



Hse. Comm. No. 19-160

House of Representatives

19th NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

P.O. BOX 500586
SAIPAN, MP 96950

April 5, 2016

The Honorable Francisco M. Borja
President of the Senate
Nineteenth Northern Marianas
Commonwealth Legislature
Capitol Hill
Saipan, MP 96950

Dear President Borja:

I have the honor of returning *with* amendments S. B. No. 19-94, SD1, entitled, "To regulate the possession of firearms in the Commonwealth." which was passed by the House of Representatives on First and Final Reading, by the majority vote of the members, a quorum being present, during its First Day, First Special Session on April 5, 2016 in the form ***S. B. No. 19-94, SD1, HD10.***

Sincerely yours,


Linda B. Muña
House Clerk

Attachment

Transmitted to the SENATE

Received by: 

Date: 4/5/16

Time: 4:55pm

NINETEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

SECOND EMERGENCY SESSION, 2016

S.B. 19-94, SD1, HD10

A BILL FOR AN ACT

To regulate the possession of firearms in the Commonwealth.

BE IT ENACTED BY THE NINETEENTH NORTHERN MARIANAS COMMONWEALTH
LEGISLATURE:

1 **Section 1. Short Title.** This Act may be cited to as the SAFE Act (Special Act
2 for Firearms Enforcement).

3 **Section 2. Findings and Purpose.** The Legislature finds that human life is the
4 most precious thing in the entire world. The Legislature finds that providing safety and
5 the protection of human life to be the highest duty of government. The Legislature finds
6 that the current firearms laws, which ban handguns, rifles in calibers larger than .223, and
7 shotguns with a bore diameter of .410, protect human life and ensure public safety by
8 outlawing firearms whose primary purpose is offense against human beings. The
9 Legislature finds that the culture of the Commonwealth of the Northern Mariana Islands
10 is peaceful. The Legislature further finds that the history of the Commonwealth
11 demonstrates that offensive firearms have never been needed by the community, and the
12 use of offensive firearms during World War II only brought suffering on an almost
13 unimaginable scale to the people of the Northern Mariana Islands. Finally, the Legislature
14 finds that the vast majority of the inhabitants of the Commonwealth strongly oppose the

1 legalization of handguns because they rightly fear that the largescale introduction of
2 handguns will undermine our peaceful communities.

3 Unfortunately, the current firearms laws of the Commonwealth, and the People's
4 desire to prevent the introduction of handguns into our communities, are at odds with the
5 Second Amendment to the United States Constitution. The Legislature recognizes its
6 solemn duty to uphold and protect the United States and Commonwealth Constitutions.
7 Therefore, the Legislature reluctantly accepts that it must legalize the ownership and
8 possession of firearms to the extent required by the Second Amendment. The Legislature
9 is therefore passing the Special Act for Firearms Enforcement (SAFE) to create a
10 framework for firearms ownership, possession, and use that complies with the Second
11 Amendment while affording the greatest possible degree of protection to the people of the
12 Commonwealth and its guests.

13 On June 26, 2008, the Supreme Court of the United States held in *District of*
14 *Columbia v. Heller*, that the Second Amendment protects the individual right to possess a
15 firearm within the home.

16 On June 28, 2010, the Supreme Court of the United States held in *McDonald v.*
17 *Chicago* that the Second Amendment was incorporated under the Fourteenth
18 Amendment, and therefore, the Second Amendment applies to all state and local
19 governments.

20 Article 5, Section 501 of the Covenant makes the Second Amendment applicable
21 to the Commonwealth as if the Commonwealth were one of the several States. It is true
22 that the Sixth Amendment right to trial by jury has been applied to the Commonwealth

1 differently than it has been applied to the states, but the Covenant specifically provides
2 that the Sixth Amendment right to trial by jury is not applicable in the Commonwealth.
3 There is no such exception in the Covenant for the application of the Second
4 Amendment.

5 Unfortunately, the Commonwealth Weapons Control Act was challenged in the
6 United States District Court for the Northern Marianas Islands. The Commonwealth was
7 engaged in two difficult lawsuits, which were admirably and tirelessly fought by the
8 Office of the Attorney General. Unfortunately, on March 28, 2016, the United States
9 District Court for the District of the Northern Mariana Islands held that the Second
10 Amendment applies to the Commonwealth. The Legislature therefore finds that it is in the
11 best interest of the Commonwealth to update the Commonwealth's gun control laws to
12 meet this new reality.

13 The Legislature finds that ensuring public safety and preserving human life are
14 important and compelling government interests of the highest order. The introduction of
15 handguns threatens this public safety, especially since the Department of Public Safety
16 does not have adequate body armor for all its officers, and does not have the funds to
17 procure sufficient body armor to protect its officers. The Legislature agrees with the
18 findings of the city council District of Columbia and the city council of the City of
19 Highland Park, Illinois that assault weapons are disproportionately used in the
20 commission of crimes such as the mass shootings at schools, shopping malls, clinics, and
21 places of worship, that have plagued our nation, and should not be allowed in the
22 Commonwealth. The Legislature agrees with the legislative histories of the statutes

involved in *Friedman v. City of Highland Park, Illinois*, 784 F.3d 406, 408 (7th Cir.),
cert. denied sub nom. Friedman v. City of Highland Park, Ill., 136 S. Ct. 447 (2015),
Heller v. District of Columbia, 801 F.3d 264, 268 (D.C. Cir. 2015), and *Heller v. District*
of Columbia, 670 F.3d 1244, 1248 (D.C. Cir. 2011), and adopts those opinions and the
legislative histories of those acts.

The Legislature further finds that the unregulated keeping of firearms in the home
endangers the lives and safety of minor children. The Legislature agrees with the City of
San Francisco and the United States Court of Appeals for the Ninth Circuit in *Jackson v.*
City & Cty. of San Francisco, 746 F.3d 953, 958 (9th Cir. 2014) *cert. denied*, 135 S. Ct.
2799, 192 L. Ed. 2d 865 (2015), that requiring firearms to be either kept on the person of
an individual over 18 or secured with a trigger lock in a gun safe furthers the important
interest in public safety and satisfies intermediate scrutiny. The Legislature adopts the
City of San Francisco's legislative history and the Court's opinion in the *Jackson* case.

The Legislature further finds that crimes must be created to address the expected
increase in firearm violence if the Second Amendment applies to the Commonwealth.

The Legislature further finds that ensuring public safety for residents and tourists,
is an important and compelling government interest. The Legislature finds that
comprehensive regulation of firearms substantially advances that compelling and
important governmental interest, and that the means employed in this legislation are
narrowly tailored and the least restrictive means of achieving that public interest.
Therefore, the Legislature finds that it is in the best interests of the Commonwealth to

1 enact comprehensive legislation for the regulation and control of firearms and
2 ammunition in the Commonwealth.

3 Finally, the Legislature finds that the *Section-By-Section Analysis of the "Special*
4 *Act for Firearm Enforcement (SAFE)"* represents and explains the Legislature's intent
5 regarding SAFE. The Legislature therefore incorporates the *Section-By-Section Analysis*
6 *of the "Special Act for Firearm Enforcement (SAFE)"* into these Findings by reference.
7 The Legislature intends for the *Section-By-Section Analysis of the "Special Act for*
8 *Firearm Enforcement (SAFE)"* to have the same degree of persuasive authority as the
9 *Analysis of the Constitution of the Northern Mariana Islands* and the *Section-By-Section*
10 *Analysis of the Covenant to Establish a Commonwealth of the Northern Mariana Islands*
11 have on the interpretation of the Constitution and Covenant.

12 **Section 3. Repealer.** The following provisions of the Commonwealth Code are
13 hereby repealed: 6 CMC §§ 102(a), (k), (l), (m), (q); 6 CMC § 103(n); 6 CMC §
14 2222(e); 6 CMC § 2206; 6 CMC § 2273; 6 CMC §§ 2301(a)(3)–(4).

15 **Section 4. Amendment.** Subject to codification by the Law Revision
16 Commission, Title 6 of the Commonwealth Code is amended to establish a **Division**
17 **10**, which shall be titled "**Special Act for Firearms Enforcement (SAFE).**"

18 **Section 5. Amendment.** Subject to codification by the Law Revision
19 Commission, Title 6, Division 10 of the Commonwealth Code is amended by adding
20 Chapter 1, entitled "Definitions" which shall read as follows:

21 **"Chapter 1. Definitions.**

22 **§ 101. Definitions.** For purposes of this Division:

1 (a) ~~“.50 BMG rifle” means:~~

2 (1) ~~A rifle capable of firing a center fire cartridge in .50 BMG~~
3 ~~caliber, including a 12.7 mm equivalent of .50 BMG and any~~
4 ~~other metric equivalent; or~~

5 (2) ~~Any rifle, regardless of caliber, if such rifle is capable of~~
6 ~~firing a projectile that attains a muzzle energy of 12,000~~
7 ~~foot pounds or greater in any combination of bullet,~~
8 ~~propellant, case, or primer.~~

9 (a) “Addicted to narcotics” means a person who has been:

10 (1) convicted of an offense involving the use or possession of
11 cannabis, a controlled substance, or methamphetamine
12 within the past year; or

13 (2) determined by the Department of Public Safety to be
14 addicted to narcotics based upon federal law or federal
15 guidelines. “Addicted to narcotics” does not include
16 possession or use of a prescribed controlled substance under
17 the direction and authority of a physician or other person
18 authorized to prescribe the controlled substance when the
19 controlled substance is used in the prescribed manner.

20 (b) “Adjudicated as a mentally disabled person” means the person has been
21 the subject of a determination by a court, board, commission or other
22 lawful authority that the person, as a result of marked subnormal

1 intelligence, or mental illness, mental impairment, incompetency,
2 condition, or disease:

3 (1) presents a clear and present danger to himself, herself, or to
4 others;

5 (2) lacks the mental capacity to manage his or her own affairs;

6 (3) is not guilty in a criminal case by reason of insanity, mental
7 disease or defect;

8 (4) is incompetent to stand trial in a criminal case;

9 (5) is not guilty by reason of lack of mental responsibility under
10 any Article of the Uniform Code of Military Justice;

11 (6) is subject to involuntary commitment under the Involuntary
12 Commitment Act.

13 (c) "Ammunition" means cartridge cases, shells, projectiles (including shot),
14 primers, bullets (including restricted pistol bullets), propellant powder, or
15 other devices or materials designed, redesigned, or intended for use in a
16 firearm or destructive device.

17 (d) "Antique firearm" means:

18 (1) Any firearm (including any firearm with a matchlock,
19 flintlock, percussion cap, or similar type of ignition system)
20 manufactured in or before 1898; and

21 (2) Any replica of any firearm described in subparagraph (e)(1),
22 if such replica:

1 (A)Is not designed or redesigned for using rim-fire or
2 conventional center-fire fixed ammunition; or

3 (B) Uses rim-fire or conventional ammunition which is
4 no longer manufactured in the United States and
5 which is not readily available in the ordinary
6 channels of commercial trade.

7 (e) "Assault weapon" means:

8 (1) The following semiautomatic firearms:

9 (C) A semiautomatic rifle in a caliber greater than .223
10 that has the capacity to accept a detachable
11 magazine and any one of the following:

12 i. A pistol grip that protrudes conspicuously beneath
13 the action of the weapon;

14 ii. A thumbhole stock;

15 iii. A folding or telescoping stock;

16 iv. A grenade launcher or flare launcher;

17 v. A flash suppressor; or

18 vi. A forward pistol grip;

19 (D) A semiautomatic pistol that has the capacity to
20 accept a detachable magazine and any one of the
21 following:

- 1 vii. A threaded barrel, capable of accepting a flash
2 suppressor, forward handgrip, or silencer, sound
3 suppressor or sound moderator;
4 viii. A second handgrip;
5 ix. A shroud that is attached to, or partially or
6 completely encircles, the barrel that allows the
7 bearer to fire the weapon without burning his or her
8 hand, except a slide that encloses the barrel; or
9 x. The capacity to accept a detachable magazine at
10 some location outside of the pistol grip;
11 (E) A semiautomatic shotgun that has one or more of
12 the following:
13 xi. A folding or telescoping stock;
14 xii. A pistol grip that protrudes conspicuously beneath
15 the action of the weapon;
16 xiii. A thumbhole stock; or
17 xiv. A vertical handgrip; and
18 xv. A semiautomatic shotgun that has the ability to
19 accept a detachable magazine; and
20 (F) Any shotgun with a revolving cylinder; provided,
21 that this sub-subparagraph shall not apply to a
22 weapon with an attached tubular device designed to

1 accept, and capable of operating only with, .22
2 caliber rimfire ammunition; and

3 (G) Any firearm that the Department of Public Safety
4 may designate as an assault weapon by rule, based
5 on a determination that the firearm would
6 reasonably pose the same or similar danger to the
7 health, safety, and security of the residents of the
8 Commonwealth as those weapons enumerated in
9 this paragraph.

10 (2) The term "assault weapon" shall not include:

11 (H) Any antique firearm; or

12 (I) Any weapon exempted by the Department of Public
13 Safety, by rule, that would otherwise fall within the
14 definition of "assault weapon" pursuant to this
15 section from being classified as an assault weapon.

16 (f) "Clear and present danger" means a person who:

17 (1) communicates a serious threat of physical violence against a
18 reasonably identifiable victim or poses a clear and imminent
19 risk of serious physical injury to himself, herself, or another
20 person as determined by a physician, clinical psychologist,
21 or qualified examiner; or

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- 1 (2) demonstrates threatening physical or verbal behavior, such
2 as violent, suicidal, or assaultive threats, actions, or other
3 behavior, as determined by a physician, clinical
4 psychologist, qualified examiner, school administrator, or
5 law enforcement official.
- 6 (g) “Concealed firearm” means a loaded or unloaded pistol carried on or about
7 a person completely or mostly concealed from view of the public on or
8 about a person or within a vehicle.
- 9 (h) “Controlled substance” means a controlled substance or controlled
10 substance analog as defined by 6 CMC § 2102(c).
- 11 (i) “Container” shall mean a secure container which is fully enclosed and
12 locked with a padlock, key lock, combination lock, or similar locking
13 device and that meets the standards, specifications, and regulations
14 established and approved by the Commissioner of the Department of
15 Public Safety.”
- 16 (j) “Counterfeit” means to copy or imitate, without legal authority, with intent
17 to deceive.
- 18 (k) “Courthouse” means a building occupied by judicial courts and containing
19 rooms in which judicial proceedings are held.
- 20 (l) “Dangerous device” means any device, switch or gravity blade knife,
21 blackjack, sandbag, metal, wooden or shark’s tooth knuckles, dagger, any
22 instrument designed or redesigned for use as a weapon, or any other

1 instrument which can be used for the purpose of inflicting bodily harm and
2 which under the circumstances of its possession serves no lawful purpose.

3 (m) "Department" means the Department of Public Safety.

4 (n) "Destructive device" means:

5 (1) An explosive, incendiary, or poison gas bomb, grenade,
6 rocket, missile, mine, or similar device;

7 (2) Any device by whatever name known which will, or is
8 designed or redesigned, or may be readily converted or
9 restored to expel a projectile by the action of an explosive or
10 other propellant through a smooth bore barrel, except a
11 shotgun and antique weapons;

12 (3) Any device containing tear gas or a chemically similar
13 lacrimator or sternutator by whatever name known;

14 (4) Any combination of parts designed or intended for use in
15 converting any device into any destructive device; or from
16 which a destructive device may be readily assembled;
17 provided, that the term shall not include:

18 (J) Any pneumatic, spring, or B-B gun which expels a
19 single projectile not exceeding 8 mm in diameter;

20 (K) Any device which is neither designed nor
21 redesigned for use as a weapon;

1 (L) Any device originally a weapon which has been
2 redesigned for use as a signaling, line throwing, or
3 safety device; or

4 (M) Any device which the Department of Public
5 Safety finds is not likely to be used as a weapon.

6 (o) "Developmentally disabled" means a disability which is attributable to any
7 other condition which results in impairment similar to that caused by an
8 intellectual disability and which requires services similar to those required
9 by intellectually disabled persons. The disability must originate before the
10 age of 18 years, be expected to continue indefinitely, and constitute a
11 substantial handicap. This disability results in the professional opinion of a
12 physician, clinical psychologist, or qualified examiner, in significant
13 functional limitations in three or more of the following areas of major life
14 activity:

- 15 (1) self-care;
16 (2) receptive and expressive language;
17 (3) learning;
18 (4) mobility; or
19 (5) self-direction.

20 (p) "Federally licensed firearm dealer" means a person who is licensed as a
21 federal firearms dealer under Section 923 of the Federal Gun Control Act
22 of 1968 (18 U.S.C. § 923).

1 (q) "Firearm" means any weapon, regardless of operability, which will, or is
2 designed or redesigned, made or remade, readily converted, restored, or
3 repaired, or is intended to, expel a projectile or projectiles by the action of
4 an explosive; the frame or receiver of any such device; or any firearm
5 muffler or silencer; provided, that such term shall not include:

6 (1) Destructive devices;

7 (2) Any device used exclusively for firing explosive rivets, stud
8 cartridges, or similar industrial ammunition and incapable
9 for use as a weapon.

10 (3) any pneumatic gun, spring gun, paint ball gun, or B-B gun
11 which expels a single projectile not exceeding 8mm in
12 diameter or which has a maximum muzzle velocity of less
13 than 700 feet per second;

14 (4) any pneumatic gun, spring gun, paint ball gun, or B-B gun
15 which expels breakable paint balls containing washable
16 marking colors;

17 (5) any device used exclusively for signaling or safety and
18 required or recommended by the United States Coast Guard
19 or the Interstate Commerce Commission;

20 (6) an antique firearm (other than a machine-gun) which,
21 although designed as a weapon, the Department of Public
22 Safety finds by reason of the date of its manufacture, value,

1 design, and other characteristics is primarily a collector's
2 item and is not likely to be used as a weapon.

3 (r) "Firearm ammunition" means any self-contained cartridge or shotgun
4 shell, by whatever name known, which is designed to be used or adaptable
5 to use in a firearm; excluding, however:

- 6 (1) any ammunition exclusively designed for use with a device
7 used exclusively for signaling or safety and required or
8 recommended by the United States Coast Guard or the
9 Interstate Commerce Commission; and
10 (2) any ammunition designed exclusively for use with a stud or
11 rivet driver or other similar industrial ammunition.

12 (s) "Government building" means:

- 13 (1) The building in which a government entity is housed;
14 (2) The building where a government entity meets in its official
15 capacity; provided, however, that if such building is not a
16 publicly owned building, such building shall be considered a
17 government building for the purposes of this Code section
18 only during the time such government entity is meeting at
19 such building; or
20 (3) The portion of any building that is not a publicly owned
21 building that is occupied by a government entity.

- 1 (t) “Government entity” means an office, agency, authority, department,
2 commission, board, body, division, instrumentality, or institution of the
3 state or any county, municipal corporation, consolidated government, or
4 local board of education within this state.
- 5 (u) “Intellectually disabled” means significantly subaverage general
6 intellectual functioning which exists concurrently with impairment in
7 adaptive behavior and which originates before the age of 18 years.
- 8 (v) “Involuntarily admitted” has the meaning as prescribed in the Involuntary
9 Commitment Act, 6 CMC §§ 6601-6612.
- 10 (w) “Law Enforcement” means:
- 11 (1) any police officer employed by the Department of Public
12 Safety;
- 13 (2) Any judge, justice, judge pro tem, justice pro tem,
14 administrative hearing officer, or administrative law judge;
- 15 (3) any correctional officer employed by the Department of
16 Corrections;
- 17 (4) any parole officer employed by the Board of Parole;
- 18 (5) any investigator employed by the Homeland Security and
19 Emergency Management Office;
- 20 (6) any probation officer employed by the Office of Adult
21 Probation;

- 1 (7) any customs officer employed by the Department of
- 2 Finance;
- 3 (8) any marshal employed by the Commonwealth Judiciary;
- 4 (9) any conservation officer employed by the Department of
- 5 Fish and Wildlife;
- 6 (10) any enforcement officer employed by the Commonwealth
- 7 Ports Authority;
- 8 (11) The Sergeant of Arms of the House of Representatives;
- 9 (12) The Sergeant of Arms of the Senate;
- 10 (13) the Public Auditor;
- 11 (14) any attorney employed by the Office of the Public Auditor
- 12 and designated as law enforcement by the Public Auditor;
- 13 (15) any investigator or attorney employed by the Office of the
- 14 Public Auditor;
- 15 (16) the Attorney General;
- 16 (17) any Assistant Attorney General designated as law
- 17 enforcement by the Attorney General;
- 18 (18) any investigator employed by the Office of the Attorney
- 19 General Investigation Division;
- 20 (19) any person deputized by the Commissioner of the
- 21 Department of Public Safety;

- 1 (x) “Machine gun” means any firearm which shoots, is designed to shoot, or
2 can be readily restored to shoot, automatically more than one shot or
3 bullet, without manual reloading, by a single function of the trigger. The
4 term “machine gun” shall also include the frame or receiver of any such
5 firearm, any part designed and intended solely and exclusively, or
6 combination of parts designed and intended, for use in converting a
7 firearm into a machine gun, and any combination of parts from which a
8 machine gun can be assembled if such parts are in the possession or under
9 the control of a person.
- 10 (y) “Mental health facility” means any licensed private hospital or hospital
11 affiliate, institution, or facility, or part thereof, and any facility, or part
12 thereof, operated by the Commonwealth or a political subdivision thereof
13 which provide treatment of persons with mental illness and includes all
14 hospitals, institutions, clinics, evaluation facilities, mental health centers,
15 colleges, universities, long-term care facilities, and nursing homes, or parts
16 thereof, which provide treatment of persons with mental illness whether or
17 not the primary purpose is to provide treatment of persons with mental
18 illness.
- 19 (z) “Organization” means any partnership, company, corporation, or other
20 business entity, or any group or association of 2 or more persons united for
21 a common purpose.
- 22 (aa) “Patient” means:

1 (1) a person who voluntarily receives mental health treatment as
2 an in-patient or resident of any public or private mental
3 health facility, unless the treatment was solely for an alcohol
4 abuse disorder and no other secondary substance abuse
5 disorder or mental illness; or

6 (2) a person who voluntarily receives mental health treatment as
7 an out-patient or is provided services by a public or private
8 mental health facility, and who poses a clear and present
9 danger to himself, herself, or to others.

10 (bb) “Pistol” means any firearm originally designed to be fired by use of a
11 single hand or with a barrel less than 12 inches in length.

12 (cc) “Place of business” means a business that is located in an immovable
13 structure at a fixed location and that is operated and owned entirely, or in
14 substantial part, by the firearm registrant.

15 (dd) “Place of worship” means a building, structure, or place used primarily for
16 religious worship, including, but not limited to, churches, synagogues,
17 mosques, temples, shrines, monasteries, and convents, and includes the
18 grounds of a place of worship.

19 (ee) “Registration certificate” means a certificate validly issued pursuant to this
20 Commonwealth law evincing the registration of a firearm.

21 (ff) “Resident” means any person that has physically resided in the
22 Commonwealth lawfully for a minimum of thirty (30) days and that

1 intends to reside in the Commonwealth for an unlimited or indefinite
2 period.

3 (gg) "Restricted pistol bullet" or "Restricted bullet" means:

4 (1) A projectile or projectile core which may be used in a pistol
5 and which is constructed entirely (excluding the presence of
6 traces of other substances) from one or a combination of
7 tungsten alloys, steel, iron, brass, bronze, beryllium copper,
8 or depleted uranium;

9 (2) A full jacketed projectile larger than .22 caliber designed
10 and intended for use in a pistol and whose jacket has a
11 weight of more than 25% of the total weight of the
12 projectile; or

13 (3) Ammunition for a .50 BMG rifle.

14 (hh) "Restricted pistol bullet" does not include:

15 (1) Shotgun shot required by federal or state environmental or
16 game regulations for hunting purposes;

17 (2) A frangible projectile designed for target shooting;

18 (3) A projectile which the Attorney General of the United States
19 or the Department of Public Safety finds is primarily
20 intended to be used for sporting purposes; or

21 (4) Any other projectile or projectile core which the Attorney
22 General of the United States or the Department of Public

1 Safety finds is intended to be used for industrial purposes,
2 including a charge used in an oil and gas well perforating
3 device.

4 (ii) "Rifle" means a grooved bore firearm using a fixed metallic cartridge with
5 a single projectile and designed or redesigned, made or remade, and
6 intended to be fired from the shoulder.

7 (jj) "Sawed-off shotgun" means a shotgun having a barrel of less than 18
8 inches in length; or a firearm made from a shotgun if such firearm as
9 modified has an overall length of less than 26 inches or any barrel of less
10 than 18 inches in length.

11 (kk) "Semiautomatic weapon" means a weapon of any description irrespective
12 of size, by whatever name designated or known, loaded or unloaded, from
13 which may be repeatedly or automatically discharged a number of bullets
14 contained in a magazine, ribbon or other receptacle by a like number of
15 movements of the trigger or firing mechanism without cocking or
16 resetting the trigger or firing mechanism.

17 (ll) "Shotgun" means a smooth bore firearm using a fixed shotgun shell with
18 either a number of ball shot or a single projectile, and designed or
19 redesigned, made or remade, and intended to be fired from the shoulder.

20 (mm) "Short barreled rifle" means a rifle having any barrel less than 16 inches in
21 length, or a firearm made from a rifle if such firearm as modified has an
22 overall length of less than 26 inches or any barrel of less than 16 inches.

1 (nn) "Vendor's license" means a license to buy or sell, repair, trade, or
2 otherwise deal in firearms, destructive devices, or ammunition as provided
3 for by Commonwealth law."

4 **Section 6. Amendment.** Subject to codification by the Law Revision
5 Commission, Title 6, Division 10 of the Commonwealth Code is amended by adding
6 Chapter 2, which shall read as follows:

7 **"Chapter 2. Possession, Storage, & Transportation of Firearms.**

8 **§ 201. Security mortgages, deposits, or pawns with firearms, destructive**
9 **devices, or ammunition prohibited; loan or rental of firearms, destructive devices,**
10 **or ammunition prohibited.**

11 (a) No firearm, dangerous device, destructive device, or ammunition shall be
12 security for, or be taken or received by way of any mortgage, deposit,
13 pledge, or pawn.

14 (b) No person or organization may loan, borrow, give, or rent to or from
15 another person or organization, any firearm, dangerous device, destructive
16 device, or ammunition.

17 (c) Any person convicted of a violation of this section shall be fined not more
18 than one thousand dollars or imprisoned for not more than 1 year, or both.

19 **§ 202. Allowing an Unsupervised Minor Use or Possess a Firearm.**

20 (a) Any person who allows a minor, defined as any person under 21 years of
21 age, to use or possess a firearm without adult supervision shall be guilty of

1 a misdemeanor punishable by a fine of not more than one thousand dollars
2 and 180 days imprisonment, or both.

3 **§ 203. Sale of Firearms, Destructive Devices, Dangerous Devices, or**
4 **Ammunition to Persons Under 21 Years of Age Prohibited.**

5 (a) A person who knowingly or intentionally sells, transfers, or distributes a
6 firearm, dangerous device, destructive device, or ammunition to a person
7 under 21 years of age shall be fined not more than \$25,000 or imprisoned
8 for not more than 10 years, or both.

9 **§ 204. Storage of firearms; penalties.**

10 (a) No person shall keep a firearm within a residence owned or controlled by
11 that person unless:

12 (1) the firearm is stored in a locked container or disabled with a
13 trigger lock; or

14 (2) the firearm is carried on the person of an individual over the
15 age of ~~18~~21; or

16 (3) the firearm is under the immediate control of a person who
17 is a law enforcement officer.

18 (b) A person who violates the foregoing subsection (a) of this section is guilty
19 of criminally negligent storage of a firearm and, except as otherwise
20 provided in this section, shall be fined not more than \$1,000, imprisoned
21 not more than 180 days, or both.

1 (c) A person who violates subsection (a) of this section, and as a result, a
2 minor causes injury or death to himself or another with the firearm, shall
3 be fined not more than \$5,000, or imprisoned not more than 5 years, or
4 both.

5 (d) The provisions of this section shall not apply if the minor obtains the
6 firearm as a result of an unlawful entry or burglary to any premises by any
7 person.

8 (e) For the purposes of this section, the term "minor" shall mean a person
9 under the age of ~~18~~21 years.

10 (f) This section shall not apply to a properly registered firearm on the
11 effective date of this Act until ninety days after this Act becomes law.

12 **§ 205. Authority to carry firearms in certain places and for certain purposes.**

13 (a) A person may not carry a firearm, except as provided by this Division or
14 Commonwealth law.

15 (b) A person lawfully in possession of a firearm may carry the firearm:

16 (1) Within the registrant's home or on land belonging to the
17 registrant;

18 (2) On the land or in the legal dwelling of another person as an
19 invitee with that person's permission;

20 (3) While it is being used for lawful sporting purposes, such as
21 target practice at a shooting range or shooting gallery;

1 (4) While it is being used for lawful hunting, fishing, or
2 trapping purposes with a license or permit while engaged in
3 hunting, trapping or fishing;

4 (5) While it is kept at the registrant's place of business; or

5 (6) While it is being transported for a lawful purpose as
6 expressly authorized by § 209 of this Chapter or federal law
7 and in accordance with the requirements of said law.

8 (c) A violation of this section shall be punished by a fine of not more than
9 \$2,500 or imprisonment for not more than 1 year, or both.

10 **§ 206. Lawful transportation of firearms.**

11 (a) Any person who is not otherwise prohibited by the law from transporting,
12 shipping, or receiving a firearm shall be permitted to transport a firearm
13 for any lawful purpose from any place where he may lawfully possess and
14 carry the firearm to any other place where he may lawfully possess and
15 carry the firearm if the firearm is transported in accordance with this
16 section.

17 (b)

18 (1) If the transportation of the firearm is by a vehicle, the
19 firearm shall be unloaded, and neither the firearm nor any
20 ammunition being transported shall be readily accessible or
21 directly accessible from the passenger compartment of the
22 transporting vehicle.

1 (2) If the transporting vehicle does not have a compartment
2 separate from the passenger compartment, the firearm or
3 ammunition shall be contained in a locked container other
4 than the glove compartment or console, and the firearm shall
5 be unloaded.

6 (c) If the transportation of the firearm is in a manner other than in a vehicle,
7 the firearm shall be:

8 (1) Unloaded;

9 (2) Inside a locked container; and

10 (3) Separate from any ammunition.

11 (d) It shall be a felony punishable by a fine of not more than \$10,000 or
12 imprisonment for not more than 10 years, or both, for any person to
13 knowingly transport a firearm in violation of this section.

14 **§ 207. Persons Permitted to Possess Ammunition**

15 (a) No person shall possess ammunition in the Commonwealth unless:

16 (1) He or she is a licensed firearm vendor;

17 (2) He or she is the holder of the valid registration certificate for
18 a firearm of the same gauge or caliber as the ammunition he
19 possesses; except, that no such person shall possess one or
20 more restricted bullets; or

1 (3) He or she temporarily possesses ammunition while
2 participating in a firearms training and safety class
3 conducted by a firearms instructor.

4 (b) No person in the Commonwealth shall possess, sell, or transfer any large
5 capacity ammunition feeding device regardless of whether the device is
6 attached to a firearm. For the purposes of this subsection, the term "large
7 capacity ammunition feeding device" means a magazine, belt, drum, feed
8 strip, or similar device that has a capacity of, or that can be readily restored
9 or converted to accept, more than 10 rounds of ammunition. The term
10 "large capacity ammunition feeding device" shall not include an attached
11 tubular device designed to accept, and capable of operating only with, .22
12 caliber rimfire ammunition.

13 (c) Penalties.

14 (1) any person convicted of a violation of subsection (a) of this
15 section for legally allowable ammunition shall be fined not
16 more than the amount set forth in \$2,500.00 or imprisoned
17 for not more than 1 year, or both.

18 (2) A person convicted of possessing more than one restricted
19 pistol bullet in violation of subsection (a)(2) of this section
20 may be sentenced to imprisonment for a term not to exceed
21 10 years, and shall be sentenced to imprisonment for a
22 mandatory-minimum term of not less than 1 year and shall

1 not be released from prison or granted probation or
2 suspension of sentence prior to serving the mandatory-
3 minimum sentence, and, in addition, may be fined not more
4 than \$25,000.

5 (3) A person convicted of possessing a single restricted pistol
6 bullet in violation of subsection (a)(3) of this section shall be
7 fined not more than the amount set forth in \$2,500.00 or
8 imprisoned for not more than 1 year, or both.

9 (4) A person convicted of possessing a large capacity
10 ammunition feeding device in violation of subsection (b) of
11 this subsection may be sentenced to imprisonment for a term
12 not to exceed 10 years, and shall be sentenced to
13 imprisonment for a mandatory-minimum term of not less
14 than 1 year and shall not be released from prison or granted
15 probation or suspension of sentence prior to serving the
16 mandatory-minimum sentence, and, in addition, may be
17 fined not more than \$25,000. This section shall not apply to
18 any large capacity ammunition feeding device possessed by
19 the owner of a properly registered firearm capable of
20 receiving such a device until ninety days after this Act
21 becomes law.

22 **§ 208. Prohibited Firearms.**

1 (a) No person shall possess:

2 (1) Sawed-off shotgun;

3 (2) A silencer, sound suppressor or sound moderator;

4 (2) Machine gun;

5 (4) Short-barreled rifle;

6 (5) An assault weapon; or

7 ~~(6) A .50 BMG rifle.~~ A rifle other than a .22 caliber rimfire, .22
8 caliber center-fire and .223 caliber center-fire; or

9 (7) A shotgun other than a .410 gauge.

10 (b) Whoever violates this section shall be punished by a fine of not more
11 \$2,500 or imprisonment for not more than 1 year, or both. However, if the
12 violation occurs after such person has been convicted in the
13 Commonwealth of a violation of this Division, or of a felony, either in the
14 Commonwealth or in another jurisdiction, in which case such person shall
15 be imprisoned for not more than 10 years, and may be fined not more than
16 \$25,000.

17 **§ 209. Voluntary surrender of firearms, destructive devices, or ammunition;**
18 **immunity from prosecution; determination of evidentiary value of firearm.**

19 (a) If a person or organization within the Commonwealth voluntarily and
20 peaceably delivers and abandons to the Department of Public Safety any
21 firearm, destructive device or ammunition at any time, such delivery shall
22 preclude the arrest and prosecution of such person on a charge of violating

1 any provision of this Division with respect to the firearm, destructive
2 device, or ammunition voluntarily delivered. Delivery under this section
3 may be made at any police station or by summoning a police officer to the
4 person's residence or place of business. Every firearm and destructive
5 device to be delivered and abandoned to the Chief under this section shall
6 be transported in accordance with § 209 of this chapter and, in the case of
7 delivery to a police facility, the package shall be carried in open view.

8 (b) No person who delivers and abandons a firearm, destructive device, or
9 ammunition in full compliance with this section, shall be required to
10 furnish identification, photographs, or fingerprints.

11 (c) Whenever any firearm, destructive device, or any ammunition is
12 surrendered under this section, the Department of Public Safety shall
13 inspect the firearm and determine if it is needed as evidence in a
14 Commonwealth or federal case; provided, that if the same is not needed as
15 evidence, it shall be destroyed.

16 **§ 210. Self Defense with Deadly Force.**

17 ~~(a) An individual is allowed to use a firearm or other deadly force in self-~~
18 ~~defense if~~

19 ~~(1) The individual is protecting his or her home, dwelling place,~~
20 ~~or place of business; or~~

21 ~~(2) The individual is defending himself or herself against an~~
22 ~~aggressor when he or she reasonably believes that~~

1 (N) The aggressor is about to inflict upon him or her an
2 intentional contact or other bodily harm; and
3 (O) He or she is thereby put in peril of death or serious
4 bodily harm or sexual assault, which can safely be
5 prevented only by the immediate use of deadly
6 force.

7 (b) — An individual is allowed to use a firearm in defense of a third party if:

8 (1) — The individual is protecting a third person within the
9 individual's home or dwelling place;

10 (2) — The individual is defending the third party against an
11 aggressor when he or she reasonably believes that

12 (P) The aggressor is about to inflict upon him or her an
13 intentional contact or other bodily harm; and

14 (Q) The third party is thereby put in peril of death or
15 serious bodily harm or sexual assault, which can
16 safely be prevented only by the immediate use of
17 deadly force.

18 (a) An individual is allowed to use a firearm or deadly force in self-
19 defense if:

20 (1) The individual is protecting him or herself and the use of the
21 firearm or deadly force would reasonably prevent the immediate use of
22 force by an aggressor. Provided further that this use is based upon the

reasonable belief that the aggressor is about to inflict an intentional contact
that would or could reasonably result in serious bodily harm or death; and
the use of force by the aggressor can safely be prevented only by
the immediate use of deadly force.

(b) An individual is allowed to use a firearm or deadly force in self-
defense of a third party if:

(1) The individual is protecting a third party and the use of the
firearm or deadly force would reasonably prevent the immediate use of
force by an aggressor. Provided further that this use is based upon the
reasonable belief that the aggressor is about to inflict an intentional contact
that would or could reasonably result in serious bodily harm or death; and
the use of force by the aggressor can safely be prevented only by the
immediate use of deadly force.

(c) The right to use deadly force for self defense or defense of a third person
does not exist if the individual correctly or reasonably believes that he or
she, or the third party in the case of self defense of a third party, can with
complete safety avoid the necessity of so defending himself by

- (1) retreating if attacked in any place other than his dwelling
place, or in a place which is also the dwelling of the other, or
- (2) relinquishing the exercise of any right or privilege other than
his privilege to prevent intrusion upon or dispossession of
his dwelling place.

- 1 (d) An individual loses the right to self-defense with a firearm if he or she is
2 the initial aggressor or intentionally provoked the aggressor by word or
3 deed that is reasonably calculated to elicit a violent response from a
4 reasonable person or the individual aggressor.

5 **§ 211. Exemptions.**

- 6 (a) The provisions of this Division regarding the possession of firearms and
7 firearm ammunition shall not apply to:

- 8 (1) United States Marshals, while engaged in the operation of
9 their official duties;
10 (2) Members of the Armed Forces of the United States or the
11 National Guard, while engaged in the operation of their
12 official duties;
13 (3) The Department of Public Safety and any Commonwealth
14 agency that regularly employs members of law enforcement;
15 (4) Members of law enforcement, while engaged in the
16 operation of their official duties;
17 (5) Federal officials required to carry firearms, while engaged in
18 the operation of their official duties.”

19 **Section 7. Amendment.** Subject to codification by the Law Revision
20 Commission, Title 6, Division 10 of the Commonwealth Code is amended by adding
21 Chapter 3, which shall read as follows:

22 **“Chapter 3. Weapon Specific Crimes.**

1 **§ 301. Unlawful discharge of firearm.**

- 2 (a) Except as otherwise permitted by law, including legitimate self-defense,
3 no firearm shall be discharged or set off in the Commonwealth without a
4 special written permit from the Department of Public Safety issued
5 pursuant to Department regulations.
- 6 (b) No person shall discharge a firearm as an act of celebration.
- 7 (c) The discharge of a firearm by a property owner on his or her private
8 property for the sole purpose of slaughtering livestock shall be considered
9 lawful, provided that the firearm is discharged on a farm outside of
10 villages and/or areas zoned as residential.
- 11 (d) Violation of this section shall be punishable by a fine of not more than
12 \$5,000 a term of imprisonment for not more than five years, or both.

13 **§ 302. Possession or use of weapons while under the influence.**

- 14 (a) No person shall carry a firearm, dangerous device, or destructive device
15 while under the influence of any amount of alcohol, drugs, intoxicating
16 compounds or combination of compounds, or any combination thereof.
- 17 (b) A violation of this section shall be punishable by a fine of not more than a
18 \$1,000 or not more than one year imprisonment, or both.

19 **§ 303. Possession of weapon while disguised.**

- 20 (a) A person commits the offense of unlawful use of weapons while disguised
21 when he knowingly carries or possesses in a vehicle or on or about his
22 person any pistol, revolver, firearm, dangerous device, destructive device,

1 or any counterfeit version of the foregoing, when he or she is hooded,
2 robed or masked in such manner as to conceal his or her identity in
3 furtherance of the commission or attempted commission of a violation of
4 Commonwealth law.

- 5 (b) A violation of this section shall be punishable by a fine of not more than a
6 \$1,000 or not more than one year imprisonment, or both.

7 **§ 304. Theft of a Firearm.**

- 8 (a) A person commits the offense of theft of a firearm if he or she unlawfully
9 takes, or exercises control over, a firearm or firearms of another with
10 intent to permanently deprive the owner of his or her rights to the firearm.
- 11 (b) Theft of a firearm includes any action that would be a violation of 6 CMC
12 §§ 1601–1605, or any other provision of Commonwealth law outlawing or
13 defining theft, if the property unlawfully taken is a firearm.
- 14 (c) Each firearm taken in the theft under this section is a separate offense.
- 15 (d) Upon conviction of a violation of this section, the person shall be fined not
16 more than \$10,000 and shall be sentenced to a term of imprisonment not to
17 exceed 15 years and a mandatory-minimum term of not less than 5 years
18 and shall not be released on parole prior to serving the
19 mandatory-minimum sentence.

20 **§ 305. Possession of stolen firearm; penalty.**

- 21 (a) A person commits possession of a stolen firearm when he or she, not being
22 entitled to the possession of a firearm, possesses the firearm, knowing it to

1 have been stolen or converted. The trier of fact may infer that a person
2 who possesses a firearm with knowledge that its serial number has been
3 removed or altered has knowledge that the firearm is stolen or converted.

- 4 (b) Upon conviction of a violation of this section, the person shall be fined not
5 more than \$10,000 and shall be sentenced to a term of imprisonment not to
6 exceed 15 years and a mandatory-minimum term of not less than 5 years
7 and shall not be released on parole prior to serving the
8 mandatory-minimum sentence.

9 **§ 306. Receiving a stolen firearm; penalty.**

- 10 (a) Receiving. A person is guilty of receiving a stolen firearm if he or she
11 purposely receives, retains, or disposes of property of another knowing
12 that it has been stolen, or having reasonable cause to believe under all of
13 the circumstances that it has probably been stolen. It is an affirmative
14 defense that the property is received, retained, or disposed with purpose to
15 restore it to the owner.

- 16 (b) “Receiving” means acquiring possession, control or title, or lending on the
17 security of the property.

- 18 (c) Upon conviction of a violation of this section, the person shall be fined not
19 more than \$10,000 and shall be sentenced to a term of imprisonment not to
20 exceed 15 years and a mandatory-minimum term of not less than 5 years
21 and shall not be released on parole prior to serving the
22 mandatory-minimum sentence.

1 **§ 307. Possession of weapons during commission of a felony; penalty.**

2 (a) No person shall within the Commonwealth shall knowingly possess a
3 firearm, imitation firearm, dangerous device or imitation dangerous
4 device, destructive device or imitation destructive device, while
5 committing a felony.

6 (b) “Possession” as used in this section means simple physical possession, the
7 use of the firearm, imitation firearm, dangerous device or imitation
8 dangerous device, destructive device or imitation destructive device in
9 furtherance of the felony is not an element of the crime.

10 (c) Upon conviction of a violation of this subsection, the person shall be fined
11 not more than \$10,000 and shall be sentenced to imprisonment for a term
12 not to exceed 15 years and shall be sentenced to imprisonment for a
13 mandatory-minimum term of not less than 5 years and shall not be
14 released on parole, or granted probation or suspension of sentence, prior to
15 serving the mandatory-minimum sentence.

16 **§ 308. Use of weapons in furtherance of a crime of violence; penalty.**

17 (a) No person shall within the Commonwealth possess a firearm, imitation
18 firearm, dangerous device or imitation dangerous device, destructive
19 device or imitation destructive device, while committing a crime of
20 violence.

21 (b) For purposes of this section the term “crime of violence” means an offense
22 that

- 1 (1) has as an element the use, attempted use, or threatened use
2 of physical force against the person or property of another,
3 or
4 (2) that by its nature, involves a substantial risk that physical
5 force against the person or property of another may be used
6 in the course of committing the offense.
7 (3) The following crimes, however styled in the Commonwealth
8 Code, shall be considered "crimes of violence":
9 (A) aggravated assault;
10 (B) act of terrorism;
11 (C) arson;
12 (D) assault on a ~~police~~ law enforcement officer ;
13 (E) assault with a dangerous weapon;
14 (F) assault with intent to kill, commit first degree
15 sexual abuse, commit second degree sexual abuse,
16 first or second degree sexual assault or commit
17 child sexual abuse; and any acts of domestic and
18 family violence;
19 (G) assault with significant bodily injury;
20 (H) assault with intent to commit any other offense;
21 (I) burglary;
22 (J) carjacking;

- 1 (K) armed carjacking;
- 2 (L) child sexual abuse;
- 3 (M) cruelty to children in the first degree;
- 4 (N) extortion or blackmail accompanied by threats of
- 5 violence;
- 6 (O) gang recruitment, participation, or retention by the
- 7 use or threatened use of force, coercion, or
- 8 intimidation;
- 9 (P) kidnapping;
- 10 (Q) malicious disfigurement;
- 11 (R) manslaughter;
- 12 (S) manufacture or possession of a weapon of mass
- 13 destruction;
- 14 (T) mayhem;
- 15 (U) murder;
- 16 (V) robbery;
- 17 (W) sexual abuse in the first, second, or third
- 18 degrees; and sexual assault in the first, second or
- 19 third degree;
- 20 (X) use, dissemination, or detonation of a weapon of
- 21 mass destruction; or

1 (Y)an attempt, solicitation, or conspiracy to commit
2 any of the foregoing offenses.

3 (4) The list of offenses in subsection (3) is not exclusive.

4 (c) If the crime of violence in subsection (b) was a felony under
5 Commonwealth law at the time of commission, then upon conviction of a
6 violation of this subsection, the person shall be fined \$10,000 and shall be
7 sentenced to imprisonment for a term not to exceed 15 years and shall be
8 sentenced to imprisonment for a mandatory-minimum term of not less than
9 5 years and shall not be released on parole, or granted probation or
10 suspension of sentence, prior to serving the mandatory-minimum sentence.

11 (d) If the crime of violence in subsection (b) of this section was a
12 misdemeanor under Commonwealth law at the time of commission, then
13 upon conviction of a violation of this subsection the person shall be fined
14 \$1,000 and shall be sentenced to imprisonment for a term not to exceed
15 one year and shall be sentenced to imprisonment for a mandatory-
16 minimum term of not less than 9 months and shall not be released on
17 parole, or granted probation or suspension of sentence, prior to serving the
18 mandatory-minimum sentence.

19 **§ 309. Possession of certain dangerous weapons prohibited.**

20 (a) No person shall possess any machine gun, sawed-off shotgun, knuckles, or
21 any instrument or weapon of the kind commonly known as a blackjack,

1 slungshot, sand club, sandbag, switchblade knife, butterfly knife, nor any
2 other dangerous device or destructive device as defined in this Division.

3 (b) No person shall possess any instrument, attachment, or appliance for
4 causing the firing of any firearm to be silent or intended to lessen or
5 muffle the noise of the firing of any firearms.

6 (c) Whoever violates this section shall be punished shall be punished by a fine
7 of not more \$2,500 or imprisonment for not more than 1 year, or both.
8 However, if the violation occurs after such person has been convicted in
9 the Commonwealth of a violation of this Division, or of a felony, either in
10 the Commonwealth or in another jurisdiction, in which case such person
11 shall be imprisoned for not more than 10 years, and may be fined not more
12 than \$25,000.

13 **§ 310. Removal of Firearm Serial Numbers Prohibited.**

14 (a) Whoever commits any of the following acts may be sentenced to
15 imprisonment for not more than five years or to payment of a fine of not
16 more than \$10,000, or both:

17 (1) obliterates, removes, changes, or alters the serial number or
18 other identification of a firearm;

19 (2) receives or possesses a firearm, the serial number or other
20 identification of which has been obliterated, removed,
21 changed, or altered; or

- 1 (3) receives or possesses a firearm that is not identified by a
2 serial number.

3 **§ 311. Seizure and forfeiture of conveyances.**

- 4 (a) For the purposes of this section, the term “owner” means a person with an
5 ownership interest in the specific conveyance sought to be forfeited. The
6 term “owner” does not include:

- 7 (1) A person with only a general unsecured interest in, or claim
8 against, the conveyance;

- 9 (2) A bailee; or

- 10 (3) A nominee who exercises no dominion or control over the
11 conveyance.

- 12 (b) Any conveyance, including motor vehicles, vessels, and airplanes, in
13 which any person or persons transport or possess a firearm while
14 committing a misdemeanor or felony offense under this Division, shall be
15 seized and forfeited to the Commonwealth, provided that:

- 16 (1) No conveyance used by any person as a duly licensed
17 common carrier in the course of transacting business as a
18 licensed common carrier is subject to forfeiture under this
19 section unless it appears that the owner or other person in
20 charge of the conveyance is a consenting party or has
21 knowledge of a violation of this section; and

1 (2) The forfeiture of a conveyance encumbered by a bona fide
2 security interest is subject to the interest of the secured party
3 if the secured party neither had knowledge of, nor consented
4 to, the illegal act giving rise to forfeiture.

5 (3) An innocent owner's interest in a conveyance which has
6 been seized shall not be forfeited under this section. A
7 person is an innocent owner if he or she establishes, by a
8 preponderance of the evidence:

9 (Z) That he or she did not know that a person or persons
10 in the conveyance was transporting, possessing, or
11 concealing any firearm or that the conveyance was
12 involved in or was being used in the commission of
13 any illegal act involving any firearm; or

14 (AA) That, upon receiving knowledge of the
15 presence of any illegal firearm in or on the
16 conveyance or that the conveyance was being used
17 in the commission of an illegal act involving a
18 firearm, he or she took action to terminate the
19 presence in or on the conveyance of the person,
20 persons, or firearms.

21 (4) A claimant who establishes a lack of knowledge under
22 subsection (Z) of this section shall be considered an innocent

1 owner unless the government, in rebuttal, establishes the
2 existence of facts and circumstances that should have
3 created a suspicion that the conveyance was being or would
4 be used for an illegal purpose. In that case, the claimant
5 must establish that, in light of such facts and circumstances,
6 he or she did all that reasonably could be expected to
7 prevent the use of the conveyance in the commission of any
8 such illegal act.

9 (BB) A person who willfully blinds himself or
10 herself to a fact shall be considered to have had
11 knowledge of that fact.

12 (CC) Except as otherwise expressly provided by
13 this section, all seizures and forfeitures of
14 conveyances under this section shall follow the
15 procedures set forth in 6 CMC § 2150."

16 **Section 8. Amendment.** Subject to codification by the Law Revision
17 Commission, Title 6, Division 10 of the Commonwealth Code is amended by adding
18 Chapter 4, which shall read as follows:

19 **"Chapter 4. Gun Free Zones.**

20 **§ 401. Gun Free Zones.**

1 (a) No person in the Commonwealth, other than duly authorized law
2 enforcement officers in the exercise of their duties, shall possess a firearm
3 in any of the following places:

4 (1) Any building occupied primarily by the government and any
5 parking lot therefor, except for security personnel given
6 express permission to carry a firearm.

7 (2) Any government building, except for security personnel
8 given express permission to carry a firearm;

9 (3) Any Department of Public Safety building or office without
10 the consent of the chief law enforcement officer in charge of
11 that office or station;

12 (4) Within five hundred feet of any polling place on any election
13 day;

14 (5) Within five hundred feet of any daycare center any portion
15 of a building used as a child care facility without the consent
16 of the manager or owner. Nothing in this subsection shall
17 prevent the operator of a child care facility in a family home
18 from owning or possessing a firearm;

19 (6) Within five hundred feet of any adult or juvenile detention
20 or correctional institution, prison or jail;

21 (7) Within five hundred feet of any courthouse, or any
22 courtrooms, administrative offices, libraries or other rooms

- 1 of any such court whether or not such court solely occupies
2 the building in question. This subdivision shall also include,
3 but not be limited to, any juvenile, family, drug, or other
4 court offices, any room or office wherein any of the courts or
5 offices listed in this subdivision are temporarily conducting
6 any business within the jurisdiction of such courts or offices.
7 Nothing in this subdivision shall preclude those who serve
8 in a law enforcement capacity for a court or as may be
9 specified by court rule;
- 10 (8) Within five hundred feet of any building owned, leased or
11 controlled by the non-government agencies or programs that
12 specifically help victims of domestic violence, sexual
13 violence, and stalking;
- 14 (9) Within five hundred feet of any building hosting a public
15 meeting subject to the Open Government Act or any meeting
16 of the legislature;
- 17 (10) Within five hundred feet of any building owned, leased or
18 controlled by the legislature;
- 19 (11) Within five hundred feet of any building owned, leased or
20 controlled by the Office of the Attorney General;

- 1 (12) Within five hundred feet of any place of worship, unless
2 leadership of a particular place of worship, however
3 governed, elects to allow firearms;
- 4 (13) Any establishment licensed to dispense intoxicating liquor
5 for consumption on the premises; ~~without the express~~
6 ~~consent of the owner or manager.~~
- 7 (14) Within five hundred feet of any establishment containing
8 poker machines or that engages in gambling, except for
9 security personnel given express permission to carry a
10 firearm;
- 11 (15) Any place where the carrying of a firearm is prohibited by
12 federal law;
- 13 (16) Within one thousand feet of any higher education institution
14 or early childhood development facility, elementary or
15 secondary school facility, except for security personnel
16 given express permission to carry a firearm;
- 17 (17) Any hospital and any public or private clinics accessible by
18 the public. Possession of a firearm in a vehicle on the
19 premises of a hospital shall not be a criminal offense so long
20 as the firearm is kept in accordance with Chapter 2, § 206 of
21 this Act.

1 (18) Any private property whose owner, lessee, or manager has
2 posted the premises as being off-limits to firearms by means
3 of one or more signs displayed in a conspicuous place of a
4 minimum size of eleven inches by fourteen inches with the
5 writing thereon in letters of not less than one inch. The
6 owner, business or commercial lessee, manager of a private
7 business enterprise, or any other organization, entity, or
8 person may prohibit persons from carrying firearms on the
9 premises and may prohibit employees, not authorized by the
10 employer, from carrying firearms on the property of the
11 employer. An employer may prohibit employees or other
12 persons from carrying a firearm in vehicles owned by the
13 employer.

14 **§ 402. Gun Free Zones: Criminal Penalty.**

15 (a) It shall be a felony punishable by a fine of not more than \$10,000 or
16 imprisonment for not more than 10 years, or both, for any person to
17 knowingly possess a firearm in any location specified by section IX(a) of
18 this chapter.

19 **§ 403. Gun Free Zones: Civil Cause of Action**

20 (a) If a person possesses a firearm on private property in violation of
21 IX(a)(18) of this chapter, then the property owner may institute and
22 prosecute in his own name and on his own behalf, a civil action for

1 injunctive relief, for any damages actually incurred, punitive damages, and
2 for statutory damages in an amount not less than \$10,000. Further, the
3 property owner shall be entitled to attorney fees if he prevails in his action
4 against the person found to have violated § 401(a)(18) of this chapter.

5 (b) The term "property owner" is to be read broadly to include, among others,
6 owners of freehold estates, leasehold estates, owners and operators of
7 private businesses.

8 **§ 404. Gun Free Zones: Exceptions.**

9 (a) The provisions of this chapter regarding the possession of firearms do not
10 apply to:

11 (1) United States Marshals while engaged in the operation of
12 their official duties;

13 (2) Law enforcement, while engaged in the operation of their
14 official duties;

15 (3) Any member of law enforcement that keeps a firearm in a
16 motor vehicle in accordance with Chapter 2, § 209 of this
17 Act;

18 (4) Members of the Armed Forces of the United States or the
19 National Guard, while engaged in the operation of their
20 official duties;

21 (5) Federal officials required to carry firearms, while engaged in
22 the operation of their official duties;

- 1 (6) Any federal official required to carry firearms that keeps a
2 firearm in a motor vehicle in accordance with Chapter 2, §
3 209 of this Act;
- 4 (7) Members of bona fide veterans' organizations which receive
5 firearms directly from the armed forces of the United States,
6 while using the firearms for ceremonial purposes with blank
7 ammunition;
- 8 (8) Color guards of bona fide veterans' organizations or
9 members of bona fide American Legion bands while using
10 firearms for ceremonial purposes with blank ammunition;
- 11 (9) Any person who temporarily possesses a firearm while
12 participating in a firearms training and safety class
13 conducted by a firearms instructor;
- 14 (10) Any person present at a shooting range;
- 15 (11) Any person lawfully possessing a firearm on their person or
16 in their vehicle and moving upon the highways, roads, or
17 sidewalks of the Commonwealth in accordance with Chapter
18 2, § 209.
- 19 (12) Any person that lawfully resides within a gun free zone
20 under this Division may possess firearms in their home or on
21 their property and may transport said firearms from or to

1 their home or property in accordance with Chapter 2, § 209
2 this Act.”

3 **Section 9. Amendment.** Subject to codification by the Law Revision
4 Commission, Title 6, Division 10 of the Commonwealth Code is amended by adding
5 Chapter XX, Minimum Criminal Penalties.

6 Section 101. Where ever a maximum criminal penalty is imposed in
7 Title 6, Division 10, there shall be a minimum penalty equal to 10% of the
8 maximum penalty.”

9 **Section 10. Amendment.** Subject to codification by the Law Revision
10 Commission, Title 6, Division 10 of the Commonwealth Code is amended by adding
11 Chapter 5, which shall read as follows:

12 **“Chapter 5. Transition.**

13 **§ 501. Transition - Security mortgages, deposits, or pawns with firearms,**
14 **destructive devices, or ammunition prohibited; loan or rental of firearms,**
15 **destructive devices, or ammunition prohibited.**

16 (a) Chapter 3, § 304 of this Act shall not apply to any firearm or ammunition
17 lawfully pledged, pawned, or received as security under the
18 Commonwealth Weapons Control Act prior to the effective date of the
19 Special Act for Firearms Enforcement.

20 **§ 502. Transition – Illegal weapons and unregistered firearms**

21 (a) The Department of Public Safety shall not register, and shall seize, any
22 unregistered firearm that was present in the Commonwealth prior to the

1 effective date of the Special Act for Firearms Enforcement. This provision
2 shall not apply to individuals that were unable to register their firearms
3 because they were not a United States citizen or national under the former
4 language of 6 CMC § 2204(l).

5 (b) The Department of Public Safety shall not register, and shall seize, any
6 illegal firearm or firearm that was illegally present in the Commonwealth
7 prior to March 29, 2016.

8 (c) A firearm vendor shall not sell or transfer any unregistered firearm, illegal
9 firearm, or firearm that was illegally present in the Commonwealth prior to
10 the effective date of the Special Act for Firearms Enforcement. A firearm
11 vendor shall immediately notify the Department of Public Safety if the
12 vendor acquires any of the firearms described in this section.”

13 **Section 11. Amendment.** Subject to codification by the Law Revision
14 Commission, Title 3, Division 2, Chapter 5, Article 1 of the Commonwealth Code is
15 amended by establishing a new section which shall read as follows:

16 **“§ xxx. Seizure of Firearms.**

17 (a) A law enforcement officer who takes a person into custody pursuant to the
18 Involuntary Civil Commitment Act may immediately seize any firearm or
19 ammunition found in possession of the person. After seizing a firearm or
20 ammunition under this subsection, the Department of Public Safety shall
21 comply with the requirements of this Section.

1 (1) A law enforcement officer who seizes a firearm or
2 ammunition from a person taken into custody under the
3 Involuntary Civil Commitment Act shall promptly provide
4 the person a receipt for the firearm or ammunition and a
5 written notice of the procedure for the return of a firearm or
6 ammunition.

7 (b) If a person to whom written notice is provided or another lawful owner of
8 a firearm subject to disposition under this section does not submit a
9 written request to the Department of Public Safety for the return of the
10 firearm or ammunition before the 121st day after the date the Department
11 seizes the firearm or ammunition, the Department may sell, destroy, or
12 otherwise dispose of the firearm or ammunition as provided by law. The
13 proceeds from the sale of a firearm under this subsection shall be given to
14 the owner of the seized firearm, less the reasonable costs of administering
15 this section.”

16 **Section 12. Amendment.** Subject to codification by the Law Revision
17 Commission, 6 CMC § 2301(a)(3) is hereby repealed and reenacted which shall read as
18 follows:

19 **“§ 2301(a)(3). Firearms and ammunition.**

20 (i) The terms used in this section shall have the same meaning as the terms
21 defined in Chapter 4, § 101 of this Act.

22 (ii) Any firearm that cannot be lawfully possessed by a private person.

1 (iii) Any large capacity ammunition feeding device regardless of whether the
2 device is attached to a firearm. For the purposes of this subsection, the
3 term "large capacity ammunition feeding device" means a magazine, belt,
4 drum, feed strip, or similar device that has a capacity of, or that can be
5 readily restored or converted to accept, more than 10 rounds of
6 ammunition. The term "large capacity ammunition feeding device" shall
7 not include an attached tubular device designed to accept, and capable of
8 operating only with, .22 caliber rimfire ammunition.

9 (iv) Any restricted pistol bullet or any restricted bullet.

10 (v) The following individuals, organizations, and agencies are exempt from
11 this subsection:

12 (1) United States Marshals, while engaged in the operation of
13 their official duties;

14 (2) Members of the Armed Forces of the United States or the
15 National Guard, while engaged in the operation of their
16 official duties;

17 (3) Members of law enforcement, while engaged in the
18 operation of their official duties;

19 (4) A gunsmith who is in possession or seeks possession of a
20 firearm solely for the purposes of service or repair;

21 (5) A common carrier, warehouseman, or other person engaged
22 in the business of transporting or storing goods, to the extent

1 that the possession or receipt of any firearm is in the
2 ordinary course of business, not for the personal use of any
3 such person, and at the behest of a person, agency, or
4 organization exempted under this subsection.

5 (6) A person lawfully transporting a firearm through the
6 Commonwealth in accordance with 18 U.S.C. § 926A; or

7 (7) Federal officials required to carry firearms, while engaged in
8 the operation of their official duties.”

9 **Section 13. Amendment.** 4 CMC § 1407(b) is hereby amended to read as
10 follows:

11 “(b) *Customs Inspection and Clearance Required.* In the case of those goods,
12 commodities, resources, or merchandise whose first use in the Commonwealth requires
13 customs inspection and clearance, payment shall be made within 30 days after entry. Such
14 goods, commodities, resources, or merchandise may be released prior to payment of
15 excise tax and upon the submission of the bill of lading and/or manifest or invoice or any
16 other form prescribed by the secretary. Where the actual amount of tax cannot be
17 determined within seven calendar days after the entry, an estimated tax shall be paid
18 within 30 days after entry, subject to later adjustment. However, firearms may not be
19 released until complete payment of all taxes due and owing is made, and upon a showing
20 that the firearm has been properly registered and that the owner has a valid Weapons
21 Identification Card or Firearms Identification Card.”

1 **“Section 14.** A. 4 CMC §1402 is temporarily amended by adding a new
2 subsection as follows:

3 “(h) Pistols. \$1,000.00 per pistol. Pistol shall have the same meaning as
4 set forth in Title 6, Division 10 of the Commonwealth Code. The exemption for
5 Non-Business Use, §1402(d) shall not apply to the excise tax imposed on pistols.
6 This provision shall automatically expire one year after the effective date of this
7 law.”

8 “B. The following is hereby enacted.

9 The Governor shall immediately commission and fund a study to be conducted by
10 suitable professionals in order to determine the true costs to the Commonwealth, its
11 government, businesses, non-profits, and the people, of the introduction of the additional
12 types of firearms required by the recent District Court ruling into our society. The results
13 of that study shall be delivered to the Governor and the Legislature so that suitable
14 legislation can be proposed and adopted creating a taxation scheme that will require the
15 payment of these costs by the people and companies that seek to import or otherwise
16 introduce these additional firearms into the Commonwealth, at least 60 days before the
17 expiration of the temporary excise tax imposed on pistols.”

18 **“Section 15. Special Provision on Fines and Fees.**

19 All fines and fees collected pursuant to this Act shall be distributed accordingly:

20 (A) Fifty Percent (50%) to the Department of Public Safety (DPS) for its personnel
21 and operations in enforcing the intent of this Act, the Commissioner of DPS

1 shall be the expenditure authority of the funds allocated under subsection (A)
2 of this section;

3 (B) Ten Percent (10%) to the Division of Customs under the Department of
4 Finance for its operations in enforcing the intent of this Act, the Secretary of
5 the Department of Finance shall be the expenditure authority of the funds
6 allocated under subsection (B) of this section;

7 (C) Ten Percent (10%) to the Department of Corrections (DOC) for its operations
8 in enforcing the intent of this Act at the DOC, the Commissioner of DOC shall
9 be the expenditure authority of the funds allocated under subsection (C) of this
10 section;

11 (D) Ten Percent (10%) to the Division of Alcohol Beverage and Tobacco Control
12 (ABTC) under the Department of Commerce for its operations in enforcing its
13 authority on businesses within the Commonwealth of the Northern Mariana
14 Islands, the Secretary of the Department of Commerce shall be the expenditure
15 authority of the funds under subsection (D) of this section; and

16 Twenty Percent (20%) shall be reserved for all government buildings within the
17 Commonwealth of the Northern Mariana Islands for the purchasing of proper security
18 systems and other necessary equipment needed to upgrade the safety of the people
19 within the government buildings, the Secretary of the Department of Finance shall be
20 the expenditure authority of the funds under subsection (E) of this section.”

21 **Section 15. Amendment.** 6 CMC § 2204(l) is repealed and reenacted to read as
22 follows:

1 “(l) Only a person who is a United States Citizen, a United States National, or a
2 lawful permanent resident of the United States and a bona fide resident of the
3 Commonwealth is eligible for an identification card or for renewal thereof. A bona fide
4 resident of the Commonwealth means a person whose place of general abode is in the
5 Commonwealth of the Northern Mariana Islands.”

6 **Section 16. Severability.** If any provision of this Act or the application of any
7 such provision to any person or circumstance should be held invalid by a court of
8 competent jurisdiction, the remainder of this Act or the application of its provisions to
9 persons or circumstances other than those to which it is held invalid shall not be
10 affected thereby.

11 **Section 17. Effective Date.** This Act shall take effect upon approval by the
12 Governor or upon becoming law without such approval.

Prefiled: 3/30/16

Date: 3/30/16

Introduced By: /s/ Sen. Francisco M. Borja
/s/ Sen. Arnold I. Palacios
/s/ Sen. Sixto K. Igisomar
/s/ Sen. Justo S. Quitugua
/s/ Sen. Paul A. Manglona
/s/ Sen. Jude U. Hofschneider

Reviewed for Introduction Purposes by:

/s/ Antonette R. Villagomez
Senate Legal Counsel