

SENATE BILL 398

Unofficial Copy
E4

2002 Regular Session
2r1875
CF 2r1876

By: **Senators Stone and Hughes (Committee to Revise Article 27 - Crimes and Punishments)**

Introduced and read first time: January 30, 2002

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law - Machine Gun Act - Revision**

3 FOR the purpose of altering certain provisions of law regarding the regulation of
4 machine guns; repealing a requirement that the presence of a machine gun in
5 certain locations is evidence of the possession or use of the machine gun by
6 certain persons; altering the application of certain provisions of law relating to
7 the regulation of machine guns; repealing a certain presumption that the
8 possession or use of a machine gun is for an offensive or aggressive purpose
9 under certain circumstances; repealing a prohibition against the possession or
10 use of a machine gun for an offensive or aggressive purpose; repealing a certain
11 construction of certain provisions of law; repealing a certain citation of certain
12 provisions of law; prohibiting a person from possessing a machine gun that is
13 not registered in a certain manner; prohibiting certain persons convicted of
14 certain crimes under the laws of another state or the United States that would
15 be a crime of violence in this State from using or possessing a machine gun;
16 prohibiting the court from imposing less than a certain mandatory minimum
17 sentence under certain circumstances; altering certain penalties; establishing
18 certain penalties; altering a certain definition; and generally relating to the
19 regulation of machine guns.

20 BY repealing and reenacting, with amendments,
21 Article - Criminal Law
22 Section 4-401 through 4-404
23 Annotated Code of Maryland
24 (As enacted by Chapter _____ (H.B. 11) of the Acts of the General Assembly of
25 2002)

26 BY repealing
27 Article - Criminal Law
28 Section 4-405 through 4-407
29 Annotated Code of Maryland
30 (As enacted by Chapter _____ (H.B. 11) of the Acts of the General Assembly of
31 2002)

1 BY adding to
2 Article - Criminal Law
3 Section 4-405 and 4-406
4 Annotated Code of Maryland
5 (As enacted by Chapter _____ (H.B. 11) of the Acts of the General Assembly of
6 2002)

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

9 **Article - Criminal Law**

10 4-401.

11 (a) In this subtitle the following words have the meanings indicated.

12 [(b) (1) "Crime of violence" means:

13 (i) murder in any degree;

14 (ii) manslaughter;

15 (iii) kidnapping;

16 (iv) rape in any degree;

17 (v) assault in the first degree;

18 (vi) robbery under § 3-402 or § 3-403 of this article;

19 (vii) burglary in any degree;

20 (viii) escape in the first degree; or

21 (ix) theft.]

22 (B) (1) "CRIME OF VIOLENCE" HAS THE MEANING STATED IN ARTICLE 27, §
23 441(E) OF THE CODE.

24 (2) "Crime of violence" includes an attempt to commit a crime listed in
25 [paragraph (1) of this subsection] ARTICLE 27, § 441(E) OF THE CODE.

26 (c) "Machine gun" means a loaded or unloaded weapon that is capable of
27 automatically discharging more than one shot or bullet from a magazine by a single
28 function of the firing device.

1 4-402.

2 (a) [The presence of a machine gun in a room, boat, or vehicle is evidence of
3 the possession or use of the machine gun by each person occupying the room, boat, or
4 vehicle.

5 (b)] This subtitle does not prohibit or interfere with:

6 (1) the manufacture, sale, and transportation of a machine gun for or to
7 a military force or [peace] LAW ENFORCEMENT officer of the United States, a state,
8 or a political subdivision of a state;

9 (2) the possession of a machine gun [for a scientific purpose;]:

10 (I) BY A MEMBER OF A MILITARY FORCE OR A LAW ENFORCEMENT
11 OFFICER OF THE UNITED STATES OR A STATE OR POLITICAL SUBDIVISION OF A
12 STATE IN THE COURSE OF OFFICIAL BUSINESS;

13 (II) FOR A SCIENTIFIC PURPOSE; OR

14 (III) THAT IS PERMANENTLY INOPERATIVE; OR

15 (3) THE POSSESSION OF A FIREARM.

16 [(3) the possession, as a curiosity, ornament, or keepsake, of a machine
17 gun that cannot be used as a weapon; or

18 (4) the possession of a machine gun for a purpose that is manifestly not
19 aggressive or offensive.]

20 [(c)] (B) (1) A court may issue a warrant to search for and seize a machine
21 gun possessed in violation of this subtitle under the same procedure as for issuance of
22 a warrant for stolen property.

23 (2) On application by the State's Attorney, a court may order the
24 confiscation or destruction of a legally seized machine gun or the transfer of the
25 machine gun to a [peace] LAW ENFORCEMENT officer of the State or a political
26 subdivision of the State.

27 4-403.

28 (a) (1) A manufacturer of a machine gun shall keep a register of each
29 machine gun manufactured or handled by the manufacturer.

30 (2) The register shall contain:

31 (i) the method of manufacture and serial number of the machine
32 gun;

33 (ii) the date of manufacture, sale, loan, gift, delivery, and receipt of
34 the machine gun from the manufacturer; and

1 (iii) the name, address, and occupation of the person to whom the
2 machine gun was sold, loaned, given or delivered, or from whom the machine gun was
3 received, and the purpose for which the machine gun was acquired.

4 (3) A person who violates this subsection is guilty of a misdemeanor and
5 on conviction is subject to a fine not exceeding [\\$100] \$1,000.

6 (b) (1) On demand, a manufacturer of a machine gun shall allow a marshal,
7 sheriff, or police officer to inspect the manufacturer's entire stock of machine guns,
8 parts, and supplies and the register required under subsection (a) of this section.

9 (2) A person who violates paragraph (1) of this subsection is guilty of a
10 misdemeanor and on conviction is subject to a fine not exceeding [\\$100] \$1,000.

11 (c) (1) A person who acquires a machine gun shall register the machine gun
12 with the Secretary of the State Police:

13 (i) within 24 hours after acquiring the machine gun; and

14 (ii) in each succeeding year during the month of May.

15 (2) The Secretary of the State Police shall prepare and, on request of an
16 applicant, furnish an application form for registration under this subsection.

17 (3) An application for registration shall contain:

18 (i) the make, model, serial number, caliber, type, barrel length,
19 finish, and country of origin of the machine gun;

20 (ii) the name, address, race, gender, date of birth, Maryland driver's
21 license number, and occupation of the person in possession of the machine gun; and

22 (iii) the name of the person from whom the machine gun was
23 acquired and the purpose for acquiring the machine gun.

24 (4) Each application for registration filed with the Secretary of the State
25 Police shall be accompanied by a nonrefundable registration fee of \$10.

26 (5) Registration data provided under this section is not open to public
27 inspection.

28 4-404.

29 (a) A person may not [use or] possess a machine gun in the commission or
30 attempted commission of a crime of violence.

31 (b) A person who violates this section is guilty of a felony and on conviction is
32 subject to imprisonment not exceeding 20 years.

1 [4-405.

2 (a) Possession or use of a machine gun is presumed to be for an offensive or
3 aggressive purpose when:

4 (1) the machine gun:

5 (i) is on premises not owned or rented for bona fide permanent
6 residence or business occupancy by the person in whose possession the machine gun
7 is found;

8 (ii) is in the possession of, or used by, an unnaturalized
9 foreign-born person or a person who has been convicted of a crime of violence in any
10 state or federal court of the United States; or

11 (iii) is not registered as required under § 4-403 of this subtitle; or

12 (2) empty or loaded shells that have been used or are susceptible of being
13 used in the machine gun are found in the immediate vicinity of the machine gun.

14 (b) A person may not possess or use a machine gun for an offensive or
15 aggressive purpose.

16 (c) A person who violates this section is guilty of a misdemeanor and on
17 conviction is subject to imprisonment not exceeding 10 years.

18 (d) A person who violates this section is subject to § 5-106(b) of the Courts
19 Article.]

20 [4-406.

21 This subtitle shall be interpreted and construed as to effectuate its general
22 purpose to make uniform the law of those states that enact it.]

23 [4-407.

24 This subtitle may be cited as the Uniform Machine Gun Act.]

25 4-405.

26 (A) A PERSON MAY NOT POSSESS A MACHINE GUN THAT IS NOT REGISTERED
27 AS REQUIRED UNDER § 4-403 OF THIS SUBTITLE.

28 (B) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR
29 AND ON CONVICTION IS SUBJECT TO IMPRISONMENT IN THE STATE PENITENTIARY
30 FOR A TERM NOT EXCEEDING 5 YEARS OR A FINE NOT EXCEEDING \$5,000 OR BOTH.

31 (C) A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO § 5-106(B) OF THE
32 COURTS ARTICLE.

1 4-406.

2 (A) A PERSON WHO HAS BEEN CONVICTED OF A CRIME UNDER THE LAWS OF
3 ANOTHER STATE OR THE UNITED STATES THAT WOULD BE A CRIME OF VIOLENCE IF
4 COMMITTED IN THIS STATE MAY NOT USE OR POSSESS A MACHINE GUN.

5 (B) (1) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A
6 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT FOR A TERM OF
7 NOT LESS THAN 5 YEARS AND NOT MORE THAN 10 YEARS.

8 (2) NOTWITHSTANDING § 14-102 OF THE CRIMINAL LAW ARTICLE, THE
9 COURT MAY NOT IMPOSE LESS THAN THE MANDATORY MINIMUM SENTENCE OF 5
10 YEARS.

11 (3) THE COURT MAY NOT SUSPEND ANY PART OF THE MANDATORY
12 MINIMUM SENTENCE OF 5 YEARS.

13 (4) EXCEPT AS PROVIDED IN § 4-305 OF THE CORRECTIONAL SERVICES
14 ARTICLE, A PERSON SENTENCED UNDER THIS SECTION IS NOT ELIGIBLE FOR
15 PAROLE IN LESS THAN 5 YEARS.

16 (5) A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO § 5-106(B) OF
17 THE COURTS ARTICLE.

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