

BY: House Judiciary Committee

AMENDMENTS TO HOUSE BILL NO. 297

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, strike beginning with “prohibiting” in line 6 down through “law;” in line 8; strike beginning with “requiring” in line 12 down through “process;” in line 17 and substitute “adding certain exceptions to the prohibition against carrying or possessing certain weapons on certain school property;”. On page 2, in line 2, after “sale” insert “, rental,”; in lines 5 and 6, strike “altering certain fees;”; in line 7, after “penalties;” insert “providing for a certain statute of limitations for the prosecution of certain misdemeanors created by this Act;”; in lines 7 and 8, strike “gun violence” and substitute “guns and weapons”; in line 11, strike “and”; in the same line, after “448” insert “, and 481E”; in line 16, after “36A-1” insert “to be under the new subheading “Disarming a Law Enforcement Officer””; in the same line, strike “442B,”; in line 22, after “Section” insert “36A,”; and after line 34, insert:

“BY adding to

Article - Courts and Judicial Proceedings

Section 5-106(s)

Annotated Code of Maryland

(1995 Replacement Volume and 1995 Supplement)

BY repealing and reenacting, with amendments,

Article 27 - Crimes and Punishments

Section 12A-2

Annotated Code of Maryland

(1992 Replacement Volume and 1995 Supplement)

(As enacted by Chapter _____ (S.B. 618/H.B. 749) of the Acts of the
General Assembly of 1996)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That

(Over)

Section(s) 481E of Article 27 - Crimes and Punishments of the Annotated Code of Maryland be repealed.”;

in line 35, strike “SECTION 1. BE IT” and substitute “SECTION 2. AND BE IT FURTHER”; and in lines 35 and 36, strike “BY THE GENERAL ASSEMBLY OF MARYLAND”.

AMENDMENT NO. 2

On page 3, after line 1, insert:

“36A.

(a) No person, unless otherwise excepted in this section, shall carry or possess any rifle, gun, knife, or deadly weapon of any kind on any public school property in this State.

(b) Nothing in this section shall be construed to apply to [law]:

(1) LAW enforcement officers in the regular course of their duty[, or to any persons];

(2) PERSONS hired by the boards of education in the counties and Baltimore City specifically for the purpose of guarding public school property[, or to persons];

(3) PERSONS engaged in organized shooting activity for educational purposes; OR

(4) PERSONS WHO, WITH A WRITTEN INVITATION FROM THE SCHOOL PRINCIPAL, DISPLAY OR ENGAGE IN HISTORICAL DEMONSTRATIONS USING WEAPONS OR REPLICAS OF WEAPONS FOR EDUCATIONAL PURPOSES.

(c) Any person who violates this section shall, upon conviction, be guilty of a misdemeanor and shall be sentenced to pay a fine of no more than [one thousand dollars (\$1,000.00),] \$1,000 or shall be sentenced to the Maryland Department of Correction for a period of not more than [three (3)] 3 years. Any such person who shall be found to carry a handgun in violation of this section, shall be sentenced as provided in § 36B of this article.”.

On page 3, strike beginning with line 2 down through line 9, inclusive, and substitute:

“DISARMING A LAW ENFORCEMENT OFFICER

36A-1.

(A) A PERSON MAY NOT KNOWINGLY REMOVE OR ATTEMPT TO REMOVE A FIREARM FROM THE POSSESSION OF ANOTHER PERSON IF:

(1) THE OTHER PERSON IS LAWFULLY ACTING WITHIN THE COURSE AND SCOPE OF EMPLOYMENT; AND

(2) THE PERSON HAS KNOWLEDGE OR REASON TO KNOW THAT THE OTHER PERSON IS EMPLOYED AS:

(I) A LAW ENFORCEMENT OFFICER WHO, IN AN OFFICIAL CAPACITY, IS AUTHORIZED BY LAW TO MAKE ARRESTS;

(II) A SHERIFF, DEPUTY SHERIFF, OR ASSISTANT SHERIFF; OR

(III) AN EMPLOYEE OF THE DIVISION OF CORRECTION, THE PATUXENT INSTITUTION, THE DIVISION OF PRETRIAL DETENTION AND SERVICES, THE DIVISION OF PAROLE AND PROBATION, ANY COUNTY JAIL OR DETENTION CENTER, OR ANY BOOKING FACILITY.

(B) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO A FINE OF NOT MORE THAN \$10,000 OR IMPRISONMENT FOR NOT MORE THAN 10 YEARS OR BOTH.

(C) A SENTENCE IMPOSED UNDER THIS SECTION MAY BE IMPOSED SEPARATE FROM AND CONSECUTIVE TO OR CONCURRENT WITH A SENTENCE FOR ANY OFFENSE BASED ON THE ACT OR ACTS ESTABLISHING THE OFFENSE UNDER THIS SECTION.”.

AMENDMENT NO. 3

On page 3, in line 29, after “(a)” insert “(1)”; after line 32, insert:

“(2) SUBJECT TO THE PROVISIONS OF SUBSECTION (B)(2) OF THIS

(Over)

SECTION, ANY PERSON WHO RECKLESSLY DISCHARGES A FIREARM FROM A MOTOR VEHICLE IN SUCH A MANNER THAT IT CREATES A SUBSTANTIAL RISK OF DEATH OR SERIOUS PHYSICAL INJURY TO ANOTHER PERSON IS GUILTY OF THE MISDEMEANOR OF RECKLESS ENDANGERMENT AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$5,000 OR IMPRISONMENT NOT EXCEEDING 5 YEARS OR BOTH.”;

in line 33, strike “PARAGRAPH (2)” and substitute “SUBSECTION (A)(2)”; in line 34, strike “SUBSECTION” and substitute “SECTION”; and strike in their entirety lines 36 and 37 and substitute:

“(2) THE PROVISIONS OF SUBSECTION (A)(2) OF THIS SECTION DO NOT APPLY TO THE DISCHARGE OF A FIREARM FROM A MOTOR VEHICLE BY:

(I) A LAW ENFORCEMENT OFFICER OR SECURITY GUARD IN THE PERFORMANCE OF THE OFFICER’S OR SECURITY GUARD’S OFFICIAL DUTIES; OR

(II) AN INDIVIDUAL ACTING IN DEFENSE OF A CRIME OF VIOLENCE.”.

AMENDMENT NO. 4

On page 4, in line 34, strike “481E” and substitute “441”.

On page 6, in line 23, strike “SUBTITLE” and substitute “SUBHEADING”; and in line 26, strike “OR § 388A OF THIS ARTICLE”.

On page 8, in line 18, after “CARBINE;” insert “OR”; in line 19, strike “; OR” and substitute a period; and strike in their entirety lines 20 and 21.

On page 10, in line 6, strike “CONVICTED” and substitute “FOUND GUILTY”; and in line 7, strike “3 YEARS” and substitute “YEAR”.

On page 10, in line 9, strike “CONVICTED” and substitute “FOUND GUILTY”; after line 13, insert:

“(P) “PEPPER MACE” MEANS AN AEROSOL PROPELLED COMBINATION OF HIGHLY DISABLING IRRITANT PEPPER BASED PRODUCTS AND IS ALSO KNOWN AS OLEO-RESIN CAPSICUM (O.C.) SPRAY.”;

in lines 14, 16, 21, 24, 27, and 29, strike “(P)”, “(Q)”, “(R)”, “(S)”, “(T)”, and “(U)”, respectively, and substitute “(Q)”, “(R)”, “(S)”, “(U)”, “(V)”, and “(W)”, respectively; in line 17, after “SECTION;” insert “OR”; in line 18, strike “; OR” and substitute a period; strike in their entirety lines 19 and 20; after line 23 insert:

“(T) “RENT” MEANS THE TEMPORARY TRANSFER OF A REGULATED FIREARM FOR CONSIDERATION WHERE THE FIREARM IS TAKEN FROM THE FIREARM OWNER’S PROPERTY.”;

in line 30, strike “THE REAL PURCHASER” and substitute “AN INDIVIDUAL”; and in line 33, strike “REAL PURCHASER” and substitute “INDIVIDUAL”.

AMENDMENT NO. 5

On page 11, in line 13, strike the first “OR” and substitute a comma; strike beginning with “WHO” in line 13 down through “SECTION” in line 15 and substitute “, OR IMPORTER”; in line 19, after “INHERITANCE” insert a comma; and strike beginning with the colon in line 20 down through “SECRETARY.” in line 24 and substitute “COMPLETES AN APPLICATION FOR THE PURCHASE OR TRANSFER OF A REGULATED FIREARM AND FORWARDS IT TO THE SECRETARY.”.

AMENDMENT NO. 6

On page 11, strike in their entirety lines 31 through 33, inclusive; in line 34, strike “(C)” and substitute “(B)”; and in line 39, after “STATE;” insert “AND”.

On page 12, in line 5, strike “; AND” and substitute a period; and strike in their entirety lines 6 through 8, inclusive, and substitute:

“(3) IF THE REGULATED FIREARM IS A GIFT TO A SPOUSE, PARENT, GRANDPARENT, GRANDCHILD, BROTHER, SISTER, SON, OR DAUGHTER:

(I) AN APPLICATION TO PURCHASE OR TRANSFER A REGULATED FIREARM SHALL BE COMPLETED BY THE RECIPIENT AND FORWARDED TO THE SECRETARY WITHIN 5 DAYS OF RECEIPT OF THE REGULATED FIREARM; AND

(II) THE \$10 APPLICATION FEE, AS PROVIDED BY SUBSECTION (G) OF THIS SECTION, SHALL BE WAIVED BY THE SECRETARY.”.

On page 12, in lines 9, 14, 29, 31, and 38, strike “(D)”, “(E)”, “(F)”, “(I)”, and “(G)”, respectively, and substitute “(C)”, “(D)”, “(E)”, “(H)”, and “(F)”, respectively; in line 14, after “PERSON” insert “WHO IS NOT A REGULATED FIREARMS DEALER”; in line 25, after “PURCHASE” insert “, RENT,”; in lines 27 and 28, strike “OR DESIGNATED LAW ENFORCEMENT AGENCY”; in lines 30, 38, and 41, in each instance, after “purchase” insert “, RENT,”; in line 34, in each instance, after “seller” insert “, LESSOR,”; and in line 36, after “purchaser” insert “, LESSEE,”.

On page 13, in lines 12 and 16, strike “(H)” and “(I)”, respectively, and substitute “(G)” and “(H)”, respectively; in lines 12 and 16, in each instance, after “purchase” insert “, RENT,”; and in line 20, after “signature” insert “AND REGULATED FIREARM INFORMATION FOR EACH FIREARM TO BE PURCHASED, RENTED, OR TRANSFERRED”.

On page 14, in line 8, strike “a” and substitute “at”; in line 9, strike “Has”; in line 10, strike “NEVER BEEN” and substitute “IS NOT”; and in the same line, after the second “A” insert “CURRENT”; in line 11, strike “PROTECTION” and substitute “PROTECTIVE”; strike lines 13 and 14 in their entirety; in line 16, after “purchaser” insert “, LESSEE,”; and on pages 14 and 15, in lines 17 and 42 on page 14 and lines 3 and 4 on page 15, strike “(J)”, “(K)”, “(J)”, and “(L)”, respectively, and substitute “(I)”, “(J)”, “(K)”, and “(K)”, respectively.

On page 14, in line 20, after “purchase” insert “, RENT,”; in line 21, strike the first “of” and substitute “or”; in line 22, strike “said” and substitute “THE”; in line 25, strike “A” and substitute “THE APPLICANT’S”; in the same line after “LICENSED” insert “ATTENDING”; in line 29, after “seller” insert “, LESSOR,”; in line 32, strike “said” and substitute “THE”; in line 34, after “purchaser” insert “, LESSEE,”; in line 35, after “purchase” insert “, RENT,”; in line 36, after “seller” insert “, LESSOR,”; in line 38, strike “said”; in the same line, after “seller” insert “,

LESSOR.”; in line 39, strike “said”; in line 42, before “No” insert “(1)”; and in line 44, after “HOLD” insert “BECAUSE OF AN OPEN DISPOSITION OF CRIMINAL PROCEEDINGS AGAINST THE APPLICANT”.

On page 15, after line 3, insert:

“(2) AN APPROVED APPLICATION IS VALID ONLY FOR THE PURCHASE, RENTAL, OR TRANSFER OF THE REGULATED FIREARM LISTED IN THE APPLICATION.”;

and in line 4, after “purchaser” insert “, LESSEE.”; in line 13, strike the period; in lines 14, 25, and 35, strike “(M)”, “(N)”, and “(O)”, respectively, and substitute “(L)”, “(M)”, and “(N)”, respectively; in line 14, after “dealer” insert “OR PERSON”; in line 19, after “sales” insert “, RENTALS.”; in line 21, after “sold” insert “, RENTED.”; in line 25, after “DEALER” insert “OR PERSON”; in the same line, after “SALE” insert “, RENTAL.”; in line 27, before “PROSPECTIVE” insert “APPLICATION OF THE”; in the same line, strike “OR TRANSFEREE’S APPLICATION” and substitute “, LESSEE, OR TRANSFEREE”; in line 29, after “DEALER” insert “OR PERSON”; in line 30, after “SALE” insert “, RENTAL.”; in line 34, after “SALE” insert “, RENTAL, OR TRANSFER”; in line 37, after “sales,” insert “RENTALS.”; in the same line, strike “transfer” and substitute “TRANSFERS”; and in line 38, after “sell,” insert “RENT.”.

AMENDMENT NO. 7

On pages 16 through 18, strike in their entirety the lines beginning with line 8 on page 16 through line 27 on page 18, inclusive.

AMENDMENT NO. 8

On page 18, in line 28, strike “442B.” and substitute “442A.”.

On page 19, in line 12, after “REPORT” insert “A COPY OF WHICH SHALL BE ATTACHED TO THE APPLICATION TO PURCHASE OR TRANSFER A REGULATED FIREARM”; strike in their entirety lines 22 through 27, inclusive; in line 28, after “(1)” insert “UPON APPLICATION FOR A MULTIPLE PURCHASE TO AND APPROVAL BY THE”.

(Over)

SECRETARY.”; in the same line, after “FIREARM” insert “IN A 30-DAY PERIOD”; strike beginning with “UPON” in line 29 down through “WHETHER” in line 33 and substitute “UNDER THE FOLLOWING CIRCUMSTANCES:”

(I)”;

in line 35, strike “(III)” and substitute “(II)””; in the same line, strike “WHETHER”; in line 36, strike “OR”; after line 36, insert:

“(III) THE PURCHASE OF NOT MORE THAN TWO REGULATED FIREARMS IS A MULTIPLE PURCHASE FOR THE PURPOSE OF TAKING ADVANTAGE OF A REGULATED FIREARMS DEALER’S DISCOUNTED PRICE AVAILABLE ONLY FOR A MULTIPLE PURCHASE, PROVIDED THAT THE PURCHASER IS PROHIBITED FROM PURCHASING A REGULATED FIREARM THE FOLLOWING 30-DAY PERIOD UNLESS APPROVED FOR A MULTIPLE PURCHASE UNDER ITEM (I) OR (II) OF THIS PARAGRAPH; OR”;

after line 38, insert:

“(I) CONTAIN A LIST OF THE REGULATED FIREARMS TO BE PURCHASED OR TRANSFERRED;”.

On pages 19 and 20, in line 39 on page 19, and lines 1 and 5 on page 20, strike “(I)”, “(II)”, and “(III)”, respectively, and substitute “(II)”, “(III)”, and “(IV)”, respectively. On page 19, in line 40, strike “GUN” and substitute “REGULATED FIREARM”.

On page 20, in line 1, after “DEALER” insert “OR DESIGNATED LAW ENFORCEMENT AGENCY”; strike beginning with “THAT” in line 1 down through “DESIGNATION” in line 3; in line 10, after “DEALER” insert “OR DESIGNATED LAW ENFORCEMENT AGENCY”; in line 15, after “DEALER” insert “OR PERSON”; in line 16, strike “AN APPLICANT” and substitute “A PERSON”; in the same line, after “HOLD” insert “BECAUSE OF AN OPEN DISPOSITION OF CRIMINAL PROCEEDINGS AGAINST THE APPLICANT”; in line 30, strike the brackets and strike “\$150”; and in line 31, strike the brackets and strike “\$75”.

On page 21, strike lines 21 and 22 in their entirety; and on pages 21 and 22, in lines 23, 24,

35, and 36 on page 21, and lines 1 and 3 on page 22, in each instance, strike the first set of brackets; and in the same lines, strike “(III)”, “(IV)”, “(V)”, “(VI)”, “(VII)”, and “(VIII)”, respectively.

On page 22, in line 13, strike “A” and substitute “THE APPLICANT’S”; and in the same line, after “LICENSED” insert “ATTENDING”.

AMENDMENT NO. 9

On page 25, in line 30, after “§§ 442” strike the comma and substitute “AND”; and in the same line strike “, AND 442B”.

On page 26, strike line 24 in its entirety and substitute:

“(IV) SUFFERING FROM A MENTAL DISORDER AS DEFINED IN § 10-101(H)(2) OF THE HEALTH - GENERAL ARTICLE AND HAS A HISTORY OF VIOLENT BEHAVIOR AGAINST ANOTHER PERSON OR SELF, OR HAS BEEN CONFINED FOR MORE THAN 30 CONSECUTIVE DAYS TO A FACILITY AS DEFINED IN § 10-101 OF THE HEALTH - GENERAL ARTICLE, UNLESS THE PERSON POSSESSES A PHYSICIAN’S CERTIFICATION THAT THE PERSON IS CAPABLE OF POSSESSING A REGULATED FIREARM WITHOUT UNDUE DANGER TO THE PERSON OR TO OTHERS;”;

strike beginning with “PROHIBITED” in line 29 down through “BEEN” in line 31; in line 31, after the second “A” insert “CURRENT”; and in line 32, strike “PROTECTION” and substitute “PROTECTIVE”.

On page 27, in line 1, after the first “FIREARM,” insert “OTHER THAN A REGULATED FIREARM,”; in line 17, strike “A” and substitute “ADDICTED TO OR A”; in the same line, strike “abuser of” and substitute “USER”; in line 24, after the semicolon insert “OR”; strike beginning with “PROHIBITED” in line 25 down through “BEEN” in line 27; in line 27, strike “CIVIL” and substitute “CURRENT NON EX PARTE CIVIL”.

On page 28, in line 9, after “GUARD” insert “WHILE PERFORMING OFFICIAL DUTIES”; in the same line strike the second “OR”; and after line 9, insert:

(Over)

“(IV) THE TEMPORARY TRANSFER OR POSSESSION OF A REGULATED FIREARM OR REGULATED FIREARM AMMUNITION IF THE PERSON IS UNDER 21 YEARS OF AGE AND IS:

1. PARTICIPATING IN MARKSMANSHIP TRAINING OF A RECOGNIZED ORGANIZATION; AND

2. UNDER THE SUPERVISION OF A QUALIFIED INSTRUCTOR;

(V) A PERSON WHO IS REQUIRED TO POSSESS A REGULATED FIREARM FOR EMPLOYMENT PURPOSES AND HAS BEEN ISSUED A PERMIT UNDER § 36E OF THIS ARTICLE; OR”;

in line 10, strike “(IV)” and substitute “(VI)”; in line 22, strike “442B” and substitute “442A”; in the same line, strike “SUBTITLE” and substitute “SUBHEADING”; in line 32, strike “SUBTITLE” and substitute “SUBHEADING”; in line 22, strike “SUBTITLE” and substitute “SUBHEADING”; and in line 33, after “AND” insert “, AFTER A FINDING OF GUILT,”.

On page 29, in line 19, strike “442B” and substitute “442A”; in line 20, strike “SUBTITLE” and substitute “SUBHEADING”; and in lines 26 and 32, in each instance, strike “FELONY” and substitute “MISDEMEANOR”.

AMENDMENT NO. 10

On page 32, in line 18, strike “SHALL” and substitute “MAY”; in lines 19, 23, and 24, in each instance, strike “PREMISES” and substitute “SCENE”.

AMENDMENT NO. 11

On page 32, after line 34, insert:

“Article - Courts and Judicial Proceedings

(S) A PROSECUTION FOR AN OFFENSE UNDER § 449(D) OR (E) OF THIS SUBTITLE, RELATING TO STRAW SALES OF REGULATED FIREARMS TO PROHIBITED PERSONS OR MINORS AND TO ILLEGAL SALES, RENTALS, TRANSFERS, POSSESSION, OR RECEIPT OF REGULATED FIREARMS, SHALL BE INSTITUTED WITHIN 3 YEARS AFTER THE OFFENSE WAS COMMITTED.”.

AMENDMENT NO. 12

On page 32, before line 35, insert:

“SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article 27 - Crimes and Punishments

12A-2.

(a) (1) Any person who recklessly engages in conduct that creates a substantial risk of death or serious physical injury to another person is guilty of the misdemeanor of reckless endangerment and on conviction is subject to a fine of not more than \$5,000 or imprisonment for not more than 5 years or both.

(2) SUBJECT TO THE PROVISIONS OF SUBSECTION (B) OF THIS SECTION, ANY PERSON WHO RECKLESSLY DISCHARGES A FIREARM FROM A MOTOR VEHICLE IN SUCH A MANNER THAT IT CREATES A SUBSTANTIAL RISK OF DEATH OR SERIOUS PHYSICAL INJURY TO ANOTHER PERSON IS GUILTY OF THE MISDEMEANOR OF RECKLESS ENDANGERMENT AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$5,000 OR IMPRISONMENT NOT EXCEEDING 5 YEARS OR BOTH.

(b) This section does not apply to any conduct involving:

(1) The use of a motor vehicle as defined in § 11-135 of the Transportation Article;

[or]

(Over)

(2) The manufacture, production, or sale of any product or commodity;

(3) A LAW ENFORCEMENT OFFICER OR SECURITY GUARD IN THE PERFORMANCE OF THE OFFICER'S OR SECURITY GUARD'S OFFICIAL DUTY; OR

(4) AN INDIVIDUAL ACTING IN DEFENSE OF A CRIME OF VIOLENCE.

(c) If more than one person is endangered by the conduct of the defendant, a separate charge may be brought for each person endangered.

SECTION 4. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall take effect October 1, 1996, contingent on the taking effect of Chapter _____ (S.B. 618/H.B. 749) of the Acts of the General Assembly of 1996, and if Chapter _____ does not become effective, Section 3 of this Act shall be null and void without the necessity of further action by the General Assembly. If Chapter _____ becomes effective, § 120 of Article 27, as amended by Section 2 of this Act, shall be null and void without the necessity of further action by the General Assembly.”;

in line 35, strike “2.” and substitute “5.”; and in the same line, after “That” insert “, subject to the provisions of Section 4 of this Act.”.