

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1091 Session of 2013

INTRODUCED BY TAYLOR, K. BOYLE, DONATUCCI, CRUZ, MURT, PARKER, MAHONEY, DAVIS, ROSS, PETRI, WATERS, SIMS, KILLION AND NEILSON, APRIL 2, 2013

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF REPRESENTATIVES, AS AMENDED, MARCH 18, 2014

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, further providing for the offense of
3 carrying firearms on public streets or public property in
4 Philadelphia.

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

7 Section 1. Section 6108 of Title 18 of the Pennsylvania
8 Consolidated Statutes is amended to read:

9 § 6108. Carrying firearms on public streets or public property
10 in Philadelphia.

11 (a) General rule.--No person shall carry a firearm[, rifle
12 or shotgun] at any time upon the public streets or upon any
13 public property in a city of the first class unless:

14 (1) [such] the person is licensed to carry a firearm; or

15 (2) [such] the person is exempt from licensing under
16 section 6106(b) of this title (relating to firearms not to be
17 carried without a license).

18 (b) Mandatory sentence.--

1 (1) Notwithstanding any other provision of law, if the
2 person in possession of a firearm at the time of arrest for a
3 violation of this section is not the lawful owner of the
4 firearm, then the offense shall be graded as a felony of the
5 third degree and, upon conviction, the person shall be
6 sentenced to a minimum sentence of at least two years of
7 total confinement.

8 (2) A person sentenced under this subsection shall not
9 be eligible for parole, probation, work release or furlough.

10 (3) This subsection shall not apply to any person who is
11 otherwise eligible to possess a firearm under this chapter
12 and who is operating a motor vehicle which is registered in
13 the person's name or the name of a spouse or parent and which
14 contains a firearm for which a valid license has been issued
15 pursuant to section 6109 (relating to licenses) to the spouse
16 or parent owning the firearm.

17 ~~(c) Proof at sentencing. Provisions of subsection (b) shall~~ <--
18 ~~not be an element of the crime and notice thereof to the~~
19 ~~defendant shall not be required prior to conviction, but~~
20 ~~reasonable notice of the Commonwealth's intention to proceed~~
21 ~~under subsection (b) shall be provided after conviction and~~
22 ~~before sentencing. The applicability of subsection (b) shall be~~
23 ~~determined at sentencing. The court shall consider any evidence~~
24 ~~presented at trial and shall afford the Commonwealth and the~~
25 ~~defendant an opportunity to present any necessary additional~~
26 ~~evidence and shall determine, by a preponderance of the~~
27 ~~evidence, if subsection (b) is applicable.~~

28 ~~(d) Authority of court in sentencing. There shall be no~~
29 ~~authority in any court to impose on an offender to which~~
30 ~~subsection (b) is applicable any lesser sentence than provided~~

1 ~~for in subsection (b) or to place the offender on probation or~~
2 ~~to suspend sentence. Nothing in this section shall prevent the~~
3 ~~sentencing court from imposing a sentence greater than that~~
4 ~~provided in subsection (b). Sentencing guidelines promulgated by~~
5 ~~the Pennsylvania Commission on Sentencing shall not supersede~~
6 ~~the mandatory sentence provided in subsection (b).~~

7 ~~(e) Appeal by Commonwealth. If a sentencing court refuses~~
8 ~~to apply subsection (b) where applicable, the Commonwealth shall~~
9 ~~have the right to appellate review of the action of the~~
10 ~~sentencing court. The appellate court shall vacate the sentence~~
11 ~~and remand the case to the sentencing court for imposition of a~~
12 ~~sentence in accordance with subsection (b) if it finds that the~~
13 ~~sentence was imposed in violation of this section.~~

14 ~~(f) (C) Definition.--For the purposes of this section, the~~ <--
15 ~~term "firearm" shall include any weapon which is designed to or~~
16 ~~may readily be converted to expel any projectile by the action~~
17 ~~of an explosive or the frame or receiver of the weapon.~~

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