SPONSOR: Rep. Romer & Rep. Heffernan & Rep. Longhurst & Rep. Minor-Brown & Rep. Schwartzkopf & Rep. Bush & Sen. Sokola
Reps. Baumbach, Bolden, K. Johnson, Morrison, Osienski, K. Williams; Sens. Hoffner, Huxtable, Townsend

HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

# HOUSE BILL NO. 202
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO THE POSSESSION OF A FIREARM AT A POLLING PLACE.

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

Section 1. Amend Chapter 5, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1457A. Possession of a firearm at a polling place; class A misdemeanor.

(a) As used in this section:

(1) a. "Election Day" means a day on which in-person voting is offered at a polling place, and includes early voting under Chapter 54 of Title 15, for any of the following elections:

1. Primary, general, or special election.

2. School election conducted by the Department of Elections pursuant to Title 14 or Title 15.

3. Municipal election conducted in accordance with the municipality's charter, ordinance, or code.

b. "Election Day" includes 2 hours before the polls open until 2 hours after the polls close.

(2) "Firearm" means as defined in § 222 of this title.

(3) a. "Polling place" means one of the following locations in the state:

1. Designated by the Department of Elections for in-person voting under §§ 4512 and 5402 of Title 15.

2. Designated in accordance with a municipality's charter, ordinance, or code for in-person voting on an Election Day.

3. Designated by the Department of Elections for the tabulation and counting of votes.

4. Department of Elections office locations where sealed absentee ballot envelopes may be returned under the provisions of § 5507 of Title 15.



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(3)(b) "Polling Place" shall not mean an area outside of the actual polling place, such as parking areas or adjoining structures that are not part of the polling place.

(b) Except as otherwise provided under subsection (c) of this section, a person who knowingly possesses a firearm at polling place on Election Day is guilty of possession of a firearm at a polling place.

(c) Subsection (b) of this section does not apply if at the time of an alleged violation the person is any of the following:

(1) Legally in possession of a firearm within a private residence located at a polling place.

(2) Engaged in lawful hunting, firearm instruction, or firearm-related sports on public lands that are designated for such activity, other than those being used as a polling place on Election Day.

(3) Employed as any of the following:

a. A law-enforcement officer, as defined in § 222 of this title.

b. A commissioned security guard, as defined under § 1302 of Title 24, who is acting in an official capacity at a polling place on Election Day.

c. A constable, as licensed under Chapter 56 of Title 24, who is acting in an official capacity at a polling place on Election Day.

d. An active-duty member of the United States Armed Forces or Delaware National Guard, who is acting in an official capacity at a polling place on Election Day.

(d) It is an affirmative defense that a person was legally in possession of a firearm and was only traveling through the polling place to reach private property located therein or to leave private property therein to reach a location outside the polling place. This defense is not available to any person who committed any of the following acts or conspired to commit any of the following acts:

(1) Intimidation of voters

(2) Interference with the election.

(3) Traveling through the polling place with a firearm for any purpose other than reaching a permitted destination.

(e) It is not a defense if the person was unaware that the person possessed a firearm at polling place on Election Day.

(f) Possession of a firearm at a polling place is a class A misdemeanor.

(g) The Superior Court has exclusive jurisdiction over offenses under this section.

(h) The Department of Elections shall post signs at the entrance of each polling place on election day to notify the public that firearms are not permitted at the polling place.



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