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PA H 230	Author: Saccone Version: Introduced Version Date: 01/27/2015
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PRINTER'S NO. 224

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL No. 230

Session of 2015

INTRODUCED BY SACCONE, DUNBAR, MALONEY, DIAMOND, KRIEGER, CUTLER, KAUFFMAN, REESE, ROAE, SAYLOR, JAMES, MCGINNIS, EVERETT, SANKEY, HICKERNELL, A. HARRIS, READSHAW, MAHER, METCALFE, TALLMAN AND COX, JANUARY 27, 2015
Pennsylvania 199th General Assembly -- 2015-16 Regular Session

REFERRED TO COMMITTEE ON JUDICIARY, JANUARY 27, 2015

AN ACT

Amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, in general provisions, further providing for definitions; in inchoate crimes, further providing for prohibited offensive weapons; and, in firearms and other dangerous articles, repealing provisions relating to firearms not to be carried without a license, providing for license not required, repealing provisions relating to carrying firearms on public streets or public property in Philadelphia, providing for sportsman's firearm permit, further providing for licenses and repealing provisions relating to proof of license and exception.

The General Assembly finds that:

(1) The laws in existence regulating firearms ownership, possession and use are ineffectual in preventing crime and only interfere with the natural rights of law-abiding citizens.

(2) It is necessary to codify the inherent right to the carrying of firearms, whether openly or concealed, and that the right to self-defense is an inherent natural right that shall not be questioned as stated in section 21 of Article I of the Constitution of Pennsylvania.

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

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

Section 103. Definitions.

Subject to additional definitions contained in subsequent provisions of this title which are applicable to specific provisions of this part, the

following words and phrases when used in this title shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

* * *

"Lawful purpose." The term includes possession for the purpose of self-defense or the exercise of reasonable force in defense of the person or the person's property under Chapter 5 (relating to general principles of justification).

* * *

Section 2. Section 908(c) of Title 18 is amended to read:

Section 908. Prohibited offensive weapons.

* * *

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

"Firearm." Any weapon which 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.

"Offensive weapons." Any bomb, grenade, machine gun, sawed-off shotgun with a barrel less than 18 inches, firearm specially made or specially adapted for concealment or silent discharge, any blackjack, sandbag, or metal knuckles, ~~dagger, knife, razor or cutting instrument, the blade of which is exposed in an automatic way by switch, push button, spring mechanism, or otherwise,~~ any stun gun, stun baton, taser or other electronic or electric weapon or other implement for the infliction of serious bodily injury which serves no ~~common~~ lawful purpose.

* * *

Section 3. Section 6106 of Title 18 is repealed:

~~Section 6106. Firearms not to be carried without a license.~~

~~(a) Offense defined.--~~

~~(1) Except as provided in paragraph (2), any person who carries a firearm in any vehicle or any person who carries a firearm concealed on or about his person, except in his place of abode or fixed place of business, without a valid and lawfully issued license under this chapter commits a felony of the third degree.~~

~~(2) A person who is otherwise eligible to possess a valid license under this chapter but carries a firearm in any vehicle or any person who carries a firearm concealed on or about his person, except in his place of abode or fixed place of business, without a valid and lawfully issued license and has not committed any other criminal violation commits a misdemeanor of the first degree.~~

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

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

~~(2) Members of the army, navy, marine corps, air force or coast guard of the United States or of the National Guard or organized reserves when on duty.~~

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

~~(4) Any persons engaged in target shooting with a firearm, if such persons are at or are going to or from their places of assembly or target practice and if, while going to or from their places of assembly or target practice, the firearm is not loaded.~~

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

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

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

~~(8) Any person while carrying a firearm which is not loaded and is in a secure wrapper from the place of purchase to his home or place of business, or to a place of repair, sale or appraisal or back to his home or place of business, or in moving from one place of abode or business to another or from his home to a vacation or recreational home or dwelling or back, or to recover stolen property under section 6111.1(b)(4) (relating to Pennsylvania State Police), or to a place of instruction intended to teach the safe handling, use or maintenance of firearms or back or to a location to which the person has been directed to relinquish firearms under 23 Pa.C.S. Section 6108 (relating to relief) or back upon return of the relinquished firearm or to a licensed dealer's place of business for relinquishment pursuant to 23 Pa.C.S. Section 6108.2 (relating to relinquishment for consignment sale, lawful transfer or safekeeping) or back upon return of the relinquished firearm or to a location for safekeeping pursuant to 23 Pa.C.S. Section 6108.3 (relating to relinquishment to third party for safekeeping) or back upon return of the relinquished firearm.~~

~~(9) Persons licensed to hunt, take furbearers or fish in this Commonwealth, if such persons are actually hunting, taking furbearers or fishing as permitted by such license, or are going to the places where they desire to hunt, take furbearers or fish or returning from such places.~~

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

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

~~(12) A person who has a lawfully issued license to carry a firearm pursuant to section 6109 (relating to licenses) and that said license expired within six months prior to the date of arrest and that the individual is otherwise eligible for renewal of the license.~~

~~(13) Any person who is otherwise eligible to possess a firearm under this chapter and who is operating a motor vehicle which is registered in the person's name or the name of a spouse or parent and which contains a firearm for which a valid license has been issued pursuant to section 6109 to the spouse or parent owning the firearm.~~

~~(14) A person lawfully engaged in the interstate transportation of a firearm as defined under 18 U.S.C. Section 921(a)(3) (relating to definitions) in compliance with 18 U.S.C. Section 926A (relating to interstate transportation of firearms).~~

~~(15) Any person who possesses a valid and lawfully issued license or~~

~~permit to carry a firearm which has been issued under the laws of another state, regardless of whether a reciprocity agreement exists between the Commonwealth and the state under section 6109(k), provided:~~

~~(i) The state provides a reciprocal privilege for individuals licensed to carry firearms under section 6109.~~

~~(ii) The Attorney General has determined that the firearm laws of the state are similar to the firearm laws of this Commonwealth.~~

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

~~(c) Sportsman's firearm permit.~~

~~(1) Before any exception shall be granted under paragraph (b)(9) or (10) of this section to any person 18 years of age or older licensed to hunt, trap or fish or who has been issued a permit relating to hunting dogs, such person shall, at the time of securing his hunting, furtaking or fishing license or any time after such license has been issued, secure a sportsman's firearm permit from the county treasurer. The sportsman's firearm permit shall be issued immediately and be valid throughout this Commonwealth for a period of five years from the date of issue for any legal firearm, when carried in conjunction with a valid hunting, furtaking or fishing license or permit relating to hunting dogs. The sportsman's firearm permit shall be in triplicate on a form to be furnished by the Pennsylvania State Police. The original permit shall be delivered to the person, and the first copy thereof, within seven days, shall be forwarded to the Commissioner of the Pennsylvania State Police by the county treasurer. The second copy shall be retained by the county treasurer for a period of two years from the date of expiration. The county treasurer shall be entitled to collect a fee of not more than \$6 for each such permit issued, which shall include the cost of any official form. The Pennsylvania State Police may recover from the county treasurer the cost of any such form, but may not charge more than \$1 for each official permit form furnished to the county treasurer.~~

~~(2) Any person who sells or attempts to sell a sportsman's firearm permit for a fee in excess of that amount fixed under this subsection commits a summary offense.~~

~~(d) Revocation of registration. Any registration of a firearm under subsection (c) of this section may be revoked by the county treasurer who issued it, upon written notice to the holder thereof.~~

~~(e) Definitions.~~

~~(1) For purposes of subsection (b)(3), (4), (5), (7) and (8), the term "firearm" shall include any weapon which is designed to or may readily be converted to expel any projectile by the action of an explosive or the frame or receiver of the weapon.~~

~~(2) As used in this section, the phrase "place of instruction" shall include any hunting club, rifle club, rifle range, pistol range, shooting range, the premises of a licensed firearms dealer or a lawful gun show or meet.~~

Section 4. Title 18 is amended by adding a section to read:

Section 6106.2. License not required.

(a) Declaration.--Notwithstanding any other provision of law, every person present in this Commonwealth shall have an affirmative, fundamental and constitutional right to keep and bear firearms, including the right to carry openly or concealed, carry loaded or unloaded, transport, possess, use, acquire, purchase, transfer, inherit, buy, sell, give or otherwise dispose of or receive any firearm or self-defense device without a license, permission or restriction of any kind from or by this Commonwealth or any of its political

subdivisions.

(b) Optional license.--Obtaining a license to carry a firearm under this chapter shall be optional. The voluntary nature of the license shall not be construed to require that any person obtain a license to carry a firearm under this chapter.

Section 5. Section 6108 of Title 18 is repealed:

~~Section 6108. Carrying firearms on public streets or public property in Philadelphia.~~

~~No person shall carry a firearm, rifle or shotgun at any time upon the public streets or upon any public property in a city of the first class unless:~~

~~(1) such person is licensed to carry a firearm; or~~

~~(2) such person is exempt from licensing under section 6106(b) of this title (relating to firearms not to be carried without a license).~~

Section 6. Title 18 is amended by adding a section to read:

Section 6108.1. Sportsman's firearm permit.

(a) Permit allowed.--Any person 18 years of age or older who has been issued a hunting license, trapping license or fishing license or who has been issued a permit relating to hunting dogs may, at the time of obtaining his hunting, trapping or fishing license or any time after the license has been issued, obtain a sportsman's firearm permit from the county treasurer.

(b) Issuance.--The sportsman's firearm permit shall be issued immediately and shall be valid throughout this Commonwealth for a period of five years from the date of issue for any legal firearm when carried in conjunction with a valid hunting, furtaking or fishing license or permit relating to hunting dogs.

(c) Form.--The sportsman's firearm permit shall be in triplicate on a form to be furnished by the Pennsylvania State Police. The original permit shall be delivered to the person, and a copy of the permit shall be forwarded to the Commissioner of Pennsylvania State Police by the county treasurer within seven days of the date of delivery. A copy of the permit shall be retained by the county treasurer for a period of two years from the date of expiration.

(d) Fee.--The county treasurer may collect a fee of not more than \$6 for each permit issued, which shall include the cost of any official form. The Pennsylvania State Police may recover from the county treasurer the cost of the form, but may not charge more than \$1 for each official permit form furnished to the county treasurer.

(e) Offense.--A person who sells or attempts to sell a sportsman's firearm permit for a fee in excess of the amount determined under this section commits a summary offense.

Section 7. Section 6109(a), (b), (c), (d) introductory paragraph, (3), (4) and (5), (e)(1) introductory paragraph, (i), (v) and (vii), (3) introductory paragraph and (ii) and (4), (f)(2) and (4), (g), (h)(3) and (4), (i.1) introductory paragraph and (1), (j) and (m.1)(1) introductory paragraph and (ii), (2), (3), (4), (7) and (9) of Title 18 are amended to read:

Section 6109. Licenses.

~~(a) Purpose of license.-- A license to carry a firearm shall be for the purpose of carrying a firearm concealed on or about one's person or in a vehicle throughout this Commonwealth.~~

(1) Due to every Commonwealth citizen having a fundamental

constitutional right to keep and bear arms, obtaining a license under this section shall be optional. Nothing in this section shall be construed to require that a person must obtain a license under this section in order to carry a concealed firearm.

(2) The voluntary nature of a license to carry a firearm may not be construed to relieve the issuing authority of the burden of proof for denying an application for a license. Issuance of a license to carry a firearm under this section by the proper authority shall be prima facie evidence that law enforcement authorities have verified that the individual is qualified under the law and is not prohibited from possessing firearms under section 6105 (relating to persons not to possess, use, manufacture, control, sell or transfer firearms) or under any other provision of the laws of this Commonwealth.

(3) A license to carry a firearm shall be available to those who wish to carry a firearm openly or concealed on or about one's person or in a vehicle and shall be valid throughout this Commonwealth.

(4) A license to carry a firearm shall provide citizens of this Commonwealth with the ability to carry a firearm in any state with which the Commonwealth maintains a reciprocal agreement for the mutual recognition of licenses to carry firearms.

(b) Place of application.--An individual who is 21 years of age or older may apply to ~~a sheriff~~ the proper issuing authority for a license to carry a firearm ~~concealed on or about his person or in a vehicle~~ within this Commonwealth. If the applicant is a resident of this Commonwealth, he shall make application with the sheriff of the county in which he resides or, if a resident of a city of the first class, with the chief of police of that city. If the applicant is not a resident of this Commonwealth, he shall make application with the sheriff of any county.

(c) Form of application and content.--The application for a license to carry a firearm shall be uniform throughout this Commonwealth and shall be on a form prescribed by the ~~Pennsylvania State Police~~ Attorney General. The form may contain provisions, not exceeding one page, to assure compliance with this section. Issuing authorities shall use only the application form prescribed by the ~~Pennsylvania State Police~~ Attorney General. One of the following reasons for obtaining a firearm license shall be set forth in the application: self-defense, employment, hunting and fishing, target shooting, gun collecting or another proper reason. The application form shall be dated and signed by the applicant and shall contain the following statement:

I have never been convicted of a crime that prohibits me from possessing or acquiring a firearm under Federal or State law. I am of sound mind and have never been involuntarily committed to a mental institution or if I was involuntarily committed, the involuntary commitment has been expunged. I hereby certify that the statements contained herein are true and correct to the best of my knowledge and belief. I understand that, if I knowingly make any false statements herein, I am subject to penalties prescribed by law. I authorize the ~~sheriff, or his designee, or, in the case of first class cities, the chief or head of the police department~~ issuing authority, or his designee, to inspect only those records or documents relevant to information required for this application. If I am issued a license and knowingly become ineligible to legally possess or acquire firearms, I will promptly notify the ~~sheriff of the county in which I reside or, if I reside in a city of the first class, the chief of police of that city~~ issuing authority.

(d) ~~Sheriff to conduct~~ Pre-issuance investigation.--The ~~sheriff~~ issuing authority to whom the application is made shall:

* * *

~~(3) investigate whether the applicant's character and reputation are~~

~~such that the applicant will not be likely to act in a manner dangerous to public safety;~~

(4) investigate whether the applicant would be precluded from receiving a license under subsection (e)(1) or section 6105(h) ~~(relating to persons not to possess, use, manufacture, control, sell or transfer firearms)~~ ; and

(5) conduct a criminal background, juvenile delinquency and mental health check ~~following the procedures set forth in section 6111 (relating to sale or transfer of firearms)~~, receive by contacting the National Instant Criminal Background Check System and must have received a unique approval number for that inquiry and record the date and number on the application.

(e) Issuance of license.--

(1) A license to carry a firearm shall be ~~for the purpose of carrying a firearm concealed on or about one's person or in a vehicle and shall be issued if,~~ issued after an investigation not to exceed 45 14 calendar days, ~~it appears that the applicant is an individual concerning whom no~~ unless good cause exists to deny the license. A license shall not be issued to any of the following:

~~(i) An individual whose character and reputation is such that the individual would be likely to act in a manner dangerous to public safety.~~

* * *

(v) An individual who is not of sound mind or who has ever been involuntarily committed to a mental institution , unless the involuntary commitment has been expunged .

* * *

~~(vii) An individual who is a habitual drunkard.~~

* * *

(3) The license to carry a firearm shall be designed to be uniform throughout this Commonwealth and shall be in a form prescribed by the ~~Pennsylvania State Police~~ Attorney General . The license shall bear the following:

* * *

(ii) The signature of the ~~sheriff~~ authority issuing the license.

* * *

(4) The ~~sheriff~~ issuing authority shall require a photograph of the licensee on the license. The photograph shall be in a form compatible with the Commonwealth Photo Imaging Network.

* * *

(f) Term of license.--

* * *

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

* * *

~~(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).~~

(g) Grant or denial of license.--Upon the receipt of an application for a license to carry a firearm, the ~~sheriff~~ issuing authority shall, within ~~45~~ 14 calendar days, issue or refuse to issue a license on the basis of the investigation under subsection (d) and the accuracy of the information contained in the application. If the ~~sheriff~~ issuing authority refuses to issue a license, the ~~sheriff~~ issuing authority shall notify the applicant in writing of the refusal and the specific reasons. The notice shall be sent by certified mail to the applicant at the address set forth in the application.

(h) Fee.--

* * *

(3) An additional fee of \$1 shall be paid by the applicant for a license to carry a firearm and shall be remitted by the ~~sheriff~~ issuing authority to the Firearms License Validation System Account, which is hereby established as a special restricted receipt account within the General Fund of the State Treasury. The account shall be used for purposes under subsection (1). Moneys credited to the account and any investment income accrued are hereby appropriated on a continuing basis to the Pennsylvania State Police.

(4) No fee other than that provided by this subsection or the Sheriff Fee Act may be assessed by the ~~sheriff~~ issuing authority for the performance of any background check made pursuant to this act.

* * *

(i.1) Notice to ~~sheriff~~ issuing authority
.--Notwithstanding any statute to the contrary:

(1) Upon conviction of a person for a crime specified in section 6105(a) or (b) or upon conviction of a person for a crime punishable by imprisonment exceeding one year or upon a determination that the conduct of a person meets the criteria specified in section 6105(c)(1), (2), (3), (5), (6) or (9), the court shall determine if the defendant has a license to carry firearms issued pursuant to this section. If the defendant has such a license, the court shall notify the ~~sheriff of the county in which that person resides~~ issuing authority , on a form developed by the ~~Pennsylvania State Police Attorney General~~ , of the identity of the person and the nature of the crime or conduct which resulted in the notification. The notification shall be transmitted by the judge within seven days of the conviction or determination.

* * *

(j) Immunity.-- ~~A sheriff~~ An issuing authority who complies in good faith with this section shall be immune from liability resulting or arising from the action or misconduct with a firearm committed by any individual to whom a license to carry a firearm has been issued.

* * *

(m.1) Temporary emergency licenses.--

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

* * *

(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.

* * *

(2) Upon receipt of the items required under paragraph (1), the ~~sheriff~~ issuing authority 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~~ issuing authority shall review the information and shall determine whether the applicant meets the criteria set forth in this subsection. If the ~~sheriff~~ issuing authority determines that the applicant has met all of the criteria, the ~~sheriff~~ issuing authority shall immediately issue the applicant a temporary emergency license to carry a concealed firearm.

(3) If the ~~sheriff~~ issuing authority refuses to issue a temporary emergency license, the ~~sheriff~~ issuing authority 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 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 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~~ issuing authority 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~~ issuing authority discovers any information that would have prohibited the issuance of a license pursuant to this section, the ~~sheriff~~ issuing authority shall be authorized to revoke the temporary emergency license as provided in subsection (i).

* * *

(7) ~~A sheriff~~ An issuing authority 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~~ issuing authority that was the basis for the license, or a copy of the evidence, as appropriate.

* * *

(9) Prior to the expiration of a temporary emergency license, if the ~~sheriff~~ issuing authority 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~~ issuing authority 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.

* * *

Section 8. Section 6122 of Title 18 is repealed:

~~Section 6122. Proof of license and exception.~~

~~(a) General rule. When carrying a firearm concealed on or about one's person or in a vehicle, an individual licensed to carry a firearm shall, upon lawful demand of a law enforcement officer, produce the license for inspection. Failure to produce such license either at the time of arrest or at the preliminary hearing shall create a rebuttable presumption of nonlicensure.~~

~~(b) Exception. An individual carrying a firearm on or about his person or in a vehicle and claiming an exception under section 6106(b) (relating to firearms not to be carried without a license) shall, upon lawful demand of a law enforcement officer, produce satisfactory evidence of qualification for exception.~~

Section 9. This act shall take effect in 60 days.

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