

2019 -- S 0597

=====
LC001784
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

—————
A N A C T

RELATING TO CRIMINAL OFFENSES -- WEAPONS

Introduced By: Senators de la Cruz, Rogers, Paolino, McCaffrey, and Lombardo

Date Introduced: March 14, 2019

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 11-47-2, 11-47-8 and 11-47-42 of the General Laws in Chapter 11-
2 47 entitled "Weapons" are hereby amended to read as follows:

3 **11-47-2. Definitions.**

4 When used in this chapter, the following words and phrases are construed as follows:

5 (1) "Antique firearm" is defined as that term is defined under the provisions of 18 U.S.C.
6 § 921.

7 (2) "Binary trigger" means a device that replaces a standard trigger on a semi-automatic
8 weapon and is designed to fire one round on the pull of the trigger and another round upon release
9 of the trigger.

10 (3) "Bump-fire stock" means any device that replaces a semi-automatic weapon's
11 standard stock and is designed to slide back and forth rapidly, harnessing the weapon's recoil to
12 rapidly fire the weapon.

13 (4) "Crime of violence" means and includes any of the following crimes or an attempt to
14 commit any of them: murder, manslaughter, rape, first- or second-degree sexual assault, first- or
15 second-degree child molestation, kidnapping, first- and second-degree arson, mayhem, robbery,
16 burglary, breaking and entering, any felony violation involving the illegal manufacture, sale, or
17 delivery of a controlled substance, or possession with intent to manufacture, sell, or deliver a
18 controlled substance classified in schedule I or schedule II of § 21-28-2.08, any violation of § 21-
19 28-4.01.1 or § 21-28-4.01.2 or conspiracy to commit any violation of these statutes, assault with a

1 dangerous weapon, assault or battery involving grave bodily injury, or assault with intent to
2 commit any offense punishable as a felony; upon any conviction of an offense punishable as a
3 felony offense under § 12-29-5.

4 (5) "Firearm" includes any machine gun, pistol, rifle, air rifle, air pistol, "blank gun", "BB
5 gun", ["taser"](#) or other instrument from which steel or metal projectiles are propelled, or that may
6 readily be converted to expel a projectile, except crossbows, recurve, compound, or longbows,
7 and except instruments propelling projectiles that are designed or normally used for a primary
8 purpose other than as a weapon. The frame or receiver of the weapon shall be construed as a
9 firearm under the provisions of this section.

10 (6) "Fugitive from justice" means any person who has fled from any state, territory, the
11 District of Columbia, or possession of the United States to avoid prosecution for a crime of
12 violence or to avoid giving testimony in any criminal proceeding.

13 (7) "Licensing authorities" means the board of police commissioners of a city or town
14 where the board has been instituted, the chief of police or superintendent of police of other cities
15 and towns having a regular organized police force, and, in towns where there is no chief of police
16 or superintendent of police, it means the town clerk who may issue licenses upon the
17 recommendation of the town sergeant, and it also means any other person or body duly authorized
18 by the city or town charter or by state law.

19 (8) "Machine gun" means any weapon that shoots, is designed to shoot, or can be readily
20 restored to shoot automatically more than one shot, without manual reloading, by a single
21 function of the trigger. The term also includes the frame or receiver of the weapon, any
22 combination of parts designed and intended for use in converting a weapon into a machine gun,
23 and any combination of parts from which a machine gun can be assembled if the parts are in the
24 possession or under the control of a person.

25 (9) "Person" includes an individual, partnership, firm, association, or corporation.

26 (10) "Pistol" includes any pistol or revolver, and any shotgun, rifle, or similar weapon
27 with overall length less than twenty-six inches (26"), but does not include any pistol or revolver
28 designed for the use of blank cartridges only.

29 (11) "Sawed-off rifle" means any rifle with overall length of less than twenty-six inches
30 (26") or barrel length of less than sixteen inches (16").

31 (12) "Sawed-off shotgun" means any shotgun with overall length of less than twenty-six
32 inches (26") or barrel length of less than eighteen inches (18").

33 (13) "Sell" includes let or hire, give, lend, and transfer, and "purchase" includes hire,
34 accept, and borrow, and "purchasing" shall be construed accordingly.

1 (14) "Stun gun" is a battery-powered handheld device that transmits an electric charge
2 from the device to a person, while touching or applying the device to a person, and is activated by
3 a trigger or button.

4 (15) "Taser" is a battery-powered handheld device that transmits an electrical charge
5 from the device to a person, by means of expelling a projectile, darts or other device attached to
6 electric wires which strike or attach to a person, and is activated by a trigger or button.

7 ~~(14)~~(16) "Trigger crank" means a trigger actuator that attaches to the trigger of a semi-
8 automatic weapon and causes the weapon to fire by turning the crank handle.

9 ~~**11-47-8. License or permit required for carrying pistol -- Possession of machine gun**~~
10 **License or permit required for carrying pistol or stun gun-- Possession of machine gun.**

11 (a) No person shall, without a license or permit issued as provided in §§ 11-47-11, 11-47-
12 12, and 11-47-18, carry a pistol, ~~or~~ revolver, or taser in any vehicle or conveyance or on or about
13 his or her person whether visible or concealed, except in his or her dwelling house or place of
14 business or on land possessed by him or her or as provided in §§ 11-47-9 and 11-47-10. The
15 provisions of these sections shall not apply to any person who is the holder of a valid license or
16 permit issued by the licensing authority of another state, or territory of the United States, or
17 political subdivision of the state or territory, allowing him or her to carry a pistol or revolver in
18 any vehicle or conveyance or on or about his or her person whether visible or concealed, provided
19 the person is merely transporting the firearm through the state in a vehicle or other conveyance
20 without any intent on the part of the person to detain him or herself or remain within the state of
21 Rhode Island. No person shall manufacture, sell, purchase, or possess a machine gun except as
22 otherwise provided in this chapter. Every person violating the provision of this section shall, upon
23 conviction, be punished by imprisonment for not less than one nor more than ten (10) years, or by
24 a fine up to ten thousand dollars (\$10,000), or both, and except for a first conviction under this
25 section, shall not be afforded the provisions of suspension or deferment of sentence, nor a
26 probation.

27 (b) No person shall have in his or her possession or under his or her control any sawed-
28 off shotgun or sawed-off rifle as defined in § 11-47-2. Any person convicted of violating this
29 subsection shall be punished by imprisonment for up to ten (10) years, or by a fine of up to five
30 thousand dollars (\$5,000), or both.

31 (c) No person shall have in his or her possession or under his or her control any firearm
32 or taser while the person delivers, possesses with intent to deliver, or manufactures a controlled
33 substance. Any person convicted of violating this subsection shall be punished by imprisonment
34 for not less than two (2) years nor more than twenty (20) years, and the sentence shall be

1 consecutive to any sentence the person may receive for the delivery, possession with intent to
2 deliver, or the manufacture of the controlled substance. It shall not be a defense to a violation of
3 this subsection that a person has a license or permit to carry or possess a firearm or taser.

4 (d) It shall be unlawful for any person to possess a bump-fire device, binary trigger,
5 trigger crank, or any other device that when attached to a semi-automatic weapon allows full-
6 automatic fire. Individuals who possess these items shall have ninety (90) days from the
7 enactment of this section to either sell, destroy, or otherwise remove these items from the state of
8 Rhode Island. Every person violating the provisions of this section shall, upon conviction, be
9 punished by imprisonment for not less than one nor more than ten (10) years, or by a fine up to
10 ten thousand dollars (\$10,000), or both, and, except for a first conviction under this section, shall
11 not be afforded the provisions of suspension or deferment of sentence, nor a probation.

12 **11-47-42. Weapons other than firearms prohibited.**

13 (a)(1) No person shall carry or possess or attempt to use against another any instrument
14 or weapon of the kind commonly known as a blackjack, slingshot, billy, sandclub, sandbag, metal
15 knuckles, slap glove, bludgeon, ~~stun-gun~~, or the so called "Kung-Fu" weapons.

16 (2) No person shall with intent to use unlawfully against another, carry or possess a
17 crossbow, dagger, dirk, stiletto, sword-in-cane, bowie knife, or other similar weapon designed to
18 cut and stab another.

19 (3) No person shall wear or carry concealed upon his person, any of the above-mentioned
20 instruments or weapons, or any razor, or knife of any description having a blade of more than
21 three (3) inches in length measuring from the end of the handle where the blade is attached to the
22 end of the blade, or other weapon of like kind or description.

23 (4) It shall be lawful for a person, who is over the age of eighteen (18) to purchase, carry,
24 conceal, possess, use or attempt to use a stun gun against another person for self-defense.

25 (5) It shall be a defenses that the person using or attempting to use a stun gun that he or
26 she had a reasonable belief that a person was about to inflict great bodily injury or death upon
27 himself, herself or a third party.

28 (6) There shall be no duty to retreat for a person using or attempting to use a stun gun.

29 Any person violating the provisions of these subsections shall be punished by a fine of
30 not more than one thousand dollars (\$1,000) or by imprisonment for not more than one year, or
31 both, and the weapon so found shall be confiscated.

32 Any person violating the provisions of these subsections while he or she is incarcerated
33 within the confines of the adult correctional institutions shall be punished by a fine of not less
34 than one thousand dollars (\$1,000) nor more than three thousand dollars (\$3,000), or by

1 imprisonment for not less than one year nor more than five (5) years, or both, and the weapon so
2 found shall be confiscated.

3 (b) No person shall sell to a person under eighteen (18) years of age, without the written
4 authorization of the minor's parent or legal guardian, any stink bomb, blackjack, slingshot, bill,
5 sandclub, sandbag, metal knuckles, slap glove, bludgeon, stungun, paint ball gun, so called
6 "kung-fu" weapons, dagger, dirk, stiletto, sword-in-cane, bowie knife, razor, or knife of any
7 description having a blade of more than three inches (3") in length as described in subsection (a)
8 of this section, or any multi-pronged star with sharpened edges designed to be used as a weapon
9 and commonly known as a Chinese throwing star, except that an individual who is actually
10 engaged in the instruction of martial arts and licensed under § 5-43-1 may carry and possess any
11 multi-pronged star with sharpened edges for the sole purpose of instructional use. Any person
12 violating the provisions of this subsection shall be punished by a fine of not less than one
13 thousand dollars (\$1,000) nor more than three thousand dollars (\$3,000), or by imprisonment for
14 not less than one year nor more than five (5) years, or both, and the weapons so found shall be
15 confiscated.

16 SECTION 2. Chapter 11-47 of the General Laws entitled "Weapons" is hereby amended
17 by adding thereto the following section:

18 **11-47-8.2. Review and appeal of the decision of the licensing authority or attorney**
19 **general.**

20 (a) A decision denying a permit pursuant to either §§ 11-47-11 or 11-47-18 shall be final
21 unless further review or appeal is initiated in writing within fifteen (15) days after the decision
22 has been mailed to the applicant at the address listed on the application.

23 (b) An aggrieved individual may submit a written request to reconsider the denial to the
24 licensing authority or the department of the attorney general. Said request must be submitted
25 within fifteen (15) days after the decision has been mailed to the address provided by the
26 applicant.

27 (1) The licensing authority or the department of the attorney general shall schedule and
28 conduct an in-person meeting within fourteen (14) days of the request to review and discuss the
29 decision. Said meeting shall only be scheduled or rescheduled beyond the initial fourteen (14) day
30 period by agreement of the parties or for good cause, but in no event exceed sixty (60) days.

31 (2) The applicant may submit any supplemental documentation relative to the application,
32 which shall become part of the application.

33 (3) The meeting shall be conducted as an informal meeting, not as an administrative
34 hearing. The licensing authority or the department of the attorney general shall receive and

1 consider documents and other evidence without regard to statutory and common law rules. A
2 stenographic record, transcription, video, audio or other recording is only allowed by agreement
3 of the parties.

4 (4) The applicant may be represented at this meeting by an attorney.

5 (5) The licensing authority or the department of the attorney general shall, within seven
6 (7) days after the meeting mail, a decision to the applicant granting or denying the application.
7 Any denial shall be in writing and state with specificity the reason(s) and evidence upon which
8 the denial was based and the rationale for the denial.

9 (c) An aggrieved individual may submit an appeal of the decision denying a permit
10 pursuant to either §§ 11-47-11 or 11-47-18 or of the decision of the request to reconsider to the
11 superior court for the county in which the licensing authority or attorney general is located, in the
12 form of a miscellaneous petition, within fifteen (15) days after the decision has been mailed to the
13 applicant at the address listed on the application.

14 (1) The petition for review shall state the grounds upon which review is sought but need
15 not be verified.

16 (2) Upon appeal, the petitioner is entitled to a trial de novo before a justice of the superior
17 court without a jury.

18 (3) Within thirty (30) days of the notice of appeal the licensing authority or attorney
19 general shall provide a full, complete and certified copy of the application and all submitted
20 documents to both the petitioner and the superior court.

21 (d) Pursuant to chapter 3 of title 38, the request to reconsider and the appeal to the
22 superior court, shall not be deemed public. All documents, records and proceedings before the
23 licensing authority, the department of the attorney general and the superior court are not open to
24 the public, but may be accessed by law enforcement personnel to be used for law enforcement
25 purposes only and shall remain otherwise confidential.

26 (e) An applicant may have his or her hearing open to the public upon written request to
27 the superior court.

28 (f) The superior court may award reasonable attorneys' fees, costs and filing fees to the
29 prevailing applicant if the court finds that there is no justiciable issue of either law of fact or to
30 the prevailing applicant if the licensing authority or the department of the attorney general did not
31 have a good faith basis in the denial of the license or permit.

32 SECTION 3. This act shall take effect upon passage.

=====
LC001784
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO CRIMINAL OFFENSES -- WEAPONS

1 This act would amend the definition of firearms to include tasers, as well as define taser
2 and stun gun. This act would permit any person over the age of eighteen (18) to lawfully possess
3 a stun gun and allow such individual to use or attempt to use the stun gun against another person
4 in self-defense as long as that individual had a reasonable belief that a person was about to inflict
5 great bodily injury of death upon himself, herself or a third party. The act would also provide the
6 review and appeal process for individuals applying for a permit or license to carry with the
7 licensing authority or attorney general.

8 This act would take effect upon passage.

=====
LC001784
=====