**South Carolina General Assembly**

125th Session, 2023-2024

**H. 5147**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Gilliam, Pope, McCravy, Gibson and S. Jones

Document Path: LC-0528CM24.docx

Introduced in the House on February 27, 2024

Currently residing in the House Committee on **Judiciary**

Summary: Firearm and ammunition possession

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 2/27/2024 House Introduced and read first time (House Journal‑page 27)

 2/27/2024 House Referred to Committee on **Judiciary** (House Journal‑page 27)

View the latest  [legislative information](https://www.scstatehouse.gov/billsearch.php?billnumbers=5147&session=125&summary=B)  at the website

**VERSIONS OF THIS BILL**

[02/27/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/5147_20240227.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 16-23-500, RELATING TO the UNLAWFUL POSSESSION OF FIREARMs BY PERSONs CONVICTED OF VIOLENT OFFENSEs, and the CONFISCATION and RETURN OF FIREARMs TO INNOCENT OWNERs, SO AS TO REVISE OFFENSES AND PENALTIES COVERED BY THIS SECTION.

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

SECTION 1. Section 16-23-500 of the S.C. Code is amended to read:

 Section 16-23-500. (A) Except as provided in subsection (F), 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 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 five years;

 (2) for a second offense, must be imprisoned for a mandatory minimum of five years, but not more than twenty years; and

 (3) for a third or subsequent offense, must be imprisoned for a mandatory minimum of ten 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 offensesubject 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 second or subsequent offense for the purpose of this section means any conviction pursuant to Section 16-23-500(A).

 (F) For the purpose of this section, “crime punishable by a maximum term of imprisonment of more than one year” does not include:

 (1) any offense in this State or another jurisdiction pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices;

 (2) any offense classified by the laws of this State or another jurisdiction as a misdemeanor and punishable by a term of imprisonment of five years or less; or

 (3) any crime for which the conviction has been expunged or set aside or for which a person has been pardoned or has had civil rights restored, unless such pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

SECTION 2. This act takes effect upon approval by the Governor.

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