

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 898 Session of 2011

INTRODUCED BY TOEPEL, STEPHENS, V. BROWN, DAVIDSON, QUIGLEY,
READSHAW, ROSS, VULAKOVICH AND WATSON, MARCH 2, 2011

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 2, 2011

AN ACT

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

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

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

8 § 6111. Sale or transfer of firearms.

9 * * *

10 (h) Subsequent violation penalty.--

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

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

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

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

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

30 * * *

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