

SENATE BILL 43

E4
HB 1367/06 – JUD

71r0682

By: **Senators Lenett, Britt, Conway, Currie, Exum, Forehand, Frosh, Garagiola, Gladden, Jones, Kelley, Kramer, Madaleno, McFadden, Muse, Pinsky, Pugh, Raskin, Robey, Rosapepe, and Zirkin**

Introduced and read first time: January 17, 2007

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Assault Weapons Ban of 2007**

3 FOR the purpose of designating certain firearms as assault weapons; prohibiting with
4 certain exceptions a person from transporting an assault weapon into the State
5 or possessing, selling, offering to sell, transferring, purchasing, or receiving an
6 assault weapon; requiring the Handgun Roster Board to compile and maintain a
7 roster of prohibited assault weapons; requiring the Board to have the roster of
8 prohibited assault weapons published in the Maryland Register at certain times
9 and to send copies of the roster to certain persons; designating assault long guns
10 and copycat weapons as types of assault weapons; authorizing certain licensed
11 firearms dealers to continue to possess, sell, offer for sale, or transfer assault
12 long guns or copycat weapons under certain circumstances; authorizing certain
13 persons to continue to possess assault long guns or copycat weapons under
14 certain circumstances; authorizing a procedure by which a person may petition
15 the Board to remove a copycat weapon from the roster of prohibited assault
16 weapons; requiring the Board to hold a hearing under certain circumstances;
17 making it a misdemeanor to use an assault long gun or a copycat weapon in the
18 commission of a felony or a crime of violence; establishing certain penalties;
19 requiring that certain firearms be lawfully possessed on or before a certain date
20 in order for them to qualify as regulated firearms for certain purposes; defining
21 certain terms; making conforming changes; and generally relating to assault
22 weapons.

23 BY repealing and reenacting, with amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Criminal Law
2 Section 3–202(a)(2)(ii) and 4–106(a)(6)(ii); and 4–301 through 4–306 to be under
3 the amended subtitle “Subtitle 3. Assault Weapons and Detachable
4 Magazines”
5 Annotated Code of Maryland
6 (2002 Volume and 2006 Supplement)

7 BY adding to
8 Article – Criminal Law
9 Section 4–305 and 4–306
10 Annotated Code of Maryland
11 (2002 Volume and 2006 Supplement)

12 BY repealing and reenacting, with amendments,
13 Article – Public Safety
14 Section 5–101(p)
15 Annotated Code of Maryland
16 (2003 Volume and 2006 Supplement)

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

19 **Article – Criminal Law**

20 3–202.

21 (a) (2) A person may not commit an assault with a firearm, including:

22 (ii) an assault [pistol] **WEAPON**, as defined in § 4–301 of this
23 article;

24 4–106.

25 (a) (6) “Firearm” includes:

26 (ii) an assault [pistol] **WEAPON** as defined in § 4–301 of this
27 title;

28 Subtitle 3. Assault [Pistols] **WEAPONS** and Detachable Magazines.

29 4–301.

1 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
2 **INDICATED.**

3 **(B) “ASSAULT LONG GUN” MEANS ANY ASSAULT WEAPON LISTED**
4 **UNDER § 5-101(P)(2)(II) OF THE PUBLIC SAFETY ARTICLE.**

5 **(C) [In this subtitle, “assault] “ASSAULT pistol” means any of the following**
6 **firearms [or a copy regardless of the producer or manufacturer]:**

7 (1) AA Arms AP-9 semiautomatic pistol;

8 (2) Bushmaster semiautomatic pistol;

9 (3) Claridge HI-TEC semiautomatic pistol;

10 (4) D Max Industries semiautomatic pistol;

11 (5) Encom MK-IV, MP-9, or MP-45 semiautomatic pistol;

12 (6) Heckler and Koch semiautomatic SP-89 pistol;

13 (7) Holmes MP-83 semiautomatic pistol;

14 (8) Ingram MAC 10/11 semiautomatic pistol and variations including
15 the Partisan Avenger and the SWD Cobray;

16 (9) Intratec TEC-9/DC-9 semiautomatic pistol in any centerfire
17 variation;

18 (10) P.A.W.S. type semiautomatic pistol;

19 (11) Skorpion semiautomatic pistol;

20 (12) Spectre double action semiautomatic pistol (Sile, F.I.E., Mitchell);

21 (13) UZI semiautomatic pistol;

22 (14) Weaver Arms semiautomatic Nighthawk pistol; or

23 (15) Wilkinson semiautomatic “Linda” pistol.

24 **(D) “ASSAULT WEAPON” MEANS:**

1 (1) AN ASSAULT LONG GUN;

2 (2) AN ASSAULT PISTOL; OR

3 (3) A COPYCAT WEAPON.

4 (E) “BOARD” MEANS THE HANDGUN ROSTER BOARD ESTABLISHED
5 UNDER § 5-404 OF THE PUBLIC SAFETY ARTICLE.

6 (F) (1) “COPYCAT WEAPON” MEANS:

7 (I) A SEMIAUTOMATIC, CENTERFIRE RIFLE THAT CAN
8 ACCEPT A DETACHABLE MAGAZINE AND ANY OF THE FOLLOWING:

9 1. A PISTOL GRIP THAT PROTRUDES
10 CONSPICUOUSLY BENEATH THE ACTION OF THE WEAPON;

11 2. A THUMBHOLE STOCK;

12 3. A FOLDING OR TELESCOPING STOCK;

13 4. A GRENADE LAUNCHER OR FLARE LAUNCHER;

14 5. A FLASH SUPPRESSOR; OR

15 6. A FORWARD PISTOL GRIP;

16 (II) A SEMIAUTOMATIC, CENTERFIRE RIFLE THAT HAS A
17 FIXED MAGAZINE WITH THE CAPACITY TO ACCEPT MORE THAN 10 ROUNDS;

18 (III) A SEMIAUTOMATIC, CENTERFIRE RIFLE THAT HAS AN
19 OVERALL LENGTH OF LESS THAN 30 INCHES;

20 (IV) A SEMIAUTOMATIC PISTOL THAT CAN ACCEPT A
21 DETACHABLE MAGAZINE AND ANY OF THE FOLLOWING:

22 1. A THREADED BARREL, CAPABLE OF ACCEPTING A
23 FLASH SUPPRESSOR, FORWARD HANDGRIP, OR SILENCER;

1 **2. A SECOND HANDGRIP;**

2 **3. A SHROUD THAT IS ATTACHED TO OR PARTIALLY**
3 **OR COMPLETELY ENCIRCLES THE BARREL, EXCEPT FOR A SLIDE THAT**
4 **ENCLOSES THE BARREL, AND THAT ALLOWS THE BEARER TO FIRE THE WEAPON**
5 **WITHOUT BURNING THE BEARER’S HAND; OR**

6 **4. THE CAPACITY TO ACCEPT A DETACHABLE**
7 **MAGAZINE OUTSIDE OF THE PISTOL GRIP;**

8 **(V) A SEMIAUTOMATIC PISTOL WITH A FIXED MAGAZINE**
9 **THAT CAN ACCEPT MORE THAN 10 ROUNDS;**

10 **(VI) A SEMIAUTOMATIC SHOTGUN THAT HAS BOTH OF THE**
11 **FOLLOWING:**

12 **1. A FOLDING OR TELESCOPING STOCK; AND**

13 **2. A PISTOL GRIP THAT PROTRUDES**
14 **CONSPICUOUSLY BENEATH THE ACTION OF THE WEAPON, THUMBHOLE STOCK,**
15 **OR VERTICAL HANDGRIP; OR**

16 **(VII) ANY SHOTGUN WITH A REVOLVING CYLINDER.**

17 **(2) “COPYCAT WEAPON” DOES NOT INCLUDE AN ASSAULT LONG**
18 **GUN OR AN ASSAULT PISTOL.**

19 **(G) “DETACHABLE MAGAZINE” MEANS ANY AMMUNITION FEEDING**
20 **DEVICE THAT CAN BE REMOVED READILY FROM THE FIREARM WITHOUT**
21 **REQUIRING DISASSEMBLY OF THE FIREARM ACTION OR WITHOUT THE USE OF A**
22 **TOOL, INCLUDING A BULLET OR CARTRIDGE.**

23 **(H) “FLASH SUPPRESSOR” MEANS ANY DEVICE THAT IS INTENDED TO**
24 **OR THAT FUNCTIONS TO PERCEPTIBLY REDUCE OR REDIRECT MUZZLE FLASH**
25 **FROM THE SHOOTER’S FIELD OF VISION.**

26 **(I) “FORWARD PISTOL GRIP” MEANS A GRIP THAT ALLOWS FOR A**
27 **PISTOL–STYLE GRASP FORWARD OF THE TRIGGER.**

1 **(J) “LICENSED FIREARMS DEALER” MEANS A PERSON WHO HOLDS A**
2 **DEALER’S LICENSE UNDER TITLE 5, SUBTITLE 1 OF THE PUBLIC SAFETY**
3 **ARTICLE.**

4 **(K) “PISTOL GRIP THAT PROTRUDES CONSPICUOUSLY BENEATH THE**
5 **ACTION OF THE WEAPON” MEANS A GRIP THAT ALLOWS FOR A PISTOL–STYLE**
6 **GRASP IN WHICH THE WEB OF THE TRIGGER HAND BETWEEN THE THUMB AND**
7 **INDEX FINGER CAN BE PLACED BELOW THE TOP OF THE EXPOSED PORTION OF**
8 **THE TRIGGER WHILE FIRING.**

9 **(L) “THUMBHOLE STOCK” MEANS A STOCK WITH A HOLE THAT ALLOWS**
10 **THE THUMB OF THE TRIGGER HAND TO PENETRATE INTO OR THROUGH THE**
11 **STOCK WHILE FIRING.**

12 4–302.

13 This subtitle does not apply to:

14 (1) if acting within the scope of official business, personnel of the
15 United States government or a unit of that government, members of the armed forces
16 of the United States or of the National Guard, or law enforcement personnel of the
17 State or a local unit in the State;

18 (2) a firearm modified to render it permanently inoperative;

19 (3) purchases, sales, and transport to or by a licensed firearms dealer
20 or manufacturer who is:

21 (i) providing or servicing an assault [pistol] **WEAPON** or
22 detachable magazine for a law enforcement unit or for personnel exempted under item
23 (1) of this section; or

24 (ii) acting to sell or transfer an assault [pistol] **WEAPON** or
25 detachable magazine to a licensed firearm dealer in another state;

26 (4) organizations that are required or authorized by federal law
27 governing their specific business or activity to maintain assault [pistols] **WEAPONS**
28 and applicable ammunition and detachable magazines;

1 (5) the receipt of an assault [pistol] **WEAPON** or detachable magazine
2 by inheritance if the decedent lawfully possessed the assault [pistol] **WEAPON**; or

3 (6) the receipt of an assault [pistol] **WEAPON** or detachable magazine
4 by a personal representative of an estate for purposes of exercising the powers and
5 duties of a personal representative of an estate.

6 4-303.

7 (a) Except as provided in subsection (b) of this section, a person may not:

8 (1) transport an assault [pistol] **WEAPON** into the State; or

9 (2) possess, sell, offer to sell, transfer, purchase, or receive an assault
10 [pistol] **WEAPON**.

11 (b) (1) A person who lawfully possessed an assault [pistol] **WEAPON**
12 before June 1, 1994 and who registered the assault [pistol] **WEAPON** with the
13 Secretary of [the] State Police before August 1, 1994 may continue to possess the
14 assault [pistol] **WEAPON**.

15 (2) **A LICENSED FIREARMS DEALER MAY CONTINUE TO POSSESS,**
16 **SELL, OFFER FOR SALE, OR TRANSFER AN ASSAULT LONG GUN OR A COPYCAT**
17 **WEAPON THAT THE LICENSED FIREARMS DEALER LAWFULLY POSSESSED ON OR**
18 **BEFORE OCTOBER 1, 2007.**

19 (3) **A PERSON WHO LAWFULLY POSSESSED AN ASSAULT LONG**
20 **GUN OR A COPYCAT WEAPON BEFORE OCTOBER 1, 2007, AND WHO REGISTERS**
21 **THE ASSAULT LONG GUN OR COPYCAT WEAPON WITH THE SECRETARY OF**
22 **STATE POLICE BEFORE DECEMBER 1, 2007, MAY CONTINUE TO POSSESS THE**
23 **ASSAULT LONG GUN OR COPYCAT WEAPON.**

24 4-304.

25 A law enforcement unit may seize as contraband and dispose of according to
26 regulation an assault [pistol] **WEAPON** transported, sold, transferred, purchased,
27 received, or possessed in violation of this subtitle.

28 **4-305.**

1 (A) THE BOARD SHALL COMPILE AND MAINTAIN A ROSTER OF
2 PROHIBITED ASSAULT WEAPONS.

3 (B) BEGINNING NOT LATER THAN JULY 1, 2008, AND EVERY 6 MONTHS
4 THEREAFTER, THE BOARD SHALL HAVE THE ROSTER OF PROHIBITED ASSAULT
5 WEAPONS PUBLISHED IN THE MARYLAND REGISTER AND SHALL SEND A COPY
6 OF THE ROSTER TO ALL LICENSED FIREARMS DEALERS.

7 **4-306.**

8 (A) A PERSON MAY PETITION THE BOARD TO REMOVE A COPYCAT
9 WEAPON FROM THE ROSTER OF PROHIBITED ASSAULT WEAPONS IN
10 ACCORDANCE WITH THIS SECTION AND TITLE 10, SUBTITLE 2 OF THE STATE
11 GOVERNMENT ARTICLE.

12 (B) A PETITION SHALL BE SUBMITTED IN WRITING IN THE FORM THAT
13 THE BOARD REQUIRES.

14 (C) A PETITIONER HAS THE BURDEN OF PROVING TO THE BOARD THAT
15 THE COPYCAT WEAPON DOES NOT MEET THE DEFINITIONAL REQUIREMENTS OF
16 § 4-301(F) OF THIS SUBTITLE.

17 (D) (1) WITHIN 45 DAYS AFTER RECEIPT OF A PETITION, THE BOARD
18 MAY:

19 (I) DENY THE PETITION AND STATE THE REASONS FOR THE
20 DENIAL; OR

21 (II) APPROVE THE PETITION IF THE FIREARM IS
22 DETERMINED BY THE BOARD TO NOT QUALIFY AS A COPYCAT WEAPON, REMOVE
23 THE FIREARM FROM THE ROSTER OF PROHIBITED ASSAULT WEAPONS, AND
24 HAVE PUBLISHED IN THE MARYLAND REGISTER:

25 1. A DESCRIPTION OF THE FIREARM; AND

26 2. A NOTICE STATING THAT AN OBJECTION TO THE
27 REMOVAL OF THE FIREARM FROM THE ROSTER MUST BE FILED WITH THE
28 BOARD WITHIN 30 DAYS.

1 **(2) IF THE BOARD DOES NOT TAKE ACTION TO APPROVE OR DENY**
2 **THE PETITION WITHIN 45 DAYS AFTER RECEIPT OF THE PETITION, THE**
3 **PETITION SHALL BE CONSIDERED DENIED.**

4 **(E) (1) IF A PETITION IS DENIED, THE BOARD SHALL NOTIFY THE**
5 **PETITIONER BY CERTIFIED MAIL.**

6 **(2) THE PETITIONER MAY REQUEST A HEARING BEFORE THE**
7 **BOARD WITHIN 15 DAYS AFTER THE DATE THAT THE DENIAL LETTER IS**
8 **RECEIVED.**

9 **(3) WITHIN A REASONABLE TIME NOT EXCEEDING 90 DAYS AFTER**
10 **RECEIPT OF A REQUEST FOR A HEARING, THE BOARD SHALL HOLD A HEARING**
11 **AND ISSUE A WRITTEN FINAL DECISION.**

12 **[4-305.] 4-307.**

13 (a) This section does not apply to a .22 caliber rifle with a tubular magazine.

14 (b) A person may not manufacture, sell, offer for sale, purchase, receive, or
15 transfer a detachable magazine that has a capacity of more than 20 rounds of
16 ammunition for a firearm.

17 **[4-306.] 4-308.**

18 (a) A person who violates this subtitle is guilty of a misdemeanor and on
19 conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding
20 \$5,000 or both.

21 (b) (1) A person who uses an assault pistol, or a magazine that has a
22 capacity of more than 20 rounds of ammunition, in the commission of a felony or a
23 crime of violence as defined in § 5-101 of the Public Safety Article is guilty of a
24 misdemeanor and on conviction, in addition to any other sentence imposed for the
25 felony or crime of violence, shall be sentenced under this subsection.

26 (2) (i) For a first violation, the person shall be sentenced to
27 imprisonment for not less than 5 years and not exceeding 20 years.

28 (ii) The court may not impose less than the minimum sentence
29 of 5 years.

1 (iii) The mandatory minimum sentence of 5 years may not be
2 suspended.

3 (iv) Except as otherwise provided in § 4-305 of the Correctional
4 Services Article, the person is not eligible for parole in less than 5 years.

5 (3) (i) For each subsequent violation, the person shall be sentenced
6 to imprisonment for not less than 10 years and not exceeding 20 years.

7 (ii) The court may not impose less than the minimum sentence
8 of 10 years.

9 (iii) A sentence imposed under this paragraph shall be
10 consecutive to and not concurrent with any other sentence imposed for the felony or
11 crime of violence.

12 (C) (1) **A PERSON WHO USES AN ASSAULT LONG GUN OR A COPYCAT**
13 **WEAPON IN THE COMMISSION OF A FELONY OR A CRIME OF VIOLENCE AS**
14 **DEFINED IN § 5-101 OF THE PUBLIC SAFETY ARTICLE IS GUILTY OF A**
15 **MISDEMEANOR AND ON CONVICTION, IN ADDITION TO ANY OTHER SENTENCE**
16 **IMPOSED FOR THE FELONY OR CRIME OF VIOLENCE, SHALL BE SENTENCED**
17 **UNDER THIS SUBSECTION.**

18 (2) **FOR A FIRST VIOLATION, THE PERSON SHALL BE SENTENCED**
19 **TO IMPRISONMENT NOT EXCEEDING 20 YEARS.**

20 (3) (I) **FOR EACH SUBSEQUENT VIOLATION, THE PERSON**
21 **SHALL BE SENTENCED TO IMPRISONMENT NOT EXCEEDING 20 YEARS.**

22 (II) **A SENTENCE IMPOSED UNDER THIS PARAGRAPH SHALL**
23 **BE CONSECUTIVE TO AND NOT CONCURRENT WITH ANY OTHER SENTENCE**
24 **IMPOSED FOR THE FELONY OR CRIME OF VIOLENCE.**

25 **Article - Public Safety**

26 5-101.

27 (p) "Regulated firearm" means:

28 (1) a handgun; or

1 (2) a firearm that:

2 (I) IS LAWFULLY POSSESSED BY A LICENSED FIREARMS
 3 DEALER ON OR BEFORE OCTOBER 1, 2007, AND THAT MAY BE LAWFULLY
 4 POSSESSED, SOLD, OFFERED FOR SALE, OR TRANSFERRED BY THE LICENSED
 5 FIREARMS DEALER UNDER § 4-303 OF THE CRIMINAL LAW ARTICLE; AND

6 (II) is any of the following specific assault weapons [or their
 7 copies], regardless of which company produced and manufactured that assault
 8 weapon:

- 9 [(i)] 1. American Arms Spectre da Semiautomatic
 10 carbine;
- 11 [(ii)] 2. AK-47 in all forms;
- 12 [(iii)] 3. Algimec AGM-1 type semi-auto;
- 13 [(iv)] 4. AR 100 type semi-auto;
- 14 [(v)] 5. AR 180 type semi-auto;
- 15 [(vi)] 6. Argentine L.S.R. semi-auto;
- 16 [(vii)] 7. Australian Automatic Arms SAR type
 17 semi-auto;
- 18 [(viii)] 8. Auto-Ordnance Thompson M1 and 1927
 19 semi-automatics;
- 20 [(ix)] 9. Barrett light .50 cal. semi-auto;
- 21 [(x)] 10. Beretta AR70 type semi-auto;
- 22 [(xi)] 11. Bushmaster semi-auto rifle;
- 23 [(xii)] 12. Calico models M-100 and M-900;
- 24 [(xiii)] 13. CIS SR 88 type semi-auto;
- 25 [(xiv)] 14. Claridge HI TEC C-9 carbines;

- 1 [(xv)] **15.** Colt AR-15, CAR-15, and all imitations except
2 Colt AR-15 Sporter H-BAR rifle;
- 3 [(xvi)] **16.** Daewoo MAX 1 and MAX 2, aka AR 100, 110C,
4 K-1, and K-2;
- 5 [(xvii)] **17.** Dragunov Chinese made semi-auto;
- 6 [(xviii)] **18.** Famas semi-auto (.223 caliber);
- 7 [(xix)] **19.** Feather AT-9 semi-auto;
- 8 [(xx)] **20.** FN LAR and FN FAL assault rifle;
- 9 [(xxi)] **21.** FNC semi-auto type carbine;
- 10 [(xxii)] **22.** F.I.E./Franchi LAW 12 and SPAS 12 assault
11 shotgun;
- 12 [(xxiii)] **23.** Steyr-AUG-SA semi-auto;
- 13 [(xxiv)] **24.** Galil models AR and ARM semi-auto;
- 14 [(xxv)] **25.** Heckler and Koch HK-91 A3, HK-93 A2,
15 HK-94 A2 and A3;
- 16 [(xxvi)] **26.** Holmes model 88 shotgun;
- 17 [(xxvii)] **27.** Avtomat Kalashnikov semiautomatic rifle in
18 any format;
- 19 [(xxviii)] **28.** Manchester Arms "Commando" MK-45, MK-9;
- 20 [(xxix)] **29.** Mandell TAC-1 semi-auto carbine;
- 21 [(xxx)] **30.** Mossberg model 500 Bullpup assault shotgun;
- 22 [(xxxii)] **31.** Sterling Mark 6;
- 23 [(xxxiii)] **32.** P.A.W.S. carbine;

- 1 [(xxxiii)] **33.** Ruger mini-14 folding stock model (.223
2 caliber);
- 3 [(xxxiv)] **34.** SIG 550/551 assault rifle (.223 caliber);
- 4 [(xxxv)] **35.** SKS with detachable magazine;
- 5 [(xxxvi)] **36.** AP-74 Commando type semi-auto;
- 6 [(xxxvii)] **37.** Springfield Armory BM-59, SAR-48, G3,
7 SAR-3, M-21 sniper rifle, M1A, excluding the M1 Garand;
- 8 [(xxxviii)] **38.** Street sweeper assault type shotgun;
- 9 [(xxxix)] **39.** Striker 12 assault shotgun in all formats;
- 10 [(xl)] **40.** Unique F11 semi-auto type;
- 11 [(xli)] **41.** Daewoo USAS 12 semi-auto shotgun;
- 12 [(xlii)] **42.** UZI 9mm carbine or rifle;
- 13 [(xliii)] **43.** Valmet M-76 and M-78 semi-auto;
- 14 [(xliv)] **44.** Weaver Arms "Nighthawk" semi-auto carbine;
15 or
- 16 [(xlv)] **45.** Wilkinson Arms 9mm semi-auto "Terry".

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 2007.