

COMMITTEE BILL ANALYSIS

Bill: House Bill 898

Printer's No.: 954

Sponsor: Rep. Toepel

Prepared by: Gregg Warner

Synopsis: This bill amends section 6111 of the Crimes Code, Title 18 of the Pennsylvania Consolidated Statutes, relating to the sale or transfer of firearms, to clarify when the penalty for a second or subsequent offense applies to a violation of this section.

Summary: A person shall be deemed to have been convicted of another offense under section 6111 whether or not judgment of sentence has been imposed for the initial violation.

Effective date

This act takes effect in 60 days.

Background: The House of Representatives passed House Bill 898 on April 26, 2011 by a vote of 186 to 10.

Section 6111

This section regulates the sale and transfer of firearms. The violations of this section range from a misdemeanor of the second degree to a felony of the third degree and include criminal and civil liability if the illegally sold or transferred firearm is used in the commission of a crime. A defendant who commits a second or subsequent offense commits a felony of the second degree and is subject to a mandatory minimum sentence of five years.

Case law

In the case of Commonwealth v. Jarowecki, 985 A.2d 955 (Pa. 2009) the Pennsylvania Supreme Court interpreted identical language in a child pornography statute to require that the mandatory sentence apply only when the second offense occurs after a conviction for the first offense. In a situation involving the straw purchase of firearms in violation of section 6111, multiple violations, the purchase of multiple firearms at multiple stores, may be consolidated into one case. Under House Bill 898 the sentencing judge would not have to wait until the sentencing for the first violation before applying the penalty for the second or subsequent violation.