**A** **BILL**

TO AMEND SECTION 16‑23‑500, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE UNLAWFUL POSSESSION OF A FIREARM OR AMMUNITION BY A PERSON CONVICTED OF A VIOLENT CRIME, SO AS TO EXPAND THE PARAMETERS OF THE OFFENSE TO INCLUDE PERSONS CONVICTED OF A CRIME PUNISHABLE BY IMPRISONMENT OF MORE THAN ONE YEAR AND TO PROVIDE INCREASED, GRADUATED PENALTIES FOR A VIOLATION.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 16‑23‑500 of the 1976 Code is amended to read:

“Section 16‑23‑500. (A) It is unlawful for a person who has been convicted of a ~~violent crime, as defined by Section 16‑1‑60, that is classified as a felony offense,~~ crime punishable by a maximum term of imprisonment of more than one year to possess, ship, transport, or receive a firearm or ammunition within this State.

(B) A person who violates the provisions of this section is guilty of a felony and, upon conviction~~, must be fined not more than two thousand dollars or imprisoned not more than five years, or both.~~:

(1) for a first offense, must be imprisoned not more than ten years;

(2) for a second offense, must be imprisoned for a mandatory minimum of five years, but not more than thirty years, no part of which may be suspended nor probation granted; and

(3) for a third offense or subsequent offense, must be imprisoned for a mandatory minimum of fifteen years, but not more than thirty years, no part of which may be suspended nor probation granted.

(C)(1) In addition to the penalty provided in this section, the firearm or ammunition involved in the violation of this section must be confiscated. The firearm or ammunition must be delivered to the chief of police of the municipality or to the sheriff of the county if the violation occurred outside the corporate limits of a municipality. The law enforcement agency that receives the confiscated firearm or ammunition may use it within the agency, transfer it to another law enforcement agency for the lawful use of that agency, trade it with a retail dealer licensed to sell firearms or ammunition in this State for a firearm, ammunition, or any other equipment approved by the agency, or destroy it. A firearm or ammunition must not be disposed of in any manner until the results of any legal proceeding in which it may be involved are finally determined. If the State Law Enforcement Division seized the firearm or ammunition, the division may keep the firearm or ammunition for use by its forensic laboratory. Records must be kept of all confiscated firearms or ammunition received by the law enforcement agencies under the provisions of this section.

(2) A law enforcement agency that receives a firearm or ammunition pursuant to this section shall administratively release the firearm or ammunition to an innocent owner. The firearm or ammunition must not be released to the innocent owner until the results of any legal proceedings in which the firearm or ammunition may be involved are finally determined. Before the firearm or ammunition may be released, the innocent owner shall provide the law enforcement agency with proof of ownership and shall certify that the innocent owner will not release the firearm or ammunition to the person who has been charged with a violation of this section which resulted in the confiscation of the firearm or ammunition. The law enforcement agency shall notify the innocent owner when the firearm or ammunition is available for release. If the innocent owner fails to recover the firearm or ammunition within thirty days after notification of the release, the law enforcement agency may maintain or dispose of the firearm or ammunition as otherwise provided in this section.

(D) The ~~judge that hears the case involving the violent~~ court with jurisdiction over an offense~~, as defined by Section 16‑1‑60, that is classified as a felony offense,~~ punishable by imprisonment for more than one year, as provided in subsection (A), shall make a specific finding on the record that the offense is ~~a violent offense, as defined by Section 16‑1‑60, and is classified as a felony offense~~ subject to the provisions of this section. A judge’s failure to make a specific finding on the record does not bar or otherwise affect prosecution pursuant to this ~~subsection~~ section and does not constitute a defense to prosecution pursuant to this subsection.

(E) A prior offense for purposes of this section means any conviction related to the possession, shipping, transporting, or receiving of a firearm or ammunition in this State, another state, or in violation of federal law.”

SECTION 2. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 3. This act takes effect upon approval by the Governor.

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