

# HOUSE BILL 1328

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By: **Delegate Vallario**

Introduced and read first time: February 18, 2010

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Firearms – Knowing Violation of Specified Prohibitions – Penalty**

3 FOR the purpose of applying a certain penalty to the knowing violation of a certain  
4 prohibition against the possession of a regulated firearm or ammunition solely  
5 designed for a regulated firearm by a person who is under a certain age, and to  
6 the knowing violation of a certain prohibition against obliterating, removing,  
7 changing, or altering the manufacturer’s identification mark or number on a  
8 firearm; and generally relating to firearms violations.

9 BY repealing and reenacting, without amendments,  
10 Article – Public Safety  
11 Section 5–133 and 5–142  
12 Annotated Code of Maryland  
13 (2003 Volume and 2009 Supplement)

14 BY repealing and reenacting, with amendments,  
15 Article – Public Safety  
16 Section 5–143  
17 Annotated Code of Maryland  
18 (2003 Volume and 2009 Supplement)

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

21 **Article – Public Safety**

22 5–133.

23 (a) This section supersedes any restriction that a local jurisdiction in the  
24 State imposes on the possession by a private party of a regulated firearm, and the

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 State preempts the right of any local jurisdiction to regulate the possession of a  
2 regulated firearm.

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

4 (1) has been convicted of a disqualifying crime;

5 (2) has been convicted of a violation classified as a common law crime  
6 and received a term of imprisonment of more than 2 years;

7 (3) is a fugitive from justice;

8 (4) is a habitual drunkard;

9 (5) is addicted to a controlled dangerous substance or is a habitual  
10 user;

11 (6) suffers from a mental disorder as defined in § 10–101(f)(2) of the  
12 Health – General Article and has a history of violent behavior against the person or  
13 another, unless the person has a physician’s certificate that the person is capable of  
14 possessing a regulated firearm without undue danger to the person or to another;

15 (7) has been confined for more than 30 consecutive days to a facility as  
16 defined in § 10–101 of the Health – General Article, unless the person has a  
17 physician’s certificate that the person is capable of possessing a regulated firearm  
18 without undue danger to the person or to another;

19 (8) is a respondent against whom a current non ex parte civil  
20 protective order has been entered under § 4–506 of the Family Law Article; or

21 (9) if under the age of 30 years at the time of possession, has been  
22 adjudicated delinquent by a juvenile court for an act that would be a disqualifying  
23 crime if committed by an adult.

24 (c) (1) A person may not possess a regulated firearm if the person was  
25 previously convicted of:

26 (i) a crime of violence; or

27 (ii) a violation of § 5–602, § 5–603, § 5–604, § 5–605, § 5–606, §  
28 5–607, § 5–608, § 5–609, § 5–612, § 5–613, or § 5–614 of the Criminal Law Article.

29 (2) A person who violates this subsection is guilty of a felony and on  
30 conviction is subject to imprisonment for not less than 5 years, no part of which may  
31 be suspended.

32 (3) A person sentenced under paragraph (1) of this subsection may not  
33 be eligible for parole.

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

2           (d) (1) Except as provided in paragraph (2) of this subsection, a person  
3 who is under the age of 21 years may not possess a regulated firearm or ammunition  
4 solely designed for a regulated firearm.

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

7                   (i) the temporary transfer or possession of a regulated firearm  
8 or ammunition solely designed for a regulated firearm if the person is:

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

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

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

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

18                   (iv) the temporary transfer or possession of a regulated firearm  
19 or ammunition solely designed for a regulated firearm if the person is:

20                           1. participating in marksmanship training of a  
21 recognized organization; and

22                           2. under the supervision of a qualified instructor;

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

25                   (vi) the possession of a firearm or ammunition for self-defense  
26 or the defense of others against a trespasser into the residence of the person in  
27 possession or into a residence in which the person in possession is an invited guest.

28 5-142.

29           (a) A person may not obliterate, remove, change, or alter the manufacturer's  
30 identification mark or number on a firearm.

1 (b) If on trial for a violation of this section possession of the firearm by the  
2 defendant is established, the defendant is presumed to have obliterated, removed,  
3 changed, or altered the manufacturer's identification mark or number on the firearm.

4 5-143.

5 (a) Except as otherwise provided in this subtitle, a dealer or other person  
6 may not:

7 (1) knowingly participate in the illegal sale, rental, transfer, purchase,  
8 possession, or receipt of a regulated firearm in violation of this subtitle; **OR**

9 (2) **KNOWINGLY VIOLATE § 5-133(D) OR § 5-142 OF THIS**  
10 **SUBTITLE.**

11 (b) A person who violates this section is guilty of a misdemeanor and on  
12 conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding  
13 \$10,000 or both.

14 (c) Each violation of this section is a separate crime.

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
16 October 1, 2010.