



SPONSOR: Sen. McDowell & Rep. Capano
Sen. Henry & Rep. Williams

DELAWARE STATE SENATE

140th GENERAL ASSEMBLY

SENATE BILL NO.

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO THE SALE OR TRANSFER OF HANDGUNS BY UNLICENSED PERSONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Chapter 5, Title 11 of the Delaware Code by inserting a new §1448B to read
2 as follows:

3 “§1448B. Sale or transfer of handguns by unlicensed persons.

4 (a) For purposes of this section:

5 (1) ‘handgun’ means a pistol, revolver or any other firearm with a barrel length of less
6 than 16 inches.

7 (2) ‘deadly weapons dealer’ means any person licensed as a deadly weapons dealer
8 pursuant to Chapter 9 of Title 24 of the Delaware Code and 18 U.S.C. §921 et seq.

9 (b) Notwithstanding any provisions of the Delaware Code to the contrary, it shall be unlawful for
10 any person who is not a deadly weapons dealer to sell, provide or otherwise transfer a
11 handgun, except to a licensed firearms dealer, unless such sale or transfer occurs at the place
12 of business of a deadly weapons dealer in the manner set forth in 24 Del.C. §904A. The
13 provisions of this section shall not apply to transfers between spouses, transfers between a
14 parent and a child, or transfers between a grandparent and grandchild.

15 (c) Any person who owns a handgun which is stolen or lost shall report such loss or theft to the
16 Delaware State police or other local law enforcement agency within 24 hours of the person’s
17 knowledge thereof.

- (d) Any person who intentionally, knowingly or recklessly violates subsections (b) or (c) of this section shall be guilty of a Class G felony. A second or subsequent violation of this section shall be a Class C felony.
- (e) Any person who violates subsections (b) or (c) without the requisite knowledge requirement under subsection (d), shall be subject to a civil penalty not to exceed \$2,000.
- (f) Any person who makes a false written or oral statement or any representation which he or she knows to be false for the purpose of inducing or completing the sale or transfer of a handgun under this section shall be guilty of a Class G felony. Any subsequent violation of this subsection shall constitute a Class C felony.
- (g) The provisions of this section shall not apply to:
- (1) any law enforcement agency or law enforcement officer acting in his or her official capacity;
 - (2) any agency duly authorized to perform law enforcement duties; or
 - (3) any department, division, agency or entity of any incorporated town, municipality, city, county or the State.”
- Section 2. Amend Section 1448A(d)(1) Title 11 of the Delaware Code by deleting the words “60 days” therein and substituting in lieu thereof the following language “1 year”.

SYNOPSIS

Although Delaware has instant criminal background checks for the purchasers of new firearms, this check currently does not apply to private sales, which are estimated to account for over half of all firearm sales in Delaware. Delaware is now the only state in the region that allows private sales without a records check. This Bill closes this loophole by requiring private sales of handguns to be facilitated through a licensed firearms dealer. The firearms dealer will conduct the necessary criminal background check to ensure that the purchaser is not prohibited from purchasing or possessing firearms. This Bill will also require owners of handguns to report the loss or theft of their handguns to law enforcement. With this mandatory reporting requirement, an individual who fails to perform the necessary records check on a secondary sale will not be able to claim with impunity that a handgun sold illegally was stolen. Finally, this legislation will extend the length of time that information concerning firearm purchases will be maintained.

Author: Sen. McDowell