
By: **Delegates Franchot, Hixson, Heller, Bronrott, Mandel, Shriver, and Barkley**

Introduced and read first time: February 11, 2000

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Handgun Violations - Enhanced Penalties**

3 FOR the purpose of increasing certain penalties for unlawfully wearing, carrying, or
4 transporting a handgun; imposing certain minimum sentences for certain
5 crimes; and generally relating to penalties for handgun violations.

6 BY repealing and reenacting, with amendments,
7 Article 27 - Crimes and Punishments
8 Section 36B(b) and (d)
9 Annotated Code of Maryland
10 (1996 Replacement Volume and 1999 Supplement)

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

13 **Article 27 - Crimes and Punishments**

14 36B.

15 (b) Any person who shall wear, carry, or transport any handgun, whether
16 concealed or open, upon or about his person, and any person who shall wear, carry or
17 knowingly transport any handgun, whether concealed or open, in any vehicle
18 traveling upon the public roads, highways, waterways, or airways or upon roads or
19 parking lots generally used by the public in this State shall be guilty of a
20 misdemeanor; and it shall be a rebuttable presumption that the person is knowingly
21 transporting the handgun; and on conviction of the misdemeanor shall be fined or
22 imprisoned as follows:

23 (1) If the person has not previously been convicted of unlawfully
24 wearing, carrying or transporting a handgun in violation of this section, or of
25 unlawfully using a handgun in the commission of a crime in violation of subsection (d)
26 of this section, or of unlawfully carrying a concealed weapon in violation of § 36 of this
27 article, or of unlawfully carrying a deadly weapon on public school property in
28 violation of § 36A of this article, he shall be fined not less than two hundred and fifty

1 (\$250.00) dollars, nor more than twenty-five hundred (\$2,500.00) dollars, or be
2 imprisoned in jail or sentenced to the Maryland Division of Correction for a term of
3 not less than [30 days] 1 YEAR nor more than [three] 4 years, or both; AND IT IS
4 MANDATORY UPON THE COURT TO IMPOSE NO LESS THAN THE MINIMUM SENTENCE
5 OF 1 YEAR; provided, however, that if it shall appear from the evidence that the
6 handgun was worn, carried, or transported on any public school property in this
7 State, the court shall impose a sentence of imprisonment of not less than [90 days] 2
8 YEARS.

9 (2) If the person has previously been once convicted of unlawfully
10 wearing, carrying, or transporting a handgun in violation of this section, or of
11 unlawfully using a handgun in the commission of a crime in violation of subsection (d)
12 of this section, or of unlawfully carrying a concealed weapon in violation of § 36 of this
13 article, or of unlawfully carrying a deadly weapon on public school property in
14 violation of § 36A of this article, he shall be sentenced to the Maryland Division of
15 Correction for a term of not less than [1 year] 3 YEARS nor more than [10] 13 years,
16 and it is mandatory upon the court to impose no less than the minimum sentence of
17 [1 year] 3 YEARS; provided, however, that if it shall appear from the evidence that the
18 handgun was worn, carried, or transported on any public school property in this
19 State, the court shall impose a sentence of imprisonment of not less than [three] 4
20 years.

21 (3) If the person has previously been convicted more than once of
22 unlawfully wearing, carrying, or transporting a handgun in violation of this section,
23 or of unlawfully using a handgun in the commission of a crime in violation of
24 subsection (d) of this section, or of unlawfully carrying a concealed weapon in
25 violation of § 36 of this article, or of unlawfully carrying a deadly weapon on public
26 school property in violation of § 36A of this article, or any combination thereof, he
27 shall be sentenced to the Maryland Division of Correction for a term of not less than
28 [three] 6 years nor more than [10] 13 years, and it is mandatory upon the court to
29 impose no less than the minimum sentence of [three] 6 years; provided, however, that
30 if it shall appear from the evidence that the handgun was worn, carried, or
31 transported on any public school property in this State, the court shall impose a
32 sentence of imprisonment of not less than [5] 7 years.

33 (4) If it shall appear from the evidence that any handgun referred to in
34 this subsection was carried, worn, or transported with the deliberate purpose of
35 injuring or killing another person, the court shall impose a sentence of imprisonment
36 of not less than [5] 8 years.

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

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

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

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

5 (2) For a second or subsequent offense, be sentenced to the Maryland
6 Division of Correction for a term of not less than 5 nor more than 20 years, and it is
7 mandatory upon the court to impose no less than a minimum consecutive sentence of
8 5 years which shall be served consecutively and not concurrently to any other
9 sentence imposed by virtue of the commission of said felony or misdemeanor.

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