Section 4953 (relating to retaliation against witness [or], victim or party).

Section 5121 (relating to escape).

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

Section 5501(3) (relating to riot).

Section 5515 (relating to prohibiting of paramilitary training).

Section 5516 (relating to facsimile weapons of mass destruction).

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

Section 6301 (relating to corruption of minors).

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

Any offense equivalent to any of the above-enumerated offenses under the prior laws of this Commonwealth or any offense equivalent to any of the above-enumerated offenses

under the statutes of any other state or of the United States.

* * *

Section 2. Section 6106(b) of Title 18 is amended by adding a paragraph to read:

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

* * *

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

* * *

(16) Any person holding a license in accordance with section 6109(f)(3).

* * *

Section 3. Section 6107 of Title 18 is amended to read:

§ 6107. Prohibited conduct during emergency.

(a) General rule.--No person shall carry a firearm[, rifle or shotgun] upon the public streets or upon any public property during an emergency proclaimed by a State or municipal governmental executive unless that person is:

(1) Actively engaged in a defense of that person's life or property from peril or threat.

(2) Licensed to carry firearms under section 6109 (relating to licenses) or is exempt from licensing under section 6106(b) (relating to firearms not to be carried without a license).

(b) Seizure, taking and confiscation.--Except as otherwise provided under subsection (a) and notwithstanding the provisions of 35 Pa.C.S. Ch. 73 (relating to Commonwealth services) or any other provision of law to the contrary, no firearm, accessory or ammunition may be seized, taken or confiscated during an

emergency unless the seizure, taking or confiscation would be authorized absent the emergency.

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

"Accessory." Any scope, sight, bipod, sling, light, magazine, clip or other related item that is attached to or necessary for the operation of a firearm.

"Firearm." The term includes any weapon that is designed to or may readily be converted to expel any projectile by the action of an explosive or the frame or receiver of any weapon.

Section 4. Section 6109(f)(1) of Title 18 is amended, the subsection is amended by adding paragraphs and the section is amended by adding subsections to read:

§ 6109. Licenses.

* * *

(f) Term of license.--

(1) A license to carry a firearm issued under subsection (e) shall be valid throughout this Commonwealth for a period of five years unless extended under paragraph (3) or sooner revoked.

* * *

(3) Notwithstanding paragraph (1) or any other provision of law to the contrary, a license to carry a firearm that is held by a member of the United States Armed Forces or the Pennsylvania National Guard on Federal active duty and deployed overseas that is scheduled to expire during the period of deployment shall be extended until 90 days after the end of the deployment.

(4) Possession of a license, together with a copy of the

person's military orders showing the dates of overseas deployment, including the date that the overseas deployment ends, shall constitute, during the extension period specified in paragraph (3), a defense to any charge filed pursuant to section 6106 (relating to firearms not to be carried without a license) or 6108 (relating to carrying firearms on public streets or public property in Philadelphia).

* * *

(m.1) Temporary emergency licenses.--

(1) A person seeking a temporary emergency license to carry a concealed firearm shall submit to the sheriff of the county in which the person resides all of the following:

(i) Evidence of imminent danger to the person or ~~member of the person's family.~~ THE PERSON'S MINOR CHILD. <—— FOR PURPOSES OF THIS SUBPARAGRAPH, THE TERM "MINOR" SHALL HAVE THE SAME MEANING AS PROVIDED IN 1 PA.C.S. § 1991 (RELATING TO DEFINITIONS).

(ii) A sworn affidavit that contains the information required on an application for a license to carry a firearm and attesting that the person is 21 years of age or older, is not prohibited from owning firearms under section 6105 (relating to persons not to possess, use, manufacture, control, sell or transfer firearms) or any other Federal or State law and is not currently subject to a protection from abuse order or a protection order issued by a court of another state.

(iii) ~~A~~ IN ADDITION TO THE PROVISIONS OF SUBSECTION (H), A temporary emergency license fee established by the Commissioner of the Pennsylvania State Police for an amount that does not exceed the actual cost of conducting <——

the criminal background check or $10, whichever is less.

(IV) AN APPLICATION FOR A LICENSE TO CARRY A FIREARM ON THE FORM PRESCRIBED PURSUANT TO SUBSECTION (C). <—

(2) Upon receipt of the items required under paragraph (1), the sheriff immediately shall conduct a criminal history, juvenile delinquency and mental health record check of the applicant PURSUANT TO SECTION 6105. Immediately upon receipt of the results of the records check, the sheriff shall review the information and shall determine whether the applicant meets the criteria set forth in this ~~section~~ SUBSECTION. If the sheriff determines~~, to the best of the sheriff's ability,~~ that the applicant has met all of the criteria, the sheriff shall immediately issue the applicant a temporary emergency license to carry a concealed firearm. <— <—

(3) If the sheriff refuses to issue a temporary emergency license, the sheriff shall specify the grounds for the denial in a written notice to the applicant. The applicant may appeal the denial or challenge criminal records check results that were the basis of the denial, if applicable, in the same manner as a denial of a license to carry a firearm under this section.

(4) A temporary emergency license issued under this subsection shall be valid for ~~90~~ 45 days and may not be renewed. A person who has been issued a temporary emergency license under this subsection shall not be issued another temporary emergency license unless at least ~~four~~ FIVE years have expired since the issuance of the prior temporary emergency license. DURING THE 45 DAYS THE TEMPORARY EMERGENCY LICENSE IS VALID, THE SHERIFF SHALL CONDUCT AN ADDITIONAL INVESTIGATION OF THE PERSON FOR THE PURPOSES OF DETERMINING <— <—

WHETHER THE PERSON MAY BE ISSUED A LICENSE PURSUANT TO THIS SECTION. IF, DURING THE COURSE OF THIS INVESTIGATION, THE SHERIFF DISCOVERS ANY INFORMATION THAT WOULD HAVE PROHIBITED THE ISSUANCE OF A LICENSE PURSUANT TO THIS SECTION, THE SHERIFF SHALL BE AUTHORIZED TO REVOKE THE TEMPORARY EMERGENCY LICENSE AS PROVIDED IN SUBSECTION (I).

(5) THE TEMPORARY EMERGENCY LICENSE ISSUED PURSUANT TO THIS SECTION SHALL BE CONSISTENT WITH THE FORM PRESCRIBED IN SUBSECTION (E)(3), (4) AND (5). IN addition TO THE INFORMATION PROVIDED IN THOSE PARAGRAPHS, THE TEMPORARY EMERGENCY LICENSE SHALL BE CLEARLY MARKED "TEMPORARY."

~~(5)~~ (6) A person who holds a temporary emergency license to carry a firearm shall have the same rights to carry a firearm as a person issued a license to carry a firearm under this section. A licensee under this subsection shall be subject to all other duties, restrictions and penalties under this section, INCLUDING REVOCATION PURSUANT TO SUBSECTION (I). <—

~~(6)~~ (7) A sheriff who issues a temporary emergency license to carry a firearm shall retain, for the entire period during which the temporary emergency license is in effect, the evidence of imminent danger that the applicant submitted to the sheriff that was the basis for the license, or a copy of the evidence, as appropriate. <—

~~(7) The application for a temporary emergency license to carry a firearm shall be uniform throughout this Commonwealth and shall be on a form prescribed by the Pennsylvania State Police.~~ <—

(8) A PERSON APPLYING FOR A TEMPORARY EMERGENCY LICENSE SHALL COMPLETE THE APPLICATION REQUIRED PURSUANT TO <—

SUBSECTION (C) AND SHALL PROVIDE AT THE TIME OF APPLICATION THE INFORMATION REQUIRED IN PARAGRAPH (1).

(9) PRIOR TO THE EXPIRATION OF A TEMPORARY EMERGENCY LICENSE, IF THE SHERIFF HAS DETERMINED PURSUANT TO INVESTIGATION THAT THE PERSON ISSUED A TEMPORARY EMERGENCY LICENSE IS NOT DISQUALIFIED AND IF THE TEMPORARY EMERGENCY LICENSE HAS NOT BEEN REVOKED PURSUANT TO SUBSECTION (I), THE SHERIFF SHALL ISSUE A LICENSE PURSUANT TO THIS SECTION THAT IS EFFECTIVE FOR THE BALANCE OF THE FIVE-YEAR PERIOD FROM THE DATE OF THE ISSUANCE OF THE TEMPORARY EMERGENCY LICENSE. RECORDS AND ALL OTHER INFORMATION, DUTIES AND OBLIGATIONS REGARDING SUCH LICENSES SHALL BE APPLICABLE AS OTHERWISE PROVIDED IN THIS SECTION.

~~(8)~~ (10) As used in this subsection, the term "evidence of imminent danger" means: ~~a written document prepared by a governmental entity or public official describing the facts that give a person reasonable cause to fear a criminal attack upon the person or a member of the person's family that would justify a prudent person to carry a firearm. Written documents of this nature include, but are not limited to, any temporary or final protection from abuse order or protection order issued by another state.~~ <—— <——

(I) A WRITTEN DOCUMENT PREPARED BY THE ATTORNEY GENERAL, A DISTRICT ATTORNEY, A CHIEF LAW ENFORCEMENT OFFICER, JUDICIAL OFFICER OR THEIR DESIGNEES DESCRIBING THE FACTS THAT GIVE A PERSON REASONABLE CAUSE TO FEAR A CRIMINAL ATTACK UPON THE PERSON OR THE PERSON'S MINOR CHILD. FOR THE PURPOSES OF THIS SUBPARAGRAPH, THE TERM "CHIEF LAW ENFORCEMENT OFFICER" SHALL HAVE THE SAME MEANING AS PROVIDED IN 42 PA.C.S. § 8951 (RELATING TO <——

DEFINITIONS) AND "JUDICIAL OFFICER" SHALL HAVE THE SAME MEANING AS PROVIDED IN 42 PA.C.S. § 102 (RELATING TO DEFINITIONS).

(II) A POLICE REPORT.

(m.2) Inconsistent provisions.--Notwithstanding the provisions of section 7506 (relating to violation of rules regarding conduct on Commonwealth property), 75 Pa.C.S. § 7727 (relating to additional limitations on operation), or the act of June 28, 1995 (P.L.89, No.18), known as the Conservation and Natural Resources Act, and regulations promulgated under that act, a firearm may be carried as provided in subsection (a) by:

(1) a law enforcement officer whose current identification as a law enforcement officer shall be construed as a valid license to carry a firearm; or

(2) any licensee.

(m.3) Construction.--Nothing in this section shall be ~~construed to:~~ <—

~~(1) Permit the hunting or harvesting of any wildlife~~ CONSTRUED TO PERMIT THE HUNTING OR HARVESTING OF ANY WILDLIFE <— with a firearm or ammunition not otherwise permitted by 34 Pa.C.S. (relating to game).

~~(2) Authorize any Commonwealth agency to regulate the possession of firearms in any manner inconsistent with the provisions of this title.~~ <—

Section 5. Sections 6110.2 and 6111(b), (g)(4) and (j) of Title 18 are amended to read:

§ 6110.2. Possession of firearm with altered manufacturer's number.

(a) General rule.--No person shall possess a firearm which has had the manufacturer's number integral to the frame or

receiver altered, changed, removed or obliterated.

(b) Penalty.--A person who violates this section commits a [misdemeanor] felony of the [first] second degree.

(c) Definition.--As used in this section, the term "firearm" shall have the same meaning as that term is defined in section 6105(i) (relating to persons not to possess, use, manufacture, control, sell or transfer firearms), except that the term shall not include antique firearms as defined in section 6118 (relating to antique firearms).

§ 6111. Sale or transfer of firearms.

* * *

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

(1) For purposes of a firearm as defined in section 6102 (relating to definitions), obtained a completed application/record of sale from the potential buyer or transferee to be filled out in triplicate, the original copy to be sent to the Pennsylvania State Police, postmarked via first class mail, within 14 days of the sale, one copy to be retained by the licensed importer, licensed manufacturer or licensed dealer for a period of 20 years and one copy to be provided to the purchaser or transferee. The form of this application/record of sale shall be no more than one page in length and shall be promulgated by the Pennsylvania State Police and provided by the licensed importer, licensed manufacturer or licensed dealer. The application/record of

sale shall include the name, address, birthdate, gender, race, physical description and Social Security number of the purchaser or transferee, the date of the application and the caliber, length of barrel, make, model and manufacturer's number of the firearm to be purchased or transferred. The application/record of sale shall also contain the following question:

Are you the actual buyer of the firearm(s), AS DEFINED UNDER 18 PA.C.S. § 6102, listed on this application/record of sale? Warning: You are not the actual buyer if you are acquiring the firearm(s) on behalf of another person, unless you are legitimately acquiring the firearm as a gift for any of the following individuals who are legally eligible to own a firearm: <—

(1) spouse;

(2) parent;

(3) child;

(4) grandparent; or

(5) grandchild.

* * *

(g) Penalties.--

* * *

(4) Any person, purchaser or transferee [who] commits a felony of the third degree if, in connection with the purchase, delivery or transfer of a firearm under this chapter, he knowingly and intentionally:

(i) makes any materially false oral [or written statement or] statement;

(ii) makes any materially false written statement, including a statement on any form promulgated by Federal

or State agencies; or

(iii) willfully furnishes or exhibits any false identification intended or likely to deceive the seller, licensed dealer or licensed manufacturer [commits a felony of the third degree].

* * *

(j) Exemption.--

(1) The provisions of subsections (a) and (b) shall not apply to:

(i) sales between Federal firearms licensees[.]; or

(ii) the purchase of firearms by a chief law enforcement officer, or his designee, for the official use of law enforcement officers.

(2) For the purposes of this subsection, the term "chief law enforcement officer" shall include the Commissioner of the Pennsylvania State Police, the chief or head of a police department, a county sheriff or any equivalent law enforcement official.

~~Section 6. Section 6111.1(b) of Title 18 is amended by adding a paragraph to read:~~ <—

~~§ 6111.1. Pennsylvania State Police.~~

* * *

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

* * *

~~(5) The Pennsylvania State Police shall maintain a registry of all firearms reported lost or stolen in this Commonwealth. The registry shall contain, if available, the manufacturer, model, caliber, serial number and any other identifying information concerning any firearm reported lost or stolen, as well as the name of the lawful owner of the~~

~~firearm. If a firearm is reported stolen to a local law enforcement agency, that agency shall collect the required information and shall submit it to the Pennsylvania State Police within 24 hours. Information concerning a firearm reported lost or stolen:~~

~~(i) may be deleted from the registry after 20 years; and~~

~~(ii) shall be deleted from the registry after the firearm is returned to the lawful owner.~~

~~* * *~~

SECTION 6. SECTION ~~6111.1(E)~~ 6111.1(B)(4), (E) AND (F) OF TITLE 18 ARE AMENDED TO READ: <——

§ 6111.1. PENNSYLVANIA STATE POLICE.

* * * <——

(B) DUTY OF PENNSYLVANIA STATE POLICE.--

* * *

(4) THE PENNSYLVANIA STATE POLICE AND ANY LOCAL LAW ENFORCEMENT AGENCY SHALL MAKE ALL REASONABLE EFFORTS TO DETERMINE THE LAWFUL OWNER OF ANY FIREARM CONFISCATED OR RECOVERED BY THE PENNSYLVANIA STATE POLICE OR ANY LOCAL LAW ENFORCEMENT AGENCY AND RETURN SAID FIREARM TO ITS LAWFUL OWNER IF THE OWNER IS NOT OTHERWISE PROHIBITED FROM POSSESSING THE FIREARM. WHEN A COURT OF LAW HAS DETERMINED THAT THE PENNSYLVANIA STATE POLICE OR ANY LOCAL LAW ENFORCEMENT AGENCY HAVE FAILED TO EXERCISE THE DUTY UNDER THIS SUBSECTION, REASONABLE ATTORNEY FEES SHALL BE AWARDED TO ANY LAWFUL OWNER OF SAID FIREARM WHO HAS SOUGHT JUDICIAL ENFORCEMENT OF THIS SUBSECTION.

* * *

(E) CHALLENGE TO RECORDS.--

(1) ANY PERSON WHO IS DENIED THE RIGHT TO RECEIVE, SELL, TRANSFER, POSSESS, CARRY, MANUFACTURE OR PURCHASE A FIREARM AS A RESULT OF THE PROCEDURES ESTABLISHED BY THIS SECTION MAY CHALLENGE THE ACCURACY OF THAT PERSON'S CRIMINAL HISTORY, JUVENILE DELINQUENCY HISTORY OR MENTAL HEALTH RECORD PURSUANT TO A DENIAL BY THE INSTANTANEOUS RECORDS CHECK [IN ACCORDANCE WITH PROCEDURES ESTABLISHED BY THE PENNSYLVANIA STATE POLICE. THE DECISION RESULTING FROM A CHALLENGE UNDER THIS SUBSECTION MAY BE APPEALED TO THE ATTORNEY GENERAL WITHIN 30 DAYS OF THE DECISION BY THE PENNSYLVANIA STATE POLICE. THE DECISION OF THE ATTORNEY GENERAL MAY BE APPEALED TO THE COMMONWEALTH COURT IN ACCORDANCE WITH COURT RULE.] BY SUBMITTING A CHALLENGE TO THE PENNSYLVANIA STATE POLICE WITHIN 30 DAYS FROM THE DATE OF THE DENIAL.

(2) THE PENNSYLVANIA STATE POLICE SHALL CONDUCT A REVIEW OF THE ACCURACY OF THE INFORMATION FORMING THE BASIS FOR THE DENIAL, AND SHALL HAVE THE BURDEN OF PROVING THE ACCURACY OF THE RECORD. WITHIN 20 DAYS AFTER RECEIVING A CHALLENGE, THE PENNSYLVANIA STATE POLICE SHALL NOTIFY THE CHALLENGER OF THE BASIS FOR THE DENIAL, INCLUDING, BUT NOT LIMITED TO, THE JURISDICTION AND DOCKET NUMBER OF ANY RELEVANT COURT DECISION AND PROVIDE THE CHALLENGER AN OPPORTUNITY TO PROVIDE ADDITIONAL INFORMATION FOR THE PURPOSES OF THE REVIEW. THE PENNSYLVANIA STATE POLICE SHALL COMMUNICATE ITS FINAL DECISION TO THE CHALLENGER WITHIN 60 DAYS OF THE RECEIPT OF THE CHALLENGE. THE DECISION OF THE PENNSYLVANIA STATE POLICE SHALL INCLUDE ALL INFORMATION WHICH FORMED A BASIS FOR THE DECISION.

(3) IF THE CHALLENGE IS RULED INVALID, THE PERSON SHALL HAVE THE RIGHT TO APPEAL THE DECISION TO THE ATTORNEY GENERAL

WITHIN 30 DAYS OF THE DECISION. THE ATTORNEY GENERAL SHALL CONDUCT A HEARING DE NOVO IN ACCORDANCE WITH THE ADMINISTRATIVE AGENCY LAW. THE BURDEN OF PROOF SHALL BE UPON THE COMMONWEALTH.

(4) THE DECISION OF THE ATTORNEY GENERAL MAY BE APPEALED TO THE COMMONWEALTH COURT BY AN AGGRIEVED PARTY.

(F) NOTIFICATION OF MENTAL HEALTH ADJUDICATION, TREATMENT, COMMITMENT, DRUG USE OR ADDICTION.--

(1) NOTWITHSTANDING ANY STATUTE TO THE CONTRARY, JUDGES OF THE COURTS OF COMMON PLEAS SHALL NOTIFY THE PENNSYLVANIA STATE POLICE, ON A FORM DEVELOPED BY THE PENNSYLVANIA STATE POLICE, OF:

(I) THE IDENTITY OF ANY INDIVIDUAL WHO HAS BEEN ADJUDICATED AS AN INCOMPETENT OR AS A MENTAL DEFECTIVE OR WHO HAS BEEN INVOLUNTARILY COMMITTED TO A MENTAL INSTITUTION [FOR INPATIENT CARE AND TREATMENT] UNDER THE ACT OF JULY 9, 1976 (P.L.817, NO.143), KNOWN AS THE MENTAL HEALTH PROCEDURES ACT, OR WHO HAS BEEN INVOLUNTARILY TREATED AS DESCRIBED IN SECTION 6105(C)(4) (RELATING TO PERSONS NOT TO POSSESS, USE, MANUFACTURE, CONTROL, SELL OR TRANSFER FIREARMS)[.] OR AS DESCRIBED IN 18 U.S.C. § 922(G)(4) (RELATING TO UNLAWFUL ACTS) AND ITS IMPLEMENTING FEDERAL REGULATIONS; AND

(II) ANY FINDING OF FACT OR COURT ORDER RELATED TO ANY PERSON DESCRIBED IN 18 U.S.C. § 922(G)(3).

(2) THE NOTIFICATION SHALL BE TRANSMITTED BY THE JUDGE TO THE PENNSYLVANIA STATE POLICE WITHIN SEVEN DAYS OF THE ADJUDICATION, COMMITMENT OR TREATMENT.

(3) NOTWITHSTANDING ANY LAW TO THE CONTRARY, THE PENNSYLVANIA STATE POLICE MAY DISCLOSE, ELECTRONICALLY OR

OTHERWISE, TO THE UNITED STATES ATTORNEY GENERAL OR A DESIGNEE, ANY RECORD RELEVANT TO A DETERMINATION OF WHETHER A PERSON IS DISQUALIFIED FROM POSSESSING OR RECEIVING A FIREARM UNDER 18 U.S.C. § 922 (G)(3) OR (4) OR AN APPLICABLE STATE STATUTE.

* * *

Section 7. Sections ~~6111.4 and 6117, 6117~~ 6117~~,~~ AND 6127(A) AND ~~9152(D) AND (E)~~ of Title 18 are amended to read:

~~§ 6111.4. Registration of firearms.~~

~~Notwithstanding any section of this chapter to the contrary, nothing in this chapter shall be construed to allow any government or law enforcement agency or any agent thereof to create, maintain or operate any registry of firearm ownership within this Commonwealth[.], other than a registry of firearms reported lost or stolen under section 6111.1(b)(5) (relating to Pennsylvania State Police). For the purposes of this section only, the term "firearm" shall include any weapon that is designed to or may readily be converted to expel any projectile by the action of an explosive or the frame or receiver of any such weapon.~~

§ 6117. Altering or obliterating marks of identification.

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

[(b) Presumption.--Possession of any firearm upon which any such mark shall have been changed, altered, removed or obliterated shall be prima facie evidence that the possessor has changed, altered, removed or obliterated the same.]

(c) Penalty.--A violation of this section constitutes a felony of the second degree.

[(d) Appellate review.--If a sentencing court refuses to apply this section 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 section.]

§ 6127. FIREARM TRACING. <—

(A) ILLEGAL POSSESSION.--UPON CONFISCATING OR RECOVERING A FIREARM FROM THE POSSESSION OF ANYONE [UNDER 21 YEARS OF AGE] WHO IS NOT PERMITTED BY FEDERAL OR STATE LAW TO POSSESS A FIREARM, A LOCAL LAW ENFORCEMENT AGENCY SHALL USE THE BEST AVAILABLE INFORMATION, INCLUDING A FIREARMS TRACE WHERE NECESSARY, TO DETERMINE HOW AND FROM WHERE THE PERSON [UNDER 21 YEARS OF AGE] GAINED POSSESSION OF THE FIREARM.

* * *

SECTION 8. CHAPTER 61 OF TITLE 18 IS AMENDED BY ADDING A <— SUBCHAPTER TO READ:

SUBCHAPTER D

STRAW PURCHASE PREVENTION

EDUCATION PROGRAM

SEC.

6181. SCOPE OF SUBCHAPTER.

6182. LEGISLATIVE FINDINGS AND DECLARATIONS.

6183. DEFINITIONS.

6184. STRAW PURCHASE PREVENTION EDUCATION PROGRAM.

6185. POWERS AND DUTIES OF ATTORNEY GENERAL.

6186. STRAW PURCHASE PREVENTION EDUCATION FUND.

6187. TRANSFER FOR INITIAL FUNDING.

§ 6181. SCOPE OF SUBCHAPTER.

THIS SUBCHAPTER PROVIDES FOR THE ESTABLISHMENT OF THE STRAW PURCHASE PREVENTION EDUCATION PROGRAM WITHIN THE OFFICE OF ATTORNEY GENERAL.

§ 6182. LEGISLATIVE FINDINGS AND DECLARATIONS.

THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

(1) THE ILLEGAL PURCHASE OF FIREARMS THROUGHOUT THIS COMMONWEALTH IS A THREAT TO PUBLIC SAFETY AND SECURITY.

(2) URBAN AREAS ARE EXPERIENCING INCREASED VIOLENCE AS A RESULT OF CRIMINAL MISUSE OF FIREARMS. STEMMING THE FLOW OF THESE ILLEGAL FIREARMS THROUGH STRAW PURCHASES WILL HELP TO CURB THE CRIME RATE THROUGHOUT THIS COMMONWEALTH AND INCREASE PUBLIC SAFETY.

(3) EDUCATING THE PUBLIC THAT ILLEGALLY PURCHASING A FIREARM FOR SOMEONE OTHERWISE PROHIBITED FROM POSSESSING ONE IS A SERIOUS CRIME AND PUNISHABLE UNDER FEDERAL LAW BY TEN YEARS' IMPRISONMENT ADVANCES PUBLIC SAFETY.

(4) COMMITTED TO EDUCATING FIREARMS DEALERS AND THE GENERAL PUBLIC, THE NATIONAL SHOOTING SPORTS FOUNDATION, IN PARTNERSHIP WITH THE BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES, IN JULY 2000 CREATED THE "DON'T LIE FOR THE OTHER GUY PROGRAM."

(5) THE "DON'T LIE FOR THE OTHER GUY PROGRAM" WAS DEVELOPED TO RAISE PUBLIC AWARENESS THAT IT IS A SERIOUS CRIME TO PURCHASE A FIREARM FOR SOMEONE WHO CANNOT LEGALLY DO SO AND TO EDUCATE FIREARMS DEALERS ON HOW TO BETTER DETECT AND DETER POTENTIAL STRAW PURCHASES. THE CAMPAIGN DELIVERS THE MESSAGE THAT ANYONE ATTEMPTING AN ILLEGAL FIREARM PURCHASE FACES A STIFF FEDERAL PENALTY.

(6) THE "DON'T LIE FOR THE OTHER GUY PROGRAM" IS VITAL TO EDUCATING FEDERALLY LICENSED FIREARMS DEALERS AND THEIR EMPLOYEES ON HOW TO RECOGNIZE AND DETER THE ILLEGAL PURCHASE OF FIREARMS THROUGH STRAW PURCHASES. THIS PROGRAM IS AN IMPORTANT TOOL FOR THE BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES TO PURSUE ITS MISSION OF PREVENTING TERRORISM, REDUCING VIOLENT CRIME AND PROTECTING THE PUBLIC.

(7) THE NATIONALLY RECOGNIZED "DON'T LIE FOR THE OTHER GUY PROGRAM" HAS BEEN ENDORSED BY UNITED STATES ATTORNEYS THROUGHOUT THE NATION, VARIOUS LAW ENFORCEMENT AGENCIES, THE BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES AND THE DEPARTMENT OF JUSTICE.

(8) IT IS IN THE BEST INTEREST OF THIS COMMONWEALTH TO ESTABLISH A STRAW PURCHASE PREVENTION EDUCATION PROGRAM WITHIN THE OFFICE OF ATTORNEY GENERAL TO PROVIDE RESOURCES AND DIRECT GRANT MONEY TO THE "DON'T LIE FOR THE OTHER GUY PROGRAM" AND SIMILAR PROGRAMS THAT OFFER STRAW PURCHASE PREVENTION EDUCATION.

§ 6183. DEFINITIONS.

THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS SUBCHAPTER SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

"FUND." THE STRAW PURCHASE PREVENTION EDUCATION FUND ESTABLISHED IN SECTION 6186 (RELATING TO STRAW PURCHASE PREVENTION EDUCATION FUND).

"PROGRAM." THE STRAW PURCHASE PREVENTION EDUCATION PROGRAM ESTABLISHED IN SECTION 6184 (RELATING TO STRAW PURCHASE PREVENTION EDUCATION PROGRAM).

§ 6184. STRAW PURCHASE PREVENTION EDUCATION PROGRAM.

(A) ESTABLISHMENT.--THE STRAW PURCHASE PREVENTION EDUCATION

PROGRAM IS ESTABLISHED AND SHALL PROVIDE RESOURCES AND DIRECT GRANT MONEY TO UNDERWRITE THE COST OF IMPLEMENTING AN EDUCATIONAL AND PUBLIC SERVICE OUTREACH PROGRAM IN THE COMMUNITY.

(B) OUTREACH.--THE EDUCATIONAL AND PUBLIC SERVICE OUTREACH PROGRAM SHALL INFORM INDIVIDUALS OF THE ILLEGAL NATURE OF PURCHASING A FIREARM FOR AN INDIVIDUAL PROHIBITED FROM OWNING FIREARMS. THE OUTREACH PROGRAM SHALL BE DEVELOPED BY A NOT-FOR-PROFIT ORGANIZATION WHICH:

(1) IS A NATIONAL TRADE ASSOCIATION REPRESENTING THE SHOOTING, HUNTING AND FIREARM INDUSTRY.

(2) HAS A MEMBERSHIP CONSISTING OF FIREARM MANUFACTURERS, FIREARM DISTRIBUTORS, FIREARM RETAILERS, PUBLISHERS AND SPORTSMEN'S ORGANIZATIONS.

(3) HAS BEEN IN EXISTENCE FOR AT LEAST 45 YEARS PRIOR TO THE EFFECTIVE DATE OF THIS SECTION.

(C) PRIORITY OF GRANTS.--GRANTS SHALL BE PRIORITIZED BASED ON THE HIGHEST INCIDENCE OF FIREARM VIOLENCE IN A COUNTY OF THIS COMMONWEALTH.

§ 6185. POWERS AND DUTIES OF ATTORNEY GENERAL.

IN ADDITION TO ANY OTHER POWERS AND DUTIES, THE ATTORNEY GENERAL OF THE COMMONWEALTH SHALL:

(1) ESTABLISH A GRANT PROGRAM TO PROVIDE MONEYS FROM THE FUND PURSUANT TO SECTION 6184 (RELATING TO STRAW PURCHASE PREVENTION EDUCATION PROGRAM).

(2) PROMULGATE RULES AND REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SUBCHAPTER.

§ 6186. STRAW PURCHASE PREVENTION EDUCATION FUND.

(A) ESTABLISHMENT.--THE STRAW PURCHASE PREVENTION EDUCATION FUND IS HEREBY ESTABLISHED IN THE STATE TREASURY AS A RESTRICTED

ACCOUNT. THE FUND SHALL CONSIST OF FUNDS APPROPRIATED BY THE GENERAL ASSEMBLY.

(B) CONTINUING APPROPRIATION.--ALL MONEYS IN THE FUND AND THE INTEREST ACCRUING THEREON ARE HEREBY APPROPRIATED TO THE OFFICE OF ATTORNEY GENERAL ON A CONTINUING BASIS TO CARRY OUT THE PROVISIONS OF THIS SUBCHAPTER.

§ 6187. TRANSFER FOR INITIAL FUNDING.

THE SUM OF $100,000 IS HEREBY TRANSFERRED FROM THE GENERAL FUND TO THE STRAW PURCHASE PREVENTION EDUCATION FUND FOR EXPENDITURE DURING THE FISCAL YEAR JULY 1, ~~2008~~ 2009, TO JUNE 30, ~~2009~~ 2010, TO CARRY OUT THE PROVISIONS OF THIS SUBCHAPTER. <—

SECTION 8.1. SECTION 9152(D) AND (E) OF TITLE 18 ARE AMENDED TO READ: <—

§ 9152. PROCEDURE. <—

* * *

(D) REVIEW OF CHALLENGE.--ALL CRIMINAL JUSTICE AGENCIES SHALL HAVE 60 DAYS TO CONDUCT A REVIEW OF ANY CHALLENGE AND SHALL HAVE THE BURDEN OF PROVING THE ACCURACY OF THE RECORD. THE DECISION ON THE CHALLENGE SHALL INCLUDE ALL INFORMATION, INCLUDING, BUT NOT LIMITED TO, THE JURISDICTION AND DOCKET NUMBER OF ANY RELEVANT COURT DECISION WHICH FORMED A BASIS FOR THE DECISION. IF THE CHALLENGE IS DEEMED VALID, THE APPROPRIATE OFFICIALS MUST ENSURE THAT:

(1) THE CRIMINAL HISTORY RECORD INFORMATION IS CORRECTED.

(2) A CERTIFIED AND CORRECTED COPY OF THE CRIMINAL HISTORY RECORD INFORMATION IS PROVIDED TO THE INDIVIDUAL.

(3) PRIOR ERRONEOUS CRIMINAL HISTORY RECORD INFORMATION DISSEMINATED TO CRIMINAL JUSTICE AGENCIES SHALL BE DESTROYED OR RETURNED AND REPLACED WITH CORRECTED INFORMATION.

(4) THE INDIVIDUAL IS SUPPLIED WITH THE NAMES OF THOSE NONCRIMINAL JUSTICE AGENCIES AND INDIVIDUALS WHICH HAVE RECEIVED ERRONEOUS CRIMINAL HISTORY RECORD INFORMATION.

(E) APPEALS.--

(1) IF THE CHALLENGE IS RULED INVALID, AN INDIVIDUAL HAS THE RIGHT TO APPEAL THE DECISION TO THE ATTORNEY GENERAL WITHIN 30 DAYS OF NOTIFICATION OF THE DECISION BY THE CRIMINAL JUSTICE AGENCY.

(2) THE ATTORNEY GENERAL SHALL [HAVE THE AUTHORITY TO CONDUCT ADMINISTRATIVE APPEAL HEARINGS] CONDUCT A HEARING DE NOVO IN ACCORDANCE WITH THE ADMINISTRATIVE AGENCY LAW. THE BURDEN OF PROOF SHALL BE UPON THE PARTY BEARING THE BURDEN OF PROOF ON THE CHALLENGE.

(3) THE DECISION OF THE ATTORNEY GENERAL MAY BE APPEALED TO THE COMMONWEALTH COURT BY AN AGGRIEVED INDIVIDUAL.

~~SECTION 8. CHAPTER 61 OF TITLE 18 IS AMENDED BY ADDING A SUBCHAPTER TO READ:~~ <—

~~SUBCHAPTER D~~

~~STRAW PURCHASE PREVENTION~~

~~EDUCATION PROGRAM~~

~~SEC.~~

~~6181. SCOPE OF SUBCHAPTER.~~

~~6182. LEGISLATIVE FINDINGS AND DECLARATIONS.~~

~~6183. DEFINITIONS.~~

~~6184. STRAW PURCHASE PREVENTION EDUCATION PROGRAM.~~

~~6185. POWERS AND DUTIES OF ATTORNEY GENERAL.~~

~~6186. STRAW PURCHASE PREVENTION EDUCATION FUND.~~

~~6187. TRANSFER FOR INITIAL FUNDING.~~

~~§ 6181. SCOPE OF SUBCHAPTER.~~

~~THIS SUBCHAPTER PROVIDES FOR THE ESTABLISHMENT OF THE STRAW~~

PURCHASE PREVENTION EDUCATION PROGRAM WITHIN THE OFFICE OF ATTORNEY GENERAL.

§ 6182. LEGISLATIVE FINDINGS AND DECLARATIONS.

THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

(1) THE ILLEGAL PURCHASE OF FIREARMS THROUGHOUT THIS COMMONWEALTH IS A THREAT TO PUBLIC SAFETY AND SECURITY.

(2) URBAN AREAS ARE EXPERIENCING INCREASED VIOLENCE AS A RESULT OF CRIMINAL MISUSE OF FIREARMS. STEMMING THE FLOW OF THESE ILLEGAL FIREARMS THROUGH STRAW PURCHASES WILL HELP TO CURB THE CRIME RATE THROUGHOUT THIS COMMONWEALTH AND INCREASE PUBLIC SAFETY.

(3) EDUCATING THE PUBLIC THAT ILLEGALLY PURCHASING A FIREARM FOR SOMEONE OTHERWISE PROHIBITED FROM POSSESSING ONE IS A SERIOUS CRIME AND PUNISHABLE UNDER FEDERAL LAW BY TEN YEARS' IMPRISONMENT ADVANCES PUBLIC SAFETY.

(4) COMMITTED TO EDUCATING FIREARMS DEALERS AND THE GENERAL PUBLIC, THE NATIONAL SHOOTING SPORTS FOUNDATION, IN PARTNERSHIP WITH THE BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES, IN JULY 2000 CREATED THE "DON'T LIE FOR THE OTHER GUY PROGRAM."

(5) THE "DON'T LIE FOR THE OTHER GUY PROGRAM" WAS DEVELOPED TO RAISE PUBLIC AWARENESS THAT IT IS A SERIOUS CRIME TO PURCHASE A FIREARM FOR SOMEONE WHO CANNOT LEGALLY DO SO AND TO EDUCATE FIREARMS DEALERS ON HOW TO BETTER DETECT AND DETER POTENTIAL STRAW PURCHASES. THE CAMPAIGN DELIVERS THE MESSAGE THAT ANYONE ATTEMPTING AN ILLEGAL FIREARM PURCHASE FACES A STIFF FEDERAL PENALTY.

(6) THE "DON'T LIE FOR THE OTHER GUY PROGRAM" IS VITAL TO EDUCATING FEDERALLY LICENSED FIREARMS DEALERS AND THEIR EMPLOYEES ON HOW TO RECOGNIZE AND DETER THE ILLEGAL PURCHASE

OF FIREARMS THROUGH STRAW PURCHASES. THIS PROGRAM IS AN IMPORTANT TOOL FOR THE BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES TO PURSUE ITS MISSION OF PREVENTING TERRORISM, REDUCING VIOLENT CRIME AND PROTECTING THE PUBLIC.

(7) THE NATIONALLY RECOGNIZED "DON'T LIE FOR THE OTHER GUY PROGRAM" HAS BEEN ENDORSED BY UNITED STATES ATTORNEYS THROUGHOUT THE NATION, VARIOUS LAW ENFORCEMENT AGENCIES, THE BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES AND THE DEPARTMENT OF JUSTICE.

(8) IT IS IN THE BEST INTEREST OF THIS COMMONWEALTH TO ESTABLISH A STRAW PURCHASE PREVENTION EDUCATION PROGRAM WITHIN THE OFFICE OF ATTORNEY GENERAL TO PROVIDE RESOURCES AND DIRECT GRANT MONEY TO THE "DON'T LIE FOR THE OTHER GUY PROGRAM" AND SIMILAR PROGRAMS THAT OFFER STRAW PURCHASE PREVENTION EDUCATION.

§ 6183. DEFINITIONS.

THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS SUBCHAPTER SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

"FUND." THE STRAW PURCHASE PREVENTION EDUCATION FUND ESTABLISHED IN SECTION 6186 (RELATING TO STRAW PURCHASE PREVENTION EDUCATION FUND).

"PROGRAM." THE STRAW PURCHASE PREVENTION EDUCATION PROGRAM ESTABLISHED IN SECTION 6184 (RELATING TO STRAW PURCHASE PREVENTION EDUCATION PROGRAM).

§ 6184. STRAW PURCHASE PREVENTION EDUCATION PROGRAM.

(A) ESTABLISHMENT.--THE STRAW PURCHASE PREVENTION EDUCATION PROGRAM IS ESTABLISHED AND SHALL PROVIDE RESOURCES AND DIRECT GRANT MONEY TO UNDERWRITE THE COST OF IMPLEMENTING AN EDUCATIONAL AND PUBLIC SERVICE OUTREACH PROGRAM IN THE

COMMUNITY.

(B) OUTREACH.--THE EDUCATIONAL AND PUBLIC SERVICE OUTREACH PROGRAM SHALL INFORM INDIVIDUALS OF THE ILLEGAL NATURE OF PURCHASING A FIREARM FOR AN INDIVIDUAL PROHIBITED FROM OWNING FIREARMS. THE OUTREACH PROGRAM SHALL BE DEVELOPED BY A NOT-FOR-PROFIT ORGANIZATION WHICH:

(1) IS A NATIONAL TRADE ASSOCIATION REPRESENTING THE SHOOTING, HUNTING AND FIREARM INDUSTRY.

(2) HAS A MEMBERSHIP CONSISTING OF FIREARM MANUFACTURERS, FIREARM DISTRIBUTORS, FIREARM RETAILERS, PUBLISHERS AND SPORTSMEN'S ORGANIZATIONS.

(3) HAS BEEN IN EXISTENCE FOR AT LEAST 45 YEARS PRIOR TO THE EFFECTIVE DATE OF THIS SECTION.

(C) PRIORITY OF GRANTS.--GRANTS SHALL BE PRIORITIZED BASED ON THE HIGHEST INCIDENCE OF FIREARM VIOLENCE IN A COUNTY OF THIS COMMONWEALTH.

§ 6185. POWERS AND DUTIES OF ATTORNEY GENERAL.

IN ADDITION TO ANY OTHER POWERS AND DUTIES, THE ATTORNEY GENERAL OF THE COMMONWEALTH SHALL:

(1) ESTABLISH A GRANT PROGRAM TO PROVIDE MONEYS FROM THE FUND PURSUANT TO SECTION 6184 (RELATING TO STRAW PURCHASE PREVENTION EDUCATION PROGRAM).

(2) PROMULGATE RULES AND REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SUBCHAPTER.

§ 6186. STRAW PURCHASE PREVENTION EDUCATION FUND.

(A) ESTABLISHMENT.--THE STRAW PURCHASE PREVENTION EDUCATION FUND IS HEREBY ESTABLISHED IN THE STATE TREASURY AS A RESTRICTED ACCOUNT. THE FUND SHALL CONSIST OF FUNDS APPROPRIATED BY THE GENERAL ASSEMBLY.

(B) CONTINUING APPROPRIATION.--ALL MONEYS IN THE FUND AND

~~THE INTEREST ACCRUING THEREON ARE HEREBY APPROPRIATED TO THE OFFICE OF ATTORNEY GENERAL ON A CONTINUING BASIS TO CARRY OUT THE PROVISIONS OF THIS SUBCHAPTER.~~

~~§ 6187. TRANSFER FOR INITIAL FUNDING.~~

~~THE SUM OF $100,000 IS HEREBY TRANSFERRED FROM THE GENERAL FUND TO THE STRAW PURCHASE PREVENTION EDUCATION FUND FOR EXPENDITURE DURING THE FISCAL YEAR JULY 1, 2008 2009, TO JUNE 30, 2009 2010, TO CARRY OUT THE PROVISIONS OF THIS SUBCHAPTER.~~ <—— <——

Section ~~8~~ 9. Section 5552(b)(1) and (c) of Title 42 are amended to read: <——

§ 5552. Other offenses.

* * *

(b) Major offenses.--A prosecution for any of the following offenses must be commenced within five years after it is committed:

(1) Under the following provisions of Title 18 (relating to crimes and offenses):

Section 901 (relating to criminal attempt) involving attempt to commit murder where no murder occurs.

Section 902 (relating to criminal solicitation) involving solicitation to commit murder where no murder occurs.

Section 903 (relating to criminal conspiracy) involving conspiracy to commit murder where no murder occurs.

Section 911 (relating to corrupt organizations).

Section 2702 (relating to aggravated assault).

Section 2706 (relating to terroristic threats).

Section 2713 (relating to neglect of care-dependent person).

Section 2901 (relating to kidnapping).

Section 3301 (relating to arson and related offenses).

Section 3502 (relating to burglary).

Section 3701 (relating to robbery).

Section 3921 (relating to theft by unlawful taking or disposition) through section 3933 (relating to unlawful use of computer).

Section 4101 (relating to forgery).

Section 4107 (relating to deceptive or fraudulent business practices).

Section 4108 (relating to commercial bribery and breach of duty to act disinterestedly).

Section 4109 (relating to rigging publicly exhibited contest).

Section 4117 (relating to insurance fraud).

Section 4701 (relating to bribery in official and political matters) through section 4703 (relating to retaliation for past official action).

Section 4902 (relating to perjury) through section 4912 (relating to impersonating a public servant).

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

Section 4953 (relating to retaliation against witness [or victim]<u>, victim or party</u>).

Section 5101 (relating to obstructing administration of law or other governmental function).

Section 5111 (relating to dealing in proceeds of unlawful activities).

Section 5512 (relating to lotteries, etc.) through

section 5514 (relating to pool selling and bookmaking).

Section 5902(b) (relating to prostitution and related offenses).

Section 6111(g)(2) and (4) (relating to sale or transfer of firearms).

* * *

(c) Exceptions.--If the period prescribed in subsection (a), (b) or (b.1) has expired, a prosecution may nevertheless be commenced for:

* * *

(4) An offense in violation of 18 Pa.C.S. § 6111(c) or (g) (relating to sale or transfer of firearms), within one year of its discovery by State or local law enforcement, but in no case shall this paragraph extend the period of limitation otherwise applicable by more than eight years.

* * *

SECTION 9.1. TITLE 42 IS AMENDED BY ADDING A SECTION TO READ: <—

§ 9719.1. SENTENCES FOR OFFENSES COMMITTED AGAINST LAW ENFORCEMENT OFFICER.

(A) MANDATORY SENTENCE.--A PERSON CONVICTED OF THE FOLLOWING OFFENSE SHALL BE SENTENCED TO A MANDATORY TERM OF IMPRISONMENT AS FOLLOWS:

18 PA.C.S. § 2702.1(A) (RELATING TO ASSAULT OF LAW ENFORCEMENT OFFICER) - NOT LESS THAN 20 YEARS.

(B) AUTHORITY OF COURT IN SENTENCING.--THERE SHALL BE NO AUTHORITY IN ANY COURT TO IMPOSE ON AN OFFENDER TO WHICH THIS SECTION IS APPLICABLE ANY LESSER SENTENCE THAN PROVIDED FOR IN SUBSECTION (A) OR TO PLACE SUCH OFFENDER 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.

(C) APPEAL BY COMMONWEALTH.--IF A SENTENCING COURT REFUSES TO APPLY THIS SECTION 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 SECTION.

(D) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SUBSECTION:

"LAW ENFORCEMENT OFFICER." THE TERM SHALL HAVE THE SAME MEANING AS THE TERM "PEACE OFFICER" IS GIVEN UNDER 18 PA.C.S. § 501 (RELATING TO DEFINITIONS).

Section ~~9~~ 10. The provisions of 17 Pa. Code § 11.215 (relating to weapons and hunting) are abrogated to the extent they apply to any person identified under 18 Pa.C.S. § 6109(m.2). <—

Section ~~10~~ 11. This act shall take effect ~~in 60 days.~~ AS FOLLOWS: <—

(1) THE AMENDMENT OF 18 PA.C.S. §§ 6111.1(E) AND 9152(D) AND (E) SHALL TAKE EFFECT IMMEDIATELY.

(2) THIS SECTION SHALL TAKE EFFECT IMMEDIATELY.

(3) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 60 DAYS.