

HOUSE BILL 305

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2001 Regular Session
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By: **The Speaker (Administration) and Delegates R. Baker, Benson, Branch, Bronrott, Brown, Burns, Cole, D. Davis, DeCarlo, Dobson, Doory, Harrison, Hecht, Hill, Hixson, Howard, Hubbard, A. Jones, V. Jones, Kagan, Kirk, McIntosh, Montague, Nathan-Pulliam, Oaks, Paige, Patterson, Petzold, Phillips, Pitkin, Proctor, Rawlings, Sher, Shriver, and ~~Valderrama~~ Valderrama, Leopold, and Owings**

Introduced and read first time: January 26, 2001
Assigned to: Judiciary

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 20, 2001

CHAPTER 108

1 AN ACT concerning

2 **Bulletproof Body Armor - Restrictions on Possession, Use, and Sale**
3 **Prohibitions**

4 FOR the purpose of prohibiting a person from wearing or possessing bulletproof body
5 armor during certain drug trafficking crimes under certain circumstances;
6 restricting the possession, use, and ~~sale~~ purchase of certain bulletproof body
7 armor by certain persons; providing for criminal penalties; authorizing the
8 Secretary of the State Police to issue, deny, or impose certain conditions or
9 limitations on a permit to possess, purchase, or ~~own~~ use bulletproof body armor;
10 establishing certain procedures for application, consideration, renewal, review,
11 and appeals relating to permits; requiring the Secretary to adopt certain
12 regulations; defining a ~~certain term~~ certain terms; and generally relating to
13 bulletproof body armor.

14 BY repealing and reenacting, with amendments,
15 Article 27 - Crimes and Punishments
16 Section 27A
17 Annotated Code of Maryland
18 (1996 Replacement Volume and 2000 Supplement)

19 BY adding to
20 Article 27 - Crimes and Punishments

1 Section 27C
 2 Annotated Code of Maryland
 3 (1996 Replacement Volume and 2000 Supplement)

4 BY repealing and reenacting, without amendments,
 5 Article 27 - Crimes and Punishments
 6 Section 281A(a)(2)
 7 Annotated Code of Maryland
 8 (1996 Replacement Volume and 2000 Supplement)

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

11 **Article 27 - Crimes and Punishments**

12 27A.

13 (a) ~~(1)~~ In this ~~section~~ SUBHEADING the following words have the meanings
 14 indicated.

15 ~~(2)~~ (B) "Ammunition" means any cartridge, shell, or other device
 16 containing explosive or incendiary material designed and intended for use in a
 17 firearm.

18 ~~(3)~~ (C) "Bulletproof body armor" means any material or object that is
 19 designed to cover or be worn on any part of the body to prevent, deflect, or slow down
 20 the penetration of ammunition.

21 ~~(4)~~ (D) "Crime of violence" has the meaning stated in § 643B(a) of this
 22 article.

23 (E) "DRUG TRAFFICKING CRIME" HAS THE MEANING STATED IN § 281A OF THIS
 24 ARTICLE.

25 ~~(5)~~ (F) "Firearm" includes:

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

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

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

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

31 ~~(6)~~ (G) "SECRETARY" MEANS THE SECRETARY OF THE STATE POLICE
 32 OR THE SECRETARY'S DESIGNEE.

1 (B) EXCEPT AS PROVIDED IN SECTION (C) OF THIS SECTION, ANY PERSON WHO
2 PURCHASES, OWNS, OR POSSESSES BULLETPROOF BODY ARMOR IS GUILTY OF A
3 MISDEMEANOR AND UPON CONVICTION IS SUBJECT TO A FINE OF NOT MORE THAN
4 \$5,000 OR IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR BOTH.

5 (C) THE PROVISIONS OF SUBSECTION (B) OF THIS SECTION DO NOT APPLY TO:

6 (1) PERSONNEL OF THE UNITED STATES GOVERNMENT OR ANY AGENCY
7 OR DEPARTMENT OF THE UNITED STATES, MEMBERS OF THE ARMED FORCES OF THE
8 UNITED STATES OR OF THE NATIONAL GUARD, OR LAW ENFORCEMENT PERSONNEL
9 OF THIS STATE OR ANY LOCAL AGENCY IN THE STATE;

10 (2) LAW ENFORCEMENT PERSONNEL OF SOME OTHER STATE OR
11 SUBDIVISION OF ANOTHER STATE TEMPORARILY IN THIS STATE ON OFFICIAL
12 BUSINESS;

13 (3) ANY PERSON TO WHOM A PERMIT TO CARRY A WEAPON HAS BEEN
14 ISSUED UNDER SECTION 36E OF THIS ARTICLE;

15 (4) AN EMPLOYEE OF THE DIVISION OF CORRECTION, THE PATUXENT
16 INSTITUTION, THE DIVISION OF PRETRIAL DETENTION AND SERVICES, THE DIVISION
17 OF PAROLE AND PROBATION, ANY COUNTY JAIL OR DETENTION CENTER, OR ANY
18 BOOKING FACILITY WHILE ACTING WITHIN THE COURSE AND SCOPE OF THEIR
19 EMPLOYMENT;

20 (5) ANY EMERGENCY MEDICAL SERVICES PROVIDER WHILE ACTING
21 WITHIN THE COURSE AND SCOPE OF THEIR EMPLOYMENT;

22 (6) HOLDERS OF SPECIAL POLICE COMMISSIONS ISSUED UNDER
23 ARTICLE 41, TITLE 4, SUBTITLE 9 OF THE CODE;

24 (7) UNIFORMED SECURITY GUARDS, SPECIAL RAILWAY POLICE, AND
25 WATCHMEN WHO HAVE BEEN CLEARED FOR SUCH EMPLOYMENT BY THE
26 DEPARTMENT OF STATE POLICE;

27 (8) GUARDS IN THE EMPLOY OF A BANK, SAVINGS AND LOAN
28 ASSOCIATION, BUILDING AND LOAN ASSOCIATION, OR EXPRESS OR ARMORED CAR
29 AGENCY;

30 (9) PRIVATE DETECTIVES AND EMPLOYEES OF PRIVATE DETECTIVES
31 PREVIOUSLY LICENSED UNDER FORMER ARTICLE 56, § 90A OF THE CODE; AND

32 (10) ANY PERSON WHOSE EMPLOYMENT, LIVELIHOOD, OR PERSONAL
33 SAFETY MAY BE DEPENDENT ON THE ABILITY TO LEGALLY POSSESS AND USE BODY
34 ARMOR, AND WHO HAS BEEN ISSUED A PERMIT UNDER SUBSECTION (D) OF THIS
35 SECTION.

36 (D) (1) THE SECRETARY HAS THE AUTHORITY TO ISSUE, DENY, OR IMPOSE
37 CERTAIN CONDITIONS OR LIMITATIONS ON A PERMIT TO POSSESS, PURCHASE, OR
38 OWN BULLETPROOF BODY ARMOR.

1 (2) A PERMIT TO POSSESS, PURCHASE, OR OWN BULLETPROOF BODY
2 ARMOR SHALL BE ISSUED WITHIN A REASONABLE TIME BY THE SECRETARY, UPON
3 APPLICATION UNDER OATH THEREFOR, TO ANY PERSON WHO THE SECRETARY
4 FINDS:

5 (I) IS LIKELY TO USE BODY ARMOR IN A SAFE AND LAWFUL
6 MANNER; AND

7 (II) HAS A REASONABLE NEED FOR SUCH PROTECTION UNDER THE
8 INDIVIDUAL'S CIRCUMSTANCES.

9 (3) THE SECRETARY SHALL ADOPT A PROCEDURE TO PROVIDE
10 EMERGENCY APPROVAL FOR AN INDIVIDUAL WHO IS IN IMMEDIATE NEED TO USE
11 BULLETPROOF BODY ARMOR.

12 (4) IN MAKING THE DETERMINATION TO ISSUE A PERMIT TO POSSESS,
13 PURCHASE, AND OWN BULLETPROOF BODY ARMOR, THE SECRETARY SHALL
14 CONSIDER THE FOLLOWING:

15 (I) THE PERSON'S CONTINUED EMPLOYMENT, IF APPROPRIATE;

16 (II) THE INTEREST OF JUSTICE;

17 (III) ANY RELEVANT EVIDENCE; AND

18 (IV) THE TOTALITY OF THE CIRCUMSTANCES.

19 (5) THE SECRETARY SHALL ADOPT REGULATIONS TO EXECUTE THE
20 PROVISIONS OF THIS SECTION.

21 (6) THE SECRETARY MAY, FOR ANY PERMIT ISSUED UNDER THIS
22 SECTION, LIMIT THE GEOGRAPHIC AREA, CIRCUMSTANCES, OR TIMES DURING THE
23 DAY, WEEK, MONTH, OR YEAR IN OR DURING WHICH THE PERMIT IS EFFECTIVE.

24 (7) THE SECRETARY SHALL REQUIRE, AS A CONDITION OF GRANTING A
25 PERMIT UNDER SUBSECTION (D) OF THIS SECTION, THAT THE PETITIONER FOR
26 BULLETPROOF BODY ARMOR AGREE TO MAINTAIN ON HIS OR HER PERSON A
27 CERTIFIED COPY OF THE PERMIT TO POSSESS AND USE BODY ARMOR, INCLUDING
28 ANY CONDITIONS OR LIMITATIONS.

29 (8) THE SECRETARY MAY REVOKE ANY PERMIT ISSUED AT ANY TIME
30 UPON A FINDING THAT:

31 (I) THE HOLDER NO LONGER SATISFIES THE QUALIFICATIONS SET
32 FORTH IN SUBSECTION (C) OF THIS SECTION; OR

33 (II) THE PERMIT HAS EXPIRED.

1 27B.

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

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

6 [(b)] ~~(E)~~ (B) ~~Any person who wears bulletproof body armor in the~~
7 ~~commission of a crime of violence~~ A PERSON WHO VIOLATES THIS SECTION is guilty of
8 a separate ~~{misdemeanor}~~ ~~FELONY~~ and on conviction, in addition to any other
9 sentence imposed by virtue of commission of the crime of violence OR DRUG
10 TRAFFICKING CRIME, is subject to a fine of not more than ~~{\$5,000}~~ \$10,000 or
11 imprisonment for not more than ~~{5}~~ 10 years or both.

12 27C.

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

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

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

26 (1) IS LIKELY TO USE OR POSSESS BULLETPROOF BODY ARMOR IN A
27 SAFE AND LAWFUL MANNER; AND

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

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

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

35 (2) THE INTERESTS OF JUSTICE;

36 (3) THE SAFETY OF THE PETITIONER;

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

3 (5) THE TOTALITY OF THE CIRCUMSTANCES.

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

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

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

13 (I) FILES AN APPLICATION FOR RENEWAL AT ANY TIME DURING
14 THE 3 MONTHS PRIOR TO THE EXPIRATION OF THE PERMIT; AND

15 (II) SATISFIES THE REQUIREMENTS OF THIS SECTION.

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

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

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

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

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

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

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

1 (J) THE SECRETARY SHALL ADOPT REGULATIONS TO CARRY OUT THE
2 PROVISIONS OF THIS SECTION.

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

6 281A.

7 (a) (2) "Drug trafficking crime" means:

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

11 (ii) Conspiracy to commit any felony involving possession,
12 distribution, manufacture, or importation of a controlled dangerous substance under
13 § 286 or § 286A of this article.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2001.