

HOUSE BILL 1114

E4

2lr1260

By: **Delegates Arora, Barkley, Hucker, Ivey, A. Miller, B. Robinson, and Zucker**

Introduced and read first time: February 10, 2012

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Dangerous Convicted Offenders Firearm Ban**

3 FOR the purpose of expanding the prohibition against the possession of a regulated
4 firearm by certain persons to include the possession of any firearm; expanding
5 the prohibition against the sale of a regulated firearm to certain persons to
6 include the sale of any firearm; and generally relating to the sale and possession
7 of firearms.

8 BY repealing and reenacting, without amendments,
9 Article – Public Safety
10 Section 5–101(a), (c), (g), (h), (n), and (p)
11 Annotated Code of Maryland
12 (2011 Replacement Volume)

13 BY repealing and reenacting, with amendments,
14 Article – Public Safety
15 Section 5–133 and 5–134
16 Annotated Code of Maryland
17 (2011 Replacement Volume)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
19 MARYLAND, That the Laws of Maryland read as follows:

20 **Article – Public Safety**

21 5–101.

22 (a) In this subtitle the following words have the meanings indicated.

23 (c) “Crime of violence” means:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 (1) abduction;
 - 2 (2) arson in the first degree;
 - 3 (3) assault in the first or second degree;
 - 4 (4) burglary in the first, second, or third degree;
 - 5 (5) carjacking and armed carjacking;
 - 6 (6) escape in the first degree;
 - 7 (7) kidnapping;
 - 8 (8) voluntary manslaughter;
 - 9 (9) maiming as previously proscribed under former Article 27, § 386 of
10 the Code;
 - 11 (10) mayhem as previously proscribed under former Article 27, § 384 of
12 the Code;
 - 13 (11) murder in the first or second degree;
 - 14 (12) rape in the first or second degree;
 - 15 (13) robbery;
 - 16 (14) robbery with a dangerous weapon;
 - 17 (15) sexual offense in the first, second, or third degree;
 - 18 (16) an attempt to commit any of the crimes listed in items (1) through
19 (15) of this subsection; or
 - 20 (17) assault with intent to commit any of the crimes listed in items (1)
21 through (15) of this subsection or a crime punishable by imprisonment for more than 1
22 year.
- 23 (g) “Disqualifying crime” means:
- 24 (1) a crime of violence;
 - 25 (2) a violation classified as a felony in the State; or

- 1 (xii) Calico models M-100 and M-900;
- 2 (xiii) CIS SR 88 type semi-auto;
- 3 (xiv) Claridge HI TEC C-9 carbines;
- 4 (xv) Colt AR-15, CAR-15, and all imitations except Colt AR-15
5 Sporter H-BAR rifle;
- 6 (xvi) Daewoo MAX 1 and MAX 2, aka AR 100, 110C, K-1, and
7 K-2;
- 8 (xvii) Dragunov Chinese made semi-auto;
- 9 (xviii) Famas semi-auto (.223 caliber);
- 10 (xix) Feather AT-9 semi-auto;
- 11 (xx) FN LAR and FN FAL assault rifle;
- 12 (xxi) FNC semi-auto type carbine;
- 13 (xxii) F.I.E./Franchi LAW 12 and SPAS 12 assault shotgun;
- 14 (xxiii) Steyr-AUG-SA semi-auto;
- 15 (xxiv) Galil models AR and ARM semi-auto;
- 16 (xxv) Heckler and Koch HK-91 A3, HK-93 A2, HK-94 A2 and A3;
- 17 (xxvi) Holmes model 88 shotgun;
- 18 (xxvii) Avtomat Kalashnikov semiautomatic rifle in any format;
- 19 (xxviii) Manchester Arms "Commando" MK-45, MK-9;
- 20 (xxix) Mandell TAC-1 semi-auto carbine;
- 21 (xxx) Mossberg model 500 Bullpup assault shotgun;
- 22 (xxxi) Sterling Mark 6;
- 23 (xxxii) P.A.W.S. carbine;
- 24 (xxxiii) Ruger mini-14 folding stock model (.223 caliber);
- 25 (xxxiv) SIG 550/551 assault rifle (.223 caliber);

- 1 (xxxv) SKS with detachable magazine;
- 2 (xxxvi) AP-74 Commando type semi-auto;
- 3 (xxxvii) Springfield Armory BM-59, SAR-48, G3, SAR-3,
4 M-21 sniper rifle, M1A, excluding the M1 Garand;
- 5 (xxxviii) Street sweeper assault type shotgun;
- 6 (xxxix) Striker 12 assault shotgun in all formats;
- 7 (xl) Unique F11 semi-auto type;
- 8 (xli) Daewoo USAS 12 semi-auto shotgun;
- 9 (xlii) UZI 9mm carbine or rifle;
- 10 (xliii) Valmet M-76 and M-78 semi-auto;
- 11 (xliv) Weaver Arms "Nighthawk" semi-auto carbine; or
- 12 (xlv) Wilkinson Arms 9mm semi-auto "Terry".

13 5-133.

14 (a) This section supersedes any restriction that a local jurisdiction in the
15 State imposes on the possession by a private party of a regulated firearm, and the
16 State preempts the right of any local jurisdiction to regulate the possession of a
17 regulated firearm.

18 (b) A person may not possess a regulated firearm if the person:

- 19 (1) [has been convicted of a disqualifying crime;
- 20 (2) has been convicted of a violation classified as a common law crime
21 and received a term of imprisonment of more than 2 years;
- 22 (3)] is a fugitive from justice;
- 23 [(4)] (2) is a habitual drunkard;
- 24 [(5)] (3) is addicted to a controlled dangerous substance or is a
25 habitual user;

26 [(6)] (4) suffers from a mental disorder as defined in § 10-101(f)(2) of
27 the Health – General Article and has a history of violent behavior against the person

1 or another, unless the person has a physician's certificate that the person is capable of
2 possessing a regulated firearm without undue danger to the person or to another;

3 **[(7)] (5)** has been confined for more than 30 consecutive days to a
4 facility as defined in § 10–101 of the Health – General Article, unless the person has a
5 physician's certificate that the person is capable of possessing a regulated firearm
6 without undue danger to the person or to another;

7 **[(8)] (6)** except as provided in subsection **[(e)] (F)** of this section, is a
8 respondent against whom a current non ex parte civil protective order has been
9 entered under § 4–506 of the Family Law Article; or

10 **[(9)] (7)** if under the age of 30 years at the time of possession, has
11 been adjudicated delinquent by a juvenile court for an act that would be a
12 disqualifying crime if committed by an adult.

13 **(C) A PERSON MAY NOT POSSESS A FIREARM IF THE PERSON:**

14 **(1) HAS BEEN CONVICTED OF A DISQUALIFYING CRIME; OR**

15 **(2) HAS BEEN CONVICTED OF A VIOLATION CLASSIFIED AS A**
16 **COMMON LAW CRIME AND RECEIVED A TERM OF IMPRISONMENT OF MORE THAN**
17 **2 YEARS.**

18 **[(c)] (D)** (1) A person may not possess a **[regulated]** firearm if the person
19 was previously convicted of:

20 (i) a crime of violence; or

21 (ii) a violation of § 5–602, § 5–603, § 5–604, § 5–605, § 5–612, §
22 5–613, or § 5–614 of the Criminal Law Article.

23 (2) (i) Subject to paragraph (3) of this subsection, a person who
24 violates this subsection is guilty of a felony and on conviction is subject to
25 imprisonment for not less than 5 years and not exceeding 15 years.

26 (ii) The court may not suspend any part of the mandatory
27 minimum sentence of 5 years.

28 (iii) Except as otherwise provided in § 4–305 of the Correctional
29 Services Article, the person is not eligible for parole during the mandatory minimum
30 sentence.

31 (3) At the time of the commission of the offense, if a period of more
32 than 5 years has elapsed since the person completed serving the sentence for the most

1 recent conviction under paragraph (1)(i) or (ii) of this subsection, including all
2 imprisonment, mandatory supervision, probation, and parole:

3 (i) the imposition of the mandatory minimum sentence is
4 within the discretion of the court; and

5 (ii) the mandatory minimum sentence may not be imposed
6 unless the State's Attorney notifies the person in writing at least 30 days before trial
7 of the State's intention to seek the mandatory minimum sentence.

8 (4) Each violation of this subsection is a separate crime.

9 **[(d)] (E)** (1) Except as provided in paragraph (2) of this subsection, a
10 person who is under the age of 21 years may not possess a regulated firearm.

11 (2) Unless a person is otherwise prohibited from possessing a
12 regulated firearm, this subsection does not apply to:

13 (i) the temporary transfer or possession of a regulated firearm
14 if the person is:

15 1. under the supervision of another who is at least 21
16 years old and who is not prohibited by State or federal law from possessing a firearm;
17 and

18 2. acting with the permission of the parent or legal
19 guardian of the transferee or person in possession;

20 (ii) the transfer by inheritance of title, and not of possession, of
21 a regulated firearm;

22 (iii) a member of the armed forces of the United States or the
23 National Guard while performing official duties;

24 (iv) the temporary transfer or possession of a regulated firearm
25 if the person is:

26 1. participating in marksmanship training of a
27 recognized organization; and

28 2. under the supervision of a qualified instructor;

29 (v) a person who is required to possess a regulated firearm for
30 employment and who holds a permit under Subtitle 3 of this title; or

1 (vi) the possession of a firearm for self-defense or the defense of
2 others against a trespasser into the residence of the person in possession or into a
3 residence in which the person in possession is an invited guest.

4 **[(e)] (F)** This section does not apply to a respondent transporting a
5 regulated firearm if the respondent is carrying a civil protective order requiring the
6 surrender of the regulated firearm and:

7 (1) the regulated firearm is unloaded;

8 (2) the respondent has notified the law enforcement unit, barracks, or
9 station that the regulated firearm is being transported in accordance with the civil
10 protective order; and

11 (3) the respondent transports the regulated firearm directly to the law
12 enforcement unit, barracks, or station.

13 5-134.

14 (a) This section supersedes any restriction that a local jurisdiction in the
15 State imposes on the transfer by a private party of a regulated firearm, and the State
16 preempts the right of any local jurisdiction to regulate the transfer of a regulated
17 firearm.

18 (b) A dealer or other person may not sell, rent, or transfer a regulated
19 firearm to a purchaser, lessee, or transferee who the dealer or other person knows or
20 has reasonable cause to believe:

21 (1) is under the age of 21 years;

22 (2) **[has been convicted of a disqualifying crime;**

23 (3)] has been convicted of a conspiracy to commit a felony;

24 **[(4)** has been convicted of a violation classified as a common law crime
25 and received a term of imprisonment of more than 2 years;

26 (5)] **(3)** is a fugitive from justice;

27 **[(6)] (4)** is a habitual drunkard;

28 **[(7)] (5)** is addicted to a controlled dangerous substance or is a
29 habitual user;

30 **[(8)] (6)** suffers from a mental disorder as defined in § 10-101(f)(2) of
31 the Health – General Article, and has a history of violent behavior against the

1 purchaser, lessee, or transferee or another, unless the purchaser, lessee, or transferee
2 possesses a physician's certificate that the recipient is capable of possessing a
3 regulated firearm without undue danger to the purchaser, lessee, or transferee or to
4 another;

5 **[(9)] (7)** has been confined for more than 30 consecutive days to a
6 facility as defined in § 10–101 of the Health – General Article, unless the purchaser,
7 lessee, or transferee possesses a physician's certificate that the recipient is capable of
8 possessing a regulated firearm without undue danger to the purchaser, lessee, or
9 transferee or to another;

10 **[(10)] (8)** is a respondent against whom a current non ex parte civil
11 protective order has been entered under § 4–506 of the Family Law Article;

12 **[(11)] (9)** if under the age of 30 years at the time of the transaction,
13 has been adjudicated delinquent by a juvenile court for an act that would be a
14 disqualifying crime if committed by an adult;

15 **[(12)] (10)** is visibly under the influence of alcohol or drugs;

16 **[(13)] (11)** is a participant in a straw purchase; or

17 **[(14)] (12)** subject to subsection **[(c)](D)** of this section for a transaction
18 under this subsection that is made on or after January 1, 2002, has not completed a
19 certified firearms safety training course conducted free of charge by the Police
20 Training Commission or that meets standards established by the Police Training
21 Commission under § 3–207 of this article.

22 **(C) A DEALER OR OTHER PERSON MAY NOT SELL, RENT, OR TRANSFER**
23 **A FIREARM TO A PURCHASER, LESSEE, OR TRANSFEREE WHO THE DEALER OR**
24 **OTHER PERSON KNOWS OR HAS REASONABLE CAUSE TO BELIEVE:**

25 **(1) HAS BEEN CONVICTED OF A DISQUALIFYING CRIME; OR**

26 **(2) HAS BEEN CONVICTED OF A VIOLATION CLASSIFIED AS A**
27 **COMMON LAW CRIME AND RECEIVED A TERM OF IMPRISONMENT OF MORE THAN**
28 **2 YEARS.**

29 **[(c)](D)** A person is not required to complete a certified firearms safety
30 training course under subsection **[(b)(14)](B)(12)** of this section and § 5–118(b)(3)(x) of
31 this subtitle if the person:

32 (1) has already completed a certified firearms safety training course
33 required under subsection **[(b)(14)](B)(12)** of this section and § 5–118(b)(3)(x) of this
34 subtitle;

1 (2) is a law enforcement officer of the State or any local law
2 enforcement agency in the State;

3 (3) is a member, retired member, or honorably discharged member of
4 the armed forces of the United States or the National Guard;

5 (4) is a member of an organization that is required by federal law
6 governing its specific business or activity to maintain handguns and applicable
7 ammunition; or

8 (5) has been issued a permit to carry a handgun under Subtitle 3 of
9 this title.

10 **[(d)] (E)** (1) A person may not sell, rent, or transfer:

11 (i) ammunition solely designed for a regulated firearm to a
12 person who is under the age of 21 years; or

13 (ii) 1. a firearm other than a regulated firearm to a minor;

14 2. ammunition for a firearm to a minor;

15 3. pepper mace, which is an aerosol propelled
16 combination of highly disabling irritant based products and is also known as
17 oleo-resin capsicum (O.C.) spray, to a minor; or

18 4. another deadly weapon to a minor.

19 (2) A person who violates this subsection is guilty of a misdemeanor
20 and on conviction is subject to imprisonment not exceeding 1 year or a fine not
21 exceeding \$1,000 or both.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 October 1, 2012.