



Governor Edward G. Rendell

# FIREARMS DIVISION Firearm Dealer's



Colonel Jeffrey B. Miller

## Newsletter

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### PAINTBALL GUNS & THE LAW

With the popularity of paintball guns growing, more questions are being raised regarding whether or not there are any laws governing the use of paintball guns. The use of paintball guns is addressed in 18 PA C.S. §2707.2.

A paintball gun or paintball marker may not be carried in a vehicle on a highway unless (1) it is empty of paintballs, (2) the propellant source is disconnected, disabled or turned off, (3) the paintballs are stored in a separate, closed container, and (4) the gun or marker is in a secure wrapper, has a barrel blocking device installed, or is not readily or directly accessible from the passenger compartment of the vehicle.



It is unlawful to discharge a paintball gun or paintball marker at a person not participating in a paintball game or paintball related recreational activity. A violation of the section is a summary offense.

### APPLICATION/RECORD OF SALE FORM

#### REVISED (5-2006)

The SP4-113 Application/Record of Sale (ROS) form used for the sale or transfer of hand guns has been revised and is now available. Anyone ordering this form will receive the updated version dated 5-2006.

**ALL FIREARM DEALERS ARE ADVISED TO DEplete THEIR CURRENT STOCK PRIOR TO USING THE REVISED FORMS!**

The ROS forms dated 2-2003 will be accepted up to and including July 1, 2007.

The only significant change to the front of the form is a prompt in Section A to give an explanation in Section F if you select "NO" for subject to sales tax. Section F now indicates in the title that it must be used for Transferor's/Seller's Information or Explanation for Nontaxable Sales.

The back of the form was updated to reflect all changes to state prohibiting offenses as follows:

- §5501 Riot was changed to §550(3) Riot

- §6105(c)(3) 75 Pa. C.S. §3802 is included with 75 Pa. C.S. §3731 when calculating 3 DUI'S within a 5 year period.
- §6105(c)(9) relating to the federal prohibitor of a misdemeanor crime of domestic violence is now included as a state prohibitor.

### FIREARM SALES – OUT OF STATE RESIDENTS

Under most circumstances, licensed firearm dealers are permitted to sell long guns to residents from other states as long as the buyer provides valid government issued ID, completes the necessary paperwork, and passes the background check. However, there are some states that have laws restricting the sale of firearms to residents of their state. Listed below are states with restrictions that we are aware of:

- California: residents can only purchase firearms within the state.
- District of Columbia: residents may purchase long guns in other states provided they present their purchase permit card.
- Hawaii: residents may purchase long guns in other states provided they present their purchase permit card.
- Illinois: residents can purchase long guns in other states provided they present their Firearm Owner's Identification Card.
- Massachusetts: residents may purchase long guns in other states provided they present their purchase permit card or a valid MA license to carry.
- New Jersey: residents may purchase long guns in other states provided they present their purchase permit card.

The Firearm Dealer's Newsletter is published by:

**Pennsylvania State Police  
Firearms Division  
1800 Elmerton Avenue  
Harrisburg, PA 17110**

Firearm Newsletter ..... (717) 705-8842  
Firearm Records/Compliance Units ..... (717) 783-5495  
PICS Instant Check Unit ..... (717) 783-5598  
PICS Challenge Unit ..... (717) 705-4682  
(717) 705-4683

## PREAPPROVAL OF FIREARMS

A number of calls have been received from auctioneers asking if they can run background checks on individuals interested in purchasing firearms to verify that they are not prohibited prior to auctioning the guns. Firearm dealers should refer to their PICS Manual, Appendix H, Administrative Regulations, page 10. The Regulations address the following procedure for obtaining a preapproval on the day of the auction:

*Preapproval.* At an auction or gun show/meet, an approval number may be obtained by a potential transferee/purchaser for use during a later firearm transaction, as defined in section 6111.2 of the act. The potential transferee/purchaser shall be required to present the required identification to the licensee, complete Section B on the application/record of sale and pay the required fee. The licensee shall then request that an instantaneous background check be conducted on the potential transferee/purchaser. If approved, the licensee shall place the approval number and date on the application, and retain it pending any transactions made by the potential transferee/purchaser on that date.

- (1) If the potential transferee/purchaser conducts a transaction that requires a completed application/record of sale, the form shall be completed and the transferee/purchaser shall be given a copy to serve as the receipt.
- (2) If the transferee/purchaser conducts a transaction that does not require a completed application/record of sale, the transferee/purchaser shall be given a copy of the partially completed form to serve as the receipt. The State Police copy shall be voided and forwarded to the State Police. The licensee's copy shall be retained as required. The licensee shall ensure the fee is included with the surcharge remittance form.
- (3) If no transaction is made on that date, the licensee shall void the form. The State Police copy shall be voided and forwarded to the State Police. The licensee's copy shall be retained as required. The licensee shall ensure the fee is included with the surcharge remittance form.

## AUCTION – GUN SHOW NOTIFICATION

Whenever possible PICS should be notified of any large gun auctions or gun shows to allow for adequate staffing. If proper notification is received, every effort is made to have adequate staff available to handle the volume of calls.

To notify PICS of an upcoming auction or gun show, fax the following information to 717-705-2308 or call 717-705-8843:

- Date, Time, and Location
- Who is sponsoring or promoting the event
- The contact person and a phone number where they can be reached on the day of the event
- How many tables will be set up or an estimate of the number of firearms to be transferred
- Who will be handling the security
- The name of the police department responsible for the area where the event is being held and their phone number



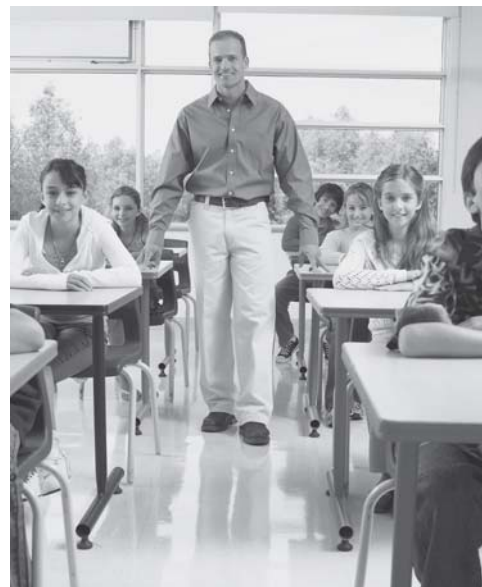
## FFLs AND THE GUN FREE SCHOOL ZONE

Issues arise concerning firearm possession within a school zone and more specifically, carrying a firearm to or from an FFL premises located near a school. Generally, it is unlawful for an individual to possess a

firearm within 1,000 feet of a school zone. However, there are a number of exceptions to the law - see Title 18 United States Code, Section 921(a)(25) for definition of "school zone" and Section 922(q) for the law concerning school zone possession.

The following examples list when the individual would not be in violation of the Federal law with respect to firearm possession in a school zone:

- The firearm is possessed on private property not part of school grounds, such as possession on an FFL's business premises;
- The firearm is unloaded and stored within a locked container (to include bringing a firearm to an FFL or departing the premises with a purchased firearm), or a locked firearms rack on a vehicle;
- The firearm is possessed by an individual that is licensed to do so by the State in which the school zone is located or a political subdivision of the State, and the law of the State or political subdivision requires, that, before an individual obtains such a license, the law enforcement authorities of the State or political subdivision verify that the individual is qualified under law to receive the license (e.g. a Pennsylvania carry permit with respect to a school zone in Pennsylvania);
- The firearm is possessed by an individual for use in a program approved by a school in the school zone;
- The firearm is possessed by an individual in accordance with a contract entered into between a school in the school zone and the individual or an employer of the individual;
- The firearm is possessed by an individual that is a law enforcement officer acting in his or her official capacity;
- The firearm is unloaded and is possessed by an individual while traversing school premises for the purpose of gaining access to public or private lands open to hunting, if the entry on school premises is authorized by school authorities.



## PA STATE LAW-WEAPONS ON SCHOOL PROPERTY

In addition to any federal restrictions regarding weapons on school property, Pennsylvania has its own law concerning this problem. Under 18 PA C.S. § 912, a person commits a misdemeanor of the first degree (M-1) if he possess a weapon in the buildings of, on the grounds of, or in any conveyance providing transportation to or from any elementary or



secondary publicly funded education institution, any elementary or secondary private school licensed by the Department of Education or any elementary or secondary parochial school. A person convicted of an M-1 may be sentenced to a maximum of 5 years in prison.

The term “weapon” in this section includes but is not limited to any knife, cutting instrument, cutting tool, nunchuck stick, firearm, shotgun, rifle and any other tool, instrument or implement capable of inflicting serious bodily injury.

## IMPORTANCE OF VERIFYING INDIVIDUAL INFO

After an individual’s driver’s license information is entered into the system, the computer reads back their personal information such as name, date of birth, etc. for the dealer/sheriff to verify. It then requests that the dealer/sheriff select option #1 if the information is correct, or option #2 if it is incorrect.

***It is very important that this information is verified as correct prior to selecting option #1.*** If it is not correct and you select option #1, a background check is conducted using information that may not be for the individual you are requesting a background check on. *This could result in an automatic approval on a person who would otherwise be prohibited!*

If you recognize that the individual’s information as listed in Penn DOT’s database is not correct, by selecting option #2 you will be referred directly to an operator who will enter the correct information. The system will then process the background check using the correct information and the transaction will be completed with minimal delay.

Dealers who neglect to verify the information read back to them and select option #1 automatically will be charged for both the initial background check transmitted in error and the second background check that was needed to run the correct information for the individual through the system.

## FIREARM SALES AND THE INTERNET



Anyone who purchases a firearm from a licensed firearm dealer must submit valid government issued photo ID, complete the required forms, and have a background check initiated by a

licensed firearm dealer from the individual’s state of residence. It is the responsibility of the firearm dealer conducting the background check to verify government issued photo ID. Therefore if a licensed firearm dealer were to participate in internet sales, it would have to be coordinated with a licensed firearm dealer that is accessible to the buyer(s).

Pennsylvania Law does not require private transfers of long guns to be conducted through a licensed dealer. However, federal law does prohibit the private transfer of any firearms to anyone who resides in another state. Also, the requirements of other state laws regarding the transfer of firearms must be considered when dealing with someone from out of state. Therefore private individuals who wish to transfer firearms to someone out of state must do so through a licensed firearm dealer from the buyer’s state of residence.

All handgun transfers between Pennsylvania residents must be completed by a PA licensed firearm dealer and a background check run on the buyer. The dealer must follow the procedures set forth in the Uniform Firearms Act as if he were the seller of the firearm. This does not apply to transfers between spouses, parent and child, or grandparent and grandchild as long as both parties live in PA.

## TAXABLE SALES & FEES

Pennsylvania firearm dealers are required to collect sales tax on retail sales made within the state. However PA firearm dealers who merely complete the background check for an individual but are not a part of the actual sale of the firearm are not required to collect PA sales tax.

If a dealer collects sales tax, the transaction is considered a taxable sale that must be reported on their surcharge remittance form and will require the submission of a \$3.00 surcharge tax fee per gun. If a dealer is merely completing a background check for a transfer they must report the background check on their next surcharge and pay the \$2.00 fee per background check.

### NFA WEAPONS

**A reminder to all firearm dealers that a PICS background check must be completed and an approval number obtained from PICS for the retail sale/transfer of all firearms, including NFA Firearms.**

## FIREARM RECIPROCITY REACHES 11 STATES

The Office of Attorney General has completed reciprocity agreements with the states of Missouri and South Dakota. There are now a total of 11 states that have reciprocal agreements with Pennsylvania to mutually recognize their licenses to carry firearms: Alaska, Florida, Georgia, Kentucky, Michigan, Missouri, New Hampshire, North Carolina, South Dakota, Texas, and Wyoming.

In addition to the above, the following states will recognize any out of state resident with a valid concealed weapons permit from their home state: Idaho, Indiana, Montana, Oklahoma, Tennessee, and Utah. In addition to having the actual permit you must have photo ID while carrying the weapon. Note that although these states recognize our license to carry permit, their residents may not carry a firearm concealed while in Pennsylvania as we do not have a reciprocity agreement with their state.

To obtain the most recent information concerning firearm reciprocity, go to the Pennsylvania Attorney General's web site at [www.attorneygeneral.gov](http://www.attorneygeneral.gov) and select "criminal law," then "firearm reciprocity" from the drop down prompt.



*Wishing  
a safe  
holiday  
season  
and  
Happy  
New  
Year to  
all.*

*From the employees  
of the Firearms Division*

You can access the Pennsylvania State Police web site at [www.psp.state.pa.us](http://www.psp.state.pa.us). If you click on "Documents, Brochures & Forms" as listed on the side bar at the left of your screen, you can view and print information and forms relating to firearms.