**South Carolina General Assembly**

125th Session, 2023-2024

**H. 3412**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. T. Moore, Pope and Carter

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Introduced in the House on January 10, 2023

Currently residing in the House

Summary: Firearms

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/8/2022 House Prefiled

12/8/2022 House Referred to Committee on **Judiciary**

1/10/2023 House Introduced and read first time ([House Journal‑page 160](h:\hj\20230110.docx))

1/10/2023 House Referred to Committee on **Judiciary** ([House Journal‑page 160](h:\hj\20230110.docx))

1/18/2023 House Member(s) request name added as sponsor: Carter

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**VERSIONS OF THIS BILL**

[12/08/2022](https://www.scstatehouse.gov/sess125_2023-2024/prever/3412_20221208.docx)

A bill

to amend the South Carolina Code of Laws by amending Section 16‑23‑50, relating to Penalties, disposition of fines, AND forfeiture and disposition of handguns, so as to PROVIDE ADDITIONAL PENALTIES FOR THE UNLAWFUL CARRYING OF A HANDGUN; by adding Section 16‑23‑540 so as to CREATE THE OFFENSE OF “THEFT OF A FIREARM” AND PROVIDE A PENALTY; by adding Section 16‑23‑545 SO AS TO CREATE THE OFFENSE OF “FELONY POSSESSION OF A FIREARM” AND PROVIDE A PENALTY; by amending Section 16‑23‑500, relating to Unlawful possession of a firearm by a person convicted of A violent offense, confiscation, AND return of firearm to AN innocent owner, so as to EXPAND THE PARAMETERS OF THE OFFENSE, AND TO PROVIDE INCREASED, GRADUATED PENALTIES FOR A VIOLATION; and by adding Section 16‑23‑550 so as to CREATE THE OFFENSE OF “POSSESSING A STOLEN FIREARM DURING THE COMMISSION OF A VIOLENT CRIME” AND PROVIDE A PENALTY.

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

SECTION 1. Section 16‑23‑50(A)(2) of the S.C. Code is amended to read:

(2) A person violating the provisions of Section 16‑23‑20 is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both. For a second offense, the offender is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand dollars or imprisoned not more than three years, or both. For a third or subsequent offense, the offender is guilty of a felony and, upon conviction, must be fined not less than one thousand dollars and not more than two thousand dollars and imprisoned not more than five years.

SECTION 2. Article 5, Chapter 23, Title 16 of the S.C. Code is amended by adding:

Section 16‑23‑540. Notwithstanding another provision of law, a person who steals a firearm is guilty of theft of a firearm and, upon conviction, is guilty of a felony and must be imprisoned not more than ten years.

SECTION 3. Article 5, Chapter 23, Title 16 of the S.C. Code is amended by adding:

Section 16‑23‑545. (A) It is unlawful for a person convicted of a felony to possess a firearm in this State.

(B) A person who violates this section is guilty of a felony and, upon conviction of a first offense must be imprisoned not more than five years. For a second offense, the offender is guilty of a felony and, upon conviction, must be imprisoned not more than ten years.

SECTION 4. Section 16‑23‑500 of the S.C. 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, 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; and

(3) for a third or subsequent offense, must be imprisoned for a mandatory minimum of fifteen years, but not more than thirty years.

(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 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 5. Article 5, Chapter 23, Title 16 of the S.C. Code is amended by adding:

Section 16‑23‑550. (A) It is unlawful for a person to possess a stolen firearm during the commission of a violent crime as defined by Section 16-1-60.

(B) A person who violates this section is guilty of a felony and, upon conviction, must be imprisoned for a mandatory minimum of ten years.

SECTION 6. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 7. This act takes effect upon approval by the Governor.

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