

HOUSE BILL 904

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HB 152/97 - JUD

1999 Regular Session  
9r1263

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By: **Delegates Conway, Bozman, McClenahan, W. Baker, Rudolph, and Cane**  
Introduced and read first time: February 12, 1999  
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  
4 of certain firearms in the commission of certain crimes; repealing certain  
5 provisions relating to mandatory minimum sentences for the use of certain  
6 firearms in the commission of certain crimes; making technical changes;  
7 defining a term; and 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 and 1998 Supplement)

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 and 1998 Supplement)

18 BY adding to  
19 Article 27 - Crimes and Punishments  
20 Section 36H-7  
21 Annotated Code of Maryland  
22 (1996 Replacement Volume and 1998 Supplement)

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

**Article 27 - Crimes and Punishments**

2 36B.

3 [(d) Any person who shall use a handgun or an antique firearm capable of  
4 being concealed on the person in the commission of any felony or any crime of violence  
5 as defined in § 441 of this article, whether operable or inoperable at the time of the  
6 offense, shall be guilty of a separate misdemeanor and on conviction thereof shall, in  
7 addition to any other sentence imposed by virtue of commission of said felony or  
8 misdemeanor:

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

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

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

15 (2) For a second or subsequent offense, be sentenced to the Maryland  
16 Division of Correction for a term of not less than 5 nor more than 20 years, and it is  
17 mandatory upon the court to impose no less than a minimum consecutive sentence of  
18 5 years which shall be served consecutively and not concurrently to any other  
19 sentence imposed by virtue of the commission of said felony or misdemeanor.]

20 36H-6.

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

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

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

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

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

35 (2) For a second or subsequent offense, be sentenced to the Maryland  
36 Division of Correction for a term of not less than 10 nor more than 20 years, and it is  
37 mandatory upon the court to impose no less than a minimum sentence of 10 years

1 which shall be served consecutively and not concurrently to any other sentence  
2 imposed by virtue of the commission of the felony or misdemeanor.]

3 36H-7.

4 (A) IN THIS SECTION, "FIREARM" INCLUDES ANY HANDGUN, ANTIQUE  
5 FIREARM, RIFLE, SHOTGUN, SHORT-BARRELED RIFLE, SHORT-BARRELED SHOTGUN,  
6 PISTOL, REVOLVER, ANTIQUE PISTOL OR REVOLVER, MACHINE GUN, ASSAULT  
7 WEAPON, OR ASSAULT PISTOL OR ANY OTHER FIREARM THAT HAS NOT BEEN  
8 MODIFIED TO RENDER IT PERMANENTLY INOPERATIVE.

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

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

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

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take  
21 effect October 1, 1999.