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By: **Delegates Kelly and O'Donnell**

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 23, 2002

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CHAPTER 571

AN ACT concerning

**Dangerous Weapons - Minors - Pepper Mace**

FOR the purpose of ~~exempting certain minors from the prohibition against carrying pepper mace if the minor possesses it for a certain noncriminal purpose and has the permission of the minor's parent or guardian~~ repealing a prohibition on minors possessing pepper mace; repealing a certain penalty; establishing the intent of the General Assembly; and generally relating to minors and possession of pepper mace.

BY repealing and reenacting, with amendments,

Article - Criminal Law

Section 4-101

Annotated Code of Maryland

(As enacted by Chapter \_\_\_\_ (H.B.11) of the Acts of the General Assembly of 2002)

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

**Article - Criminal Law**

4-101.

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

(2) "Nunchaku" means a device constructed of two pieces of any substance, including wood, metal, or plastic, connected by any chain, rope, leather, or other flexible material not exceeding 24 inches in length.

(3) (i) "Pepper mace" means an aerosol propelled combination of highly disabling irritant pepper-based products.

(ii) "Pepper mace" is also known as oleoresin capsicum (o.c.) spray.

(4) "Star knife" means a device used as a throwing weapon, consisting of several sharp or pointed blades arrayed as radially disposed arms about a central disk.

(5) (i) "Weapon" includes a dirk knife, bowie knife, switchblade knife, star knife, sandclub, metal knuckles, razor, and nunchaku.

(ii) "Weapon" does not include:

1. a handgun; or
2. a penknife without a switchblade.

(b) This section does not prohibit the following individuals from carrying a weapon:

(1) an officer of the State, or of any county or municipal corporation of the State, who is entitled or required to carry the weapon as part of the officer's official equipment, or by any conservator of the peace, who is entitled or required to carry the weapon as part of the conservator's official equipment, or by any officer or conservator of the peace of another state who is temporarily in this State;

(2) a special agent of a railroad;

(3) a holder of a permit to carry a handgun issued under Article 27, § 36E of the Code; ~~for~~

~~(4) A MINOR WHO CARRIES PEPPER MACE:~~

~~(I) WITHOUT AN INTENT OR PURPOSE OF INJURING AN INDIVIDUAL IN AN UNLAWFUL MANNER; AND~~

~~(II) WITH THE PERMISSION OF THE MINOR'S PARENT OR GUARDIAN TO POSSESS THE PEPPER MACE; OR~~

~~(5)~~ (4) an individual who carries the weapon as a reasonable precaution against apprehended danger, subject to the right of the court in an action arising under this section to judge the reasonableness of the carrying of the weapon, and the proper occasion for carrying it, under the evidence in the case.

(c) (1) A person may not wear or carry a dangerous weapon of any kind concealed on or about the person.

(2) A person may not wear or carry a dangerous weapon, chemical mace, pepper mace, or a tear gas device openly with the intent or purpose of injuring an individual in an unlawful manner.

~~(3) Except as authorized under subsection (b) of this section, a minor may not possess pepper mace, either openly or concealed.~~

~~(4)~~ (3) (i) This paragraph applies in Anne Arundel County, Baltimore County, Caroline County, Cecil County, Harford County, Kent County, Montgomery County, Prince George's County, St. Mary's County, Talbot County, Washington County, and Worcester County.

(ii) A minor may not carry a dangerous weapon between 1 hour after sunset and 1 hour before sunrise, whether concealed or not, except while:

1. on a bona fide hunting trip; or
2. engaged in or on the way to or returning from a bona fide trap shoot, sport shooting event, or any organized civic or military activity.

(d) (1) ~~(4)~~ A person who violates subsection (c)(1), (2), or ~~(4)~~ (3) of this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding \$1,000.

~~(4)~~ (2) For a person convicted under subsection (c)(1) or (2) of this section, if it appears from the evidence that the weapon was carried, concealed or openly, with the deliberate purpose of injuring or killing another, the court shall impose the highest sentence of imprisonment prescribed.

~~(2) A person who violates subsection (c)(3) of this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding \$1,000 or both.~~

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that a school or school board of education may establish policies to limit or prohibit the possession of pepper mace on school property.

~~SECTION 2. 3.~~ AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2002.