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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 386 Session of  
2017

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INTRODUCED BY FARNESE, HUGHES, LEACH, COSTA, HAYWOOD AND  
WILLIAMS, FEBRUARY 16, 2017

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REFERRED TO JUDICIARY, FEBRUARY 16, 2017

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AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, in falsification and intimidation,  
3 further providing for the offense of unsworn falsification to  
4 authorities; and, in firearms and other dangerous articles,  
5 further providing for persons not to possess, use,  
6 manufacture, control, sell or transfer firearms, for licenses  
7 and for sale or transfer of firearms.

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

10 Section 1. Section 4904(b) of Title 18 of the Pennsylvania  
11 Consolidated Statutes is amended to read:

12 § 4904. Unsworn falsification to authorities.

13 \* \* \*

14 (b) Statements "under penalty".--[A]

15 (1) Except as provided in paragraph (2), a person  
16 commits a misdemeanor of the third degree if he makes a  
17 written false statement which he does not believe to be true,  
18 on or pursuant to a form bearing notice, authorized by law,  
19 to the effect that false statements made therein are  
20 punishable.

1       (2) A person commits a felony of the third degree if he  
2 makes a written false statement that he does not believe to  
3 be true on or pursuant to a form bearing notice, authorized  
4 by law, relating to the purchase, delivery or transfer of a  
5 firearm under section 6111 (relating to sale or transfer of  
6 firearms) or relating to an application to carry a firearm  
7 under section 6109 (relating to licenses). A second or  
8 subsequent conviction for a violation of this paragraph shall  
9 be a felony of the second degree punishable by a mandatory  
10 minimum sentence of imprisonment of five years.

11       \* \* \*

12       Section 2. Section 6105 heading and (a.1) of Title 18,  
13 amended November 3, 2016 (P.L.1052, No.134), are amended and  
14 subsection (a) is amended by adding a paragraph to read:

15 § 6105. Persons not to possess, use, manufacture, control, sell  
16           or transfer firearms; attempt.

17       (a) Offense defined.--

18       \* \* \*

19       (1.1) A person who knows that he is prohibited from  
20 possessing, using, controlling, selling, transferring or  
21 manufacturing a firearm in this Commonwealth under paragraph  
22 (1) may not attempt to purchase a firearm or attempt to  
23 obtain a license to carry a firearm in this Commonwealth.

24       \* \* \*

25       (a.1) Penalty.--

26       (1) Except as provided under paragraph (1.1), a person  
27 convicted of a felony enumerated under subsection (b) or a  
28 felony under the act of April 14, 1972 (P.L.233, No.64),  
29 known as The Controlled Substance, Drug, Device and Cosmetic  
30 Act, or any equivalent Federal statute or equivalent statute

1 of any other state, who violates subsection [(a)] (a)(1)  
2 commits a felony of the second degree.

3 (1.1) The following shall apply:

4 (i) A person convicted of a felony enumerated under  
5 subsection (b) or a felony under The Controlled  
6 Substance, Drug, Device and Cosmetic Act, or any  
7 equivalent Federal statute or equivalent statute of any  
8 other state, who violates subsection (a) commits a felony  
9 of the first degree if:

10 (A) at the time of the commission of a violation  
11 of subsection (a), the person has previously been  
12 convicted of an offense under subsection (a); or

13 (B) at the time of the commission of a violation  
14 of subsection (a), the person was in physical  
15 possession or control of a firearm, whether visible,  
16 concealed about the person or within the person's  
17 reach.

18 (ii) The Pennsylvania Commission on Sentencing,  
19 under 42 Pa.C.S. § 2154 (relating to adoption of  
20 guidelines for sentencing), shall provide for a  
21 sentencing enhancement for a sentence imposed pursuant to  
22 this paragraph.

23 (1.2) A person who violates subsection (a)(1.1) commits  
24 a felony of the third degree. A conviction for a second or  
25 subsequent violation of subsection (a)(1.1) shall be a felony  
26 of the second degree punishable by a mandatory minimum  
27 sentence of imprisonment of five years. The penalty under  
28 this paragraph shall be in addition to any penalties imposed  
29 for a conviction under section 6111(g)(4) (relating to sale  
30 or transfer of firearms).

1           (2) A person who is the subject of an active protection  
2 from abuse order issued pursuant to 23 Pa.C.S. § 6108  
3 (relating to relief), which order provided for the  
4 relinquishment of firearms, other weapons or ammunition  
5 during the period of time the order is in effect, commits a  
6 misdemeanor of the first degree if he intentionally or  
7 knowingly fails to relinquish a firearm, other weapon or  
8 ammunition to the sheriff as required by the order unless, in  
9 lieu of relinquishment, he provides an affidavit which lists  
10 the firearms, other weapons or ammunition to the sheriff in  
11 accordance with either 23 Pa.C.S. § 6108(a)(7)(i)(B), 6108.2  
12 (relating to relinquishment for consignment sale, lawful  
13 transfer or safekeeping) or 6108.3 (relating to  
14 relinquishment to third party for safekeeping).

15           (3) (i) A person commits a misdemeanor of the third  
16 degree if he intentionally or knowingly accepts  
17 possession of a firearm, other weapon or ammunition from  
18 a person he knows is the subject of an active protection  
19 from abuse order issued pursuant to 23 Pa.C.S. § 6108,  
20 which order provided for the relinquishment of the  
21 firearm, other weapon or ammunition during the period of  
22 time the order is in effect.

23           (ii) This paragraph shall not apply to:

24                   (A) a third party who accepts possession of a  
25 firearm, other weapon or ammunition relinquished  
26 pursuant to 23 Pa.C.S. § 6108.3; or

27                   (B) a dealer licensed pursuant to section 6113  
28 (relating to licensing of dealers) or subsequent  
29 purchaser from a dealer licensed pursuant to section  
30 6113, who accepts possession of a firearm, other

1           weapon or ammunition relinquished pursuant to 23  
2           Pa.C.S. § 6108.2.

3           (4) It shall be an affirmative defense to any  
4           prosecution under paragraph (3) that the person accepting  
5           possession of a firearm, other weapon or ammunition in  
6           violation of paragraph (3):

7                 (i) notified the sheriff as soon as practicable that  
8                 he has taken possession; and

9                 (ii) relinquished possession of any firearm, other  
10                weapon or ammunition possessed in violation of paragraph  
11                (3) as directed by the sheriff.

12           (5) A person who has accepted possession of a firearm,  
13           other weapon or ammunition pursuant to 23 Pa.C.S. § 6108.3  
14           commits a misdemeanor of the first degree if he intentionally  
15           or knowingly returns a firearm, other weapon or ammunition to  
16           a defendant or intentionally or knowingly allows a defendant  
17           to have access to the firearm, other weapon or ammunition  
18           prior to either of the following:

19                 (i) The sheriff accepts return of the safekeeping  
20                 permit issued to the party pursuant to 23 Pa.C.S. §  
21                 6108.3(d)(1)(i).

22                 (ii) The issuance of a court order pursuant to  
23                 subsection (f)(2) or 23 Pa.C.S. § 6108.1(b) (relating to  
24                 return of relinquished firearms, other weapons and  
25                 ammunition and additional relief) which modifies a valid  
26                 protection from abuse order issued pursuant to 23 Pa.C.S.  
27                 § 6108, which order provided for the relinquishment of  
28                 the firearm, other weapon or ammunition by allowing the  
29                 defendant to take possession of the firearm, other weapon  
30                 or ammunition that had previously been ordered

1           relinquished.

2           \* \* \*

3           Section 3. Section 6109 of Title 18 is amended by adding a  
4 subsection to read:

5   § 6109. Licenses.

6           \* \* \*

7           (c.1) False information on application.--A person commits a  
8 felony of the third degree if he makes a false statement on the  
9 application for a license to carry a firearm under subsection  
10 (c). A second or subsequent conviction for a violation of this  
11 subsection shall be a felony of the second degree punishable by  
12 a mandatory minimum sentence of imprisonment of five years.

13           \* \* \*

14           Section 4. Section 6111(g) (4) of Title 18 is amended to  
15 read:

16 § 6111. Sale or transfer of firearms.

17           \* \* \*

18           (g) Penalties.--

19           \* \* \*

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

24                   (i) makes any materially false oral statement;

25                   (ii) makes any materially false written statement,  
26 including a statement on any form promulgated by Federal  
27 or State agencies; or

28                   (iii) willfully furnishes or exhibits any false  
29 identification intended or likely to deceive the seller,  
30 licensed dealer or licensed manufacturer.

1 A second or subsequent conviction for a violation of this  
2 paragraph shall be a felony of the second degree punishable  
3 by a mandatory minimum sentence of imprisonment of five  
4 years.

5 \* \* \*

6 Section 5. This act shall take effect in 60 days.