

and shotguns (but not pistols) were prohibited. Section 110102 also increases the penalty for using or carrying a semiautomatic assault weapon "during and in relation to any crime of violence or drug trafficking crime" to a fixed, mandatory consecutive term of 10 years or, in the case of a second or subsequent conviction, 20 years. The term "semiautomatic assault weapon" is defined at new 18 U.S.C. § 921(a)(30).

Guideline 2K2.1 covers other firearm offenses involving semiautomatic assault weapons. For example, the base offense level for possession of an unlawfully imported semiautomatic assault weapon is level 12. Additional adjustments may apply and an upward departure is recommended if the offense involved multiple military-style assault rifles.

*Proposed Amendment:* Appendix A (Statutory Index) is amended by inserting the following in the appropriate place by title and section: "18 U.S.C. § 922(v) 2K2.1".

*Additional Issue for Comment:* At the request of the Department of Justice, the Commission invites comment as to whether there should be an enhanced offense level under § 2K2.1 for a conviction under 18 U.S.C. § 922(v).

*16. Synopsis of Proposed Amendment:* Section 110201 of the Violent Crime Control and Law Enforcement Act of 1994 adds a new provision at 18 U.S.C. § 922(x) making it unlawful, with some exceptions, to sell or transfer a handgun, or ammunition that is suitable for use only in a handgun, to a juvenile. The provision also prohibits, with some exceptions, a juvenile from possessing a handgun or ammunition. A juvenile is defined as a person who is less than eighteen years of age. The maximum imprisonment penalty for a person who violates this section is one year. However, if an adult defendant transfers a handgun or ammunition to a juvenile "knowing or having reasonable cause to know that the juvenile intended to carry or otherwise possess or discharge or otherwise use the handgun or ammunition in the commission of a crime of violence," the maximum authorized term of imprisonment is ten years.

In addition, section 110401 of the Violent Crime Control and Law Enforcement Act of 1994 amends 18 U.S.C. § 922(d) to make it unlawful to sell or otherwise dispose of any firearm or ammunition to any person, knowing or having reasonable grounds to believe that such person "is subject to a court order that restrains such person from harassing, stalking, or threatening an

intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child." This section also amends 18 U.S.C. § 922(g) to make it unlawful for a person who is subject to such a court order to possess or receive any firearm or ammunition in or affecting commerce.

Guideline 1B1.12 provides that the guidelines do not apply to a juvenile sentenced under the Juvenile Delinquency Act, 18 U.S.C. § 5031-5042. Guideline 2K2.1 typically applies a base offense level of 6 to a misdemeanor offense or to a felony recordkeeping offense. Guideline 2K2.1 provides a base offense level of 12 for the transfer of a firearm by a licensed dealer to a juvenile or to a person prohibited under 18 U.S.C. § 922(g) from possessing a firearm. The section also provides a base offense level of 14 for possession of a firearm by a prohibited person and increases the base offense level depending on the prior criminal history of the defendant. A specific offense characteristic may apply in the case of multiple firearms. A defendant who transfers a firearm knowing or having reason to believe that it may be used in connection with another felony offense is subject to the greater of a four-level adjustment with a minimum offense level of 18, or a cross reference to the guideline for the other offense.

The proposed amendment adds a person under the court order described in section 110401 to the definition of a "prohibited person." In addition, three amendment options are shown regarding the offense level for transfer of a firearm to a juvenile. Option 1 would result in a base offense level of 6; Option 2 would result in a base offense level of 12; Option 3, published at the request of the Department of Justice, would result in a base offense level of 14 if the defendant transferred a firearm to an underage person or to another prohibited person. Such a defendant currently would receive a base offense level of 12 under § 2K2.1.

*Proposed Amendment:* The Commentary to § 2K2.1 captioned "Application Notes" is amended in Note 6 by deleting "or (v)" and inserting "(v)" in lieu thereof; and by inserting "; or (vi) is subject to a court order that restrains the defendant from harassing, stalking, or threatening an intimate partner or child or from engaging in related conduct." immediately following "States".

[Option 1: Section § 2K2.1(a)(8) is amended by deleting "or" and by

inserting "; or (x)" immediately following "(m)".

Appendix A (Statutory Index) is amended by inserting the following in the appropriate place by title and section:

"18 U.S.C. § 922(x) 2K2.1".]

[Option 2: Appendix A (Statutory Index) is amended by inserting the following in the appropriate place by title and section:

"18 U.S.C. § 922(x) 2K2.1".]

[Option 3: Section 2K2.1(a)(6) is amended by inserting "or if the transferor knew or had reasonable cause to believe that the transferee was a prohibited person or was underage" immediately following "prohibited person".

The Commentary to § 2K2.1 captioned "Application Notes" is amended in Note 6 by inserting the following at the end thereof: "'Underage,' as used in subsection (a)(6), means under the ages set forth in 18 U.S.C. § 922(b)(1).

Appendix A (Statutory Index) is amended by inserting the following in the appropriate place by title and section:

"18 U.S.C. § 922(x) 2K2.1".]

*17. Issue for Comment:* Section 110501 of the Violent Crime Control and Law Enforcement Act of 1994 directs the Commission to provide an appropriate enhancement for a crime of violence or drug trafficking crime if a semiautomatic firearm is involved. The Commission requests comment on the most appropriate way to implement this directive. Information available to the Commission indicates that 50 to 70 percent of offenses involving a firearm involve a semiautomatic firearm; thus, offenses involving semiautomatic firearms represent the typical or "heartland" cases. Specifically, the Commission requests comment on how the offense level for an offense involving a semiautomatic firearm should be modified to address the directive. The Commission also requests comment on whether such an increase should apply to all semiautomatic firearms or whether the Commission should focus this enhancement on firearms that have characteristics that make them more dangerous than other firearms (e.g., semiautomatic firearms with a large magazine capacity). In addition, the Commission requests comment on whether any such enhancement should apply only to crimes of violence and drug trafficking offenses as specified in the directive or whether it should apply to other offenses such as firearms offenses covered by § 2K2.1 or to all offenses.

*18. Issue for Comment:* Section 110502 of the Violent Crime Control and