

BY: Judiciary Committee

AMENDMENTS TO SENATE BILL NO. 209
(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, strike beginning with “Restrictions” in line 2 down through “Felons” in line 3 and substitute “Prohibitions”; in line 4, after “prohibiting” insert “a person from wearing or possessing bulletproof body armor during certain drug trafficking crimes under certain circumstances; restricting”; strike beginning with “convicted” in line 5 down through “circumstances” in line 6; strike beginning with “authorizing” in line 9 down through “circumstances” in line 19 and substitute “authorizing the Secretary of the State Police to issue, deny, or impose certain conditions or limitations on a permit to possess, purchase, or use bulletproof body armor; establishing certain procedures for application, consideration, renewal, review, and appeals relating to permits”; in line 20, strike “a certain term” and substitute “certain terms”; in line 22, strike “adding to” and substitute “repealing and reenacting, with amendments,”; and in line 24, strike “27B” and substitute “27A”.

On page 2, after line 1, insert:

“BY adding to

Article 27 - Crimes and Punishments

Section 27C

Annotated Code of Maryland

(1996 Replacement Volume and 2000 Supplement)

BY repealing and reenacting, without amendments,

Article 27 - Crimes and Punishments

Section 281A(a)(2)

Annotated Code of Maryland

(1996 Replacement Volume and 2000 Supplement)”.

AMENDMENT NO. 2

(Over)

On pages 4 through 6, strike in their entirety the lines beginning with line 28 on page 4 through line 18 on page 6, inclusive, and substitute:

“27A.

(a) [(1)] In this [section] SUBHEADING the following words have the meanings indicated.

[(2)] (B) “Ammunition” means any cartridge, shell, or other device containing explosive or incendiary material designed and intended for use in a firearm.

[(3)] (C) “Bulletproof body armor” means any material or object that is designed to cover or be worn on any part of the body to prevent, deflect, or slow down the penetration of ammunition.

[(4)] (D) “Crime of violence” has the meaning stated in § 643B(a) of this article.

(E) “DRUG TRAFFICKING CRIME” HAS THE MEANING STATED IN § 281A OF THIS ARTICLE.

[(5)] (F) “Firearm” includes:

[(i)] (1) A handgun, antique firearm, rifle, shotgun, short-barreled shotgun, or short-barreled rifle, as defined in § 36F of this article;

[(ii)] (2) A machine gun, as defined in § 372 of this article;

[(iii)] (3) A regulated firearm as defined in § 441 of this article; and

[(iv)] (4) An assault pistol, as defined in § 36H-1 of this article.

[(6)] (G) “SECRETARY” MEANS THE SECRETARY OF THE STATE POLICE OR THE SECRETARY’S DESIGNEE.

27B.

(A) (1) A PERSON MAY NOT WEAR BULLETPROOF BODY ARMOR IN THE COMMISSION OF A CRIME OF VIOLENCE.

(2) DURING AND IN RELATION TO A DRUG TRAFFICKING CRIME, A PERSON MAY NOT WEAR OR POSSESS BULLETPROOF BODY ARMOR.

(b) [Any person who wears bulletproof body armor in the commission of a crime of violence] A PERSON WHO VIOLATES THIS SECTION is guilty of a separate misdemeanor and on conviction, in addition to any other sentence imposed by virtue of commission of the crime of violence OR DRUG TRAFFICKING CRIME, is subject to a fine of not more than \$5,000 or imprisonment for not more than 5 years or both.

27C.

(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, ANY PERSON WHO WAS PREVIOUSLY CONVICTED OF A CRIME OF VIOLENCE OR A DRUG TRAFFICKING CRIME MAY NOT USE, POSSESS, OR PURCHASE BULLETPROOF BODY ARMOR.

(B) A PERSON WITH A PRIOR CONVICTION FOR A CRIME OF VIOLENCE OR A DRUG TRAFFICKING CRIME MAY FILE FOR GOOD CAUSE SHOWN A PETITION WITH THE SECRETARY FOR A PERMIT TO USE, POSSESS, AND PURCHASE BULLETPROOF BODY ARMOR.

(C) ON RECEIPT OF A PETITION UNDER SUBSECTION (B) OF THIS SECTION, THE SECRETARY MAY PERMIT THE PETITIONER TO USE, POSSESS, OR PURCHASE BULLETPROOF BODY ARMOR UNDER ANY TERMS, CONDITIONS, AND LIMITATIONS AS THE SECRETARY DETERMINES TO BE APPROPRIATE, BASED ON A DETERMINATION THAT THE PETITIONER:

(1) IS LIKELY TO USE OR POSSESS BULLETPROOF BODY ARMOR IN A

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SAFE AND LAWFUL MANNER; AND

(2) HAS GOOD CAUSE FOR THE USE, POSSESSION, OR PURCHASE OF BULLETPROOF BODY ARMOR.

(D) IN MAKING A DETERMINATION UNDER SUBSECTION (C) OF THIS SECTION WITH RESPECT TO A PETITIONER, THE SECRETARY SHALL CONSIDER THE FOLLOWING:

(1) THE EFFECT OF THE DETERMINATION ON THE EMPLOYMENT OF THE PETITIONER;

(2) THE INTERESTS OF JUSTICE;

(3) THE SAFETY OF THE PETITIONER;

(4) ANY OTHER VALID REASON FOR THE PETITIONER TO USE, POSSESS, OR PURCHASE BULLETPROOF BODY ARMOR; AND

(5) THE TOTALITY OF THE CIRCUMSTANCES.

(E) THE SECRETARY SHALL REQUIRE, AS A CONDITION OF GRANTING ANY PERMIT TO A PETITIONER, THAT THE PETITIONER AGREE TO MAINTAIN IN THE PERSON'S POSSESSION A CERTIFIED COPY OF THE SECRETARY'S PERMIT TO USE, POSSESS, AND PURCHASE BULLETPROOF BODY ARMOR, INCLUDING ANY TERMS, CONDITIONS, OR LIMITATIONS.

(F) (1) A PERMIT UNDER THIS SECTION EXPIRES 5 YEARS FOLLOWING THE DATE OF ITS ISSUANCE.

(2) A PERMIT SHALL BE RENEWED FOR SUCCESSIVE PERIODS OF 5 YEARS IF THE APPLICANT:

(1) FILES AN APPLICATION FOR RENEWAL AT ANY TIME

DURING THE 3 MONTHS PRIOR TO THE EXPIRATION OF THE PERMIT; AND

(II) SATISFIES THE REQUIREMENTS OF THIS SECTION.

(G) THE SECRETARY MAY REVOKE ANY PERMIT ISSUED AT ANY TIME ON A FINDING THAT THE HOLDER NO LONGER SATISFIES THE QUALIFICATIONS SET FORTH IN SUBSECTION (C) OF THIS SECTION.

(H) (1) ANY PERSON WHOSE APPLICATION FOR A PERMIT OR RENEWAL OF A PERMIT HAS BEEN REJECTED OR WHOSE PERMIT HAS BEEN REVOKED OR LIMITED MAY REQUEST THE SECRETARY TO CONDUCT AN INFORMAL REVIEW BY FILING A WRITTEN REQUEST WITHIN 10 DAYS AFTER RECEIPT OF WRITTEN NOTICE OF THE SECRETARY'S INITIAL ACTION.

(2) THE INFORMAL REVIEW MAY INCLUDE A PERSONAL INTERVIEW OF THE APPLICANT.

(3) A REVIEW UNDER THIS SUBSECTION IS NOT SUBJECT TO THE ADMINISTRATIVE PROCEDURE ACT.

(4) PURSUANT TO THE INFORMAL REVIEW, THE SECRETARY SHALL SUSTAIN, REVERSE, OR MODIFY THE INITIAL ACTION TAKEN AND NOTIFY THE APPLICANT OF THE DECISION IN WRITING WITHIN 30 DAYS AFTER RECEIPT OF THE REQUEST FOR INFORMAL REVIEW.

(I) (1) A REQUEST FOR INFORMAL REVIEW UNDER SUBSECTION (H) OF THIS SECTION IS NOT A CONDITION PRECEDENT TO INSTITUTION OF PROCEEDINGS UNDER THIS SUBSECTION.

(2) ANY PERSON AGGRIEVED BY A DECISION OF THE SECRETARY MAY SEEK REVIEW UNDER TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

(J) THE SECRETARY SHALL ADOPT REGULATIONS TO CARRY OUT THE

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PROVISIONS OF THIS SECTION.

(K) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION, IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 5 YEARS OR A FINE NOT EXCEEDING \$5,000 OR BOTH.

281A.

(a) (2) “Drug trafficking crime” means:

(i) Any felony involving the possession, distribution, manufacture, or importation of a controlled dangerous substance under §§ 286 and 286A of this article; or

(ii) Conspiracy to commit any felony involving possession, distribution, manufacture, or importation of a controlled dangerous substance under § 286 or § 286A of this article.”.