

HOUSE BILL 195

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2002 Regular Session
2r1149

By: **Chairman, Judiciary Committee and Delegate Grosfeld**

Introduced and read first time: January 18, 2002

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 19, 2002

CHAPTER _____

1 AN ACT concerning

2 **Dangerous Weapons - Minors - Civil Offense**

3 FOR the purpose of providing that a violation by a minor of certain provisions on
4 possession of a dangerous weapon or pepper mace is a civil offense rather than a
5 misdemeanor; authorizing a law enforcement officer to issue a citation to a
6 minor under certain circumstances; providing that a minor who violates certain
7 provisions of law is subject to certain procedures and dispositions, including
8 citation, informal adjustment, a supervised work program, and civil fine;
9 authorizing a court to take certain actions in making a disposition on a finding
10 that a child has committed a violation of certain provisions of law; making
11 stylistic changes; and generally relating to minors and dangerous weapons.

12 BY repealing and reenacting, with amendments,
13 Article - Courts and Judicial Proceedings
14 Section 3-8A-10(k) through (n), 3-8A-19(e)(3), and 3-8A-33(a)
15 Annotated Code of Maryland
16 (1998 Replacement Volume and 2001 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article - Criminal Law
19 Section 4-101
20 Annotated Code of Maryland
21 (As enacted by Chapter ____ (H.B. 11) of the Acts of the General Assembly of
22 2002)

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

1 Article - Courts and Judicial Proceedings2 3-8A-10.3 (k) (1) If the intake officer receives a citation other than a citation
4 authorized under § 4-101 OF THE CRIMINAL LAW ARTICLE OR Article 27, § 406 of the
5 Code, the intake officer may:6 (i) Refer the child to an alcohol education or rehabilitation
7 program;8 (ii) Assign the child to a supervised work program for not more
9 than 20 hours for the first violation and not more than 40 hours for the second or
10 subsequent violation;11 (iii) Require the parent or guardian of the child to withdraw the
12 parent's or guardian's consent to the child's license to drive, and advise the Motor
13 Vehicle Administration of the withdrawal of consent; or14 (iv) Forward the citation to the State's Attorney.15 (2) The intake officer shall forward the citation, other than a citation
16 authorized under § 4-101 OF THE CRIMINAL LAW ARTICLE OR Article 27, § 406 of the
17 Code, to the State's Attorney if:18 (i) The parent or guardian of the child refuses to withdraw consent
19 to the child's license to drive;20 (ii) The child fails to comply with an alcohol education or
21 rehabilitation program referral; or22 (iii) The child fails to comply with a supervised work program
23 assignment.24 (l) (1) IF THE INTAKE OFFICER RECEIVES A CITATION AUTHORIZED UNDER
25 § 4-101 OF THE CRIMINAL LAW ARTICLE, THE INTAKE OFFICER MAY:26 (I) REFER THE CHILD TO INFORMAL ADJUSTMENT FOR A PERIOD
27 OF 90 DAYS;28 (II) ASSIGN THE CHILD TO A SUPERVISED WORK PROGRAM FOR
29 NOT MORE THAN 20 HOURS FOR THE FIRST VIOLATION AND NOT MORE THAN 40
30 HOURS FOR A SECOND OR SUBSEQUENT VIOLATION; OR31 (III) FORWARD THE CITATION TO THE STATE'S ATTORNEY.32 (2) THE INTAKE OFFICER SHALL FORWARD THE CITATION AUTHORIZED
33 UNDER § 4-101 OF THE CRIMINAL LAW ARTICLE TO THE STATE'S ATTORNEY IF THE
34 CHILD FAILS TO COMPLY WITH A REFERRAL OR SUPERVISED WORK PROGRAM
35 ASSIGNMENT DESCRIBED UNDER PARAGRAPH (1)(I) OR (II) OF THIS SUBSECTION.

1 (M) (1) If the intake officer receives a citation authorized under Article 27, §
2 406 of the Code, the intake officer may:

3 (i) Refer the child to a smoking cessation clinic, or other suitable
4 presentation of the hazards associated with tobacco use;

5 (ii) Assign the child to a supervised work program for not more
6 than 20 hours for the first violation and not more than 40 hours for a second or
7 subsequent violation; or

8 (iii) Forward the citation to the State's Attorney.

9 (2) The intake officer shall forward the citation authorized under Article
10 27, § 406 of the Code to the State's Attorney if the child fails to comply with a smoking
11 program referral or a supervised work program assignment described under
12 paragraph (1) of this subsection.

13 [(m)] (N) (1) Except as provided in paragraph (2) of this subsection, within
14 15 days after a law enforcement officer takes a child into custody under this subtitle
15 the law enforcement officer shall file a complaint with an intake officer.

16 (2) If a child is referred to a diversion program, the law enforcement
17 officer may file the complaint with an intake officer more than 30 days after but no
18 later than 120 days after the law enforcement officer took the child into custody.

19 [(n)] (O) The court may dismiss a petition or a peace order request for failure
20 to comply with this section only if the respondent has demonstrated actual prejudice.
21 3-8A-19.

22 (e) (3) (i) The provisions of paragraphs (1) and (2) of this subsection do
23 not apply to a child found to have committed a violation [under] OF § 4-101 OF THE
24 CRIMINAL LAW ARTICLE OR Article 27, § 406 of the Code.

25 (II) IN MAKING A DISPOSITION ON A FINDING THAT THE CHILD HAS
26 COMMITTED A VIOLATION OF § 4-101 OF THE CRIMINAL LAW ARTICLE, THE COURT
27 MAY:

28 1. COUNSEL THE CHILD OR THE PARENT OR BOTH;

29 2. IMPOSE A CIVIL FINE OF NOT MORE THAN \$25 FOR THE
30 FIRST VIOLATION AND A CIVIL FINE OF NOT MORE THAN \$100 FOR A SECOND OR
31 SUBSEQUENT VIOLATION; OR

32 3. ORDER THE CHILD TO PARTICIPATE IN A SUPERVISED
33 WORK PROGRAM FOR NOT MORE THAN 20 HOURS FOR THE FIRST VIOLATION AND
34 NOT MORE THAN 40 HOURS FOR A SECOND OR SUBSEQUENT VIOLATION.

35 (III) In making a disposition on a finding that the child has
36 committed a violation [under] OF Article 27, § 406 of the Code, the court may:

1 1. Counsel the child or the parent or both, or order the child
 2 to participate in a smoking cessation clinic, or other suitable presentation of the
 3 hazards associated with tobacco use that is in the best interest of the child;

4 2. Impose a civil fine of not more than \$25 for the first
 5 violation and a civil fine of not more than \$100 for a second or subsequent violation;
 6 or

7 3. Order the child to participate in a supervised work
 8 program for not more than 20 hours for the first violation and not more than 40 hours
 9 for a second or subsequent violation.

10 3-8A-33.

11 (a) (1) A law enforcement officer authorized to make arrests shall issue a
 12 citation to a child if the officer has probable cause to believe that the child is violating:

13 [(1)] (I) Article 27, § 400, § 400A, § 400B, § 401, or § 406 of the Code; or

14 [(2)] (II) § 26-103 of the Education Article.

15 (2) A LAW ENFORCEMENT OFFICER AUTHORIZED TO MAKE ARRESTS
 16 MAY ISSUE A CITATION TO A CHILD IF THE OFFICER HAS PROBABLE CAUSE TO
 17 BELIEVE THAT THE CHILD IS VIOLATING § 4-101(C)(3) OR (4) OF THE CRIMINAL LAW
 18 ARTICLE.

19 **Article - Criminal Law**

20 4-101.

21 (a) (1) In this section the following words have the meanings indicated.

22 (2) "Nunchaku" means a device constructed of two pieces of any
 23 substance, including wood, metal, or plastic, connected by any chain, rope, leather, or
 24 other flexible material not exceeding 24 inches in length.

25 (3) (i) "Pepper mace" means an aerosol propelled combination of
 26 highly disabling irritant pepper-based products.

27 (ii) "Pepper mace" is also known as oleoresin capsicum (o.c.) spray.

28 (4) "Star knife" means a device used as a throwing weapon, consisting of
 29 several sharp or pointed blades arrayed as radially disposed arms about a central
 30 disk.

31 (5) (i) "Weapon" includes a dirk knife, bowie knife, switchblade knife,
 32 star knife, sandclub, metal knuckles, razor, and nunchaku.

33 (ii) "Weapon" does not include:

34 1. a handgun; or

1 2. a penknife without a switchblade.

2 (b) This section does not prohibit the following individuals from carrying a
3 weapon:

4 (1) an officer of the State, or of any county or municipal corporation of
5 the State, who is entitled or required to carry the weapon as part of the officer's
6 official equipment, or by any conservator of the peace, who is entitled or required to
7 carry the weapon as part of the conservator's official equipment, or by any officer or
8 conservator of the peace of another state who is temporarily in this State;

9 (2) a special agent of a railroad;

10 (3) a holder of a permit to carry a handgun issued under Article 27, § 36E
11 of the Code; or

12 (4) an individual who carries the weapon as a reasonable precaution
13 against apprehended danger, subject to the right of the court in an action arising
14 under this section to judge the reasonableness of the carrying of the weapon, and the
15 proper occasion for carrying it, under the evidence in the case.

16 (c) (1) A person may not wear or carry a dangerous weapon of any kind
17 concealed on or about the person.

18 (2) A person may not wear or carry a dangerous weapon, chemical mace,
19 pepper mace, or a tear gas device openly with the intent or purpose of injuring an
20 individual in an unlawful manner.

21 (3) Except as authorized under subsection (b) of this section, a minor
22 may not possess pepper mace, either openly or concealed.

23 (4) (i) This paragraph applies in Anne Arundel County, Baltimore
24 County, Caroline County, Cecil County, Harford County, Kent County, Montgomery
25 County, Prince George's County, St. Mary's County, Talbot County, Washington
26 County, and Worcester County.

27 (ii) A minor may not carry a dangerous weapon between 1 hour
28 after sunset and 1 hour before sunrise, whether concealed or not, except while:

29 1. on a bona fide hunting trip; or

30 2. engaged in or on the way to or returning from a bona fide
31 trap shoot, sport shooting event, or any organized civic or military activity.

32 (d) (1) (i) A person who violates subsection [(c)(1), (2), or (4)] (C)(1) OR (2)
33 of this section is guilty of a misdemeanor and on conviction is subject to imprisonment
34 not exceeding 3 years or a fine not exceeding \$1,000.

35 (ii) For a person convicted under subsection (c)(1) or (2) of this
36 section, if it appears from the evidence that the weapon was carried, concealed or

1 openly, with the deliberate purpose of injuring or killing another, the court shall
2 impose the highest sentence of imprisonment prescribed.

3 (2) (I) A VIOLATION OF SUBSECTION (C)(3) OR (4) OF THIS SECTION IS A
4 CIVIL OFFENSE.

5 (II) A [person] MINOR who violates subsection (c)(3) OR (4) of this
6 section is [guilty of a misdemeanor and on conviction is subject to imprisonment not
7 exceeding 3 years or a fine not exceeding \$1,000 or both] SUBJECT TO THE
8 PROCEDURES AND DISPOSITIONS PROVIDED IN TITLE 3, SUBTITLE 8A OF THE
9 COURTS ARTICLE.

10 (E) A LAW ENFORCEMENT OFFICER AUTHORIZED TO MAKE ARRESTS MAY
11 ISSUE A CITATION TO A MINOR IF THE LAW ENFORCEMENT OFFICER HAS PROBABLE
12 CAUSE TO BELIEVE THAT THE MINOR IS COMMITTING OR HAS COMMITTED A
13 VIOLATION OF SUBSECTION (C)(3) OR (4) OF THIS SECTION.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2002.