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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING TO CRIMINAL OFFENSES - WEAPONS

Introduced By: Senators Miller, Nesselbush, Goldin, Jabour, and Satchell

Date Introduced: April 11, 2013

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 11-47-5, 11-47-5.1, 11-47-8, 11-47-9, 11-47-30 and 11-47-48.1 of
2 the General Laws in Chapter 11-47 entitled "Weapons" are hereby amended to read as follows:

3 **11-47-5. Possession of arms by person convicted of crime of violence or who is a**
4 **fugitive from justice. --** (a) No person who has been convicted in this state or elsewhere of a
5 crime of violence, convicted of an offense punishable as a misdemeanor offense under section 12-
6 29-5, or who is a fugitive from justice shall purchase, own, carry, transport, or have in his or her
7 possession any firearm.

8 ~~(b) Notwithstanding the provisions of subsection (a) of this section, no person convicted~~
9 ~~of an offense punishable as a felony offense under section 12-29-5 shall purchase, own, carry,~~
10 ~~transport, or have in his or her possession any firearm, for a period of two (2) years following the~~
11 ~~date of that conviction.~~

12 ~~(e)~~ (b) No person who is in community confinement pursuant to the provisions of section
13 42-56-20.2 or who is otherwise subject to electronic surveillance or monitoring devices as a
14 condition of parole shall purchase, carry, transport, or have in his or her possession any firearm.
15 This subsection shall not apply to any person who has not been convicted of (or pleaded guilty or
16 nolo contendere to) a crime of violence in a court of competent jurisdiction.

17 ~~(d)~~ (c) Every person violating the provisions of this section shall, upon conviction, be
18 punished by imprisonment for not less than ~~two (2)~~ three (3) nor more than ~~ten (10)~~ fifteen (15)
19 years; and for penalties provided in this section he or she shall not be afforded the benefit of

1 suspension or deferment of sentence nor of probation.

2 **11-47-5.1. Larceny of a firearm.** -- (a) Every person who shall steal any firearm shall be
3 deemed guilty of larceny. "Firearm", as utilized in this section only, shall not apply to an air rifle,
4 air pistol, "blank gun," or "BB gun." Every person violating the provisions of this section shall be
5 sentenced, upon conviction, to not less than ~~one year~~ two (2) years nor more than ~~ten (10)~~ fifteen
6 (15) years; and for penalties as provided in this section he or she shall not be afforded the
7 provisions of suspension or deferment of sentence nor probation.

8 (b) No person shall steal any firearm as defined in this section and then sell, lend, or
9 transfer the firearm or firearms. Any person convicted of violating the provisions of this
10 subsection shall be punished by imprisonment for not less than ten (10) years nor more than
11 twenty (20) years, and the sentence shall be consecutive to any other sentence he or she may
12 receive or is serving.

13 **11-47-8. License or permit required for carrying pistol -- Possession of machine gun.**

14 -- (a) No person shall, without a license or permit issued as provided in sections 11-47-11, 11-47-
15 12 and 11-47-18, carry a pistol or revolver in any vehicle or conveyance or on or about his or her
16 person whether visible or concealed, except in his or her dwelling house or place of business or
17 on land possessed by him or her or as provided in sections 11-47-9 and 11-47-10. The provisions
18 of these sections shall not apply to any person who is the holder of a valid license or permit
19 issued by the licensing authority of another state, or territory of the United States, or political
20 subdivision of the state or territory, allowing him or her to carry a pistol or revolver in any
21 vehicle or conveyance or on or about his or her person whether visible or concealed, provided the
22 person is merely transporting the firearm through the state in a vehicle or other conveyance
23 without any intent on the part of the person to detain him or herself or remain within the state of
24 Rhode Island. No person shall manufacture, sell, purchase, or possess a machine gun except as
25 otherwise provided in this chapter. Every person violating the provision of this section shall, upon
26 conviction, be punished by imprisonment for not less than one nor more than ten (10) years, or by
27 a fine up to ten thousand dollars (\$10,000), or both, ~~and~~ Any person violating the provisions of this
28 section upon a second or subsequent conviction shall be punished by imprisonment for not less
29 than two (2) years nor more than fifteen (15) years or a fine up to fifteen thousand dollars
30 (\$15,000), or both. and-except Except for a first conviction under this section, the person shall not
31 be afforded the provisions of suspension or deferment of sentence, nor a probation.

32 (b) No person shall have in his or her possession or under his or her control any sawed-
33 off shotgun or sawed-off rifle as defined in section 11-47-2. Any person convicted of violating
34 this subsection shall be punished by imprisonment for up to ten (10) years, or by a fine of up to

1 five thousand dollars (\$5,000), or both.

2 (c) No person shall have in his or her possession or under his or her control any firearm
3 while the person delivers, possesses with intent to deliver, or manufactures a controlled
4 substance. Any person convicted of violating this subsection shall be punished by imprisonment
5 for not less than two (2) years nor more than twenty (20) years, and the sentence shall be
6 consecutive to any sentence the person may receive for the delivery, possession with intent to
7 deliver, or the manufacture of the controlled substance. It shall not be a defense to a violation of
8 this subsection that a person has a license or permit to carry or possess a firearm.

9 (d) No person shall carry a rifle or shotgun in any vehicle or conveyance or on or about
10 his or her person whether visible or concealed, except in his or her dwelling house or place of
11 business or on land possessed by him or her.

12 (i) Every person violating the provisions of this section shall, upon conviction, be
13 punished by imprisonment for not less than one nor more than ten (10) years, or by a fine up to
14 ten thousand dollars (\$10,000), or both. Any person violating the provisions of this section upon a
15 second or subsequent conviction shall be punished by imprisonment for not less than two (2)
16 years nor more than fifteen (15) years or a fine up to fifteen thousand dollars (\$15,000), or both.
17 Except for a first conviction under this section, the person shall not be afforded the provisions of
18 suspension or deferment of sentence, nor probation.

19 (ii) This section shall not apply to those persons engaged in lawful hunting activity as
20 provided in chapter 20-13, lawful target shooting within this state or lawfully engaged in any of
21 the activities authorized by section 11-47-9.

22 **11-47-9. Persons exempt from restrictions.** -- The provisions of section 11-47-8 shall
23 not apply to sheriffs, deputy sheriffs, the superintendent and members of the state police,
24 members of the Rhode Island airport police department, members of the Rhode Island state
25 marshals, Rhode Island state fire marshal, chief deputy state fire marshals, deputy state fire
26 marshals assigned to the bomb squad, and those assigned to the investigation unit, correctional
27 officers, all within the department of corrections, members of the city or town police force,
28 capitol police investigators of the department of attorney general appointed pursuant to section
29 42-9-8.1, the witness protection coordinator for the witness protection review board as set forth in
30 chapter 30 of title 12 and subject to the minimum qualifications of section 42-9-8.1, the director,
31 assistant director, investigators of the department of public safety Workers' Compensation
32 Investigations unit pursuant to section 42-7.3-3.1 and automobile theft investigators of the Rhode
33 Island state police pursuant to section 31-50-1, railroad police while traveling to and from official
34 assignments or while on assignments, conservation officers, or other duly appointed law

1 enforcement officers, nor to members of the Army, Navy, Air Force, and Marine Corps of the
2 United States, the National Guard, or organized reserves, when on duty, nor to members of
3 organizations by law authorized to purchase or receive firearms from the United States or this
4 state, provided these members are at or going to or from their places of assembly or target
5 practice, nor to officers or employees of the United States authorized by law to carry a concealed
6 firearm, nor to any civilian guard or criminal investigator carrying sidearms or a concealed
7 firearm in the performance of his or her official duties under the authority of the commanding
8 officer of the military establishment in the state of Rhode Island where he or she is employed by
9 the United States, nor to any civilian guard carrying sidearms or a concealed firearm in the
10 performance of his or her official duties under the authority of the adjutant general where he or
11 she is employed guarding a national guard facility, provided, that the commanding officer of the
12 military establishment shall have on file with the attorney general of this state a list of the names
13 and addresses of all civilian guards and criminal investigators so authorized, nor to duly
14 authorized military organizations when on duty, nor to members when at or going to or from their
15 customary places of assembly, nor to any individual employed in the capacity of warden,
16 associate warden, major, captain, lieutenant, sergeant, correctional officer or investigator at any
17 project owned or operated by a municipal detention facility corporation, including the Donald W.
18 Wyatt Detention Facility, nor to the regular and/or ordinary transportation of pistols or revolvers
19 as merchandise, nor to any person while transporting ~~a pistol~~ pistols, ~~or~~ revolvers, rifles, or
20 shotguns unloaded from the place of purchase to their residence, or place of business, from their
21 residence to their place of business or from their place of business to their residence, or to a
22 Federal Firearms licensee for the purpose of sale, to or from a bona fide gunsmith, or firearms
23 repair facility, to any police station or other location designated as a site of a bona fide "gun buy-
24 back" program but only if said pistol, ~~or~~ revolver, rifle or shotgun is unloaded and any
25 ammunition for said pistol, ~~or~~ revolver, rifle or shotgun is not readily or directly accessible from
26 the passenger compartment of such vehicle while transporting same and further provided that in
27 the case of a vehicle without a compartment separate from the passenger compartment the firearm
28 or the ammunition shall be stored in a locked container. Persons exempted by the provisions of
29 this section from the provisions of section 11-47-8 shall have the right to carry concealed firearms
30 everywhere within this state; provided, that this shall not be construed as giving the right to carry
31 concealed firearms to a person transporting firearms as merchandise or as household or business
32 goods.

33 **11-47-30. Sale, transfer or delivery of firearms to minors.** -- (a) It shall be unlawful
34 within this state for any person to sell, transfer, give, convey, or cause to be sold, transferred,

1 given or conveyed any firearm to any person under eighteen (18) years of age, when the person
2 knows or has reason to know that the recipient is under eighteen (18) years of age, except for the
3 limited purposes set forth in sections 11-47-33 and 11-47-34 and with the prior approval or
4 consent of the parent or legal guardian of the minor.

5 (b) Every person violating this section shall be punished, upon conviction, by
6 imprisonment for not less than ten (10) years and not more than twenty (20) years. The
7 prohibitions of this section shall not apply to any federally and state licensed retail dealer who
8 makes reasonable efforts to verify a purchaser's age and shall not apply to the sale of an air rifle,
9 air pistol, "blank gun" or "BB gun."

10 (c) If a firearm is sold, transferred, given, conveyed, or caused to be sold, transferred,
11 given or conveyed to any person under eighteen (18) years of age and is used in a crime of
12 violence, every person upon conviction shall be punished by imprisonment of not less than fifteen
13 (15) years and the sentence shall be consecutive to any sentence the person may receive for
14 violation of subsection (b).

15 **11-47-48.1. Report of lost or stolen weapons. --** Every person who owns a firearm shall
16 report the loss or theft of their firearm to the local law enforcement agency within twenty-four
17 (24) hours of the discovery of the loss or theft. Whoever knowingly violates this section shall be
18 punished by a fine of not ~~less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100)~~
19 more than five hundred dollars (\$500). Those convicted of a second or subsequent violation of
20 this section are guilty of a misdemeanor subject to imprisonment of not more than one year, or a
21 fine of up to one thousand dollars (\$1,000), or both.

22 SECTION 2. Chapter 11-47 of the General Laws entitled "Weapons" is hereby amended
23 by adding thereto the following section:

24 **11-47-35.4. Sale or transfer to a party who is not intended owner or possessor. – (a)**
25 No person, entity, or dealer shall sell, loan, or transfer a firearm to any person whom the person,
26 entity, or dealer knows or has cause to believe is not the actual purchaser or transferee of the
27 firearm, or to anyone who is not the one actually being loaned the firearm, if the person, entity, or
28 dealer has knowledge that the firearm is to be subsequently sold, loaned, or transferred to avoid
29 the provisions of sections 11-47-35 or 11-47-35.2.

30 (b) No person, entity, or dealer shall acquire a firearm for the purpose of selling, loaning,
31 or transferring the firearm, if the person, entity, or dealer has the intent to avoid the provisions of
32 sections 11-47-35 or 11-47-35.2.

33 (c) Every person violating the provisions of this section shall, upon conviction, be
34 punished by imprisonment for not less than one nor more than ten (10) years, or by a fine up to

1 ten thousand dollars (\$10,000), or both. Any person violating the provisions of this section upon a
2 second or subsequent conviction shall be punished by imprisonment for not less than two (2)
3 years nor more than fifteen (15) years or a fine up to fifteen thousand dollars (\$15,000), or both.
4 Except for a first conviction under this section, the person shall not be afforded the provisions of
5 suspension or deferment of sentence, nor probation.

6 (d) The section shall not apply to the temporary loan of a firearm to a person who may
7 lawfully possess a firearm while that person is lawfully hunting or lawfully target shooting within
8 this state, or lawfully engaged in any of the activities authorized by section 11-47-9.

9 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO CRIMINAL OFFENSES - WEAPONS

1 This act would make a number of changes to the statutes relating to the sale and
2 possession of weapons and to the penalties for violating the same.

3 This act would take effect upon passage.

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