



# OLR RESEARCH REPORT

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## **SUMMARY OF SENATE BILL 1094, AS AMENDED BY LCO #8513 AND #8619**

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This report summarizes [Senate Bill 1094](#), as amended by LCO #8513 (Senate "A") and LCO #8619 (Senate "B").

### **SUMMARY**

This bill makes numerous revisions to [PA 13-3](#), which made extensive changes in the state's gun laws (see OLR Report [2013-R-0216](#)).

PA 13-3 expanded the assault weapons ban and, with some exceptions, also banned the sale of large capacity magazines (LCMs). The bill allows individuals to possess and register certain assault weapons or LCMs they purchased or placed on consignment prior to or on April 4, 2013, the day [PA 13-3](#) took effect, but did not receive until after that date (§§ 1, 5, & 6).

The bill expands and modifies the list of enforcement officers who may legally possess and purchase the banned weapons and LCMs, adding among others, Department of Motor Vehicles (DMV) inspectors, Department of Energy and Environmental Protection (DEEP) conservation officers, and Division of Criminal Justice (DCJ) inspectors (§§ 1, 5, & 6). These individuals do not have to register an assault weapon or declare an LCM being used in the discharge of their official duties and may keep the weapon or LCM after their service ends by registering or declaring it, as applicable (§ 2 & 7). On the other hand, the

bill subjects formerly exempt non-sworn employees of the Department of Emergency Services and Public Protection (DESPP), Department of Correction (DOC), and police departments to the purchase and possession bans and related laws.

The bill excludes Olympic target pistols from the assault weapons ban (§§ 5 & 6).

The bill requires a state, rather than national, criminal background check on purchasers of ammunition. DESPP conducts this check and may, at its discretion, conduct a national check (§ 12).

The bill:

1. defines what constitutes evidence of a lawful purchase for the purpose of determining constructive possession of an LCM or assault weapon;
2. allows lawfully possessed assault weapons to be transferred to someone through the establishment of a trust (§ 6);
3. reinstates a prohibition, eliminated by PA 13-3, on certain assault weapons defined by features (§ 3);
4. shortens the “look-back” period for determining eligibility for possessing firearms based on conviction for certain misdemeanors (§§ 13-16 );
5. bars the probate court from granting relief from certain firearm disabilities if it finds that the petitioner is barred from possessing a firearm under state law (§ 20); and
6. makes other conforming and miscellaneous changes.

EFFECTIVE DATE: Various, see below.

## **§ 1 — LCM**

### ***Lawful Purchase and Constructive Possession***

The bill defines what constitutes evidence of a “lawful purchase” for the purpose of determining constructive possession of an LCM.

Effective April 4, 2013, [PA 13-3](#), with exceptions, banned the sale and other transfer of any LCM that can hold more than 10 bullets. But it

allowed anyone who had (1) actual and lawful possession of an LCM or (2) constructive possession of one under a lawful purchase of a firearm containing an LCM transacted before April 4, 2013 to keep it by applying to declare it to DESPP by January 1, 2014.

For purposes of determining constructive possession, the bill extends the purchase transaction date by one day, to April 4, 2013. It thus legalizes and allows anyone who lawfully purchased a firearm containing an LCM on April 4, 2013 to declare it to DESPP and lawfully keep it.

The bill stipulates that evidence of a “lawful purchase” for purposes of constructive possession is a document indicating that the (1) parties entered into a contract for the sale and purchase of a firearm containing an LCM on or before April 4, 2013 or (2) buyer paid all or part of the purchase price on or before April 4, 2013. The bill also allows as evidence of actual or constructive possession a written statement made under penalty of false statement to the DESPP commissioner on a form he prescribes (lines 15-31). By law, making a false statement under oath is a class A misdemeanor, punishable by up to one year in prison, up to a \$2,000 fine, or both (CGS § [53a-157b](#)).

The bill changes the effective date of the ban on the sales and other transfers of LCMs from April 4, 2013 to April 5, 2013. It thus legalizes and allows anyone who lawfully purchased or possessed an LCM on April 4, 2013 to declare it to DESPP and lawfully keep it (lines 35-42).

The bill makes technical and conforming changes to reflect the date changes.

### ***Exemptions to the LCM Ban***

The bill increases and modifies the exemptions to the LCM ban in several ways, including expanding the list of enforcement officials and adding agencies.

Current law allows LCMs to be possessed, purchased, or imported by:

1. members and employees of the following entities for use in the discharge of their official duties or when off duty: DESPP, DOC, police departments, and the state or U.S. military and
2. employees of a Nuclear Regulatory Commission (NRC) licensee, for providing security services at a nuclear facility, or any person, firm, corporation, contractor, or subcontractor providing such services (lines 54-59 & 76-81).

**Enforcement Officials.** The bill eliminates the agency member and employee exemption and instead exempts the following specific enforcement officials when using the LCM in the discharge of their official duties or when off duty:

1. sworn and certified police (local or state) and correction officers,
2. DCJ inspectors or chief inspectors,
3. DMV salaried inspectors the DMV commissioner designates,
4. conservation or special conservation officers appointed by the DEEP commissioner, and
5. locally appointed constables certified by the Police Officer Standards and Training (POST) Council who perform criminal law enforcement duties (lines 60-73).

**Agency Exemption.** The bill exempts the following agencies and entities from the ban as well: DESPP, DEEP, DOC, DMV, DCJ, local police departments, and the state or U.S. military (lines 54-59).

**Military Exemption.** The bill eliminates the military employee exemption but retains the exemption for military members. Thus, it appears that civilian employees are subject to the ban (lines 58, 74-75).

**NRC Exemption.** The bill modifies the NRC exemption, exempting the nuclear facility, instead of the NRC employees. It also makes a related technical change (lines 76-81).

**Special Police for Armored Vehicles.** The bill also allows anyone the DESPP commissioner appoints to act as a special police officer for armored cars to possess, purchase, or import an LCM for use in the discharge of his or her official duties (lines 82-84).

**Manufacturers.** The bill exempts federally licensed firearm manufacturers that manufacture, purchase, test, or transport firearms or LCMs in Connecticut for sale (1) in Connecticut to the above-mentioned exempt entities or persons or (2) out of state.

The law already exempts LCM manufacturers that manufacture or transport LCMs in Connecticut for sale (1) to exempt persons in Connecticut or (2) out of state. The bill additionally exempts such manufacturers who purchase or test LCMs for such sale (lines 85-95).

The bill also allows the above-mentioned federally licensed firearm manufacturers to service or repair lawfully possessed LCMs (lines 101-105).

***Pawnbroker/Consignment Shop Exception.*** The bill allows a licensed gun dealer, licensed pawnbroker, or consignment shop operator to transfer an LCM to anyone who (1) legally possessed the LCM on or before April 4, 2013; (2) placed a firearm with the LCM included or attached in the possession of the dealer, pawnbroker, or operator on or before April 4, 2013 under an agreement; and (3) is eligible to possess the firearm on the date of the transfer (LCO #8619).

### ***Declared LCMs***

As is currently the case for an executor or administrator of an estate that includes an LCM that has been declared, the bill allows the trustee of a trust that includes a declared LCM to possess it and dispose of it as authorized by probate court if such disposition is otherwise permitted by law (lines 109-116).

The bill allows the transfer of a declared LCM, upon the death of a testator or settlor (1) to a trust or (2) from a trust to a beneficiary. The law already allows transfers by bequest or intestate succession (lines 118-123).

EFFECTIVE DATE: Upon passage

## **§ 2 — DECLARING AND CARRYING LCMS**

### ***LCM Declaration Not Required***

The bill explicitly exempts, from the requirement to declare an LCM, the following entities and people who possess an LCM for use in their official duties:

1. law enforcement agencies and their sworn and certified employees, DMV and DCJ inspectors, DEEP conservation officers, and POST-certified appointed constables (as described in § 1);
2. federally licensed NRC facilities and NRC security contractors; and
3. special sworn police officers for an armored vehicle.

And any of these exempt individuals may keep his or her LCM after retirement or separation from employment by declaring it to DESPP within 90 days of separation or retirement (lines 150-161).

**Federal Licensees.** The bill also exempts LCM manufacturers and federally licensed firearm manufacturers from the requirement to declare possession to DESPP (lines 161-164).

**Estate Trustee Exemption.** The bill allows the transfer of a LCM that has been declared, upon the death of a testator or settlor, (1) to a trust or (2) from a trust to a beneficiary eligible to possess the LCM. The law already allows transfers of an LCM by bequest or intestate succession (LCO #8619).

### **Carrying LCM**

The bill modifies one of the circumstances under which one may carry a lawfully possessed LCM.

Under current law, a person with a handgun permit may carry a lawfully possessed LCM in a handgun provided the LCM (1) is within a handgun lawfully possessed by the person before April 4, 2013, (2) does not extend beyond the bottom of the pistol grip, and (3) does not contain more than 10 bullets. The bill specifies that the LCM cannot extend more than one inch below the bottom of the pistol grip and changes the date for the purpose of determining lawful possession from April 4, 2013 to April 5, 2013 (lines 242-247).

EFFECTIVE DATE: Upon passage

### **§ 3 — BAN ON SEMIAUTOMATIC RIMFIRE FIREARMS RESTORED**

The bill reinstates a prohibition, eliminated by PA 13-3, on certain assault weapons defined by features.

Under prior law, certain semiautomatic firearms (whether centerfire or rimfire) that had two of specified features (or parts designed or intended to convert a firearm into any such assault weapon) were banned. PA 13-3 replaced the two-feature test with a one-feature test and applied the ban to semiautomatic centerfire firearms. In doing so, it eliminated the ban on semiautomatic rimfire weapons that met the two-feature test under prior law. The bill restores the ban.

EFFECTIVE DATE: Upon passage

#### **§ 4 — LAWFUL PURCHASE AND CONSTRUCTIVE POSSESSION OF ASSAULT WEAPONS**

The bill defines what constitutes evidence of “lawful purchase” for the purpose of determining constructive possession of an assault weapon (excluding those listed in current law).

Effective April 4, 2013, PA 13-3, expanded the assault weapons ban. But it allowed anyone who had (1) actual and lawful possession of any of the affected weapons or (2) constructive possession under a lawful purchase transacted before April 4, 2013 to keep the weapon, irrespective of when delivered, by applying for a DESPP certificate of possession for it by January 1, 2014 (in effect, registering the weapon).

As is the case with LCMs, for purposes of determining constructive possession, the bill extends the purchase transaction date by one day to April 4, 2013. It thus allows anyone who lawfully purchased or possessed any of the affected assault weapons on April 4, 2013 to register it with DESPP and lawfully keep it.

The bill stipulates that evidence of a “lawful purchase” for purposes of constructive possession of one of the affected assault weapons is documentation indicating that the (1) parties entered into a contract for the sale and purchase of the assault weapon on or before April 4, 2013 or (2) buyer paid all or part of the purchase price on or before April 4, 2013. The bill also allows as evidence of actual or constructive possession a written statement made under penalty of false statement to the DESPP commissioner on a form he prescribes.

EFFECTIVE DATE: Upon passage

#### **§ 5 — SALE AND TRANSFER OF ASSAULT WEAPONS**

Current law, with limited exceptions, prohibits the sale or other transfer of assault weapons.

The bill adds DCJ, DEEP, and DMV to the list of agencies and entities already exempt from the ban—namely, DESPP, DOC, police departments, and the state or U.S. military (lines 330-334). These are the same agencies exempt from the LCM ban under the bill (see lines 54-59). (It makes a technical change, eliminating a reference to the use of the weapons by the agencies for official duties and when off-duty.)

As is the case with LCMs, the bill additionally exempts sales of assault weapons to the following law enforcement officers for use in their official duties or when off-duty:

1. sworn and certified police and correction officers,
2. DCJ inspectors or chief inspectors,
3. DMV salaried inspectors the DMV commissioner designates,
4. conservation or special conservation officers appointed by the DEEP commissioner, and
5. POST-certified appointed constables who perform criminal law enforcement duties (lines 336-346).

An exempt individual must provide (presumably to the seller at the time of purchase) a letter on the letterhead of the department, division, commissioner, or local chief executive authority authorizing the purchase stating that (1) the individual will use the weapon in the discharge of his or her official duties and (2) a record check shows that he or she has not been convicted of a family violence crime (lines 346-352).

***Military Exemption.*** The bill adds an exemption for members of the state or U.S. military (lines 355-356).

***NRC Exemption.*** The bill modifies the NRC exemption (see NRC exemption for LCM in § 1 above).

### ***Authorized Transfers of Assault Weapons***

***Transfers of Assault Weapon To and From a Trust.*** The bill expands the circumstances under which an assault weapon may be transferred by allowing the transfer of a registered weapon, upon the death of a testator or settlor, (1) to a trust or (2) from a trust to a beneficiary eligible to possess the weapon. The law already allows transfers of registered weapons by bequest or intestate succession (lines 370-375).

***Sale of Assault Weapon for Use in the Olympics.*** The bill allows the sale of certain semiautomatic pistols for target shooting at the Olympic Games. The exemption applies to a semiautomatic pistol, excluding those listed by name in current law, designated by the DESPP commissioner as a weapon designed expressly for use in target shooting events at the Olympic Games sponsored by the International Olympic

Committee (IOC). Also, the buyer must sign a form, prescribed by the commissioner and provided by the seller, indicating that he or she will use the pistol primarily for target shooting practice and events (lines 376-386).

The bill requires the commissioner to adopt regulations designating semiautomatic pistols defined as assault weapons that may be sold for this purpose, provided their use is sanctioned by IOC and USA Shooting, or any subsequent corresponding governing board for international shooting competition in the United States (lines 386-395).

EFFECTIVE DATE: Upon passage

## **§ 6 — POSSESSION OF ASSAULT WEAPON**

Current law, with some exceptions, prohibits the possession of assault weapons. The bill expands some exemptions to the ban and modifies others (see § 5 for parallel changes pertaining to sales).

It permits the following agencies and entities to possess assault weapons: DCJ, DEEP, DESPP, DMV, DOC, police departments, and the state or U.S. military. Under current law, members and employees of some of these agencies are exempt from the ban, but not the agencies themselves.

The bill modifies the exemption that currently applies to members and employees of DESPP, DOC, police departments, and the state or U.S. military. Specifically, instead of exempting members and employees, it exempts the following law enforcement officers who possess the weapon for use in the discharge of their official duties or when off duty:

1. sworn and certified police and correction officers,
2. DCJ inspectors or chief inspectors,
3. DMV salaried inspectors the DMV commissioner designates,
4. conservation or special conservation officers the DEEP commissioner appoints, and
5. POST-certified appointed constables who perform criminal law enforcement duties.

**Military Exception.** The bill retains the exemption for military members, but it eliminates the military employee exemption.

**NRC Exemption.** The bill modifies the NRC exemption (see the assault weapon sale ban in § 5).

**Estate Trustee Exemption.** The bill allows the trustee of a trust that includes a registered assault weapon to possess the weapon, subject to the law's restrictions, just like the executor or administrator of an estate that includes a registered assault weapon can already do (lines 480-487).

**Olympic Exception.** The bill allows the possession of a semiautomatic pistol (excluding any listed by name in current law) that is designated by the DESPP commissioner, in regulations, as a weapon designed expressly for use in target shooting events at the IOC-sponsored Olympic Games. The weapon must be (1) possessed or transported in accordance with the law (see § 8) or (2) possessed at or transported to or from a collegiate, Olympic, or target pistol shooting competition in Connecticut sponsored by, conducted under the auspices of, or approved by a law enforcement agency or a nationally or state-recognized entity that fosters proficiency in, or promotes education about, firearms, provided the weapon is transported in compliance with the law (see § 9).

### **Lawful Possession of Assault Weapons**

The bill allows anyone who, on April 4, 2013, lawfully possessed an assault weapon (excluding any listed in current law) to register and keep the weapon. Under PA 13-3, the deadline was April 3, 2013 (lines 463-476).

EFFECTIVE DATE: Upon passage

## **§ 7 — ASSAULT WEAPONS REGISTRATION**

The bill exempts the following entities and law enforcement officials from the requirement to register lawfully possessed assault weapons used for official duties:

1. DEEP, DESPP, DCJ, DMV, DOC, police departments, and state or U.S. military and
2. (a) sworn and certified police and correction officers, (b) DCJ inspectors; (c) salaried DMV inspectors designated by the DMV commissioner; (d) conservation or special conservation officers appointed by the DEEP commissioner; or (e) POST-certified

appointed constables who perform law enforcement duties (lines 567-580).

All of these exempt individuals must register their weapon to use it off duty. Such individuals who (1) purchase an assault weapon for use in the discharge of their official duties and (2) retire or are otherwise separated from service must apply to register the weapon within 90 days of such retirement or separation (lines 521-534 & 567-580).

The bill also exempts from the registration requirement federally licensed nuclear facilities and security contractors who use the weapon for official duties (lines 567-568).

It allows anyone who, on April 4, 2013, was in lawful possession of an assault weapon (except those listed in current law) to apply to register it. It does this by changing the date for determining lawful possession from April 3, 2013 to April 4, 2013 (lines 535-540). Also, anyone who (1) regains possession of such an assault weapon, from a licensed gun dealer, licensed pawn broker, or consignment shop operator, placed with them on or before April 4, 2013, or (2) lawfully purchased certain specified firearms on or after April 4, 2013, but before the effective date of this section (which is upon passage), must apply by January 1, 2014 for a certificate of possession unless the person is a military member (see § 11). The weapons in the latter category are ones banned under prior law's two-feature test (lines 542-548).

***Estate Trustee Exemption.*** Existing law and PA 13-3 prohibit anyone with a registered assault weapon from (1) selling or transferring the weapon in Connecticut to anyone except a licensed gun dealer or (2) otherwise transferring the weapon except by (a) bequest or intestate succession or (b) prior arrangement to DESPP or a local police department. The bill changes the effective date of this prohibition for the assault weapons (except those listed in current law) from April 4, 2013 to April 5, 2013 (lines 608-628).

The bill also allows the trustee of a trust that includes a registered assault weapon, upon the death of the testator or settlor, to transfer the weapon (1) to a trust or (2) from a trust to a beneficiary eligible to possess the weapon (lines 608-628—see also §§ 5 and 6).

***Olympic Assault Pistol Registration Provision.*** The bill requires anyone who lawfully purchases a semiautomatic pistol (excluding any listed in current law) designated by DESPP as being designed expressly for target shooting at the IOC-sponsored Olympic Games, to apply within 90 days of such purchase for a certificate of possession for the weapon (lines 554-566).

EFFECTIVE DATE: Upon passage

## **§ 8 — ASSAULT WEAPONS – NONRESIDENTS AND OLYMPIC EXCEPTION**

Under existing law and PA 13-3, anyone who possesses a registered assault weapon may possess it only at specified locations, such as:

1. his or her home or business place;
2. a licensed shooting club; or
3. while attending an exhibition, display, or educational project about firearms sponsored or approved by, or conducted under the auspices of, a law enforcement agency or a national or state-recognized entity that fosters proficiency in firearms use or promotes firearms education.

### ***Olympic Exception***

The bill allows a nonresident who has a certificate of possession to transport certain assault weapons into and through Connecticut to (1) attend any exhibition, display, or educational project described above or (2) participate in a collegiate, Olympic, or target pistol shooting competition in Connecticut sponsored or approved by, or conducted under the auspices of, a law enforcement agency or a nationally or state-recognized entity that fosters proficiency in, or promotes education about, firearms.

These exceptions apply only in the following circumstances:

1. the weapon must be a semiautomatic pistol (other than any listed in current law) designated by the DESPP commissioner in regulations as being designed expressly for use in target shooting events at the Olympics;

2. the pistol is being transported into or through Connecticut no more than 48 hours before or after the exhibition, display, project, or competition;
3. the pistol is unloaded and carried in a locked carrying case, and the ammunition is carried in a separate locked container;
4. the nonresident has not been convicted of a felony in Connecticut or of an offense in another state that would constitute a felony if committed here; and
5. the nonresident has in his or her possession a pistol permit or firearms registration card, if such a credential is required to possess the pistol under the laws of his or her home state (lines 657-682).

EFFECTIVE DATE: Upon passage

## **§ 9 — ASSAULT WEAPONS**

If a person is permitted to transport an assault weapon, current law prohibits (1) carrying it loaded and concealed from public view or (2) knowingly having it in a motor vehicle unless it is unloaded and kept in the trunk or a container inaccessible to the driver or passenger. The bill exempts the following law enforcement officials and inspectors from these restrictions when they possess the weapon for use in discharging their duties or when off duty:

1. sworn and certified police and correction officers;
2. DCJ inspector or chief inspectors;
3. DMV salaried inspectors designated by the DMV commissioner;
4. POST-certified appointed constables who perform law enforcement duties; or
5. conservation officers or special conservation officers appointed by the DEEP commissioner.

The bill exempts these same individuals from the ban on assault weapons sales and possession (see §§ 5-6).

### ***Service or Repair***

The bill allows a federally licensed firearm manufacturer, as current law allows for a licensed gun dealer, to take possession of a registered assault weapon to service or repair it. Unlike licensed gun dealers, the bill does not allow these manufacturers to transfer the weapon to a gunsmith (lines 711-717).

### ***Consignment Shops/Pawn Shops***

The bill allows, until December 31, 2013, anyone who lawfully possessed a weapon that became a banned assault weapon after the passage of PA 13-3 on April 4, 2013 to transfer it to a licensed gun dealer in or out of state for sale out of state. The bill allows such a person to transport the assault weapon to the dealer without registering it (lines 728-738).

Until October 1, 2013, the bill also allows a licensed gun dealer, licensed pawnbroker, or consignment shop operator to transfer possession of any assault weapon to a person who:

1. legally possessed it on or before April 4, 2013;
2. placed the weapon in the possession of the dealer, pawnbroker, or operator on or before April 4, 2013 under an agreement to sell the weapon to a third person; and
3. is eligible to possess it on the date it is transferred back to the person (lines 739-748).

EFFECTIVE DATE: Upon passage

### **§ 10 — THIRD-PARTY EXCEPTION**

The bill allows federally licensed manufacturers to transport and temporarily transfer assault weapons to and from third parties solely to permit the third party to perform a function in the manufacturing production process (lines 757-767).

EFFECTIVE DATE: Upon passage

### **§ 11 — EXCEPTIONS FOR CERTAIN PRE-1994 RIFLES**

The bill specifically retains an exemption for certain pre-1994 rifles defined by feature, thereby eliminating an ambiguity in PA 13-3.

Prior to the passage of PA [13-3](#), certain semiautomatic rifles not listed by name but defined by features were exempt from the assault weapons transfer and registration requirements if they were legally manufactured before September 13, 1994 (CGS § [53-202m](#)). PA [13-3](#) retained the exemption but eliminated the referenced provisions in the law describing the features. Thus, the status of these pre-1994 weapons under PA 13-3 is unclear. The bill specifically retains the exemption for these rifles.

EFFECTIVE DATE: Upon passage

## **§ 12 — SALE OF LONG GUNS**

PA 13-3 added several new requirements regarding the sale of long guns. This bill modifies several of these and existing law's requirements. Several changes pertain to private (nondealer) sales and transfers.

### ***Long Gun Sales by Nondealers***

PA 13-3 prohibits nondealers from selling or transferring long guns to other nondealers, unless DESPP authorizes the transaction or specified background check requirements are met. Specifically, the act requires:

1. the prospective transferor and transferee to comply with the documentation and authorization requirements that apply to retail sales (i.e., gun dealer sales) of long guns (e.g., the (a) seller must document the transaction with DESPP, maintain copies of the record, and obtain an authorization number from DESPP and (b) buyer must undergo a national instant criminal background (NICS) check) or
2. a federally licensed gun dealer, upon the request of the prospective transferor or transferee, to consent to initiate a NICS check in accordance with specified procedures, and the background check must show that the transferee is eligible to receive the gun. (It appears that this option is available only on and after January 1, 2014.)

Instead of the dealer-initiated NICS check, the bill provides for a dealer-initiated DESPP check. Specifically, it provides for the prospective transferor or transferee to ask the gun dealer to initiate a background check on his or her behalf and obtain a DESPP authorization number for the transaction (lines 847-853).

The bill also specifically provides that DESPP must make every effort, including performing the NICS check, to determine if the prospective transferee is eligible to receive the firearm. DESPP must immediately notify the dealer of its determination and the dealer must immediately notify the prospective transferor or transferee of the determination. If DESPP determines the prospective transferee is ineligible to receive the firearm, the bill prohibits the sale or transfer of the firearm. If DESPP determines that the person is eligible and provides an authorization number, the prospective transferor may transfer the firearm. The bill makes conforming and corresponding changes (lines 886-902).

Under PA 13-3, a dealer may charge up to \$20 for initiating the background check. The bill removes the cap, thereby allowing a dealer to charge an unspecified fee for contacting DESPP on the prospective transferor's or transferee's behalf (lines 879-881).

### ***Exemptions***

***Law Enforcement.*** On and after April 1, 2014, PA 13-3 required anyone, except a federal marshal, parole officer, or peace officer, buying or receiving a long gun to have a long gun eligibility certificate, handgun permit, handgun dealer permit, or handgun eligibility certificate (lines 781-790). The bill eliminates the general exemption for these officers and instead (1) limits the exemption to specific officials and (2) extends the exemptions to certain agencies and entities. It also, with one exception, exempts them from all the long gun sale-related requirements, instead of just the credential requirement.

Specifically the bill exempts the sale, delivery, or transfer of long guns to the following entities from the requirements pertaining to these transactions: DESPP, police departments, DCJ, DEEP, DOC, DMV, and the state or U.S. military. It also exempts the following specified law enforcement officials and inspectors who possess the weapon for use in the discharge of their official duties or when off duty:

1. sworn and certified police and correction officers,
2. DCJ inspectors or chief inspectors,
3. DMV salaried inspectors designated by the DMV commissioner,
4. conservation or special conservation officers appointed by the DEEP commissioner, and

5. POST-certified appointed constables who perform law enforcement duties.

The buyer must provide a letter on the letterhead of the pertinent entity or agency authorizing the purchase. The letter must state that (1) the individual will use the weapon in the discharge of his or her official duties and (2) a records check shows that he or she has not been convicted of a family violence crime (lines 789 and 943-968).

***NRC Exemption.*** The bill exempts NRC-licensed nuclear facilities for providing security at the facility or any contractor or subcontractor providing such security (lines 969-972). It also exempts members of the state or U.S. military (lines 968-969).

***Curios, Relics, and Antiques.*** The bill adds exemptions for curios or relics transferred to or between federally licensed firearm collectors (lines 973-979). It exempts antique firearms, as defined in existing law, from all the provisions pertaining to long gun sales and transfers, instead of just the waiting period (lines 922-936 and 979).

***Federal Licensees.*** PA 13-3, exempted from the requirements regarding sales of long guns sales between certain federal firearm licensees (FFLs), namely (1) manufacturers and dealers, (2) importers and dealers, or (3) dealers (lines 973-979). The bill exempts sales to these FFLs as well, instead of just between them.

***Age Restrictions.*** The bill specifies that the above entities and people are subject to PA 13-3's provisions regarding gun dealer sales of long guns to minors. PA 13-3 prohibits gun dealers from selling (1) long guns to anyone under age 18 and (2) semiautomatic centerfire rifles that have or accept a magazine with a capacity of more than five rounds to anyone under age 21, with some exemptions.

EFFECTIVE DATE: Upon passage

## **§ 13 — STATE BACKGROUND CHECKS**

The bill requires DESPP to conduct a state, rather than national, criminal history records check on a person who applies for an ammunition certificate, created by PA 13-3. By law, the check must be conducted using only the person's name and date of birth (line 987).

EFFECTIVE DATE: July 1, 2013

## **§§ 14-16 — PROHIBITIONS BASED ON MISDEMEANOR CONVICTIONS**

### **§ 14 — State Permit to Carry Handgun**

The law prohibits a person from receiving a gun permit if he or she has been convicted of certain misdemeanors specified in law. The bill applies the prohibition only to misdemeanor on or after October 1, 1994 (i.e., the date the prohibition based on these misdemeanor convictions was added to the permitting statute).

The misdemeanor convictions are:

1. a first offense of possessing (a) between .5 and four ounces of marijuana or (b) a controlled substance other than a narcotic or other hallucinogen (a subsequent offense is a felony);
2. the following class A misdemeanors: criminally negligent homicide; 3<sup>rd</sup> degree assault; 3<sup>rd</sup> degree assault of an elderly, blind, disabled, pregnant, or intellectually disabled person; 2<sup>nd</sup> degree threatening; 1<sup>st</sup> degree reckless endangerment; 2<sup>nd</sup> degree unlawful restraint; 1<sup>st</sup> degree riot; inciting to riot; and 2<sup>nd</sup> degree stalking; and
3. the class B misdemeanor of 2<sup>nd</sup> degree riot.

EFFECTIVE DATE: October 1, 2013

### **§ 15 — Long Gun Eligibility Certificate**

PA 13-3 prohibits someone from receiving a long gun eligibility certificate if he or she has certain prior misdemeanor convictions (the same ones listed above). The bill shortens the “look back” period, applying the prohibition to misdemeanor convictions on or after October 1, 1994.

EFFECTIVE DATE: July 1, 2013

### **§ 16 — Criminal Possession of a Handgun (Pistol or Revolver)**

PA 13-3 expands the crime of criminal possession of handgun, effective October 1, 2013. Under existing law and PA 13-3 one way to commit this crime is to possess a handgun after having been convicted of one of the misdemeanors listed above (§ 13). (These are the same misdemeanors that prohibit a person from getting a handgun permit.)

Under the bill, a person commits this crime only if he or she was convicted of one of these misdemeanors on or after October 1, 1994.

EFFECTIVE DATE: October 1, 2013

## **§ 17 — ARMOR PIERCING AMMUNITION**

### ***Police Officer Exemption***

Existing law allows the sale of armor piercing ammunition to DESPP, DOC, police departments, and the state or U.S. military for use in the discharge of their official duties (lines 1172-1175). The bill additionally allows sworn and certified police to transport or carry a firearm loaded with an armor piercing bullet or incendiary .50 caliber bullet (1176-1179).

***Allowed Transfers.*** The bill allows transfers of armor piercing ammunition, upon the death of a testator or settlor (1) to a trust or (2) from a trust to a beneficiary who can lawfully possess it. The law already allows transfer by bequest or intestate succession (lines 1183-1186).

EFFECTIVE DATE: October 1, 2013

## **§ 18 — APPEALS TO FIREARM BOARD**

The bill allows someone refused an ammunition certificate to appeal to the Board of Firearms Permit Examiners, under existing procedures that apply to other gun credentials.

EFFECTIVE DATE: July 1, 2013

## **§ 19 — AMMUNITION AND AMMUNITION MAGAZINE SALES**

Current law, with minor exceptions, prohibits the sale of ammunition unless the buyer holds a state credential (permit or certificate).

The bill extends the exemption to the sale of ammunition and ammunition magazine to the following:

1. DESPP, police departments, DCJ, DEEP, DMV, DOC, and the state or U.S. military;
2. (a) sworn and duly certified police and correction officers, (b) DCJ inspectors or chief inspectors, (c) DMV salaried motor vehicle

inspectors designated by the DMV commissioner, (d) conservation or special conservation officers appointed by the DEEP commissioner, or (e) POST-certified constables who perform law enforcement duties, for use in the discharge of their official duties or when off duty;

3. state or U.S. military members;
4. NRC-licensed nuclear facility for providing security at the facility or any contractor or subcontractor providing such security.

The bill modifies the FFL exemption, applying it to sales made by anyone to these FFLs, not just sales between the FFLs. It also extends the exemption to federally licensed collectors (lines 1212-1216, 1240-41).

EFFECTIVE DATE: Upon passage

## **§ 20 — RELIEF FROM FIREARM DISABILITIES**

The bill bars the probate court from granting relief from certain firearm disabilities if it finds that the petitioner is barred from possessing a firearm under state law (lines 1331-1334).

Federal law prohibits anyone who has been “adjudicated as a mental defective” or “committed to a mental institution” from shipping, transporting, receiving, or possessing firearms or ammunition, unless the person's firearm privileges are restored under a federally approved program. It contains a court procedure for restoring firearm privileges lost as a result of federal adjudications or commitments. State law contains a similar procedure for restoring such privileges lost because of a state adjudication or commitment. The court must grant relief if it finds by clear and convincing evidence that (1) the petitioner is not likely to act in a manner dangerous to public safety and (2) granting relief is not contrary to the public interest.

EFFECTIVE DATE: October 1, 2013

## **§§ 21-22 — TECHNICAL AND CONFORMING CHANGES**

These sections make technical and conforming changes.

EFFECTIVE DATE: Upon passage

## **ADDITIONAL RESOURCES**

For a (1) summary of the gun provisions in [PA 13-3](#), see [2013-R-0216](#) and (2) list of banned assault weapons see [2013-R-0241](#).

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