

Legislation Text

File #: 080033, Version: 0

Amending Section 10-800 of The Philadelphia Code, entitled "Safety," by adding a new Section 10-821a, entitled "Contraband Weapons, Accessories and Ammunition," providing for the prohibition and registration of certain assault weapons and imposing penalties.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

Section 1. Chapter 10-800 of The Philadelphia Code, entitled "Safety," is amended to add a new Section 10-821a to read as follows:

§10-821a. Contraband Weapons, Accessories and Ammunition.

(1) Legislative Findings.

(a) The Council finds that the use of offensive weapons as implements of serious crime in Philadelphia represents an increasing danger to the lives and safety of all the residents thereof. In particular, certain paramilitary assault weapons have become the weapons of choice of those engaged in drug trafficking and other enterprises of organized crime. The threat to the lives of Philadelphia police officers has become particularly acute as a result of this on-going trend.

(b) The Council finds that it would be useful for law enforcement purposes to enhance prohibitions of certain offensive weapons by making possession, manufacture, transfer, delivery, sale and use of such weapons a violation of The Philadelphia Code, subject to certain exceptions. In so doing the Council finds that it would be useful to specifically include within the ban a variety of weapons and devices that are expressly recognized as offensive weapons. And that they should include, but not be limited to, paramilitary assault weapons, and the ammunition and accessories for such weapons, as well as a variety of other devices that have created special problems for local law enforcement.

(c) The statutory limitations of municipalities to regulate the possession, sale and transfer of firearms, as upheld by the Pennsylvania Supreme Court, has been duly considered and incorporated within the body of this legislation. And, we take into account the paramount interests of the public safety of the citizens of our City and Commonwealth.

(2) Definitions.

(a) "Assault weapon." The term includes the following:

(.1) Any semiautomatic pistol or semiautomatic or pump-action rifle that is capable of accepting a detachable magazine and that also possesses any of the following:

(i) If the firearm is a rifle, a pistol grip located at the rear of the trigger.

(ii) If the firearm is a rifle, a stock in any configuration, including, but not limited to, a thumbhole stock, a folding stock or a telescoping stock, that allows the bearer of the firearm to grasp the firearm with the trigger hand such that the web of the trigger hand, between the thumb and forefinger, can be placed below the top of the external portion of the trigger during firing.

(iii) If the firearm is a pistol, a shoulder stock of any type or configuration, including, but not limited to, a folding stock or a telescoping stock.

(iv) A barrel shroud.

(v) A muzzle break or muzzle compensator.

(vi) Any feature capable of functioning as a protruding grip that can be held by the hand that is not the trigger hand.

(.2) Any pistol that is capable of accepting a detachable magazine at any location outside of the pistol grip.

(.3) Any semiautomatic, center-fire rifle with a fixed magazine that has the capacity to accept more than ten rounds of ammunition.

(.4) Any shotgun capable of accepting a detachable magazine.

(.5) Any shotgun with a revolving cylinder.

(.6) Any conversion kit or other combination of parts from which a firearm described in paragraphs (.1) through (.5) can be assembled if the parts are in the possession or under the control of any person.

(b) "Barrel shroud." A covering, other than a slide, that is attached to or that substantially or completely encircles the barrel of a firearm and that allows the bearer of the firearm to hold the barrel with the nonshooting hand while firing the firearm, without burning that hand. The term does not include an extension of the stock along the bottom of the barrel that does not substantially or completely encircle the barrel.

(c) "Contraband Weapons, Accessories and/or Ammunition." Any assault weapon, bazooka, recoilless rifle, grenade, rifle grenade launcher, anti-tank gun, flame-thrower, rocket, mortar, bomb, mine, booby trap, large capacity magazine, large capacity ammunition belt, weapon silencer, expanding type conical bullet available in handgun chamberings, or other weapon, device, accessory or ammunition, designed or intended to cause injury or death to persons or damage to property for which no common lawful purpose exists, any item defined as an "offensive weapon" under the Act of December 6, 1972, P.L. 1482, No. 334, sec. 1, as amended, 18 Pa. C.S.A. 908(c) or any other military style weapon from which a projectile, harmful fluid or gas may be propelled.

(d) "Conversion kit." Any part or combination of parts designed and intended for use in converting a firearm into an assault weapon.

(e) "Detachable magazine." A magazine the function of which is to deliver one or more ammunition cartridges into the firing chamber of a firearm and which can be removed from the firearm without the use of

any tool, including a bullet or ammunition cartridge.

(f) “Inoperable.” The alteration of an assault weapon, or its ammunition, in such a manner that it cannot be fired and that the owner or possessor of the weapon does not possess or have control over the parts necessary to make the weapon operable.

(g) “Large Capacity Ammunition Belt.” A belt or strip which holds more than sixteen (16) rounds of ammunition to be fed continuously into a semi-automatic weapon, or an ammunition belt which can be readily converted into a large-capacity ammunition belt.

(h) “Large Capacity Magazine.” Any box, drum or other container which holds more than sixteen (16) rounds of ammunition to be fed continuously and directly therefrom into a semi-automatic weapon, or a magazine which can be readily converted into such a device.

(i) “Muzzle brake.” A device attached to the muzzle of a weapon that utilizes escaping gas to reduce recoil.

(j) “Muzzle compensator.” A device attached to the muzzle of a weapon that utilizes escaping gas to control muzzle movement.

(k) “Pistol Grip.” A well-defined handle, similar to that found on a handgun, that protrudes conspicuously beneath the action of the weapon, and which permits the shotgun to be held and fired with one hand.

(l) “Semi-Automatic.” A weapon which fires a single projectile for each single pull of the trigger and its self-reloading or automatically chambers a round, cartridge, or bullet without additional slide, bolt or other manual action.

(m) “Weapon Silencer.” Any instrument, attachment, weapon or appliance for causing the firing of any gun, revolver pistol or other weapon to be silent, or intended to lessen or muffle the noise of the firing of any gun, revolver, pistol or other weapon.

(3) Prohibited Conduct.

No person shall own, use, possess or transfer any contraband weapon, accessory or ammunition; provided however, that any person who, prior to the effective date of this Section, was legally in possession of a weapon or device prohibited by this Section shall have thirty (30) days from the effective date of this Section to do any of the following without being subject to prosecution hereunder;

(a) remove said contraband weapon, accessory and/or ammunition from within the City limits of Philadelphia; or

(b) modify said contraband weapon, accessory and/or ammunition to either render it permanently inoperable or to permanently make it a device no longer defined as contraband under this Section; or

(c) surrender it to the Police Department.

(4) Exceptions.

(a) This Section shall not apply to employees of the Philadelphia Police Department, and the Philadelphia Sheriff's Department when conduct otherwise prohibited by this Section is authorized by rules promulgated by such Department.

(b) The Police Department shall, by regulation, specify procedures whereby persons permitted to own, possess, transfer, deliver, or manufacture contraband weapons, accessories and/or ammunition notwithstanding the provisions of this Section may obtain certification of such exempt status, upon proving the basis of their exemption, and upon payment of a reasonable fee set by the Department to defray the cost of such certification process.

(5) Penalties.

Any person violating any provision of this Section shall be subject to a fine of not more than three hundred (300) dollars and to imprisonment for not more than ninety (90) days or both. Prosecution under this Section shall be subject to the defenses and exemptions set forth in 18 Pa. C.S.A. 908(b), as amended.

SECTION 2. Upon becoming effective, this Ordinance shall repeal Section 10-821 of The Philadelphia Code, entitled "Contraband Weapons, Accessories and Ammunition."