

AN ORDINANCE TO AMEND CHAPTER 36 OF THE CITY CODE REGARDING WEAPONS AND RELATED OFFENSES TO INCLUDE IMITATION FIREARMS

#4458

Sponsor:

Council
Members
Turner
Williams

WHEREAS, City Council has enacted the provisions of Chapter 36 of the City Code, setting forth rules and regulations with respect to weapons and related offenses; and

WHEREAS, many imitation firearms are manufactured in a manner that makes them appear and/or sound like real firearms; and

WHEREAS, the close resemblance of many imitation firearms to real firearms creates confusion and alarm in law enforcement officers and the general public when such imitation firearms are displayed or brandished in public; and

WHEREAS, City Council has determined that a need exists to adopt certain regulations and restrictions relating to the sale, possession, and alteration of imitation firearms in the City of Wilmington in order to further the health, safety, and welfare of minors residing in or visiting the City of Wilmington; and

WHEREAS, this ordinance is not intended to prohibit, restrict, or license the ownership, transfer, possession, or transportation of firearms as outlined in 22 Del. C. § 111.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF WILMINGTON HEREBY ORDAINS:

SECTION 1. Chapter 36 of the Wilmington City Code is hereby amended by adding a new Section 36-168 thereto containing the underlined language to read as follows:

§ 36-168. Imitation Firearms.

- (a) Definitions. The following words, terms, and phrases, when used in this section shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) “Imitation firearm” means any of the items listed below in subsection (i) or (ii) which, because of its color, size, shape or other characteristics, may reasonably be perceived to be a real firearm:
 - (i) air rifle, BB gun, or pellet gun; or
 - (ii) any toy, imitation, facsimile, or replica pistol, revolver, shotgun, rifle, machine gun, or other simulated weapon.
 - (2) “Minor” means any person under eighteen (18) years of age.
- (b) Prohibited Conduct.
- (1) It shall be unlawful to sell an imitation firearm to a minor.
 - (2) It shall be unlawful for a minor to possess an imitation firearm, except under the direct supervision of a parent or legal guardian.
 - (3) It shall be unlawful to remove or obscure the blaze orange plug, required under Title 15, Section 5001 of the United States Code, from an imitation firearm.
 - (4) It shall be unlawful to remove or obscure any other colors or markings required to be on an imitation firearm under city, state, or federal law.
 - (5) It shall be unlawful to possess an imitation firearm, on which the blaze orange plug (required by Title 15, Section 5001 of the United States Code) or any other colors or markings required by any city, state, or federal law, have been removed or obscured.
- (c) Exceptions. This section shall not apply to imitation firearms used by minors under adult supervision in the production of theatrical presentations at school.
- (d) Penalties. The penalty for a first offense under this section shall be a certain number of hours of community service, as determined by the judicial sentencing officer. For second and subsequent offenses, the penalty shall be a certain number of hours of community service, as determined by the judicial sentencing officer, plus a fine of up to \$500.

SECTION 2. This Ordinance shall become effective upon its passage by City Council and approval by the Mayor.

First Reading..... December 7, 2017
Second Reading..... December 7, 2017
Third Reading.....

Passed by City Council,

President of City Council

ATTEST: _____
City Clerk

Approved as to form this 7th day of
December, 2017.

Elizabeth D. Power
Senior Assistant City Solicitor

Approved this ____ day of _____, 2017

Mayor

SYNOPSIS: This Ordinance amends Chapter 36 of the City Code to include a new Section 36-168 that addresses the sale to and possession of imitation firearms by minors, as well as markings required to be on imitation firearms by federal and other laws. This Ordinance prohibits: 1) the sale of an imitation firearm to a minor; 2) the possession of an imitation firearm by a minor, except under the direct supervision of a parent or legal guardian; 3) the removal or obstruction of the orange plug required by federal law for certain imitation firearms, or any other colors or markings required to be on an imitation firearm under city, state, or federal law; and 4) the possession of an imitation firearm on which the blaze orange plug required by federal law or any other colors or markings required by any city, state, or federal law have been removed or obscured.

FISCAL IMPACT STATEMENT: This Ordinance has no anticipated fiscal impact.