SPONSOR: Rep. Schwartzkopf & Sen. Sokola & Rep. Longhurst & Rep. Mitchell & Rep. Bolden & Rep. Baumbach & Rep. Heffernan & Sen. Townsend & Sen. Lockman Reps. Bentz, Chukwuocha, Cooke, Freel, Griffith, K. Johnson, Kowalko, Matthews, Minor-Brown, Morrison, Osienski, K. Williams; Sens. Gay, S. McBride, Paradee, Sturgeon

HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE BILL NO. 451
AS AMENDED BY
HOUSE AMENDMENT NO. 3
AND
HOUSE AMENDMENT NO. 6
AND
HOUSE AMENDMENT NO. 8
AND
SENATE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO FIREARMS.

WHEREAS, in 1968, federal law established that a buyer must be at least 21 years old for all handgun purchases; and

WHEREAS, the federal government recognized over 50 years ago that it was reasonable to place a restriction on young people purchasing firearms for their safety and the safety of our communities; and

WHEREAS, there is conclusive scientific research that shows the human brain is still developing in young adults aged 18 to 21 which impacts their decision making, self-control, aggressive impulses, and risk-taking behaviors; and

WHEREAS, the Statistical Analysis Center's Delaware Shootings reports for the previous 3 years shows that the most common age for shooters was between 18 to 21 which represents 33% of all shooters in 2020, 29% in 2019, and 32% in 2018; and

WHEREAS, the age to purchase any alcohol and tobacco products in Delaware is 21 years old.

NOW, THEREFORE:

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:

§ 1445 Unlawfully dealing with a dangerous weapon; unclassified misdemeanor; Class E or G felony.

(a) A person is guilty of unlawfully dealing with a dangerous weapon when:

(1) The person, who is not a qualified law-enforcement officer, possesses, ~~sells or~~ sells, or in any manner has control of any of the following:

a. A weapon which by compressed air or by spring discharges or projects a pellet, slug or bullet, except a BB gun, paintball gun, or air gun which does not discharge or project a pellet or slug larger than a ~~BB shot; or~~ .177 caliber shot.

b. A pellet, slug or bullet, intending that it be used in any weapon prohibited by paragraph (a)(1)a. of this ~~section; or~~ section.

(2) The person sells, gives or otherwise transfers to a child under 16 years of age a BB or air gun or spear gun or BB shot, unless the person is that child's parent or guardian, or unless the person first receives the permission of said parent or ~~guardian; or~~ guardian.

(3) Being a parent, the person permits the person's child under 16 years of age to have possession of a ~~firearm or a~~ BB or air gun or spear gun unless under the direct supervision of ~~an adult;~~ a person 21 years of age or older. ~~or~~

(4) The person sells, gives or otherwise transfers to a c~~hild under 18~~ person under 21 years of age a firearm or ammunition for a firearm, unless ~~the person is that child's parent or guardian, or unless the person first receives the permission of said parent or guardian; or~~ permitted by § 1448 of this title.

(5) The person sells, gives or otherwise transfers a firearm to any person knowing that said person intends to commit any felony, class A misdemeanor or drug related criminal offense while in possession of said firearm.

(6) Being a parent, the person permits the person's child under 18 years of age to have possession of a firearm unless under the direct supervision of a person 21 years of age or older.

(b) As used in this section, "qualified law-enforcement officer" means as defined in § 1441A of this title.

(c) Unlawfully dealing with a firearm or dangerous weapon is an unclassified misdemeanor, unless the person is convicted under paragraph (a)(4) of this section, in which case it is a class G felony, or unless the person is convicted under paragraph (a)(5) of this section, in which case it is a class E felony.

(d) The Superior Court has exclusive jurisdiction over a violation of paragraphs (a)(3) and (a)(6) of this section.

§ 1448. Possession and purchase of deadly weapons by persons prohibited; penalties.

(a) Except as otherwise provided in this section, the following persons are prohibited from purchasing, owning, possessing, or controlling a deadly weapon or ammunition for a firearm within the State:

(5) Any ~~juvenile,~~ person under the age of 21. ~~if the deadly weapon is a handgun, unless the juvenile possesses the handgun for the purpose of engaging in lawful hunting, instruction, sporting or recreational activity while under the~~

~~direct or indirect supervision of an adult. For the purpose of this subsection, a "handgun" shall be defined as any pistol, revolver or other firearm designed to be readily capable of being fired when held in 1 hand.~~

a. Paragraph (a)(5) of this section shall not apply to the purchase, owning, possession, or control of the following deadly weapons:

1. A shotgun as defined in § 1444(c) of this title or ammunition for a shotgun.

2. A muzzle-loading rifle as defined in § 704(f) of Title 7.

3. Deadly weapons other than firearms if the person is 18 years of age or older.

b. Paragraph (a)(5) of this section shall not apply to any of the following persons 18 years of age or older:

1. An active member of the Armed Forces of the United States or the National Guard.

2. A qualified law-enforcement officer as defined in § 1441A of this title.

3. A person who has license to carry a concealed deadly weapon pursuant to § 1441 of this title.

c. Paragraph (a)(5) of this section shall not apply to any person under the age of 21 who does any of the following:

1. Possesses or controls a firearm for the purpose of engaging in lawful hunting, instruction, sporting, or recreational activity while under the direct supervision of a person 21 years of age or older.

2. Possesses or controls a firearm for the purpose of engaging in lawful hunting and is in compliance with § 704(g) of Title 7.

3. Possesses or controls a firearm for the purpose of transporting the firearm to the location of a lawful hunting, instruction, sporting, or recreational activity, for which the person is authorized to possess or control the firearm under paragraph (a)(5)c.1. of this section.

d. It is not a violation of paragraph (a)(5) of this section if a person under the age of 21 possesses or uses a firearm during the use of force upon or towards another person if such use of force is justifiable pursuant to § 464, § 465, § 466, or § 469 of Title 11.

e. Paragraph (a)(5) of this section does not apply to the possession or control of a firearm by a person 18 years of age or older.

(f)(1) Upon conviction, any person who is a prohibited person as described in paragraph (a)(5) of this section and who is 15 years of age or ~~older~~ older, but not yet 18 years of age, is declared a child in need of mandated institutional treatment and shall, for a first offense, receive a minimum sentence of 6 months of Level V incarceration or institutional confinement, and shall receive a minimum sentence of 1 year of Level V incarceration or institutional confinement for a

second and each subsequent offense, which shall not be subject to suspension. Any sentence imposed pursuant to this subsection shall not be subject to §§ 4205(b) and 4215 of this title.

(2) The penalties prescribed by this subsection and subsection (g) of this section shall be imposed regardless of whether or not the juvenile is determined to be amenable to the rehabilitative process of the Family Court pursuant to § 1010(c) of Title 10 or any successor statute.

(g) In addition to the penalties set forth in subsection (f) of this ~~section herein,~~ section, a person who is a prohibited person as described in paragraph (a)(5) of this section and who is 14 years of age or ~~older~~ older, but not yet 18 years of age, shall, upon conviction of a first offense, be required to view a film ~~and/or~~ or slide presentation depicting the damage and destruction inflicted upon the human body by a projectile fired from a gun, and shall be required to meet with, separately or as part of a group, a victim of a violent crime, or with the family of a deceased victim of a violent crime. The Division of Youth Rehabilitative Service, with the cooperation of the Division of Forensic Science and the ~~Violent Crimes Compensation Board,~~ Victims' Compensation Assistance Program, shall be responsible for the implementation of this subsection.

Section 2. If a provision of this Act, or the application of this Act to a person or circumstance, is held invalid, the provisions of this Act are severable if the invalidity does not affect the other provisions of this Act, or applications of this Act, that can be given effect without the invalid provision or invalid application of this Act.

Section 3. Sections 1445(a)(6) and 1448(a)(5)e. of Title 11, as contained in this Act, expire 3 years after the date of enactment of this Act.