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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 364 Session of  
2021

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INTRODUCED BY ISAACSON, CIRESI, DRISCOLL, FRANKEL, HANBIDGE,  
HOHENSTEIN, SANCHEZ, SCHWEYER, WEBSTER AND ZABEL,  
FEBRUARY 3, 2021

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REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 3, 2021

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AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, in firearms and other dangerous  
3 articles, further providing for sale or transfer of firearms,  
4 for duties of the Pennsylvania State Police and for altering  
5 or obliterating marks of identification and providing for  
6 destruction of confiscated or recovered firearms.

7 The General Assembly of the Commonwealth of Pennsylvania  
8 hereby enacts as follows:

9 Section 1. Sections 6111(c) and 6111.1(b)(4) of Title 18 of  
10 the Pennsylvania Consolidated Statutes are amended to read:

11 § 6111. Sale or transfer of firearms.

12 \* \* \*

13 (c) Duty of other persons.--Any person who is not a licensed  
14 importer, manufacturer or dealer and who desires to sell or  
15 transfer a firearm to another unlicensed person shall do so only  
16 upon the place of business of a licensed importer, manufacturer,  
17 dealer or county sheriff's office, the latter of whom shall  
18 follow the procedure set forth in this section as if he were the  
19 seller of the firearm. The provisions of this section shall not

1 apply to transfers between spouses or to transfers between a  
2 parent and child or to transfers between grandparent and  
3 grandchild. Nothing in this subsection may be construed to  
4 authorize the Pennsylvania State Police or any local law  
5 enforcement agency to sell or transfer any confiscated firearm  
6 in the possession of the Pennsylvania State Police or local law  
7 enforcement agency.

8 \* \* \*

9 § 6111.1. Pennsylvania State Police.

10 \* \* \*

11 (b) Duty of Pennsylvania State Police.--

12 \* \* \*

13 (4) The Pennsylvania State Police and any local law  
14 enforcement agency shall make all reasonable efforts to  
15 determine the lawful owner of any firearm confiscated or  
16 recovered by the Pennsylvania State Police or any local law  
17 enforcement agency and return said firearm to its lawful  
18 owner if the owner is not otherwise prohibited from  
19 possessing the firearm. If the reasonable efforts of the  
20 Pennsylvania State Police or local law enforcement agency  
21 fail to identify the lawful owner of the confiscated or  
22 recovered firearm within 120 days after the Pennsylvania  
23 State Police or local law enforcement agency comes into  
24 possession of the firearm, or if the lawful owner of the  
25 firearm is identified but otherwise prohibited from  
26 possessing the firearm, the Pennsylvania State Police or  
27 local law enforcement agency shall destroy the firearm under  
28 section 6117.1 (relating to destruction of confiscated or  
29 recovered firearms). When a court of law has determined that  
30 the Pennsylvania State Police or any local law enforcement

1 agency have failed to exercise the duty under this  
2 subsection, reasonable attorney fees shall be awarded to any  
3 lawful owner of said firearm who has sought judicial  
4 enforcement of this subsection.

5 \* \* \*

6 Section 2. Section 6117 of Title 18 is amended by adding a  
7 subsection to read:

8 § 6117. Altering or obliterating marks of identification.

9 \* \* \*

10 (e) Nonapplicability.--This section shall not apply to a  
11 firearm destroyed under section 6117.1 (relating to destruction  
12 of confiscated or recovered firearms).

13 Section 3. Title 18 is amended by adding a section to read:  
14 § 6117.1. Destruction of confiscated or recovered firearms.

15 (a) General rule.--Notwithstanding any other provision of  
16 law to the contrary, the Pennsylvania State Police and any local  
17 law enforcement agency shall destroy all confiscated or  
18 recovered firearms in the possession of the Pennsylvania State  
19 Police or local law enforcement agency if the reasonable efforts  
20 of the Pennsylvania State Police or local law enforcement agency  
21 required under section 6111.1(b)(4) (relating to Pennsylvania  
22 State Police) fail to identify the lawful owner of the firearm  
23 or if the lawful owner of the firearm is identified but  
24 otherwise prohibited from possessing the firearm.

25 (b) Exception.--No confiscated or recovered firearm may be  
26 destroyed under this section if the firearm is evidence in an  
27 ongoing investigation or in a criminal prosecution or civil  
28 litigation. Confiscated or recovered firearms under this section  
29 may only be destroyed when the investigation is complete or a  
30 court of competent jurisdiction issues an order authorizing the

1 destruction of the firearm.

2 (c) Method of destruction.--Confiscated or recovered  
3 firearms subject to destruction under this section shall be  
4 melted at smelting plants located within this Commonwealth.

5 (d) Procedure prior to destruction.--The following shall  
6 apply to confiscated or recovered firearms subject to  
7 destruction under this section:

8 (1) The Pennsylvania State Police or local law  
9 enforcement agency shall place all firearms in sealed  
10 containers and in a secure environment with access limited to  
11 individuals directly responsible for maintaining the official  
12 registry under paragraph (2).

13 (2) The Pennsylvania State Police or local law  
14 enforcement agency shall establish a registry for purposes of  
15 cataloging all confiscated or recovered firearms in the  
16 possession of the Pennsylvania State Police or local law  
17 enforcement agency. The Pennsylvania State Police and each  
18 local law enforcement agency shall designate one or more  
19 individuals who shall be responsible for maintaining the  
20 registry.

21 (3) A firearm shall be individually cataloged in the  
22 official registry required under paragraph (2). The registry  
23 shall contain the following information relating to the  
24 firearm:

25 (i) The serial number of the firearm.

26 (ii) The make and model of the firearm.

27 (iii) The date the firearm came into the possession  
28 of the Pennsylvania State Police or local law enforcement  
29 agency.

30 (iv) The earliest date on which the firearm can be

1 destroyed under this section.

2 (v) The date the lawful owner of the confiscated  
3 firearm was identified and the date the firearm was  
4 returned to the lawful owner, if applicable.

5 (vi) The date the firearm was destroyed.

6 (4) Firearms subject to destruction under this section  
7 shall be transported in sealed containers.

8 (e) Time period for destruction.--Except as otherwise  
9 provided in this section, firearms subject to destruction under  
10 this section shall be destroyed as promptly as possible but no  
11 less than quarterly. The Pennsylvania State Police or local law  
12 enforcement agency may maintain confiscated or recovered  
13 firearms in the possession of the Pennsylvania State Police or  
14 local law enforcement agency until accumulating a sufficient  
15 number of firearms to defray the costs associated with this  
16 section, provided that each firearm subject to destruction under  
17 this section shall be destroyed no later than 180 days after the  
18 firearm comes into the possession of the Pennsylvania State  
19 Police or local law enforcement agency.

20 Section 4. This act shall take effect in 60 days.