

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 801 Session of 2013

INTRODUCED BY FARNESE, STACK, WASHINGTON, HUGHES, WILLIAMS AND TARTAGLIONE, APRIL 4, 2013

REFERRED TO JUDICIARY, APRIL 4, 2013

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
 2 Consolidated Statutes, further providing for carrying
 3 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 person is licensed to carry a firearm; or

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

18 (b) Mandatory sentence.--

19 (1) Notwithstanding any other provision of this title or

1 other statute to the contrary, if the person in possession,
2 at the time he is arrested for a violation of this section,
3 is not the lawful owner of the firearm, then the offense
4 shall be graded as a third degree felony, and the person in
5 possession shall be sentenced to a minimum sentence of at
6 least two years of total confinement.

7 (2) Such person shall not be eligible for parole,
8 probation, work release or furlough.

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

16 (c) Proof at sentencing.--Provisions of this section shall
17 not be an element of the crime and notice thereof to the
18 defendant shall not be required prior to conviction, but
19 reasonable notice of the Commonwealth's intention to proceed
20 under this section shall be provided after conviction and before
21 sentencing. The applicability of this section shall be
22 determined at sentencing. The court shall consider any evidence
23 presented at trial and shall afford the Commonwealth and the
24 defendant an opportunity to present any necessary evidence and
25 shall determine, by a preponderance of the evidence, if this
26 section is applicable. A record of sale, as maintained by the
27 Pennsylvania State Police under 42 Pa.C.S. § 6111(b) (relating
28 to handwriting) in another person's name may be evidence of
29 unlawful ownership.

30 (d) Authority of court in sentencing.--There shall be no

1 authority in any court to impose on an offender to which this
2 section is applicable any lesser sentence than provided for in
3 subsection (b) or to place such offender on probation or to
4 suspend sentence. Nothing in this section shall prevent the
5 sentencing court from imposing a sentence greater than that
6 provided in this section. Sentencing guidelines promulgated by
7 the Pennsylvania Commission on Sentencing shall not supersede
8 the mandatory sentences provided in this section.

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

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

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