

SENATE BILL 223

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2002 Regular Session  
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CF 2lr0391

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By: **Senators Frosh and Van Hollen and Senators Conway, Currie, Dorman,  
Exum, Forehand, Hoffman, Hughes, Kelley, McFadden, Mitchell, Pinsky,  
Ruben, and Teitelbaum**

Introduced and read first time: January 18, 2002

Assigned to: Judicial Proceedings

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A BILL ENTITLED

1 AN ACT concerning

2 **Gun Safety Act of 2002**

3 FOR the purpose of specifying certain information that an application to purchase,  
4 rent, or transfer a regulated firearm must contain; requiring, after a certain  
5 date, a person applying to purchase, rent, or transfer a regulated firearm to  
6 demonstrate competency in handling firearms while completing a certified  
7 firearms safety training course; specifying the subject matter and fee for the  
8 course; requiring a person or unit of government that conducts a certain course  
9 to report to the Department of State Police certain information within a certain  
10 period; altering the information required in a certain statement contained in a  
11 certain application; exempting certain local government employees and State  
12 Police officers from liability for any injury incurred by a participant in a certain  
13 course; requiring the owner of a regulated firearm that is lost or stolen to report  
14 the loss or theft to the Secretary of the State Police within a certain period;  
15 specifying a certain penalty; requiring the Police Training Commission to adopt  
16 certain regulations by a certain date; altering the penalties for a person found  
17 guilty of storing or leaving a loaded firearm in a location where the person knew  
18 or should have known that an unsupervised child would gain access to the  
19 firearm; repealing certain provisions concerning the effects of a certain  
20 violation; clarifying certain language; requiring the Secretary of the Department  
21 of Public Safety and Correctional Services, in consultation with the Criminal  
22 Justice Information Advisory Board, to implement a system for reporting certain  
23 convictions to the State Police for a certain purpose; exempting a State Police  
24 officer and a local government employee from civil liability for certain acts or  
25 omissions; making technical changes; and generally relating to safety training  
26 courses and other safety procedures for regulated firearms.

27 BY repealing and reenacting, with amendments,  
28 Article 27 - Crimes and Punishments  
29 Section 442(h) and (h-1)  
30 Annotated Code of Maryland  
31 (1996 Replacement Volume and 2001 Supplement)

1 BY repealing and reenacting, without amendments,  
2 Article 27 - Crimes and Punishments  
3 Section 442(a)  
4 Annotated Code of Maryland  
5 (1996 Replacement Volume and 2001 Supplement)

6 BY adding to  
7 Article 27 - Crimes and Punishments  
8 Section 442(h-1) and (h-4) and 448A  
9 Annotated Code of Maryland  
10 (1996 Replacement Volume and 2001 Supplement)

11 BY repealing and reenacting, with amendments,  
12 Article 41 - Governor - Executive and Administrative Departments  
13 Section 4-201(d-1)  
14 Annotated Code of Maryland  
15 (1997 Replacement Volume and 2001 Supplement)

16 BY repealing and reenacting, with amendments,  
17 Article - Criminal Law  
18 Section 4-104  
19 Annotated Code of Maryland  
20 (As enacted by Chapter \_\_\_\_\_(H.B. 11) of the Acts of the General Assembly of  
21 2002)

22 BY repealing and reenacting, without amendments,  
23 Article - Criminal Procedure  
24 Section 1-101(a) and (m)  
25 Annotated Code of Maryland  
26 (2001 Volume)

27 BY adding to  
28 Article - Criminal Procedure  
29 Section 10-219(c)  
30 Annotated Code of Maryland  
31 (2001 Volume)

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

**Article 27 - Crimes and Punishments**

2 442.

3 (a) All restrictions imposed by the laws, ordinances or regulations of all  
4 subordinated jurisdictions within the State of Maryland on sales of regulated  
5 firearms are superseded by this section, and the State of Maryland hereby preempts  
6 the rights of such jurisdictions to regulate the sale of regulated firearms.

7 (h) The application to purchase, rent, or transfer shall contain the following  
8 information:

9 (1) (I) Applicant's name, address, Maryland driver's or photographic  
10 identification soundex number[.];

11 (II) DOCUMENTATION INDICATING THAT THE APPLICANT IS A  
12 MARYLAND RESIDENT, SUCH AS A UTILITY BILL FROM WITHIN THE LAST 3 MONTHS,  
13 A RESIDENTIAL LEASE, A PROPERTY DEED, OR MILITARY PERMANENT DUTY STATION  
14 ORDERS INDICATING ASSIGNMENT WITHIN THIS STATE;

15 (III) A THUMBPRINT APPLIED DIRECTLY ON THE APPLICATION THAT  
16 WILL BE RETAINED AS A PERMANENT RECORD OF THE TRANSACTION; AND

17 (IV) Social Security number, occupation, place and date of birth,  
18 height, weight, race, eye and hair color and signature and regulated firearm  
19 information for each firearm to be purchased, rented, or transferred[. In the event  
20 the applicant is a corporation, the application shall be completed and executed by a  
21 corporate officer who is a resident of this State.]; AND

22 (2) A statement by the applicant under the penalty of perjury that he or  
23 she:

24 (i) Has never been convicted of:

25 1. A crime of violence;

26 2. Any violation classified as a felony in this State;

27 3. Any violation classified as a misdemeanor in this State  
28 that carries a statutory penalty of more than 2 years; or

29 4. Any violation classified as a common law offense where  
30 the person received a term of imprisonment of more than 2 years[.];

31 (ii) Is not a fugitive from justice[.];

32 (iii) Is not a habitual drunkard[.];

33 (iv) Is not an addict or habitual user of any controlled dangerous  
34 substances[.];

1 (v) Has never spent more than 30 consecutive days in any medical  
2 institution for treatment of a mental disorder or disorders, unless there is attached to  
3 the application a physician's certificate, issued within 30 days prior to the date of  
4 application, certifying that the applicant is capable of possessing a regulated firearm  
5 without undue danger to himself or herself, or to others[.];

6 (vi) Is at least 21 years of age[.];

7 (vii) Is not a respondent against whom a current non ex parte civil  
8 protective order has been entered under § 4-506 of the Family Law Article[.];

9 (viii) Is less than 30 years of age at the time of application and has  
10 not been adjudicated delinquent by a juvenile court for:

11 1. A crime of violence;

12 2. Any violation classified as a felony in this State; or

13 3. Any violation classified as a misdemeanor in this State  
14 that carries a statutory penalty of more than 2 years; [and]

15 (ix) Subject to subsection [(h-1)] (H-3) of this section, for an  
16 application made on or after January 1, 2002, AND ON OR BEFORE DECEMBER 31,  
17 2003, has completed a certified firearms safety training course conducted free of  
18 charge by the Maryland Police Training Commission or that meets standards  
19 established by the Maryland Police Training Commission as provided in Article 41, §  
20 4-201(d-1) of the Code[.]; AND

21 (X) SUBJECT TO SUBSECTION (H-3) OF THIS SECTION, FOR AN  
22 APPLICATION MADE ON OR AFTER JANUARY 1, 2004, HAS DEMONSTRATED  
23 COMPETENCY IN HANDLING FIREARMS WHILE COMPLETING A CERTIFIED FIREARMS  
24 SAFETY TRAINING COURSE THAT IS OFFERED BY THE MARYLAND POLICE TRAINING  
25 COMMISSION PROVIDED IN ARTICLE 41, § 4-201(D-1) OF THE CODE.

26 (H-1) (1) AN APPLICANT WHO ENROLLS IN A CERTIFIED FIREARMS SAFETY  
27 TRAINING COURSE UNDER SUBSECTION (H)(2)(X) OF THIS SECTION SHALL PAY TO  
28 THE PERSON OR UNIT OF GOVERNMENT CONDUCTING THE COURSE AN  
29 ENROLLMENT FEE TO COVER THE COSTS OF THE COURSE.

30 (2) THE PERSON OR UNIT OF GOVERNMENT CONDUCTING THE COURSE  
31 SHALL SUBMIT A REPORT TO THE DEPARTMENT OF STATE POLICE THAT CONTAINS  
32 THE NAME, BIRTHDATE, AND ADDRESS OF EACH INDIVIDUAL WHO SUCCESSFULLY  
33 COMPLETES THE COURSE.

34 (3) THE PERSON OR UNIT OF GOVERNMENT SHALL SUBMIT THE REPORT  
35 NOT LATER THAN 1 BUSINESS DAY AFTER THE COURSE ENDS.

36 (4) REGARDING CIVIL LIABILITY FOR DAMAGE ARISING OUT OF ANY  
37 INJURY INCURRED BY A PARTICIPANT DURING THE COURSE, A LOCAL GOVERNMENT  
38 EMPLOYEE HAS THE IMMUNITY DESCRIBED IN § 5-302 OF THE COURTS ARTICLE AND

1 A STATE POLICE OFFICER HAS THE IMMUNITY DESCRIBED IN § 5-522 OF THE COURTS  
2 ARTICLE, UNLESS IT IS PROVEN THAT THE EMPLOYEE OR OFFICER ACTED WITH  
3 GROSS NEGLIGENCE OR IN BAD FAITH.

4 [(3)] (H-2) [The] IN ADDITION TO THE INFORMATION REQUIRED UNDER  
5 SUBSECTION (H) OF THIS SECTION, THE APPLICATION TO PURCHASE, RENT, OR  
6 TRANSFER A REGULATED FIREARM SHALL ALSO CONTAIN A STATEMENT BY THE  
7 APPLICANT UNDER PENALTY OF PERJURY AS TO THE date [and hour] the application  
8 was delivered in completed form to the prospective seller or transferor by the  
9 prospective purchaser, lessee, or transferee.

10 [(h-1)] (H-3) A person is not required to complete a certified firearms training  
11 course under subsection (h)(2)(ix) of this section and § 445(b)(4) of this subheading if  
12 the person:

13 (1) Has completed a certified firearms training course required under  
14 subsection (h)(2)(ix) of this section and § 445(b)(4) of this subheading;

15 (2) Is a law enforcement officer of the State or any local law enforcement  
16 agency in the State;

17 (3) Is a member, retired member, or honorably discharged member of the  
18 armed forces of the United States or the National Guard; OR

19 (4) Is a member of an organization that is required by federal law or  
20 regulations governing their specific business or activity to maintain handguns and  
21 applicable ammunition]; or

22 (5) Has been issued a permit to carry a handgun under § 36E of this  
23 article].

24 (H-4) IF THE APPLICANT IS A CORPORATION, THE APPLICATION SHALL BE  
25 COMPLETED AND EXECUTED BY A CORPORATE OFFICER WHO IS A RESIDENT OF THE  
26 STATE.

27 448A.

28 (A) IF A REGULATED FIREARM IS LOST OR STOLEN, THE OWNER OF THE  
29 REGULATED FIREARM SHALL REPORT THE THEFT TO THE SECRETARY OF THE STATE  
30 POLICE WITHIN 48 HOURS AFTER BECOMING AWARE OF THE LOSS OR THEFT.

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

**Article 41 - Governor - Executive and Administrative Departments**

2 4-201.

3 (d-1) (1) The Commission shall, subject to paragraph (2) of this subsection,  
4 adopt regulations by January 1, 2001 for a certified firearms safety training course  
5 required for an applicant or for a regulated firearms purchase, rental, or transfer  
6 made on or after January 1, 2002, AND ON OR BEFORE DECEMBER 31, 2003.

7 (2) The required certified firearms safety training course shall:

8 (i) Be offered by the Commission and:

9 1. Be offered free of charge or fee;

10 2. Be no more than 2 hours in length;

11 3. Be conducted or offered at least once each week in all  
12 geographic areas of the State and be available after regular business hours;

13 4. Be open to any individual required by law to complete the  
14 firearms safety training course, within 2 weeks of the request of the individual;

15 5. May not require any skills or knowledge testing in the use  
16 of a regulated firearm in order to successfully complete the course; and

17 6. Shall only require attendance throughout the duration of  
18 the course in order to successfully complete the course; or

19 (ii) Contain a handgun safety component and be conducted by an  
20 individual or organization certified by:

21 1. The Police Training Commission;

22 2. The Department of Natural Resources;

23 3. The Department of State Police; or

24 4. Any reputable organization having as one of its objectives  
25 the promotion of competency and safety in handling handguns whose course has been  
26 determined by the Commission to meet the regulations adopted by the Commission.

27 (3) THE COMMISSION SHALL, SUBJECT TO PARAGRAPH (4) OF THIS  
28 SUBSECTION, ADOPT REGULATIONS BEFORE JANUARY 1, 2003, FOR A CERTIFIED  
29 FIREARMS SAFETY TRAINING COURSE REQUIRED FOR A REGULATED FIREARMS  
30 PURCHASE, RENTAL, OR TRANSFER MADE ON OR AFTER JANUARY 1, 2004.

31 (4) THE REQUIRED CERTIFIED FIREARMS SAFETY TRAINING COURSE  
32 SHALL:

33 (I) BE OFFERED BY THE COMMISSION;

1 (II) BE CONDUCTED OR OFFERED AT LEAST ONCE EACH WEEK IN  
 2 ALL GEOGRAPHIC AREAS OF THE STATE AND BE AVAILABLE AFTER REGULAR  
 3 BUSINESS HOURS;

4 (III) BE OPEN TO ANY INDIVIDUAL REQUIRED BY LAW TO COMPLETE  
 5 THE CERTIFIED FIREARMS SAFETY TRAINING COURSE, WITHIN 2 WEEKS OF THE  
 6 REQUEST OF THE INDIVIDUAL;

7 (IV) HAVE ITS COSTS COVERED BY AN ENROLLMENT FEE PAYABLE  
 8 TO THE PERSON OR STATE UNIT THAT CONDUCTS THE COURSE; AND

9 (V) CONTAIN INSTRUCTION IN GENERAL FIREARM SAFETY,  
 10 FIREARM SAFETY AROUND CHILDREN, FIREARM LAW, AND FIREARM  
 11 MARKSMANSHIP AND BE CONDUCTED BY AN INDIVIDUAL OR ORGANIZATION  
 12 CERTIFIED BY:

13 1. THE POLICE TRAINING COMMISSION;

14 2. THE DEPARTMENT OF NATURAL RESOURCES;

15 3. THE DEPARTMENT OF STATE POLICE; OR

16 4. ANY REPUTABLE ORGANIZATION HAVING AS ONE OF ITS  
 17 OBJECTIVES THE PROMOTION OF COMPETENCY AND SAFETY IN HANDLING  
 18 HANDGUNS WHOSE COURSE HAS BEEN DETERMINED BY THE COMMISSION TO MEET  
 19 THE REGULATIONS ADOPTED BY THE COMMISSION.

20 **Article - Criminal Law**

21 4-104.

22 (a) (1) In this section the following words have the meanings indicated.

23 (2) "Ammunition" means a cartridge, shell, or other device containing  
 24 explosive or incendiary material designed and intended for use in a firearm.

25 (3) "Child" means an individual under the age of 16 years.

26 (4) (i) "Firearm" means a handgun, rifle, shotgun, short-barreled  
 27 rifle, or short-barreled shotgun, as those terms are defined in § 4-201 of this title, or  
 28 any other firearm.

29 (ii) "Firearm" does not include an antique firearm as defined in §  
 30 4-201 of this title.

31 (b) This section does not apply if:

32 (1) the child's access to a firearm is supervised by an individual at least  
 33 18 years old;

1 (2) the child's access to a firearm was obtained as a result of an unlawful  
2 entry;

3 (3) the firearm is in the possession or control of a law enforcement officer  
4 while the officer is engaged in official duties; or

5 (4) the child has a certificate of firearm and hunter safety issued under  
6 § 10-301.1 of the Natural Resources Article.

7 (c) A person may not store or leave a loaded firearm in a location where the  
8 person knew or should have known that an unsupervised child would gain access to  
9 the firearm.

10 (d) A person who violates this section is guilty of a misdemeanor and on  
11 conviction is subject to:

12 (1) a fine not exceeding [\$1,000] \$5,000; OR

13 (2) IF THE FIREARM WAS OBTAINED UNLAWFULLY OR IF THE  
14 VIOLATION WAS COMMITTED WITH CRIMINAL NEGLIGENCE, IMPRISONMENT NOT  
15 EXCEEDING 3 YEARS OR A FINE NOT EXCEEDING \$10,000.

16 [(e) (1) A violation of this section may not:

17 (i) be considered evidence of negligence;

18 (ii) be considered evidence of contributory negligence;

19 (iii) limit liability of a party or an insurer; or

20 (iv) diminish recovery for damages arising out of the ownership,  
21 maintenance, or operation of a firearm or ammunition.

22 (2) A party witness, or lawyer may not refer to a violation of this section  
23 during a trial of a civil action that involves property damage, personal injury, or  
24 death.]

25 **Article - Criminal Procedure**

26 1-101.

27 (a) In this article the following words have the meanings indicated.

28 (m) "Secretary" means the Secretary of the Department of Public Safety and  
29 Correctional Services.

30 10-219.

31 (C) (1) IN CONSULTATION WITH THE ADVISORY BOARD, ON OR BEFORE  
32 OCTOBER 1, 2003, THE SECRETARY SHALL IMPLEMENT A SYSTEM FOR REPORTING

1 FELONY AND MISDEMEANOR CONVICTIONS TO THE STATE POLICE TO DETERMINE IF  
2 THOSE CONVICTED ARE DISQUALIFIED FROM POSSESSING A REGULATED FIREARM.

3           (2)       A STATE POLICE OFFICER HAS THE IMMUNITY DESCRIBED IN § 5-522  
4 OF THE COURTS ARTICLE RELATING TO CARRYING OUT THIS SUBSECTION, UNLESS  
5 IT IS PROVEN THAT THE OFFICER ACTED WITH GROSS NEGLIGENCE OR IN BAD  
6 FAITH.

7       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take  
8 effect October 1, 2002.