

2017 -- H 5437

LC001238

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO CRIMINAL OFFENSES -- WEAPONS

Introduced By: Representatives Maldonado, Coughlin, Kazarian, Cunha, and Barros

Date Introduced: February 09, 2017

Referred To: House Judiciary

(Attorney General)

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 11-47 of the General Laws entitled "Weapons" is hereby amended
2 by adding thereto the following section:

3 **11-47-24.1. Alteration of distinctive markings of imitation firearms.**

4 (a) No person shall change, alter, remove, obliterate any coloration or markings that are
5 required by an applicable state or federal law or regulation, including, but not limited to, 15
6 U.S.C. 5001, as amended, for any imitation firearm in any way that make the imitation firearm
7 look like an operable firearm, as defined in this chapter.

8 (b) Any violation of this section shall be, upon conviction, subject to imprisonment of up
9 to one year, a fine of up to one thousand dollars (\$1,000), or both.

10 (c) This section shall not apply to lawful use of such an imitation firearm in theatrical
11 productions, including motion pictures, television, and stage production.

12 SECTION 2. Sections 11-47-2 and 11-47-24 of the General Laws in Chapter 11-47
13 entitled "Weapons" are hereby amended to read as follows:

14 **11-47-2. Definitions.**

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

16 (1) "Antique firearm" is defined as that term is defined under the provisions of 18 U.S.C.
17 § 921.

18 (2) "Crime of violence" means and includes any of the following crimes or an attempt to
19 commit any of them: murder, manslaughter, rape, first or second degree sexual assault, first or

1 second degree child molestation, kidnapping, first and second degree arson, mayhem, robbery,
2 burglary, breaking and entering, any felony violation involving the illegal manufacture, sale, or
3 delivery of a controlled substance, or possession with intent to manufacture, sell, or deliver a
4 controlled substance classified in schedule I or schedule II of § 21-28-2.08, any violation of § 21-
5 28-4.01.1 or 21-28-4.01.2 or conspiracy to commit any violation of these statutes, assault with a
6 dangerous weapon, assault or battery involving grave bodily injury, and/or assault with intent to
7 commit any offense punishable as a felony; upon any conviction of an offense punishable as a
8 felony offense under § 12-29-5.

9 (3) "Firearm" includes any machine gun, pistol, rifle, air rifle, air pistol, "blank gun," "BB
10 gun," or other instrument from which steel or metal projectiles are propelled, or which may
11 readily be converted to expel a projectile, except crossbows, recurve, compound, or longbows,
12 and except instruments propelling projectiles which are designed or normally used for a primary
13 purpose other than as a weapon. The frame or receiver of the weapon shall be construed as a
14 firearm under the provisions of this section.

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

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

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

30 (7) "Person" includes an individual, partnership, firm, association, or corporation.

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

34 (9) "Sawed-off rifle" means any rifle with overall length of less than twenty-six inches

1 (26") and/or barrel length of less than sixteen inches (16").

2 (10) "Sawed-off shotgun" means any shotgun with overall length of less than twenty-six
3 inches (26") and/or barrel length of less than eighteen inches (18").

4 (11) "Sell" includes let or hire, give, lend, and transfer, and "purchase" includes hire,
5 accept, and borrow, and "purchasing" shall be construed accordingly.

6 (12) "Imitation firearm" means any toy gun, replica of a firearm, or other device that is so
7 substantially similar in coloration and overall appearance to a firearm, as defined in this chapter,
8 as to lead a reasonable person to perceive that device as a firearm.

9 **11-47-24. Alteration of marks of identification on firearms.**

10 (a) No person shall change, alter, remove, insert, or obliterate the name of the maker,
11 model, manufacturer's number, or any other mark of identification, or if there is no name of the
12 maker, model, or manufacturer's number then any other mark of identification on any firearm.

13 (b) No person shall, absent recertification paperwork, knowingly receive, transport, or
14 possess any firearm which has had the name of the maker, model, ~~or~~ manufacturer's ~~serial~~
15 number, or any other mark of identification on any firearm changed, removed, altered, inserted or
16 obliterated, or if there is no name of the maker, model, or manufacturer's number then any other
17 mark of identification on any firearm.

18 (c) Possession of any firearm, absent recertification paperwork, upon which the name of
19 the maker, model, manufacturer's number, or any other mark of identification on any firearm, or
20 if there is no name of the maker, model, or manufacturer's number then any other mark of
21 identification on any firearm has been changed, altered, removed, inserted or obliterated shall be
22 prima facie evidence that the possessor has changed, altered, removed, or obliterated.

23 (d) A person in possession of a firearm, with proof of ownership and/or transfer from a
24 FFL dealer, may apply for recertification of that firearm from a Rhode Island based licensed
25 firearms business owner who also is an FFL dealer or a local police chief and/or police
26 department official if the name of the maker, model, manufacturer's number, or any other mark of
27 identification on any firearm, or if there is no name of the maker, model, or manufacturer's
28 number then any other mark of identification on the firearm has been only partially damaged.

29 (e) The Rhode Island based licensed firearms business owner who is also an FFL dealer
30 or a local police chief and/or police department official shall, within sixty (60) days of the
31 application if he or she is reasonably able to verify the firearm ownership and identifying marks
32 recertify the firearm or return the firearm to the person who presented it, certify by written
33 notarized documentation that the firearm's name of the maker, model, manufacturer's number, or
34 any other mark of identification on any firearm, or if there is no name of the maker, model, or

1 manufacturer's number then any other mark of identification on the firearm has been partially
2 damaged and is still identifiable and traceable to the record owner.

3 (f) The sale or transfer of a recertified firearm and/or the submission of a report by the
4 record owner that the firearm was stolen immediately voids all recertification documentation.

5 (g) Violation of the provisions of this section may be punished by imprisonment for not
6 more than five (5) years.

7 (h) This section shall not apply to the lawful exchange of component parts of any
8 firearms, nor to any antique and collectible weapons legally possessed by collectors and dealers
9 of firearms as provided in section 11-47-25.

10 (i) This section shall not apply to lawful use of such a firearm in theatrical productions,
11 including motion pictures, television, and stage productions.

12 (j) This section shall not be construed to apply to safety devices that are used to prevent
13 the unintentional discharge of a firearm.

14 (k) For purposes of this section, the term "mark of identification" means and includes, but
15 is not limited to, orange or otherwise brightly colored plugs or tips inserted into the barrel of any
16 firearm.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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1 This act would define imitation firearm and provide that is unlawful for any person to
2 change, alter, remove, or obliterate any coloration or makings that are required by an applicable
3 state or federal law or regulation for any imitation firearm in any way that makes the imitation
4 firearm look to be an operable firearm. Violation of this section would be punishable by
5 imprisonment for up to one year, or a fine of up to one thousand dollars (\$1,000), or both.

6 This act would also prevent a person from receiving or possessing a firearm on which any
7 mark of identification on the firearm has been changed.

8 This act would take effect upon passage.

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