



Republic of Korea: Gun Control Laws

May 1997

LL File No. 1997-2013
LRA-D-PUB-001345

This report is provided for reference purposes only.
It does not constitute legal advice and does not represent the official
opinion of the United States Government. The information provided
reflects research undertaken as of the date of writing.
It has not been updated.

REPUBLIC OF KOREA

General

The Republic of Korea's original gun control law, known as the Law Controlling Firearms and Explosives (43 articles), was enacted in 1961. After two minor revisions in 1962 and 1975, the law was amended in its entirety in 1981 and renamed the Law Controlling Firearms, Swords, and Explosives (61 articles). The 1981 law in turn was entirely amended in 1984. The amendment provided for an overall increase in the punishment of offenders and for the banning of the manufacture, sale, and possession of toy guns, in addition to incorporating a new provision establishing the Safety Techniques Association for Firearms and Explosives. Particularly noteworthy is the fact that the law was rewritten in plain vernacular Korean so that every citizen could easily understand its content.¹

A 1986 revision of the 1984 law stipulated new requirements for testing manufactured or imported firearms prior to sale and prohibited the remodeling of firearms by persons authorized to possess them. At present, gun control in Korea is governed by the 1984 law² as revised in 1986 and its Enforcement Decree³ and by the Enforcement Regulation of the Ministry of Home Affairs.⁴

The aim of this law is to prevent danger and injury caused by firearms, swords, and explosives by controlling their manufacture, sale, export, possession, use, and the like, and thereby contribute to the maintenance of public safety (art. 1). The term "firearms" in the law means pistols, rifles, machine guns, hunting guns, other powder-charged firearms that project a shell and also air guns (including those using compressed gas) that have a mechanism for shooting bullets (art. 2).

Contents of the 1984 Law

Manufacture and Sale

Any person desiring to manufacture or sell firearms must obtain a permit for each plant from the Minister of Home Affairs (art. 4). Any person who intends to import or export such items is also required to obtain a permit from the same minister for each transaction (art. 9). Outdoor sale or peddling of firearms is banned (art. 8).

¹ 95 Popche [Legislation] 12-14 (Aug. 20, 1984).

² Law No. 3764, Aug. 4, 1984, as last amended by Law No. 5201, Dec. 30, 1996.

³ Presidential Decree No. 11617, Feb. 2, 1985, as last amended by Decree No. 15029, Jun. 20, 1996.

⁴ Regulation No. 427, Feb. 6, 1985.

Possession and Use

The possession of firearms is strictly limited to public officials who are required to possess firearms in performing their line of duty (members of the police and armed forces and other law enforcement officers); legally licensed manufacturers, dealers, importers, or exporters and their employees; and those who are designated as possessors of firearms by Presidential decree (art. 10).

The following persons may not possess firearms: (1) a minor less than 20 years of age, except where such person is allowed to use firearms in athletic games upon the recommendation of the president of the Korea Sports Association, the mayor of Seoul Special City, or the president of the provincial sports association; (2) a feeble-minded person, a person addicted to narcotics, marijuana, or alcohol, or other mentally disturbed individuals; (3) any person who has been sentenced to a fine or a more severe punishment in violation of this law, or to imprisonment or a more severe punishment in violation of other laws, and three years have not elapsed since his sentence was completed or remitted; (4) any person who has been given a suspended sentence of imprisonment or a more severe punishment in violation of this law and one year has not elapsed since his sentence was suspended; (5) a person with respect to whom one year has not elapsed since the day his permit to manufacture or possess firearms was revoked; and (6) any person concerning whom there is the fear that he may pose a threat to the life or property of other persons or to public peace (art. 13). However, permission to possess firearms may be granted to athletes who will use them in a shooting completion (art. 14).

Manufacture, sale, or possession of an imitation (or toy) gun, made of metal and the shape of which bears a marked resemblance to a real gun, is prohibited (art. 11). The manufacture of such toy guns for the purpose of export must be reported to the police station having jurisdiction over the manufacturing plant.

Carrying, transporting, or using firearms other than as specifically permitted by law is prohibited, with certain exceptions. Furthermore, remodeling firearms for the purpose of altering their firepower to that other than originally permitted by law is prohibited (art. 17).

In the case of possession of a hunting gun or air gun, the requisite permission is contingent upon the person's having successfully completed a course of lectures given by the mayor of a city or chief of a police station. Such courses are concerned with the laws and regulations relating to firearms in general, the method of their use, and custody of a hunting gun or air gun (art. 22). Any person who has found or picked up firearms must report this promptly to the nearest police station (art. 23). It may be noted that a person authorized to possess a firearm must report its loss or theft to the police station (art. 35).

Custody and Inspection

The major portion of this chapter is concerned with the custody and storage of explosives. Only a small portion of the chapter treats various aspects of inspection of firearms. Thus, the place of manufacture of firearms is subject to an annual safety inspection by the Minister of Home Affairs (art. 41). Firearms manufactured or imported by the licensed manufacture, or importer are also subject to the minister's inspection (art. 42). The manufacturer of firearms must establish rules concerning the prevention of danger and injury that must be approved by the mayor or provincial governor (art. 38).

Supervision

When it is deemed necessary for the prevention of danger and for the maintenance of public safety, the competent minister may conduct an inspection of the manufacturing place, shop, or warehouse and may ask the manufacturer to submit a report or present documents, books, or other items. In certain cases, he may order the business to be closed or its operations suspended, the firearms to be provisionally surrendered, or the permit to be revoked (art. 44, 45, and 47).

The Safety Techniques Association for Firearms and Explosives

This association is a juridical person established in order to study and develop safety techniques necessary for the prevention of danger and injury caused by firearms and explosives and to carry out educational programs and other business entrusted to it by government agencies (art. 48). Any person authorized to manufacture, sell, import, export, or possess firearms automatically becomes a member of the Association from the day he obtains a permit from the government (art. 49). It engages in the following activities, among others: research and experiments concerning the safety, safety inspection, manufacture, transportation, use, and storage of firearms; education; collection and publication of technical materials; import of safety techniques; international cooperation; other matters requested by the government (art. 52).

The Safety Techniques Association is operated with subsidies from the national and local governments, fees collected from the conducting of various tests, educational programs, and membership dues (art. 58). Its officers include a chairman, not more than five directors, and an auditor. The chairman and auditor are appointed by the Minister of Home Affairs, whereas directors are appointed by the chairman with the consent of the Minister of Home Affairs. The chairman and directors serve for three years and the auditor serves for two years (art. 53).

Penal Provisions

Any person who manufactures, sells, imports, exports, or possesses firearms without a permit is subject to penal servitude not to exceed 10 years or a fine not to exceed 20 million *won*. Any manufacturer who fails to observe an administrative order, such as an order to close or suspend business or to surrender the firearms provisionally, or any other order necessary for the maintenance of public order, is subject to penal servitude not to exceed five years or a fine not to exceed 10 million *won* (art. 71).

Any manufacturer or dealer who refuses to undergo inspection or obtains a permit by fraudulent means is punishable by penal servitude not to exceed three years or a fine not to exceed seven million *won*. Any person who finds or picks up firearms and refuses to give a report or makes a false report, or who carries, transports, uses, or remodels firearms other than as specifically permitted by law, is subject to penal servitude not to exceed two years or a fine not to exceed five million *won* (art. 73).

Statistics

Pomjoe paekso [Whitepaper on Crimes] reported that in 1991 there was a total of 114 homicides caused by firearms and swords, 4 by firearms and 114 by swords, and that in 1992 there was a total of 107 homicides, 5 by firearms and 102 by swords.⁵

Prepared by Sung Yoon Cho
Special
Directorate of Legal Research
Law Library
May 1997

⁵ *Pomjoe paekso* 51 (1992); 52 (1993) (Seoul, Pommun Yonsuwon, 1992 and 1993).