

For Further Information

To find out more about federal firearms prohibitions:

Bureau of Alcohol, Tobacco and Firearms
1-800-800-3855

For information about Batterer Intervention Programs in Virginia:

1-800-838-8238

For legal help:

VA Lawyer Referral Service
1-800-552-7977

Federal Firearms Law: Domestic Violence Offender Gun Ban

This brochure was developed by the Department of Criminal Justice Services and the Office of the Executive Secretary, Supreme Court of Virginia, pursuant to 42 U.S.C. § 3796gg-4 and is supported by Grant No. 06-A511605 awarded by the Department of Criminal Justice Services from funds authorized by the federal Violence Against Women Act and awarded to Virginia by the U.S. Department of Justice. Opinions or points of view expressed do not necessarily represent those of DCJS, The Supreme Court of Virginia, or the Justice Department and do not constitute legal advice.

Federal Firearms Law: Domestic Violence Offender Gun Ban

*An Important Notice to Persons
Convicted of Misdemeanor
Crimes of Domestic Violence*

Commonwealth of Virginia
Information Pamphlet

Have you been convicted of a misdemeanor crime?

Did the crime involve the use or attempted use of physical force, or threatened use of a deadly weapon, against someone in your household or someone with whom you have a relationship?

If your answers to these questions are “yes,” then you may be subject to federal laws making it a crime for you to possess, ship, transport or receive any firearm or ammunition.

If you are convicted of a “misdemeanor crime of domestic violence,” it is unlawful for you to possess, ship, transport or receive any firearm or ammunition. 18 U.S.C. § 922(g)(9). This prohibition also applies to federal, state, and local governmental employees in both their official and private capacities. Violation of this prohibition is a federal criminal offense punishable by up to ten years imprisonment.

What qualifies as a “misdemeanor crime of domestic violence” conviction?

The term “misdemeanor crime of domestic violence” means a criminal offense that:

- Is a federal, state, local or tribal offense that is a misdemeanor under federal or state law;
- Has as an element the use or attempted use of physical force, or the threatened use of a deadly weapon; and,
- At the time the misdemeanor was committed, the convicted offender was:
 - » a current or former spouse, parent, or guardian of the victim,
 - » a person with whom the victim shared a child in common,
 - » a person who was cohabiting with or had cohabited with the victim as a spouse, parent, or guardian, or

- » a person who was or had been similarly situated to a spouse, parent, or guardian of the victim.

For the purpose of applying this law, a person is not considered to have been convicted of a misdemeanor crime of domestic violence unless the person was represented by counsel, or knowingly and intelligently waived the right to counsel and, if entitled to have the case tried by a jury, the case was actually tried by a jury or the person knowingly and intelligently waived the right to have the case tried by a jury.

If the conviction is expunged or set aside, or if the convicted offender is pardoned for the offense, the conviction will not qualify, unless the expungement or pardon expressly provides that the person may not ship, transport, possess or receive firearms. 18 U.S.C. § 921(a)(33)(A), (B).

My qualifying misdemeanor conviction happened many years ago—does the federal law apply to me?

Since the effective date of the federal gun law, September 30, 1996, any person convicted of a misdemeanor crime of domestic violence may no longer possess a firearm or ammunition. This applies to persons who were convicted of misdemeanor crimes of domestic violence **at any time**, even before the passage of the law in September 1996.

What should I do if I have been convicted of a misdemeanor crime of domestic violence?

The Federal Bureau of Alcohol, Tobacco and Firearms advises that you immediately and lawfully dispose of your firearm and/or ammunition by transferring it to a third party, such as your attorney, local police agency, or a Federal firearms dealer.

Other Domestic Violence Statutes and Offenses

Domestic Violence Offenses

- Interstate travel to commit domestic violence: 18 U.S.C. § 2261
- Interstate stalking: 18 U.S.C. § 2261A
- Interstate travel to violate a protective order: 18 U.S.C. § 2262

Firearms Offenses

- Possession of a firearm while subject to a protective order: 18 U.S.C. § 922(g)(8)
- Transfer of a firearm to person subject to a protective order: 18 U.S.C. § 922(d)(8)
- Transfer of a firearm to person convicted of a misdemeanor crime of domestic violence: 18 U.S.C. § 922(d)(9)
- Possession of a firearm by convicted felon: 18 U.S.C. § 922(g)(1)
- Possession of a concealed handgun while subject to a protective order: Va. Code § 18.2-308.1:4
- Possession of a concealed handgun by person convicted of assault, battery, or stalking: Va. Code § 18.2-308(E), (J)