



## QUICK REFERENCE TO FEDERAL FIREARMS LAWS District of Montana

### I. POSSESSION OR RECEIPT OF A FIREARM OR AMMUNITION BY A PROHIBITED PERSON:

**18 USC § 922(g).** Punishable by up to 10 years imprisonment.

#### Elements

A. **Knowing possession or receipt** of a firearm or ammunition;

B. By a subject who falls within one of the following categories:

- Felon
- Drug addict or persistent drug abuser
- Alien
- Person adjudicated as mental defective or committed to mental institution
- Person subject to a domestic restraining order
- Person with a prior misdemeanor conviction for domestic violence
- Fugitive from justice
- Person dishonorably discharged from the military;

C. **AND**, the firearm or ammunition was transported across a state line at any time, which is generally the case because few firearms are manufactured in Montana.

**ARMED CAREER CRIMINAL:** Pursuant to 18 USC § 924(e), may receive minimum sentence of 15 years without parole if offender has 3 or more prior convictions for a felony crime of violence (e.g., burglary, arson, extortion, assault) and/or drug trafficking felony or felonies.

### II. KNOWINGLY SELL, GIVE OR OTHERWISE DISPOSE OF ANY FIREARM OR AMMUNITION TO ANY PERSON WHO FALLS WITHIN ONE OF THE ABOVE CATEGORIES:

**18 USC § 922(d).** Punishable by up to 10 years imprisonment.

### III. USE, CARRY OR POSSESS A FIREARM IN RELATION TO OR IN FURTHERANCE OF A FEDERAL DRUG FELONY OR A FEDERAL CRIME OF VIOLENCE:

**18 USC § 924(c); 18 USC § 924(j).** Punishment ranges from a **minimum of 5 years** up to life imprisonment, without parole, or **death** if death results from use of firearm. Sentence of imprisonment must be served **consecutive** to any other sentence. Mandatory minimum sentence increases depending upon: **the type of firearm involved** (short-barreled rifle or shotgun; silencer, etc.); **whether it is a second or subsequent offense**; and **whether gun was brandished or discharged**.

### IV. STOLEN FIREARM, AMMUNITION OR EXPLOSIVE:

A. **18 USC §§ 842(h); 922(i), & (j).** Punishable by up to 10 years imprisonment. May not knowingly transport or ship in interstate commerce or receive, possess, conceal, pledge or accept as security for a loan any **stolen firearm, ammunition or explosive** which has moved in interstate commerce.

B. **18 USC § 922(u).** Punishable by up to 5 years imprisonment. May not willfully steal or unlawfully take or carry away a firearm that has been shipped or transported in interstate commerce **from the person or premises of a firearms licensee**.

### V. KNOWINGLY POSSESS OR MANUFACTURE CERTAIN FIREARMS:

Various offenses punishable by up to 5 or 10 years imprisonment, depending upon specific violation.

A. **26 USC § 5861.** Generally unlawful to make or possess **any unregistered machine gun** or any part designed or intended exclusively for use in converting a weapon into such weapon, **firearm silencer, sawed-off shotgun or rifle** which meet specific length criteria, **or destructive device** (as defined in 26 USC § 5845); see also **18 USC § 922(o)**: generally unlawful to possess or transfer machine guns made on or after May 19, 1986;

B. **18 USC § 922(v).** Generally unlawful to manufacture, transfer, or possess **semi-automatic assault weapon** manufactured after Sept. 13, 1994; **OR**

C. **18 USC § 922(k).** Generally unlawful to possess or receive any firearm that has moved in interstate commerce which **lacks a serial number** or contains an **altered or obliterated serial number**.



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## VI. JUVENILES AND HANDGUNS:

- A. **18 USC § 922(x)(1)**. Punishable by up to 1 year imprisonment unless transferor had reason to believe juvenile would commit crime of violence with gun or ammunition, then up to 10 years imprisonment. May not sell, deliver or transfer a handgun or handgun-only ammunition to a **person who is under age 18**;
- B. **18 USC § 922(x)(2)**. Punishable by up to 1 year imprisonment. A person under age 18 may not possess a handgun or handgun-only ammunition;
- (NOTE: Certain exceptions apply to A & B, such as where juvenile possesses written permission of a parent.)

## VII. THREE STRIKES:

**18 USC § 3559(c)**. Punishable by mandatory life imprisonment.

### Elements

- A. instant offense is a federal serious violent felony;
- B. by a subject who has been previously convicted of :
- two or more serious violent felonies; **OR**
  - one or more serious violent felonies and one or ore serious drug trafficking offenses.

### DEFINITION OF "FIREARM"

**18 USC § 921(a)(3), (4)**. Any weapon (including a starter gun) which will expel a projectile by means of an explosive or is designed or may be readily converted to do so. This includes the frame or receiver of any such weapon, any firearm muffler or silencer or any destructive device. A "**destructive device**" includes any explosive, incendiary or poison gas – (i) bomb; (ii) grenade; (ii) similar device, or any combination of parts designed or intended for use in converting any device into a destructive device, or from which a destructive device may be readily assembled. **Does not include antique firearms.**

### TRACING OF FIREARMS

Firearms information for **every firearm** taken into police custody should be sent to ATF for tracing and possible connection to other criminal activity.

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## FOR INFORMATION OR QUESTIONS OR TO MAKE A REFERRAL FOR PROSECUTION, PLEASE CONTACT:

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