

SENATE BILL 240

E1

11r0558
CF 11r0557

By: **Senator Jones–Rodwell (By Request – Baltimore City Administration)**

Introduced and read first time: January 28, 2011

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Restrictions Against Use and Possession of Firearms**

3 FOR the purpose of expanding the prohibition against the use of handguns and certain
4 antique firearms in the commission of certain crimes of violence or felonies to
5 include the use of any firearm, whether loaded or unloaded; increasing the
6 maximum term of imprisonment applicable to a violation of the prohibition
7 against a certain person possessing a certain regulated firearm; providing that
8 the imposition of certain mandatory minimum sentences are within the
9 discretion of the court under certain circumstances; providing that certain
10 mandatory minimum sentences may not be imposed unless the State’s Attorney
11 notifies a certain person in writing at a certain time of the State’s intention to
12 seek a certain sentence; prohibiting a person from possessing a rifle or shotgun
13 if the person was previously convicted of a certain crime of violence or
14 drug–related crime; establishing certain penalties; prohibiting a certain court
15 from suspending any part of a certain sentence; providing that a certain person
16 is not eligible for parole during a certain mandatory minimum sentence, with a
17 certain exception; providing that each violation of a certain provision of law is a
18 separate crime; defining a certain term; and generally relating to the use and
19 possession of firearms.

20 BY repealing and reenacting, with amendments,

21 Article – Criminal Law

22 Section 4–204

23 Annotated Code of Maryland

24 (2002 Volume and 2010 Supplement)

25 BY repealing and reenacting, with amendments,

26 Article – Public Safety

27 Section 5–133(c)

28 Annotated Code of Maryland

29 (2003 Volume and 2010 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, without amendments,
2 Article – Public Safety
3 Section 5–143
4 Annotated Code of Maryland
5 (2003 Volume and 2010 Supplement)

6 BY adding to
7 Article – Public Safety
8 Section 5–206
9 Annotated Code of Maryland
10 (2003 Volume and 2010 Supplement)

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

13 **Article – Criminal Law**

14 4–204.

15 (a) (1) IN THIS SECTION, “FIREARM” MEANS:

16 (I) A WEAPON THAT EXPELS, IS DESIGNED TO EXPEL, OR
17 MAY READILY BE CONVERTED TO EXPEL A PROJECTILE BY THE ACTION OF AN
18 EXPLOSIVE; OR

19 (II) THE FRAME OR RECEIVER OF SUCH A WEAPON.

20 (2) “FIREARM” INCLUDES AN ANTIQUE FIREARM, HANDGUN,
21 RIFLE, SHOTGUN, SHORT–BARRELED RIFLE, SHORT–BARRELED SHOTGUN,
22 STARTER GUN, OR ANY OTHER FIREARM, WHETHER LOADED OR UNLOADED.

23 (B) A person may not use [an antique firearm capable of being concealed on
24 the person or any handgun] A FIREARM in the commission of a crime of violence, as
25 defined in § 5–101 of the Public Safety Article, or any felony, whether the [antique
26 firearm or handgun] FIREARM is operable or inoperable at the time of the crime.

27 [(b)] (C) (1) (i) A person who violates this section is guilty of a
28 misdemeanor and, in addition to any other penalty imposed for the crime of violence or
29 felony, shall be sentenced to imprisonment for not less than 5 years and not exceeding
30 20 years.

31 (ii) The court may not impose less than the minimum sentence
32 of 5 years and, except as otherwise provided in § 4–305 of the Correctional Services
33 Article, the person is not eligible for parole in less than 5 years.

1 (2) For each subsequent violation, the sentence shall be consecutive to
 2 and not concurrent with any other sentence imposed for the crime of violence or felony.

3 **Article – Public Safety**

4 ~~5–133.~~

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

7 (i) a crime of violence; or

8 (ii) a violation of § 5–602, § 5–603, § 5–604, § 5–605, § 5–606, §
 9 5–607, § 5–608, § 5–609, § 5–612, § 5–613, or § 5–614 of the Criminal Law Article.

10 (2) (I) [A] **SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION,**
 11 **A person who violates this subsection is guilty of a felony and on conviction is subject**
 12 **to imprisonment for not less than 5 years**[, no part of which may be suspended.

13 (3) A person sentenced under paragraph (1) of this subsection may not
 14 be eligible for parole] **AND NOT EXCEEDING 15 YEARS.**

15 (II) **THE COURT MAY NOT SUSPEND ANY PART OF THE**
 16 **MANDATORY MINIMUM SENTENCE OF 5 YEARS.**

17 (III) **EXCEPT AS OTHERWISE PROVIDED IN § 4–305 OF THE**
 18 **CORRECTIONAL SERVICES ARTICLE, THE PERSON IS NOT ELIGIBLE FOR**
 19 **PAROLE DURING THE MANDATORY MINIMUM SENTENCE.**

20 (3) **AT THE TIME OF THE COMMISSION OF THE OFFENSE, IF A**
 21 **PERIOD OF MORE THAN 5 YEARS HAS ELAPSED SINCE THE PERSON COMPLETED**
 22 **SERVING THE SENTENCE FOR THE MOST RECENT CONVICTION UNDER**
 23 **SUBSECTION (C)(1)(I) OR (II) OF THIS SECTION, INCLUDING ALL**
 24 **IMPRISONMENT, MANDATORY SUPERVISION, PROBATION, AND PAROLE:**

25 (I) **THE IMPOSITION OF THE MANDATORY MINIMUM**
 26 **SENTENCE IS WITHIN THE DISCRETION OF THE COURT; AND**

27 (II) **THE MANDATORY MINIMUM SENTENCE MAY NOT BE**
 28 **IMPOSED UNLESS THE STATE’S ATTORNEY NOTIFIES THE PERSON IN WRITING**
 29 **AT LEAST 30 DAYS BEFORE TRIAL OF THE STATE’S INTENTION TO SEEK THE**
 30 **MANDATORY MINIMUM SENTENCE.**

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

1 5-143.

2 (a) Except as otherwise provided in this subtitle, a dealer or other person
3 may not knowingly participate in the illegal sale, rental, transfer, purchase,
4 possession, or receipt of a regulated firearm in violation of this subtitle.

5 (b) A person who violates this section is guilty of a misdemeanor and on
6 conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding
7 \$10,000 or both.

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

9 **5-206.**

10 (A) **A PERSON MAY NOT POSSESS A RIFLE OR SHOTGUN IF THE PERSON**
11 **WAS PREVIOUSLY CONVICTED OF:**

12 (1) **A CRIME OF VIOLENCE; OR**

13 (2) **A VIOLATION OF § 5-602, § 5-603, § 5-604, § 5-605, § 5-606, §**
14 **5-607, § 5-608, § 5-609, § 5-612, § 5-613, OR § 5-614 OF THE CRIMINAL LAW**
15 **ARTICLE.**

16 (B) (1) **SUBJECT TO SUBSECTION (C) OF THIS SECTION, A PERSON**
17 **WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY AND ON CONVICTION IS**
18 **SUBJECT TO IMPRISONMENT FOR NOT LESS THAN 5 YEARS AND NOT EXCEEDING**
19 **15 YEARS.**

20 (2) **THE COURT MAY NOT SUSPEND ANY PART OF THE**
21 **MANDATORY MINIMUM SENTENCE OF 5 YEARS.**

22 (3) **EXCEPT AS OTHERWISE PROVIDED IN § 4-305 OF THE**
23 **CORRECTIONAL SERVICES ARTICLE, THE PERSON IS NOT ELIGIBLE FOR**
24 **PAROLE DURING THE MANDATORY MINIMUM SENTENCE.**

25 (C) **AT THE TIME OF THE COMMISSION OF THE OFFENSE, IF A PERIOD**
26 **OF MORE THAN 5 YEARS HAS ELAPSED SINCE THE PERSON COMPLETED**
27 **SERVING THE SENTENCE FOR THE MOST RECENT CONVICTION UNDER**
28 **SUBSECTION (A)(1) OR (2) OF THIS SECTION, INCLUDING ALL IMPRISONMENT,**
29 **MANDATORY SUPERVISION, PROBATION, AND PAROLE:**

30 (1) **THE IMPOSITION OF THE MANDATORY MINIMUM SENTENCE IS**
31 **WITHIN THE DISCRETION OF THE COURT; AND**

1 **(2) THE MANDATORY MINIMUM SENTENCE MAY NOT BE IMPOSED**
2 **UNLESS THE STATE'S ATTORNEY NOTIFIES THE PERSON IN WRITING AT LEAST**
3 **30 DAYS BEFORE TRIAL OF THE STATE'S INTENTION TO SEEK THE MANDATORY**
4 **MINIMUM SENTENCE.**

5 **(D) EACH VIOLATION OF THIS SUBSECTION IS A SEPARATE CRIME.**

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 2011.