8lr0130 CF 8lr0129

By: The Speaker (By Request - Administration) and Delegates Adams, Afzali, Anderton, Arentz, Aumann, Beitzel, Buckel, Carozza, Cassilly, Ciliberti, Clark, Cluster, Corderman, Flanagan, Folden, Ghrist, Glass, Grammer, Hornberger, S. Howard, Impallaria, Jacobs, Kipke, Kittleman, Krebs, Long, Malone, Mautz, McComas, McConkey, McDonough, McKay, Metzgar, Miele, W. Miller, Morgan, Otto, Parrott, Reilly, Rey, Rose, Saab, Shoemaker, Szeliga, Vogt, West, and Wivell

Introduced and read first time: January 12, 2018

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

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Crimes - Firearms - Penalties

- FOR the purpose of altering penalties for certain crimes relating to firearms; adding certain crimes relating to firearms to a certain definition of "crime of violence"; adding certain crimes relating to firearms as predicate crimes under a certain prohibition against possessing a regulated firearm by a person previously convicted of certain crimes; making stylistic changes; making this Act an emergency measure; and generally relating to crimes relating to firearms.
- 9 BY repealing and reenacting, with amendments.
- 10 Article Criminal Law
- 11 Section 4–204, 5–621, and 14–101(a)
- 12 Annotated Code of Maryland
- 13 (2012 Replacement Volume and 2017 Supplement)
- 14 BY repealing and reenacting, without amendments,
- 15 Article Criminal Law
- 16 Section 5–622
- 17 Annotated Code of Maryland
- 18 (2012 Replacement Volume and 2017 Supplement)
- 19 BY repealing and reenacting, with amendments,
- 20 Article Public Safety
- 21 Section 5–133(c), (d), and (e)
- 22 Annotated Code of Maryland

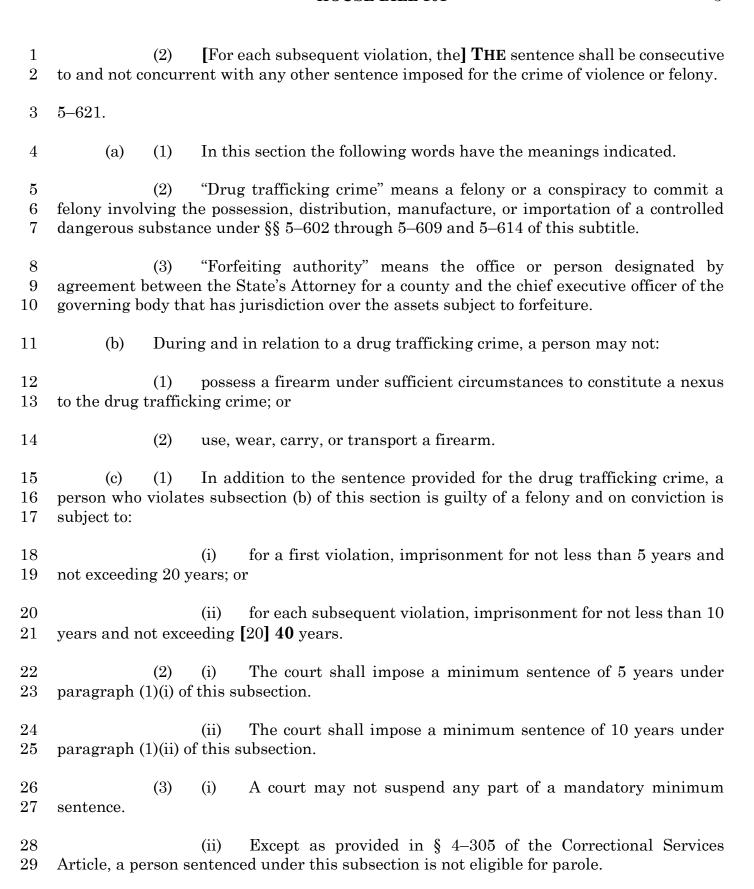
EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



THIS PARAGRAPH.

- 1 (2011 Replacement Volume and 2017 Supplement) 2 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND. 3 That the Laws of Maryland read as follows: Article - Criminal Law 4 4-204.5 6 In this section, "firearm" means: (a) (1) 7 (i) a weapon that expels, is designed to expel, or may readily be converted to expel a projectile by the action of an explosive; or 8 9 (ii) the frame or receiver of such a weapon. 10 (2) "Firearm" includes an antique firearm, handgun, rifle, shotgun, 11 short-barreled rifle, short-barreled shotgun, starter gun, or any other firearm, whether 12 loaded or unloaded. 13 A person may not use a firearm in the commission of a crime of violence, as defined in § 5-101 of the Public Safety Article, or any felony, whether the firearm is 14 operable or inoperable at the time of the crime. 15 16 A person who violates this section is guilty of a [misdemeanor] (c) (1)17 **FELONY** and, in addition to any other penalty imposed for the crime of violence or felony, shall be sentenced: 18 19 FOR A FIRST OFFENSE, to imprisonment for not less than 20 5 years and not exceeding 20 years; OR 2. 21FOR A SECOND OR SUBSEQUENT OFFENSE, TO IMPRISONMENT FOR NOT LESS THAN 10 YEARS AND NOT EXCEEDING 40 YEARS. 2223(ii) 1. The court may not impose less than the minimum 24sentence of 5 years [and, except] FOR A SENTENCE IMPOSED UNDER ITEM (I)1 OF THIS 25 PARAGRAPH. 26 2. THE COURT MAY NOT IMPOSE LESS THAN THE 27 MINIMUM SENTENCE OF 10 YEARS FOR A SENTENCE IMPOSED UNDER ITEM (1)2 OF
- (III) EXCEPT as otherwise provided in § 4–305 of the Correctional Services Article, the person is not eligible for parole in less than [5 years] THE MANDATORY MINIMUM SENTENCE.



A sentence imposed under paragraph [(1)(ii)] (1) of this

subsection shall be consecutive to and not concurrent with any other sentence imposed by

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(iii)

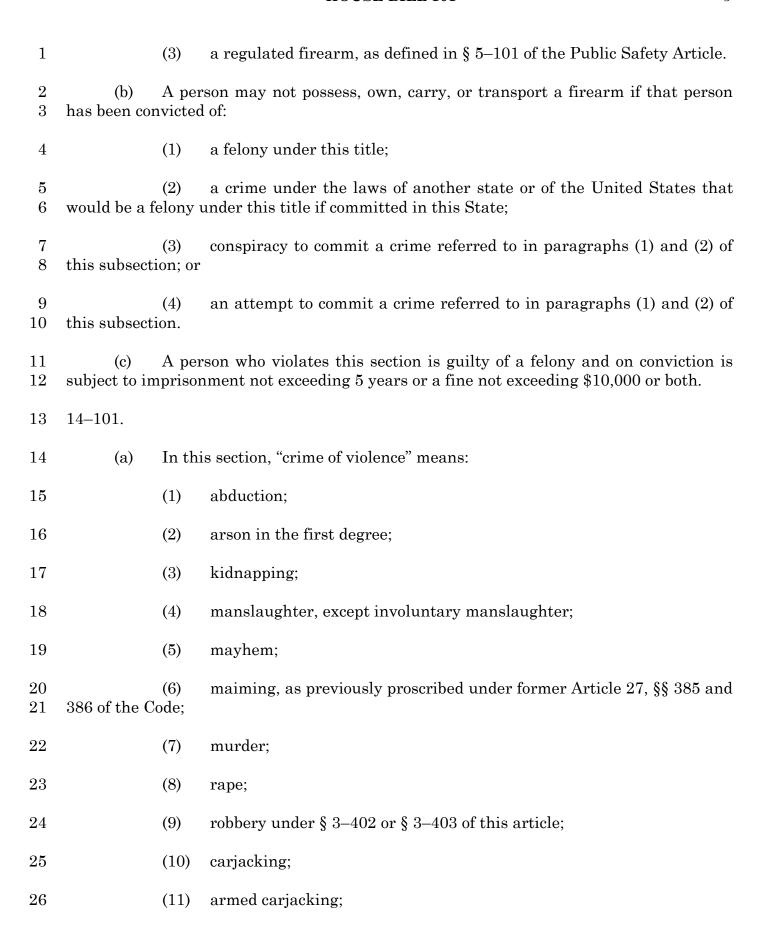
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(2)

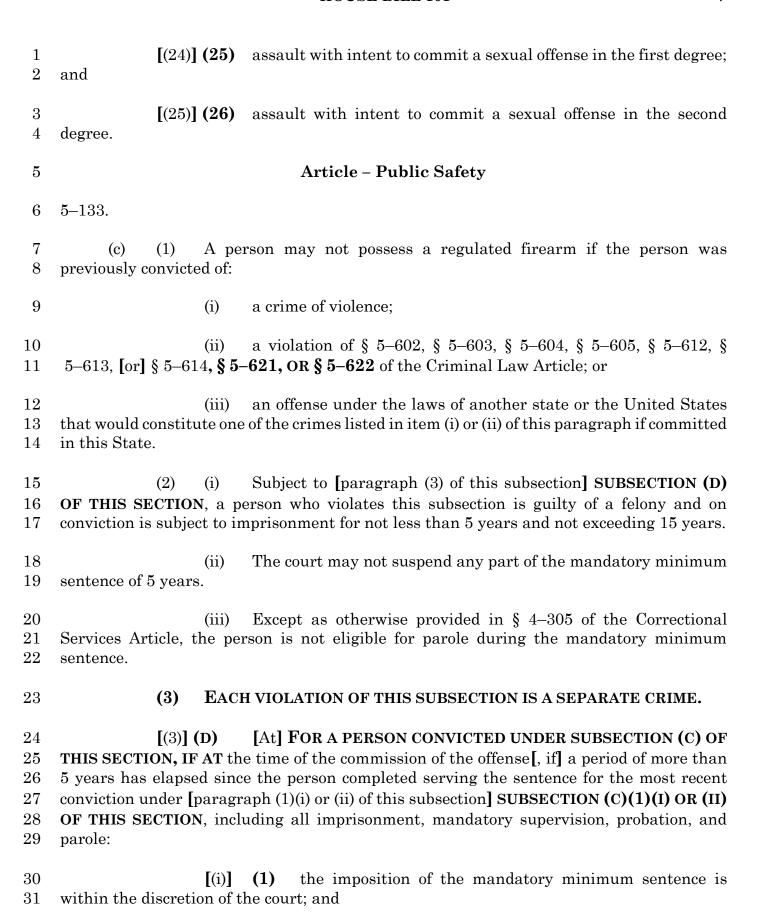
virtue of the commission of the drug trafficking crime. 1 2 In this subsection, "firearm silencer" means a device that is (i) 3 designed for silencing, muffling, or diminishing the report of a firearm. 4 "Firearm silencer" includes a combination of parts designed, (ii) 5 redesigned, or intended for use in assembling or fabricating a firearm silencer or muffler. 6 A court shall double the minimum mandatory sentence provided in (2)7 subsection (c)(1)(ii) of this section if the firearm used during and in relation to a drug 8 trafficking crime is: 9 listed in § 4–301 of this article or § 5–101 of the Public Safety (i) Article: 10 11 (ii) a machine gun; or 12(iii) equipped with a firearm silencer. A firearm or ammunition seized under this section is contraband and 13 (e) (1) shall be forfeited summarily to a forfeiting authority. 14 15 (2)Unless otherwise prohibited by law or if forfeiture proceedings have 16 begun, the forfeiting authority shall return the seized property to the owner or possessor 17 within 90 days after the date of seizure if: 18 (i) the owner or possessor of the property seized is acquitted; or 19 (ii) the charges against the person are dismissed. 20 (3)Unless otherwise prohibited by law, the forfeiting authority shall 21 return the seized property to the owner or possessor promptly if the State: 22 (i) enters a nolle prosequi against the owner or possessor of property 23 seized; and 24(ii) does not charge the person within 90 days after the nolle prosequi is entered. 2526 5-622.27(a) In this section, "firearm" includes: 28(1) a handgun, antique firearm, rifle, shotgun, short-barreled shotgun, and

short-barreled rifle, as those words are defined in § 4–201 of this article;

a machine gun, as defined in § 4–401 of this article; and



1	(12) sexual offense in the first degree;
2	(13) sexual offense in the second degree;
3 4	(14) use of a [handgun] FIREARM in the commission of a felony or other crime of violence;
5 6 7	(15) POSSESSING, USING, WEARING, CARRYING, OR TRANSPORTING A FIREARM DURING AND IN RELATION TO A DRUG TRAFFICKING CRIME UNDER § 5–621 OF THIS ARTICLE;
8	[(15)] (16) child abuse in the first degree under § 3–601 of this article;
9	[(16)] (17) sexual abuse of a minor under § 3–602 of this article if:
10 11	(i) the victim is under the age of 13 years and the offender is an adult at the time of the offense; and
12	(ii) the offense involved:
13	1. vaginal intercourse, as defined in § 3–301 of this article;
14	2. a sexual act, as defined in § 3–301 of this article;
15 16	3. an act in which a part of the offender's body penetrates, however slightly, into the victim's genital opening or anus; or
17 18 19	4. the intentional touching, not through the clothing, of the victim's or the offender's genital, anal, or other intimate area for sexual arousal, gratification, or abuse;
20	[(17)] (18) home invasion under § 6–202(b) of this article;
21 22	[(18)] (19) an attempt to commit any of the crimes described in items (1) through [(17)] (18) of this subsection;
23 24	[(19)] (20) continuing course of conduct with a child under § 3–315 of this article;
25	[(20)] (21) assault in the first degree;
26	[(21)] (22) assault with intent to murder;
27	[(22)] (23) assault with intent to rape;
28	[(23)] (24) assault with intent to rob;



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[(e)] **(F)**

regulated firearm and:

1 the mandatory minimum sentence may not be imposed [(ii)] (2) 2 unless the State's Attorney notifies the person in writing at least 30 days before trial of the 3 State's intention to seek the mandatory minimum sentence. Each violation of this subsection is a separate crime.] 4 (4)[(d)] **(E)** Except as provided in paragraph (2) of this subsection, a person 5 (1) 6 who is under the age of 21 years may not possess a regulated firearm. 7 Unless a person is otherwise prohibited from possessing a regulated 8 firearm, this subsection does not apply to: 9 (i) the temporary transfer or possession of a regulated firearm if the 10 person is: 11 under the supervision of another who is at least 21 years 1. 12 old and who is not prohibited by State or federal law from possessing a firearm; and 13 acting with the permission of the parent or legal guardian of the transferee or person in possession; 14 the transfer by inheritance of title, and not of possession, of a 15 (ii) 16 regulated firearm; a member of the armed forces of the United States or the 17 (iii) National Guard while performing official duties; 18 19 the temporary transfer or possession of a regulated firearm if the (iv) 20 person is: 21participating in marksmanship training of a recognized 1. 22organization; and 23 2. under the supervision of a qualified instructor; 24 a person who is required to possess a regulated firearm for 25employment and who holds a permit under Subtitle 3 of this title; or 26 (vi) the possession of a firearm for self-defense or the defense of 27 others against a trespasser into the residence of the person in possession or into a residence in which the person in possession is an invited guest. 28

This section does not apply to a respondent transporting a regulated

firearm if the respondent is carrying a civil protective order requiring the surrender of the

(1) the regulated firearm is unloaded;

- 1 (2) the respondent has notified the law enforcement unit, barracks, or station that the regulated firearm is being transported in accordance with the civil protective order; and
- 4 (3) the respondent transports the regulated firearm directly to the law 5 enforcement unit, barracks, or station.

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SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three–fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.