

HOUSE BILL 79

Unofficial Copy  
E1

2000 Regular Session  
0lr0890

(PRE-FILED)

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By: **Delegate Minnick**

Requested: November 15, 1999

Introduced and read first time: January 12, 2000

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Firearms - Mandatory Sentences**

3 FOR the purpose of requiring that certain minimum sentences be imposed for the use  
4 of a firearm in the commission of a felony; repealing certain provisions relating  
5 to mandatory minimum sentences for the use of certain firearms in the  
6 commission of certain crimes; defining a term; and generally relating to  
7 mandatory sentences for the use of firearms in the commission of a felony.

8 BY repealing  
9 Article 27 - Crimes and Punishments  
10 Section 36B(d)  
11 Annotated Code of Maryland  
12 (1996 Replacement Volume and 1999 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 1999 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 1999 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 § 4-305 of the Correctional  
14 Services Article, 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] EXCEPT AS PROVIDED IN § 36H-7 OF THIS SUBHEADING, A person  
22 who violates any provision of this subheading is upon conviction guilty of a  
23 misdemeanor and subject to imprisonment for not more than 3 years or a fine of not  
24 more than \$5,000 or both.

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

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

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

34 (ii) Except as otherwise provided in § 4-305 of the Correctional  
35 Services Article, the person is not eligible for parole in less than 5 years; and

36 (2) For a second or subsequent offense, be sentenced to the Maryland  
37 Division of Correction for a term of not less than 10 nor more than 20 years, and it is

1 mandatory upon the court to impose no less than a minimum sentence of 10 years  
2 which shall be served consecutively and not concurrently to any other sentence  
3 imposed by virtue of the commission of the felony or misdemeanor.]

4 36H-7.

5 (A) IN THIS SECTION, "FIREARM" MEANS ANY WEAPON THAT WILL EXPEL, IS  
6 DESIGNED TO EXPEL, OR MAY READILY BE CONVERTED TO EXPELLING A  
7 PROJECTILE BY THE ACTION OF AN EXPLOSIVE.

8 (B) A PERSON WHO USES A FIREARM IN THE COMMISSION OF A FELONY IS  
9 GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO:

10 (1) FOR A FIRST OFFENSE, IMPRISONMENT OF 15 YEARS;

11 (2) FOR A SECOND OFFENSE, IMPRISONMENT OF 25 YEARS; AND

12 (3) FOR A THIRD OFFENSE, LIFE IMPRISONMENT WITHOUT PAROLE.

13 (C) (1) IT IS MANDATORY UPON THE COURT TO IMPOSE THE SENTENCES  
14 LISTED UNDER SUBSECTION (B) OF THIS SECTION.

15 (2) A SENTENCE OR A PART OF A SENTENCE UNDER SUBSECTION (B) OF  
16 THIS SECTION MAY NOT BE SUSPENDED.

17 (3) EXCEPT AS PROVIDED IN § 4-305 OF THE CORRECTIONAL SERVICES  
18 ARTICLE, A PERSON SUBJECT TO THIS SECTION IS NOT ELIGIBLE FOR PAROLE.

19 (D) EACH SENTENCE UNDER THIS SECTION SHALL BE SERVED  
20 CONSECUTIVELY AND NOT CONCURRENTLY TO ANY OTHER SENTENCE IMPOSED BY  
21 VIRTUE OF THE COMMISSION OF THE UNDERLYING FELONY.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
23 October 1, 2000.