

2021 -- H 5557

LC000901

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

RELATING TO CRIMINAL OFFENSES -- WEAPONS

Introduced By: Representatives C Lima, and Place

Date Introduced: February 12, 2021

Referred To: House 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) "3D printing process" means 3D printing or additive manufacturing which is a process
6 of making three (3) dimensional solid objects from a computer file and shall include any of various
7 processes in which material is joined or solidified under computer control to create a three (3)
8 dimensional object, with material being added together including liquid molecules, or powder
9 grains.

10 (2) "Antique firearm" is defined as that term is defined under the provisions of 18 U.S.C.
11 § 921.

12 (3) "Binary trigger" means a device that replaces a standard trigger on a semi-automatic
13 weapon and is designed to fire one round on the pull of the trigger and another round upon release
14 of the trigger.

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

18 (5) "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, or assault with intent to commit
7 any offense punishable as a felony; upon any conviction of an offense punishable as a felony
8 offense under § 12-29-5.

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

15 (7) "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 violence
17 or to avoid giving testimony in any criminal proceeding.

18 (8) "Ghost gun" means a firearm, including a frame or receiver, that lacks a unique serial
19 number engraved or cased in metal alloy on the frame or receiver by a licensed manufacturer,
20 maker, or importer under federal law or markings in accordance with 27 C.F.R. § 479.102. It does
21 not include a firearm that has been rendered permanently inoperable, or a firearm that is not
22 required to have a serial number in accordance with the federal Gun Control Act of 1968.

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

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

1 (11) "Major component" means, with respect to a firearm:

2 (i) The slide or cylinder or the frame or receiver of the firearm; and

3 (ii) In the case of a rifle or shotgun, includes the barrel of the firearm.

4 (12) "Person" includes an individual, partnership, firm, association, or corporation.

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

8 (14) "Sawed-off rifle" means any rifle with overall length of less than twenty-six inches
9 (26") or barrel length of less than sixteen inches (16").

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

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

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

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

20 ~~(17)~~(19) "Trigger crank" means a trigger actuator that attaches to the trigger of a semi-
21 automatic weapon and causes the weapon to fire by turning the crank handle.

22 ~~(18)~~(20) "Undetectable firearm" means any firearm that:

23 (i) After removal of all parts, other than a major component, is not as detectable by walk-
24 through metal detectors commonly used at airports or other public buildings; or

25 (ii) Any major component of which, if subjected to inspection by the types of detection
26 devices commonly used at airports or other public buildings for security screening, would not
27 generate an image that accurately depicts the shape of the component; or

28 (iii) Is manufactured wholly of plastic, fiberglass, or through a 3D printing process; or

29 (iv) Upon which the frame or receiver lacks a unique serial number engraved or cased into
30 on the frame or receiver by a licensed manufacturer, maker, or importer under federal law, or
31 markings in accordance with 27 C.F.R. § 479.102. Provided, however, this subsection shall not
32 apply to any firearm rendered permanently inoperable or a firearm manufactured prior to 1968.

33 ~~11-47-8. License or permit required for carrying pistol -- Other weapons prohibited.~~

34 License or permit required for carrying pistol or stun gun -- Possession of machine gun.

1 (a) No person shall, without a license or permit issued as provided in §§ 11-47-11, 11-47-
2 12, and 11-47-18, carry a pistol, ~~or~~ revolver, or taser in any vehicle or conveyance or on or about
3 his or her person whether visible or concealed, except in his or her dwelling house or place of
4 business or on land possessed by him or her or as provided in §§ 11-47-9 and 11-47-10. The
5 provisions of these sections shall not apply to any person who is the holder of a valid license or
6 permit issued by the licensing authority of another state, or territory of the United States, or political
7 subdivision of the state or territory, allowing him or her to carry a pistol or revolver in any vehicle
8 or conveyance or on or about his or her person whether visible or concealed, provided the person
9 is merely transporting the firearm through the state in a vehicle or other conveyance without any
10 intent on the part of the person to detain him or herself or remain within the state of Rhode Island.
11 No person shall manufacture, sell, purchase, or possess a machine gun except as otherwise provided
12 in this chapter. Every person violating the provision of this section shall, upon conviction, be
13 punished by imprisonment for not less than one nor more than ten (10) years, or by a fine up to ten
14 thousand dollars (\$10,000), or both, and except for a first conviction under this section, shall not
15 be afforded the provisions of suspension or deferment of sentence, nor a probation.

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

20 (c) No person shall have in his or her possession or under his or her control any firearm
21 while the person delivers, possesses with intent to deliver, or manufactures a controlled substance.
22 Any person convicted of violating this subsection shall be punished by imprisonment for not less
23 than two (2) years nor more than twenty (20) years, and the sentence shall be consecutive to any
24 sentence the person may receive for the delivery, possession with intent to deliver, or the
25 manufacture of the controlled substance. It shall not be a defense to a violation of this subsection
26 that a person has a license or permit to carry or possess a firearm ~~- or taser.~~

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

1 (e) No person shall manufacture, sell, offer to sell, transfer, purchase, possess, or have
2 under his or her control a ghost gun or an undetectable firearm or any firearm produced by a 3D
3 printing process. Any person convicted of violating this subsection shall be punished by
4 imprisonment of not more than ten (10) years, or by a fine up to ten thousand dollars (\$10,000), or
5 both and except for a first conviction under this section shall not be afforded the provisions of
6 suspension or deferment of sentence, probation, nor fine. These provisions shall not apply to
7 federally licensed manufacturers (FLN) pursuant to Alcohol, Tobacco, Firearms, and Explosives
8 (ATF) regulations.

9 **11-47-42. Weapons other than firearms prohibited.**

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

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

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

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

23 Any person violating the provisions of these subsections while he or she is incarcerated
24 within the confines of the adult correctional institutions shall be punished by a fine of not less than
25 one thousand dollars (\$1,000) nor more than three thousand dollars (\$3,000), or by imprisonment
26 for not less than one year nor more than five (5) years, or both, and the weapon so found shall be
27 confiscated.

28 (b) No person shall sell to a person under eighteen (18) years of age, without the written
29 authorization of the minor's parent or legal guardian, any stink bomb, blackjack, slingshot, bill,
30 sandclub, sandbag, metal knuckles, slap glove, bludgeon, ~~stungun~~, paint ball gun, so called "kung-
31 fu" weapons, dagger, dirk, stiletto, sword-in-cane, bowie knife, razor, or knife of any description
32 having a blade of more than three inches (3") in length as described in subsection (a) of this section,
33 or any multi-pronged star with sharpened edges designed to be used as a weapon and commonly
34 known as a Chinese throwing star, except that an individual who is actually engaged in the

1 instruction of martial arts and licensed under § 5-43-1 may carry and possess any multi-pronged
2 star with sharpened edges for the sole purpose of instructional use. Any person violating the
3 provisions of this subsection shall be punished by a fine of not less than one thousand dollars
4 (\$1,000) nor more than three thousand dollars (\$3,000), or by imprisonment for not less than one
5 year nor more than five (5) years, or both, and the weapons so found shall be confiscated.

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

8 **11-47-8.2. Purchase, possession, sale or use of stun gun.**

9 (a) Any person eighteen (18) years of age or over may purchase or possess a stun gun.

10 (b) No person shall sell or attempt to sell, transfer, deliver or furnish a stun gun to a person
11 who is less than eighteen (18) years of age. Any person convicted of violating the provisions of this
12 subsection shall be guilty of a felony and may be punished by imprisonment for not less than one
13 year nor more than five (5) years.

14 (c) No person shall use or attempt to use a stun gun in the commission of a crime. Any
15 person convicted of violating the provisions of this subsection shall be guilty of a felony and may
16 be punished by a fine of up to ten thousand dollars (\$10,000), or by imprisonment for not more
17 than ten (10) years, or both.

18 (d) No person shall use or attempt to use a stun gun on a police officer who is engaged in
19 the performance of his or her duty. Any person convicted of violating the provisions of this
20 subsection shall be guilty of a felony and may be punished by a fine of up to ten thousand dollars
21 (\$10,000), or by imprisonment for not more than ten (10) years, or both. Any sentence imposed
22 upon a person pursuant to this subsection shall be imposed consecutively to and not concurrently
23 with any sentence imposed for the underlying crime or attempted crime, and the person shall not
24 be afforded the benefits of suspension or deferment of sentence.

25 **11-47-8.3. Review and appeal of the decision of the licensing authority or attorney**
26 **general.**

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

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

33 (1) The licensing authority or the department of the attorney general shall schedule and
34 conduct an in-person meeting within fourteen (14) days of the request to review and discuss the

1 decision. Said meeting shall only be scheduled or rescheduled beyond the initial fourteen (14) day
2 period by agreement of the parties or for good cause, but in no event exceed sixty (60) days.

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

5 (3) The meeting shall be conducted as an informal meeting, not as an administrative
6 hearing. The licensing authority or the department of the attorney general shall receive and consider
7 documents and other evidence without regard to statutory and common law rules. A stenographic
8 record, transcription, video, audio or other recording is only allowed by agreement of the parties.

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

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

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

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

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

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

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

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

33 (f) The superior court may award reasonable attorney's fees, costs and filing fees to the
34 prevailing applicant if the court finds that there is no justiciable issue of either law or fact, or to the

1 [prevailing applicant if the licensing authority or the department of the attorney general did not have](#)
2 [a good faith basis in the denial of the license or permit.](#)

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

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

1 This act would provide that any person eighteen (18) years of age who is issued a license
2 may carry a stun gun. This act would also add "tasers" to the definition of "firearm" and would
3 provide for an appeal process for denial of an application for a permit.

4 This act would take effect upon passage.

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