

CHAPTER 124  
FORMERLY  
HOUSE BILL NO. 36  
AS AMENDED BY  
HOUSE AMENDMENT NOS. 1 & 2

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO PENALTIES FOR POSSESSION AND PURCHASE OF DEADLY WEAPONS BY PERSONS PROHIBITED.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 1448(e), Title 11 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strikethrough as follows:

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

(e) (1) Notwithstanding any provision of this section or Code to the contrary, any person who is a prohibited person as described in this section and who knowingly possesses, purchases, owns or controls a firearm or destructive weapon while so prohibited shall receive a minimum sentence of:

a. ~~One~~Three years at Level V, if the person has previously been convicted of a violent felony;

b. ~~Three~~Five years at Level V, if the person does so within 10 years of the date of conviction for any violent felony or the date of termination of all periods of incarceration or confinement imposed pursuant to said conviction, whichever is the later date; or

c. ~~Five~~Ten years at Level V, if the person has been convicted on 2 or more separate occasions of any violent felony.

~~(2) Any person who is a prohibited person as described in this section because of a conviction for a violent felony and who, while in possession or control of a firearm in violation of this section, negligently causes serious physical injury to or the death of another person through the use of such firearm, shall be guilty of a class B felony and shall receive a minimum sentence of:~~

~~a. Four years at Level V; or~~

~~b. Six years at Level V, if the person causes such injury or death within 10 years of the date of conviction for any violent felony or the date of termination of all periods of incarceration or confinement imposed pursuant to said conviction, whichever is the later date; or~~

~~c. Ten years at Level V, if the person has been convicted on 2 or more separate occasions of any violent felony.~~

~~d. Nothing in this paragraph shall be deemed to be a related or included offense of any other provision of this Code. Nothing in this paragraph shall be deemed to preclude prosecution or sentencing under any other provision of this Code nor shall this paragraph be deemed to repeal any other provision of this Code.~~

(3) Any sentence imposed pursuant to this subsection shall not be subject to the provisions of § 4215 of this title. For the purposes of this subsection, "violent felony" means any felony so designated by § 4201(c) of this title, or any offense set forth under the laws of the United States, any other state or any territory of the United States which is the same as or equivalent to any of the offenses designated as a violent felony by § 4201(c) of this title.

(4) Any sentence imposed for a violation of this subsection shall not be subject to suspension and no person convicted for a violation of this subsection shall be eligible for good time, parole or probation during the period of the sentence imposed.

Section 2. Amend § 1448(c) of Title 11 of the Delaware Code by making insertion as shown by underlining and deletions as shown by strikethrough as follows:

(c) Possession of a deadly weapon by a person prohibited is a class F felony, unless said deadly weapon is a firearm or ammunition for a firearm, and the violation is 1 of paragraphs (a)(1) through (a)(8) of this section, in which case it is a class D felony, or unless the person is eligible for sentencing pursuant to subsection (e) of this section, in which case it is a class C felony. As used herein, the word "ammunition" shall mean 1 or more rounds of fixed ammunition designed for use in and capable of being fired from a pistol, revolver, shotgun or rifle but shall not mean inert rounds or expended shells, hulls or casings.

Approved July 18, 2013