

THE ADVOCATE

A Publication of Gambone Law – PA (215) 755-9000 - NJ (856) 793-7429

Newsletter



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What is a “Ghost Gun” and are they legal in Pennsylvania and New Jersey?

Pennsylvania and New Jersey are very different when it comes to guns and firearms.

Our criminal defense law firm represents individuals charged with a variety of gun crimes in Pennsylvania and New Jersey. These two states share borders, and even sometimes sports teams but have very different laws when it comes to the regulation of guns and firearms, especially Ghost Guns. In Pennsylvania there are virtually no felony gun crimes which carry with them mandatory minimum sentences. In New Jersey, however, under the Graves Act, the unlawful possession of a firearm carries with it a mandatory minimum of forty-two (42) months of a State prison sentence. Unlawful Possession of Gun or Firearm is usually graded as a felony crime in both states. Recently, our criminal defense attorneys represented a client in Philadelphia who was charged with the unlawful possession of handgun under Section 6106 of the Pennsylvania code— Possession Without a Permit.

What is a Ghost Gun?

The illegal purchase or transfer of a handgun carries with it the inference that the purchaser or receiver of the weapon intends to use it for some type of illegal purpose

or is not permitted to purchase the weapon legally. There are situations, however, where a person can purchase parts of a firearm which can be sold legally online through various sources such as Amazon. Once these parts are assembled the item becomes a fully functional firearm (weapon) and is therefore subject to all State regulations with regards to weapons. This is what is known as a Ghost Gun and Pennsylvania and New Jersey treat them very different.

Ghost Guns in Pennsylvania

In Pennsylvania ghost guns have become popular in recent years because they are untraceable but they are still legal. These weapons are often referred to as DIY firearms, which are made at home through kits purchased online and some parts can be 3D printed. Ghost guns are not required to have serial numbers and there is no background check to purchase the parts to make a weapon. These guns are often made from what is known as an 80% frame receiver which acts as the base that holds all the parts of a functioning gun.

While current Pennsylvania Governor, Josh Shapiro, has attempted to regulate these ghost guns there is no current law in the Commonwealth targeting them. Philadelphia has attempted to regulate ghost guns, but city ordinances are far different from State laws. Both the Federal Government and the State Government may eventually

pass laws which bring ghost guns (DIY guns) under the jurisdiction of ATF.

If this were to occur these ghost guns would be required to have serial numbers and the parts would need to be purchased from a federally licensed dealer. These proposed laws would essentially make buying a gun kit essential as buying a regular handgun. Right now, Ghost guns are not illegal in Pennsylvania and any person that who can legally own a gun can therefore build them legally in the Commonwealth.

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Kansas City Chief's WR Rashee Rice involved in hit a run accident – What are the 5 most common questions if you run from an accident?

Recently Kansas City Chief Wide Receiver Rashee Rice was listed as a person of interest in a Dallas police investigation following a multi-vehicle crash where several people were injured. There is an alleged video that depicts someone who appears to look like Rice leaving the scene. According to reports, the driver in a Chevrolet Corvette and a driver in a Lamborghini were speeding when both lost control of their cars, with the Lamborghini hitting the median wall and causing the accident. Rice, at this point, has hired a lawyer but these remain serious allegations

Our criminal attorneys represents individuals charged with crimes in Pennsylvania and New Jersey. Many of these crimes involve vehicles and cars which are involved in an accident. In some situations, these offenses are drunk driving related (DUI-Pennsylvania and DWI-New Jersey).

In other cases, however, they are simply accidents in which a person exercises poor judgement. When have received many phone calls from persons in Pennsylvania and New Jersey in situations where they did remain on site and simply ran from scene. Here are the answers to the most common questions that our criminal defense law firm receives:

- 1. What am I legally obligated to do after an accident in Pennsylvania and New Jersey?**
- 2. How serious of a criminal charge is leaving the scene of accident in Pennsylvania?**
- 3. How serious of a criminal charge is leaving the scene of accident in New Jersey?**
- 4. What should do after a vehicle accident in Pennsylvania or New Jersey.**
- 5. If I fled the scene after the acci-**

dent (hit/run), what should I do if police come to my home or workplace? What if the police threaten to arrest me if I don't speak with them?

What is your legal obligation following an accident in Pennsylvania and New Jersey?

From a legal standpoint, you are legally obligated to remain at the scene following an accident, especially one in which a person is injured or killed. It is a crime to leave the scene of accident in Pennsylvania and New Jersey. This is known as the duty to give information and render aid (See Title 75, Section 3744; New Jersey has a very similar law, see 39:4-129 & 2C:12-1.1

How serious of a criminal charge is leaving the scene of accident in Pennsylvania?

Leaving a scene of an accident is a crime in Pennsylvania and New Jersey; it also implies conscious of guilt. Conscious of guilt is a common argument which Prosecutors use at trial and at preliminary hearings in Pennsylvania. Conscious of guilt can also be utilized in a probable cause analysis along with a bail argument to determine. This legal concept basically means that an individual fled the scene or acted in a particular way because they knew that they had committed an act against the law or some other wrongdoing.

How serious of a criminal charge is leaving the scene of accident in Pennsylvania?

Leaving the scene of an accident is a misdemeanor offense in Pennsylvania unless a person is seriously injured or killed. In those situations, leaving the scene of an accident is a felony offense. See Title 75 Section § 3743 – Accidents involving damage to attended vehicle or property). If the accident involves serious bodily injury or death, it a felony crime in the Commonwealth See Title 75 Section § 3742

How serious of a criminal charge is leaving the scene of accident in New Jersey?

In New Jersey, leaving the scene of an accident is a crime of the second degree when a person is killed and a crime of the third degree where a person is seriously injured. While a crime of the third degree normally carries of presumption of non incarceration, there is no such presumption for this particu-

lar crime in New Jersey. See 2C:11-5.1 and Leaving the Scene of an Accident in New Jersey (39:4-129 & 2C:12-1.1)

What should I do after a vehicle accident in Pennsylvania or New Jersey.

If you are in a vehicle accident involving another vehicle and you remain at the scene, DO NOT volunteer any information, and only provide the officer with your license and registration. Unless you are going to make an verbal or written statement admission that the accident was absolutely NOT your fault, I would advise against not speaking to police or providing a statement. All statements are admissible in Court and in potential civil actions. It is important to keep in mind that the civil and criminal standard are completely different.

The burden in Criminal Court is guilt beyond a reasonable doubt where the civil standard is preponderance. It is possible to be found not guilty in a Criminal Court, but still be liable civilly. Civil damages, however, will only subject you to monetary claims, whereas criminal penalties could result in loss of driver's license, substantial fines, probation, and perhaps even State prison. For all these reasons, I would advise not speaking to police following an accident.



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Spring Cleaning – Your old handgun or firearm isn't like your old toaster, TV or furniture. What you need to know before it goes!

Spring is here and many in Pennsylvania and New Jersey have already decided to start home projects which include cleaning out attics, garages, and other storage containers in our homes. Cleaning out old possessions sometimes can include guns and firearms.

While you should always store a handgun or any firearm, in a secure location, there are some people who store it in their home like any other piece of personal property. A gun or firearm is obviously a dangerous item, which unlike most household items is highly regulated and subject to many state and federal laws which include mandatory minimum state prison sentences in some cases.

If you have decided to get rid of a handgun or firearm it is important that you do so in the proper manner. You can't simply give your gun to another person and there are very strict requirements in Pennsylvania and New Jersey regarding selling, transferring, or disposing of a gun along with ammunition.

What you need to know about gun transfer or sale in Pennsylvania

In Pennsylvania, a resident can sell or transfer a

long gun to another PA resident if that transferee is not a prohibited person under Pennsylvania's Uniform Firearms Act, Section 6105.

Handguns, however, must be transferred at a licensed firearm dealers' place of business. At the time of that transfer, the licensee dealer will run a check on the intended recipient (transferee) to ensure that person isn't prohibited individual. In addition, the firearms' dealer will charge a processing fee to complete the transaction.

The purchaser must also sign a transfer application and record of sale for the purchase, but no transfer application is necessary to transfer a rifle or shotgun. Pennsylvania also does not impose these requirements on transfers between spouses, parents, and children, or grandparents to grandchildren.

Finally, with regards to permits to carry, Pennsylvania does have reciprocity with several states. Read my article on this topic. In Pennsylvania, any person who intentionally sells, delivers, or transfers a firearm in an unauthorized manner commits a misdemeanor of the 2nd degree but commits a felony of the 3rd degree if the purchaser or transferee is an otherwise prohibited person. In addition, a person is guilty of a felony of the 3rd degree under Pennsylvania's Uniform Firearms Act Section 6111 if he or she makes a false written or oral statement during the purchase process.

What you need to know about gun transfer or sale in New Jersey

New Jersey does not have reciprocity with any other state regarding a permit to carry. Unlike Pennsylvania, New Jersey requires a license to even purchase any type of firearm. You must apply through your local police department or your state police station. See **2C:58-3** –

Purchase of Firearms

To sell or transfer a handgun in New Jersey, you must take it to a licensed retail dealer in the state. Handguns are required to be registered to the owner; rifles and shotguns are not required to be registered. New Jersey requires a permit to even purchase a handgun, Pennsylvania does not have this requirement. When you sell a handgun to another resident in New Jersey, the state firearm database will update with the new purchaser's information.

If you sold the firearm to a gun dealer or out of state to a federally licensed firearm dealer, the firearm would remain registered to you. To dispose of a firearm in New Jersey you should contact your local police department where you can document the disposal and destruction.



Schedule Your Appointment with Dr. Carabello Today



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YOUR HEALTH

Why am I so Hungry all the Time?

People often find it difficult to lose or maintain their ideal weight because of their inability to control their appetite. These cravings often have nothing to do with actual hunger but rather bad food choices. There are foods that increase your appetite and cause you to overeat. Foods that are made up of mostly refined carbohydrates and are high in sugar are usually to blame because they often lack satiating protein and fiber.

Here is list of foods to avoid or substantially limit if you want control your appetite with the goal of weight loss or just to maintain your ideal weight.

Pastries

Sugary pastries are some of the worst items you can start your day with and certainly are not complete breakfast. Without enough protein or fiber, pastries will spike your blood sugar and cause a blood sugar crash soon after." When your blood sugar gets low, you end up feeling hungry and tired.

Bagels and Croissants

Bagels and croissants are made of simple carbohydrates mostly from white flour. When we consume simple carbs with little to no fiber, there is a sharp blood sugar

spike and then a subsequent crash which causes us to feel hungrier sooner

Fruit on Bottom or High Sugar Yogurt

A 6-ounce fruit-on-the-bottom yogurt has about 140 calories, 6 grams of protein, and 24 grams of sugar! Plain Greek Yogurt is the better choice which has 3 times the protein, with 17 grams of protein and just 6 grams of natural sugars from lactose.

The higher protein content of Greek yogurt can help you with feeling full for longer Bakovic says. Add some fresh fruit, nuts, and seeds for additional fiber and healthy fats, two nutrients that help keep you satiated.

Chips & Pretzel

Salt makes nearly anything taste better because it makes you salivate. More saliva means more active receptors on your taste buds. Potato chips and pretzels are full refined carbs and hardly any fiber to slow down your digestion. This makes you hungrier sooner!

Alcohol

When your body processes alcohol, the release of glucose [sugar] by the liver is slowed, and this produces a low blood sugar level. This rapid rise and fall in blood sugar levels can leave you craving high carb snacks. It is even worse if you usually pair your liquor with juice

or soda. Alcohol increases your cravings for carbohydrates.

White Bread

White bread is stripped of most of its nutrients and fiber which do little to keep you feeling full. In fact, one slice of white bread offers less than a gram of fiber. If you use white bread, pair it with extra lean protein like sliced deli turkey or chicken along with low-fat cheese along with some vegetables like arugula, sprouts, or bell peppers.

White Pasta

White pasta is made of refined flour, which is much lower in fiber, vitamins, and minerals than carbs from whole-grain sources. Whole-wheat pasta take longer to digest, which can help keep you feeling full longer.

Conclusion

These are simple lifestyle changes and not a diet. Proper food choices, combined with at least 150 minutes of moderate activity a week will put you on your way to your ideal bodyweight!

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What is a "Ghost Gun" and are they legal in Pennsylvania and New Jersey? (Cont.)

Ghost Guns in New Jersey

Unlike in Pennsylvania, Ghost Guns are not legal in New Jersey. In the Garden State, a person who is not registered or licensed to manufacture firearms can not purchase or obtain an un-serialized frame or receiver or any combination of parts "from which a firearm without a serial number may be readily manufactured or otherwise assembled. This means no Ghost Guns in New Jersey.

The State also prohibits using a 3D printer to produce a firearm or firearm components, including a receiver or magazine, unless the acquirer is registered or licensed by the state as a firearm manufacturer or dealer. Finally, New Jersey prohibits the distribution of computer code capable of manufacturing firearms and firearm components using a 3D printer to anyone but a manufacturer licensed under state law.

In 2019, New Jersey strengthened its ghost gun law by making it unlawful to knowingly possess, transfer, ship, sell, or dispose of, a firearm that was manufactured or otherwise

assembled using a firearm frame or firearm that is not imprinted with a serial number registered with a federally licensed manufacturer.

How does the Federal Government handle Ghost Guns?


Under the current federal law, unfinished frames received are not considered firearms, so background checks and serial numbers are not required to buy or sell them.



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Question of the Month
Question - What is the difference between a No Contest Plea and a Guilty Plea?

Answer: While any plea option will result in a non-Trial disposition, a no contest plea provides a client with additional protections which could dramatically affect a related civil matter. Pennsylvania Courts have addressed this specific issue and found that while the effect of a no contest, negotiated, or open plea are the same, a no contest plea is not an admission of guilt. Unlike a guilty plea, a no contest (nolo contendere) plea does not involve any acknowledgment as to having committed an illegal act but rather simply admits that the allegations, if proven beyond a reasonable doubt, meet the elements of the offense or offenses charged.

The difference between a no contest plea and a plea of guilt is that a plea of guilt is a binding confession of the Defendant and the no contest plea has no effect beyond those criminal proceedings. Evidence of a no contest plea is not admissible against the Defendant in a civil matter.



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