



Maryland State's Attorneys' Association

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DATE: February 6, 2024

BILL NUMBER: HB 421

POSITION: Favorable

The Maryland State's Attorney's Association (MSAA) supports HB 421.

HB 421 corrects a comparatively small, but critically important statutory gap – as the law currently exists, MD. CODE ANN., CRIM. LAW (“CL”) § 4-404 prohibits the use of a machine gun in the commission of a crime of violence. In recognition of the uniquely destructive power of a fully-automatic firearm, this provision exists to treat the unlawful use of a machine gun differently, and more seriously, than the unlawful use of a firearm that does not have this same destructive capacity. The backstop misdemeanor provision – the statute that criminalize the unlawful use of any firearm – is CL § 4-204, which prohibits the use of a firearm “in the commission of a crime of violence . . . or any felony.”

The current language of CL § 4-404 does not provide for liability for the use of a machine gun in a felony, meaning that an individual who uses a machine gun in a felony that is not a crime of violence, such as a drug trafficking crime, will only be subject to the misdemeanor provision in CL § 4-204, and not the felony provision in CL § 4-404.

HB 421 would add the felony language to CL § 4-404, so that it mirrors CL § 4-204 and prohibits the use of machine guns in both felony offenses and in crimes of violence. A machine gun empowers criminal to kill and injure a frightening number of people frighteningly quickly – this potential exists regardless of whether a criminal is using a machine gun to commit a crime of violence (like robbery) or a felony (like a drug trafficking crime). The General Assembly recognized this in enacting CL § 4-401 *et seq.*, and HB 421 is a minor correction to better effect the statute's purpose.