

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 738 Session of
2007

INTRODUCED BY PIPPY, LOGAN, WONDERLING, LAVALLE, WAUGH, FOLMER,
ORIE, BROWNE, BOSCOLA, MADIGAN AND EICHELBERGER,
APRIL 9, 2007

REFERRED TO JUDICIARY, APRIL 9, 2007

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, providing for the offense of unlawful
3 firearm records; and prescribing a penalty.

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

6 Section 1. Title 18 of the Pennsylvania Consolidated
7 Statutes is amended by adding a section to read:

8 § 6143. Unlawful firearm records.

9 (a) Prohibition.--Except as otherwise provided under
10 subsection (b), no State governmental agency or political
11 subdivision or official, agent or employee thereof or any other
12 person, public or private, may knowingly and willfully keep or
13 cause to be kept any list, database, record or registry of
14 privately owned firearms or any list, database, record or
15 registry of the owners of those firearms.

16 (b) Exceptions.--Subsection (a) shall not apply to any of
17 the following:

18 (1) Records of firearms that have been used in

1 committing a crime.

2 (2) Records relating to a person who has been convicted
3 of a crime.

4 (3) Records of firearms that have been reported stolen.
5 These records may be retained for a period not in excess of
6 ten days after such firearms are recovered and any criminal
7 prosecution related to the stolen firearms has ended,
8 including any period during which an appeal may be filed.
9 Official documentation recording the theft of a recovered
10 weapon may be maintained no longer than the balance of the
11 year entered, plus two years.

12 (4) Firearm records that are required to be retained by
13 firearms dealers under Federal law, including copies of such
14 records transmitted to law enforcement agencies, provided
15 that no State governmental agency or political subdivision or
16 official, agent or employee thereof or any other person,
17 private or public, may accumulate, compile, computerize or
18 otherwise collect or convert such written records into any
19 form of list, registry or database for any purpose.

20 (5) Records kept by the Pennsylvania State Police to the
21 extent required by Federal law and a log of dates of requests
22 for criminal history record checks, unique approval and
23 nonapproval numbers, license identification numbers and
24 transaction numbers corresponding to such dates.

25 (6) Records of an insurer that, as a condition to
26 providing insurance against theft or loss of a firearm,
27 identify such firearm, provided that the records are not
28 sold, commingled with records relating to other firearms or
29 transferred to any other person or entity and that the
30 insurer does not keep a record of the firearm more than 60

1 days after the policy of insurance expires or after
2 notification by the insured that the insured is no longer the
3 owner of the firearm unless part of an ongoing claim.

4 (7) Lists of customers of a firearm dealer retained by
5 the dealer, provided that the lists do not disclose the
6 particular firearms purchased, and lists, or any parts
7 thereof, are not sold, commingled with records relating to
8 other firearms or transferred to any other person or entity.

9 (8) Sales receipts retained by the seller of firearms or
10 by a person providing credit for the purchase, provided that
11 the receipts do not serve as or are used for the creation of
12 a database for registration of firearms.

13 (9) Personal records of firearms maintained by the owner
14 of the firearms or at the request of the owner of the
15 firearms.

16 (10) Records maintained by a business that stores or
17 acts as the selling agent of firearms on behalf of the lawful
18 owner of the firearms.

19 (11) Membership lists of organizations comprised of
20 owners of firearms.

21 (12) Records maintained by an employer or contracting
22 entity of the firearms owned by its officers, employees or
23 agents, if the firearms are used in the course of business
24 performed on behalf of the employer or contracting entity.

25 (13) Records of firearms involved in criminal
26 investigations, criminal prosecutions, criminal appeals and
27 postconviction motions, civil proceedings relating to the
28 surrender or seizure of firearms, including protection orders
29 and sheriff executions, and voluntary surrender by the owner
30 or custodian of the firearm.

1 (14) Paper documents relating to firearms involved in
2 criminal cases, criminal investigations and criminal
3 prosecutions, civil proceedings relating to the surrender or
4 seizure of firearms, including protection orders and sheriff
5 executions, and voluntary surrender by the owner or custodian
6 of the firearm.

7 (15) Noncriminal records relating to the receipt,
8 storage or return of firearms, including, but not limited to,
9 records relating to firearms impounded for storage or
10 safekeeping, receipts proving that a firearm was returned to
11 its lawful owner and supporting records of identification and
12 proof of ownership, or records relating to firearms impounded
13 pursuant to sheriff execution or court orders, provided that
14 the records are not compiled, sorted or otherwise arranged
15 into any lists, indexes or registries of firearms or owners
16 of firearms.

17 (c) Penalties.--A person who violates this section commits a
18 felony of the third degree.

19 (d) No expenditure of State funds to defend.--

20 (1) Except as otherwise provided under paragraph (2) and
21 the sixth amendment to the Constitution of the United States,
22 no public funds shall be used to defend the unlawful conduct
23 of any person charged with a violation of this section,
24 unless the charges against the person are dismissed or the
25 person is determined to be not guilty at trial.

26 (2) Public funds may be expended to provide the services
27 of a public defender or court-appointed attorney.

28 (e) Fines.--

29 (1) The governmental entity, or the designee of such
30 governmental entity, in whose service or employ a list,

1 record or registry was compiled in violation of this section
2 may be assessed a fine of not more than \$5,000,000, if the
3 court determines that the evidence shows that the list,
4 database, record or registry was compiled or maintained with
5 the knowledge or complicity of the management of the
6 governmental entity.

7 (2) The Attorney General may bring a civil cause of
8 action to enforce the fines assessed under this subsection.

9 (f) Prosecution.--The district attorney in the appropriate
10 jurisdiction shall investigate complaints of criminal violations
11 of this section and, where evidence indicates a violation may
12 have occurred, shall prosecute violators.

13 (g) Construction.--This section shall be construed to
14 effectuate its remedial and deterrent purposes. This section may
15 not be construed to grant any substantive, procedural privacy
16 right or civil claim to any criminal defendant, and a violation
17 of this section may not be grounds for the suppression of
18 evidence in any criminal case.

19 (h) Destruction of existing records.--A list, database,
20 record or registry of firearms maintained or under construction
21 on the effective date of this section shall be destroyed, unless
22 prohibited by law, within 60 days after the effective date of
23 this section. After that 60-day time period, the failure to
24 destroy such list, database, record or registry may result in
25 prosecution under this section.

26 (i) Confidentiality.--Information retained in compliance
27 with subsection (b)(3), (4), (5), (12), (13), (14) and (15)
28 shall not be subject to public access under the act of June 21,
29 1957 (P.L.390, No.212), referred to as the Right-to-Know Law.

30 (j) Definitions.--As used in this section, the following

1 words and phrases shall have the meanings given to them in this
2 subsection:

3 "Firearm." Any weapon which is designed to or may readily be
4 converted to expel any projectile by the action of an explosive
5 or the frame or receiver of such weapon.

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