

EVERYTHING YOU NEED TO KNOW ABOUT PENNSYLVANIA FIREARMS LAWS

The sale and possession of firearms is regulated by both federal and state laws. Federal law, among other things, regulates the licensing and oversight of firearms manufacturers and dealers, prohibits certain individuals from purchasing and possessing firearms, and requires gun dealers to conduct background checks before completing gun sales. Many states have enacted additional laws intended to supplement federal regulation of firearms, including prohibiting additional categories of individuals from possessing firearms, regulating where and how individuals may carry firearms in public places, restricting or banning certain types of firearms and accessories, and requiring background checks for additional types of gun sales, including sales by private sellers at gun shows or on the Internet. Many states also enact laws that mirror the federal law to enable local law enforcement and prosecutors to enforce these laws in state courts.

PROHIBITED PURCHASERS

Laws prohibiting certain persons from purchasing firearms help keep guns out of the hands of individuals who may be dangerous.

Federal law prohibits the sale of firearms to several categories of people including convicted felons, minors, individuals with a history of drug use or mental illness, and certain domestic violence perpetrators.

Pennsylvania law exceeds federal law in this area. Pennsylvania has added disqualifiers to the federal categories in the areas of misdemeanor convictions, mental illness, domestic violence, drug and alcohol offenses, and juvenile adjudications. Several Senate bills were introduced in 2013 to expand further on these categories. These bills (PA SB 432, 433, 661, 662, 663, and 866) have not been acted on by the legislature.

Other states have enacted similar laws. For example, twenty-seven other states and the District of Columbia also prohibit drug abusers, persons convicted of drug-related misdemeanors, and/or persons under the influence of controlled substances from purchasing or possessing some or all firearms.ⁱ Twenty-six other states prohibit persons with certain juvenile convictions from purchasing or possessing firearms.ⁱⁱ

DOMESTIC VIOLENCE & FIREARMS

Firearms pose a particular threat to victims of domestic violence. Laws that prohibit domestic abusers from purchasing a firearm are associated with a reduction in the number of intimate partner homicides.ⁱⁱⁱ

Federal law prohibits any person who has been convicted of a domestic violence misdemeanor or who is subject to a domestic violence protective order from possessing firearms or ammunition.^{iv}

Pennsylvania law mirrors the federal law that prohibits a domestic violence misdemeanant from purchasing or possessing firearms or ammunition. The state exceeds federal law by authorizing judges to prohibit subjects of *ex parte* restraining orders from firearm possession.

Other states exceed federal law in this area. Twenty-nine other states have laws that are stronger than federal law prohibiting domestic violence perpetrators from purchasing or possessing firearms.^v In 2013, Colorado, Connecticut and Utah strengthened state laws providing mechanisms to disarm domestic violence perpetrators.

PRIVATE SALE BACKGROUND CHECKS

Background checks identify and prevent persons who are ineligible to purchase firearms from obtaining them.

Federal Law requires federally licensed firearms dealers to perform background checks on prospective firearms purchasers.^{vi} Federal law does not require a background check when a firearm is sold by someone who is not a licensed dealer.

Pennsylvania law says that a private seller may only sell a handgun or short-barreled rifle or shotgun to an unlicensed purchaser at the place of business of a licensed dealer or county sheriff's office. The dealer or sheriff must comply with all of the dealer regulations, including a background check. This requirement does not apply to transfers between spouses, parents and children, and grandparents and grandchildren or to transfers of long guns. Two bills were introduced in 2013 that would have closed, some, or all of this loophole. PA SB 665 would have repealed the background check exceptions for transfers between family members and for long gun sales. PA HB 1010 would have closed only the long gun exception. The legislature has not acted on either bill.

Other states exceed federal law in this area. Eight states and D.C. require private sale background checks on some or all firearms purchases.^{vii} Four of these states (Connecticut, Colorado, Delaware and New York) enacted or strengthened existing laws requiring private sale background checks in 2013. In addition, in 2013, Illinois enacted a law that requires private sellers to verify with the state police that a potential purchaser has a firearms license prior to transferring a firearm (a firearms license is valid for 10 years in Illinois).

WAITING PERIODS

Waiting periods give law enforcement officials sufficient time to perform background checks and provide a "cooling off" period to help guard against impulsive acts of violence.

Federal law does not require a waiting period. If the FBI is unable to complete a background check within three business days, the dealer may complete the transfer by default.^{viii}

Pennsylvania law does not require a waiting period.

Other states require waiting periods. Eleven states and the District of Columbia currently have waiting periods that apply to the purchase of some or all firearms.^{ix}

LICENSING OF GUN OWNERS

Licensing laws are meant to ensure that gun owners know how to safely use and store firearms and to decrease illegal gun sales and possession by ensuring that all licensees are eligible to possess firearms under federal and state law.

Federal law does not require licensing of gun owners or purchasers.

Pennsylvania law does not require licensing of gun owners or purchasers.

Other states require licensing of gun owners and/or purchasers. Twelve states require licenses to possess and or permits to purchase some or all firearms.^x In 2013, Connecticut and Maryland added new licensing requirements.

ASSAULT WEAPONS

Assault weapons are designed with military features to allow rapid and accurate spray firing to kill people quickly and efficiently.

Federal law prohibited manufacture, transfer, and possession of assault weapons between 1994 and 2004. When the law expired in 2004, Congress did not renew the ban.

Pennsylvania law does not ban assault weapons. In 2013, the legislature introduced, but has not acted on, PA HB 517 and PA SB 435. Both bills would ban assault weapons.

Other states have enacted assault weapons bans. Seven states and D.C. ban assault weapons.^{xi} Three of these states (Connecticut, Maryland and New York) strengthened these bans in 2013.

LARGE CAPACITY AMMUNITION MAGAZINES

Due to their ability to hold so many rounds of ammunition, large capacity magazines significantly increase the lethality of automatic and semi-automatic firearms and are often used in mass shootings.

Federal law prohibited the possession and sale of large capacity magazines between 1994 and 2004. When the ban expired in 2004, Congress did not renew the law.

Pennsylvania law does not prohibit the sale or possession of large capacity ammunition magazines. In 2013, the legislature introduced, but has not acted, on PA HB 1479 and PA SB 435. The House bill would ban large capacity ammunition magazines with the capacity to hold more than 15 rounds of ammunition. The Senate bill would ban magazines that can hold more than 10 rounds.

Other states have enacted laws banning large capacity ammunition magazines. Eight states and D.C. ban ammunition magazines that have the capacity to hold a specified number of rounds of ammunition.^{xii} Of these, four states (Colorado, Connecticut, Maryland and New York) have enacted new large capacity ammunition magazine bans or strengthened existing bans in 2013.

ENDNOTES

ⁱ Alabama, Alaska, California, Delaware, District of Columbia, Florida, Hawaii, Illinois, Indiana, Iowa, Kansas, Maryland, Massachusetts, Minnesota, Nevada, New Jersey, North Carolina, Ohio, Oklahoma, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, West Virginia.

ⁱⁱ Alaska, Arizona, California, Colorado, Connecticut, Delaware, Florida, Hawaii, Kentucky, Illinois, Indiana, Iowa, Kansas, Maine, Maryland, Massachusetts, Minnesota, New Jersey, North Dakota, Ohio, Oklahoma, Oregon, Utah, Virginia, Washington and Wisconsin.

ⁱⁱⁱ Elizabeth R. Vigdor et al., Do Laws Restricting Access to Firearms by Domestic Violence Offenders Prevent Intimate Partner Homicide?, 30 Evaluation Rev. 313, 332 (June 2006).

^{iv} 18 U.S.C. § 922(g)(8), (9).

^v Alaska, Arizona, California, Colorado, Connecticut, Delaware, Florida, Hawaii, Illinois, Indiana, Iowa, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New York, North Carolina, North

Dakota, Pennsylvania, Rhode Island, Texas, Utah, Washington, West Virginia, and Wisconsin.

^{vi} 18 U.S.C. § 922(s).

^{vii} California, Connecticut, Colorado, District of Columbia, Delaware, Maryland, New York, Pennsylvania, Rhode Island.

^{viii} 18 U.S.C. § 922(t)(1).

^{ix} California, Connecticut, District of Columbia, Florida, Hawaii, Illinois, Iowa, Maryland, Minnesota, New Jersey, Rhode Island and Wisconsin.

^x California, Connecticut, Hawaii, Illinois, Iowa, Maryland, Massachusetts, Michigan, New Jersey, New York, North Carolina, and Rhode Island.

^{xi} California, Connecticut, District of Columbia, Hawaii (assault pistols), Maryland, Massachusetts, New Jersey, and New York.

^{xii} California, District of Columbia, Colorado, Connecticut, Hawaii, Maryland, Massachusetts, New Jersey, and New York.

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WHY AMERICA NEEDS BACKGROUND CHECKS ON ALL GUN SALES

WHY IT MATTERS

Performing a background check with every gun sale is the easiest and most effective way to prevent dangerous weapons from falling into the hands of criminals, violent abusers, and the dangerously mentally ill. Right now, federal law doesn't require a background check on private gun sales, which account for approximately 40% of all gun sales in America.

For example, Radcliffe Haughton walked into a salon in Wisconsin in October, killing his estranged wife and two others, and injuring four other innocent women. Haughton was known for his abusive behavior. His wife, Zina, had filed a restraining order against him after he had vowed to burn her and her two daughters with gas, because he believed Zina was cheating on him. Because of the restraining order, Haughton was prohibited from owning a gun and would not have passed a background check. Nevertheless, he purchased a semi-automatic weapon from a private seller, who was not required to perform a background check. Two days later, Haughton was able to walk into the salon with a dangerous, semiautomatic handgun and kill his wife and injure so many others.

If a background check were required for every gun sale, it would have been much more difficult for Haughton to purchase a gun – and may have saved the lives of his wife and her coworkers.

PERFORMING BACKGROUND CHECKS ON ALL GUN SALES IS THE EASIEST WAY TO KEEP GUNS OUT OF THE HANDS OF CRIMINALS, VIOLENT ABUSERS, AND THE DANGEROUSLY MENTALLY ILL, WITHOUT PREVENTING A LAW ABIDING CITIZEN FROM OWNING A GUN FOR SELF DEFENSE OR SPORT.

THE FACTS

- **40% of all guns in the US are sold through private sellers**—at gun shows and increasingly over the internet—and require no criminal background check. That would be like four out of every ten people being allowed to bypass security at the airport.
- **30% of guns involved in trafficking are connected to gun shows**, where background checks aren't required under federal law.
- Most of America agrees that background checks are important to keeping guns out of the wrong hands. **Even 74% of NRA members and 87% of non-NRA gun owners support requiring criminal background checks** of anyone purchasing a gun.



Fact:

The federal background check requirement doesn't apply to private sellers at gun shows, at flea markets, or if they sell firearms in-state over the Internet.

STATE LAWS

Seventeen states and the District of Columbia have extended the background check requirement beyond federal law to at least some private sales. Six states (California, Colorado, Connecticut, Delaware, New York, Rhode Island) and the District of Columbia require universal background checks at the point of sale for all transfers of all classes of firearms, including purchases from unlicensed sellers; Maryland and Pennsylvania laws do the same, but are limited to handguns.

In Pennsylvania, an unlicensed seller may only sell a handgun or short-barreled rifle or shotgun to an unlicensed purchaser at the place of business of a licensed dealer or county sheriff's office. The licensed dealer or sheriff must comply with all state dealer regulations, including a background check on prospective purchasers. These requirements do not apply to transfers between spouses, parents and children, and grandparents and grandchildren or to transfers of long guns.

Two states (Illinois and Oregon) require a background check whenever a firearm is sold at a gun show. Four states (Hawaii, Illinois, Massachusetts and New Jersey) require any firearm purchaser, including a purchaser from an unlicensed seller, to obtain a permit issued after a background check, and four more states (Iowa, Michigan, Nebraska and North Carolina) do the same only for handguns. Illinois enacted a law in 2013 requiring that unlicensed sellers verify a potential purchaser's license before the transfer is complete (the license is valid for up to ten years).

Nevada and Oregon have laws allowing voluntary background checks by unlicensed sellers.

2013 STATE LEGISLATION

In 2013, five states strengthened or added laws that extend the background check requirement to include some or all private sales (Colorado, Connecticut, Delaware, Maryland, New York). In Nevada, a bill that would have required background checks for all private sales was vetoed.

PA SB 665 was introduced in 2013. The bill would have closed Pennsylvania's private sale loophole by repealing the background check exceptions for transfers between family members and for long gun sales. PA HB 1010 would have closed only the long gun exception. The legislature has not acted on either bill.

In addition, PA HB 921 was a gun lobby bill that did not address private sale background checks but would have required licensed dealers to contact the NICS system for background checks instead of state databases. The legislature has not taken action on this bill.

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WHY PENNSYLVANIA FIREARMS OWNERS SHOULD BE REQUIRED TO REPORT LOST OR STOLEN FIREARMS

WHY IT MATTERS

Requiring firearm owners to report lost or stolen firearms is an important public safety measure for several reasons. First, when a gun is found at a crime scene, it is important for law enforcement to trace the weapon to the last purchaser on record as part of the investigation to identify individuals who may have been involved in the crime. When law enforcement finds the last purchaser, he or she may say the gun was lost or stolen to hide involvement in the crime or in gun trafficking. Reporting laws provide a tool for law enforcement to detect this behavior and charge criminals who engage in it. These laws allow law enforcement to charge an individual with a crime if he or she failed to file a timely report of a lost or stolen firearm, or, alternatively, if he or she filed a false report.

In addition to helping law enforcement solve crimes, reporting laws help disarm felons and other prohibited persons. When a person who legally owns a gun commits a crime or becomes seriously mentally ill, for example, it is crucial that law enforcement remove the firearm from his or her possession. When ordered to surrender the firearm by law enforcement or a judge, the owner may falsely claim it has been lost or stolen. Mandatory reporting laws provide a deterrent to this behavior.

Lost and stolen reporting requirements make it easier for law enforcement to locate a lost or stolen firearm and return it to its owner. Timely reporting of gun thefts or losses enables police to trace guns more effectively, and makes the successful prosecution of users of stolen guns more likely.

Finally, reporting laws protect law-abiding gun owners from unwarranted criminal accusations when a gun that was lost or stolen is later recovered at a crime scene. These laws also make gun owners more accountable for their weapons.

THE DETAILS

- **Federal law requires licensed firearms dealers, but not individual gun owners, to report lost or stolen firearms to law enforcement.** Pennsylvania law does not require firearm owners to report lost or stolen firearms. Two bills were introduced in 2013 that would have required lost or stolen firearm reporting in Pennsylvania. HB 1515 would have required an owner or other person in possession of a firearm to report the loss or theft of the weapon within 72 hours of discovery. SB 810 would have imposed the same requirement with a 24-hour time limit for reporting. Neither bill moved out of committee.
- **Other states require reporting of lost or stolen firearms.** Ten states and D.C. require some or all firearm owners to report the loss or theft of their firearms to law enforcement. Three of these states (Delaware, Illinois and Maryland) enacted these laws in 2013.
- **Many stolen guns are used to commit other crimes.** A U.S. Department of the Treasury study revealed that nearly a quarter of ATF gun trafficking investigations involved stolen firearms and were associated with over 11,000 trafficked firearms – including 10% percent of the investigations which involved guns stolen from residences.
- **Significantly, laws requiring the reporting of lost and stolen firearms are associated with a reduction in gun trafficking.** One study found that states without mandatory lost or stolen reporting laws export two and a half times more crime guns across state lines than jurisdictions with such laws.

THE PUBLIC OVERWHELMINGLY SUPPORTS LAWS REQUIRING THE REPORTING OF LOST OR STOLEN FIREARMS.

94% OF AMERICANS

INCLUDING

94% OF GUN OWNERS

FAVOR LAWS REQUIRING THE REPORTING OF LOST OR STOLEN FIREARMS.

ENDNOTES

¹ 18 U.S.C. § 923(g)(6).

² Connecticut, Delaware, District of Columbia, Illinois, Maryland, Massachusetts, Michigan, New Jersey, New York, Ohio, and Rhode Island.

³ Bureau of Alcohol, Tobacco & Firearms, U.S. Department of the Treasury, *Following the Gun: Enforcing Federal Laws Against Firearms Traffickers* xi, 41 (June 2000).

⁴ A crime gun is "exported" from one state to another if it was sold to a retail consumer in one state and then recovered after being used in a crime in a different state. *Mayors Against*

Illegal Guns, Trace the Guns: The Link Between Gun Laws and Interstate Gun Trafficking 22-23 (September 2010).

⁵ *American Viewpoint and Momentum Analysis for Mayors Against Illegal Guns, Results From A National Survey Of 1003 Registered Voters* (January 2011). See also *Mayors Against Illegal Guns, New Polls In Five Bellwether States Show Overwhelming Support To Fix Gun Background Check System* (March 2011).

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