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By: **Delegates Bobo, Rawlings, Barve, Benson, Billings, Bronrott, Brown, Frush, Grosfeld, Hecht, Heller, A. Jones, V. Jones, Kagan, Kopp, Mandel, McIntosh, Menes, Nathan-Pulliam, Paige, Petzold, Pitkin, Phillips, Riley, Rosso, Shriver, Turner, Valderrama, Moe, Marriott, and Hurson**

Introduced and read first time: February 3, 2000

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Firearms - Disposal Requirements for Law Enforcement Agencies**

3 FOR the purpose of requiring a State or local law enforcement agency to destroy  
4 certain unnecessary, unneeded, or forfeited firearms; providing for certain  
5 exceptions to the destruction requirement; requiring a law enforcement agency  
6 to adopt regulations to specify the method of destruction; defining certain terms;  
7 and generally relating to the destruction of firearms by law enforcement  
8 agencies.

9 BY repealing and reenacting, with amendments,  
10 Article 27 - Crimes and Punishments  
11 Section 36C(d), 36H-4, 281A(d), and 445B  
12 Annotated Code of Maryland  
13 (1996 Replacement Volume and 1999 Supplement)

14 BY repealing and reenacting, without amendments,  
15 Article 27 - Crimes and Punishments  
16 Section 297(f)  
17 Annotated Code of Maryland  
18 (1996 Replacement Volume and 1999 Supplement)

19 BY adding to  
20 Article 27 - Crimes and Punishments  
21 Section 36L  
22 Annotated Code of Maryland  
23 (1996 Replacement Volume and 1999 Supplement)

24 BY repealing and reenacting, with amendments,  
25 Article - Natural Resources  
26 Section 10-1106

1 Annotated Code of Maryland  
2 (1990 Replacement Volume and 1999 Supplement)

3 Preamble

4 WHEREAS, Many of our citizens believe that crime in our communities is the  
5 number one problem facing Maryland; and

6 WHEREAS, Crime in our communities is enabled by the ready availability of  
7 firearms to criminal elements; and

8 WHEREAS, It has recently been documented that certain firearms used in  
9 violent crimes against our citizens have been at one time owned by law enforcement  
10 agencies; and

11 WHEREAS, Certain handgun manufacturers seek out older models from law  
12 enforcement agencies so that they may be retrofitted to provide much greater  
13 firepower than federal law allows new weapons; and

14 WHEREAS, While it is good public policy to equip Maryland's law enforcement  
15 officers with superior weapons, it is equally poor public policy to allow firearms no  
16 longer needed by these law enforcement agencies to be added to the pool of  
17 high-power firearms landing in the hands of the criminal element; now, therefore,

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

20 **Article 27 - Crimes and Punishments**

21 36C.

22 (d) (1) Whenever property is forfeited under this section, the law  
23 enforcement agency seeking forfeiture of the property may:

24 (i) Order the property retained for the official use of the law  
25 enforcement agency; [or]

26 (ii) DESTROY THE PROPERTY, AS REQUIRED BY § 36L OF THIS  
27 ARTICLE; OR

28 (III) [Make] IF THE PROPERTY IS AN ANTIQUE FIREARM MAKE such  
29 other disposition of the property as the law enforcement agency deems appropriate.

30 (2) Within 30 days of the disposition of the forfeited property, the law  
31 enforcement agency shall notify the Secretary of the State Police of:

32 (i) The description of the property forfeited;

33 (ii) The type of disposition made;

1 (iii) The identity of the person to whom the property was  
2 transferred for disposal, retention, or resale; and

3 (iv) If the person was a licensed firearms dealer, the firearms  
4 dealer's license number and address.

5 36H-4.

6 Any assault pistol transported, sold, transferred, purchased, received, or  
7 possessed in violation of this subheading may be seized by a law enforcement agency  
8 as contraband and disposed of according to [regulation] THE PROVISIONS OF § 36L OF  
9 THIS ARTICLE.

10 36L.

11 (A) (1) IN THIS SECTION, "FIREARM" MEANS:

12 (I) A MACHINE GUN, AS DEFINED IN § 372 OF THIS ARTICLE;

13 (II) A REGULATED FIREARM, AS DEFINED IN § 441 OF THIS ARTICLE;

14 OR

15 (III) SHORT-BARRELED SHOTGUNS AND SHORT-BARRELED RIFLES,  
16 AS THOSE TERMS ARE DEFINED IN § 36F OF THIS ARTICLE; AND

17 (2) "FIREARM" DOES NOT INCLUDE A RIFLE, SHOTGUN, OR ANTIQUE  
18 FIREARM, AS THOSE TERMS ARE DEFINED IN § 36F OF THIS ARTICLE.

19 (B) (1) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A LAW  
20 ENFORCEMENT AGENCY OF THE STATE OR ANY POLITICAL SUBDIVISION OF THE  
21 STATE SHALL DESTROY:

22 (I) ANY UNNECESSARY OR UNNEEDED FIREARM OWNED BY THE  
23 LAW ENFORCEMENT AGENCY; OR

24 (II) ANY FIREARM SEIZED AS CONTRABAND OR ANY FORFEITED  
25 FIREARM IN THE POSSESSION OF THE LAW ENFORCEMENT AGENCY.

26 (2) A LAW ENFORCEMENT AGENCY SHALL ADOPT REGULATIONS TO  
27 SPECIFY THE METHOD OF DESTRUCTION AND TO CARRY OUT THE REQUIREMENTS  
28 OF THIS SUBTITLE.

29 (C) A LAW ENFORCEMENT AGENCY IS NOT REQUIRED TO DESTROY A FIREARM  
30 IF:

31 (1) THE LAW ENFORCEMENT AGENCY RETAINS THE FIREARM FOR  
32 OFFICIAL USE;

33 (2) THE FIREARM IS BEING STORED IN A SECURE LOCATION BECAUSE  
34 THE FIREARM MAY BE USED OR IS BEING USED AS EVIDENCE IN A JUDICIAL OR  
35 ADMINISTRATIVE PROCEEDING; OR

1 (3) A RETIRING STATE POLICE OFFICER IS ALLOWED TO KEEP OR  
2 ACQUIRE THE FIREARM UNDER ARTICLE 88B, § 24A OF THE CODE.

3 281A.

4 (d) (1) Any firearm or ammunition seized under this section is contraband  
5 and shall be summarily forfeited.

6 (2) If the owner or possessor of property seized under this section is  
7 acquitted or the charges against the person are dismissed, the seized property shall  
8 be returned to the owner or possessor within 90 days if not otherwise prohibited by  
9 law unless forfeiture proceedings have commenced.

10 (3) If the State enters a nolle prosequi against the owner or possessor of  
11 property seized under this section and does not charge the person within 90 days  
12 after the nolle prosequi is entered, the seized property shall be promptly returned to  
13 the owner or possessor if not otherwise prohibited by law.

14 (4) EXCEPT AS PROVIDED IN PARAGRAPHS (2) AND (3) OF THIS  
15 SUBSECTION, A FIREARM SEIZED UNDER THIS SECTION IS SUBJECT TO THE  
16 DISPOSAL REQUIREMENTS OF § 36L OF THIS ARTICLE.

17 297.

18 (f) Except as provided under subsection (k) of this section, whenever property  
19 is forfeited under this subheading, the political subdivision in which such property  
20 was seized, or, if the property was seized by State authorities, the State may:

21 (1) Retain the property for official use (except, whenever coin, currency,  
22 or property is seized by the Baltimore City police, and forfeited under this  
23 subheading, it shall be surrendered to the City of Baltimore for disposition according  
24 to this section);

25 (2) Sell any forfeited property which is not required to be destroyed by  
26 law and which is not harmful to the public, provided that the proceeds be disposed of  
27 for payment of all proper expenses of the proceedings for forfeiture and sale including  
28 expenses of seizure, maintenance of custody, advertising and court costs; or

29 (3) Require an appropriate agency to take custody of the property and  
30 remove it for disposition in accordance with law, or destruction.

31 445B.

32 Any regulated firearm sold, rented, transferred, possessed, received, or  
33 purchased in violation of this subheading may be seized by a law enforcement agency  
34 as contraband and, after a finding of guilt, disposed of according to [the regulations of  
35 the seizing law enforcement agency] THE PROVISIONS OF § 36L OF THIS ARTICLE.

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**Article - Natural Resources**

2 10-1106.

3 (a) A Natural Resources police officer or any law enforcement officer, upon  
4 arresting any person for violating any provision of this title or any regulation adopted  
5 pursuant to this title, may seize any device, equipment, conveyance, or property  
6 unlawfully used. If the owner or person in charge of the seized device, equipment,  
7 conveyance, or property is convicted, the court may declare the device, equipment,  
8 conveyance, or property forfeited, in addition to any other penalty provided in this  
9 title. Any forfeiture becomes the property of the Department for disposition at the  
10 Department's discretion. If the owner is not known, the court may proceed ex parte to  
11 hear and determine any question of forfeiture. If the owner or person charged with  
12 the violation is not convicted, the device, equipment, conveyance, or property seized  
13 shall be released and returned to the owner or person.

14 (b) The device, conveyance, or property may not be forfeited if the owner was  
15 not a consenting party or privy to a violation.

16 (C) A FIREARM THAT IS FORFEITED UNDER THIS SECTION IS SUBJECT TO THE  
17 DISPOSAL REQUIREMENTS OF ARTICLE 27, § 36L OF THE CODE.

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