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**By: Delegates Conway, D. Hughes, W. Baker, Eckardt, Guns, McClenahan, Rudolph, Bozman, and Walkup**

Introduced and read first time: January 13, 1997

Assigned to: Judiciary

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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 (1996 Replacement Volume)

13 BY repealing and reenacting, with amendments,

14 Article 27 - Crimes and Punishments  
15 Section 36H-6  
16 Annotated Code of Maryland  
17 (1996 Replacement Volume)

18 BY adding to

19 Article 27 - Crimes and Punishments  
20 Section 36H-7  
21 Annotated Code of Maryland  
22 (1996 Replacement Volume)

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

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1 defined in § 441 of this article, whether operable or inoperable at the time of the offense,  
2 shall be guilty of a separate misdemeanor and on conviction thereof shall, in addition to  
3 any other sentence imposed by virtue of commission of said felony or misdemeanor:

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

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

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

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

15 36H-6.

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

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

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

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

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

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

35 36H-7.

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

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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, 1997.