
By: Delegate Conway

Introduced and read first time: January 10, 1996

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Firearms - Mandatory Sentences**

3 FOR the purpose of providing for certain mandatory minimum sentences for the use of
4 certain firearms in the commission of certain crimes; repealing certain provisions
5 relating to mandatory minimum sentences for the use of certain firearms in the
6 commission of certain crimes; making technical changes; defining a term; and
7 generally relating to mandatory sentences.

8 BY repealing

9 Article 27 - Crimes and Punishments
10 Section 36B(d)
11 Annotated Code of Maryland
12 (1992 Replacement Volume and 1995 Supplement)

13 BY repealing and reenacting, with amendments,

14 Article 27 - Crimes and Punishments
15 Section 36H-6
16 Annotated Code of Maryland
17 (1992 Replacement Volume and 1995 Supplement)

18 BY adding to

19 Article 27 - Crimes and Punishments
20 Section 36H-7
21 Annotated Code of Maryland
22 (1992 Replacement Volume and 1995 Supplement)

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

25 **Article 27 - Crimes and Punishments**

26 36B.

27 [(d) Any person who shall use a handgun or an antique firearm capable of being
28 concealed on the person in the commission of any felony or any crime of violence as
29 defined in § 441 of this article shall be guilty of a separate misdemeanor and on

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1 conviction thereof shall, in addition to any other sentence imposed by virtue of
2 commission of said felony or misdemeanor:

3 (1) For a first offense, be sentenced to the Maryland Division of Correction
4 for a term of not less than 5 nor more than 20 years, and:

5 (i) It is mandatory upon the court to impose no less than the
6 minimum sentence of 5 years; and

7 (ii) Except as otherwise provided in Article 31B, § 11 of the Code, the
8 person is not eligible for parole in less than 5 years; and

9 (2) For a second or subsequent offense, be sentenced to the Maryland
10 Division of Correction for a term of not less than 5 nor more than 20 years, and it is
11 mandatory upon the court to impose no less than a minimum consecutive sentence of 5
12 years which shall be served consecutively and not concurrently to any other sentence
13 imposed by virtue of the commission of said felony or misdemeanor.]

14 36H-6.

15 [(a)] Any person who violates any provision of this subheading is upon conviction
16 guilty of a misdemeanor and subject to imprisonment for not more than 3years or a fine
17 of not more than \$5,000 or both.

18 [(b) Any person who uses an assault pistol, or a magazine that has a capacity of
19 more than 20 rounds of ammunition, in the commission of any felony or any crime of
20 violence as defined in § 441 of this article shall be guilty of a separate misdemeanor and
21 on conviction thereof shall, in addition to any other sentence imposed by virtue of
22 commission of the felony or misdemeanor:

23 (1) For a first offense, be sentenced to the Maryland Division of Correction
24 for a term of not less than 5 nor more than 20 years, and:

25 (i) It is mandatory upon the court to impose no less than the
26 minimum sentence of 5 years no part of which shall be suspended; and

27 (ii) Except as otherwise provided in Article 31B, § 11 of the Code, the
28 person is not eligible for parole in less than 5 years; and

29 (2) For a second or subsequent offense, be sentenced to the Maryland
30 Division of Correction for a term of not less than 10 nor more than 20 years, and it is
31 mandatory upon the court to impose no less than a minimum sentence of 10 years which
32 shall be served consecutively and not concurrently to any other sentence imposed by
33 virtue of the commission of the felony or misdemeanor.]

34 36H-7.

35 (A) IN THIS SECTION, "FIREARM" INCLUDES ANY HANDGUN, ANTIQUE
36 FIREARM, RIFLE, SHOTGUN, SHORT-BARRELED RIFLE, SHORT-BARRELED
37 SHOTGUN, PISTOL, REVOLVER, ANTIQUE PISTOL OR REVOLVER, MACHINE GUN,
38 ASSAULT WEAPON, OR ASSAULT PISTOL OR ANY OTHER FIREARM THAT HAS NOT
39 BEEN MODIFIED TO RENDER IT PERMANENTLY INOPERATIVE.

1 (B) ANY PERSON WHO USES A FIREARM OR A MAGAZINE THAT HAS A
2 CAPACITY OF MORE THAN 20 ROUNDS OF AMMUNITION, IN THE COMMISSION OF A
3 FELONY OR ANY CRIME OF VIOLENCE AS DEFINED IN § 441 OF THIS ARTICLE SHALL
4 BE GUILTY OF A SEPARATE FELONY AND ON CONVICTION THEREOF SHALL, IN
5 ADDITION TO ANY OTHER SENTENCE IMPOSED BY VIRTUE OF THE CRIME OF
6 VIOLENCE, BE SENTENCED TO THE MARYLAND DIVISION OF CORRECTION FOR A
7 TERM OF NOT LESS THAN 25 YEARS, AND:

8 (1) IT IS MANDATORY ON THE COURT TO IMPOSE NO LESS THAN THE
9 MINIMUM SENTENCE OF 25 YEARS NO PART OF WHICH SHALL BE SUSPENDED; AND

10 (2) EXCEPT AS OTHERWISE PROVIDED IN ARTICLE 31B, § 11 OF THE
11 CODE, THE PERSON IS NOT ELIGIBLE FOR PAROLE IN LESS THAN 25 YEARS.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 1996.