
By: **Senator Colburn**

Introduced and read first time: January 31, 2003

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Crimes - Use and Carrying of an Object that Reasonably Appears to be a**
3 **Firearm**

4 FOR the purpose of prohibiting a person from committing an assault with an object
5 that reasonably appears to be a firearm; prohibiting a person from recklessly
6 using an object that reasonably appears to be a firearm in a manner that creates
7 a substantial risk of death or serious physical injury to another; prohibiting a
8 person from wearing or carrying an object that appears to be a firearm
9 concealed on or about the person; prohibiting a minor from carrying an object
10 that reasonably appears to be a firearm at certain times and in certain counties;
11 and generally relating to restrictions on the use or carrying of objects that
12 reasonably appear to be firearms under certain circumstances.

13 BY repealing and reenacting, with amendments,
14 Article - Criminal Law
15 Section 3-202, 3-204, and 4-101
16 Annotated Code of Maryland
17 (2002 Volume)

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

20 **Article - Criminal Law**

21 3-202.

22 (a) (1) A person may not intentionally cause or attempt to cause serious
23 physical injury to another.

24 (2) A person may not commit an assault with a firearm, including:

25 (i) a handgun, antique firearm, rifle, shotgun, short-barreled
26 shotgun, or short-barreled rifle, as those terms are defined in § 4-201 of this article;

27 (ii) an assault pistol, as defined in § 4-301 of this article;

1 (iii) a machine gun, as defined in § 4-401 of this article; and

2 (iv) a regulated firearm, as defined in Article 27, § 441 of the Code.

3 (3) A PERSON MAY NOT COMMIT AN ASSAULT WITH AN OBJECT THAT
4 REASONABLY APPEARS TO BE A FIREARM.

5 (b) A person who violates this section is guilty of the felony of assault in the
6 first degree and on conviction is subject to imprisonment not exceeding 25 years.

7 3-204.

8 (a) A person may not recklessly:

9 (1) engage in conduct that creates a substantial risk of death or serious
10 physical injury to another; [or]

11 (2) discharge a firearm from a motor vehicle in a manner that creates a
12 substantial risk of death or serious physical injury to another; OR

13 (3) USE AN OBJECT THAT REASONABLY APPEARS TO BE A FIREARM IN A
14 MANNER THAT CREATES A SUBSTANTIAL RISK OF DEATH OR SERIOUS PHYSICAL
15 INJURY TO ANOTHER.

16 (b) A person who violates this section is guilty of the misdemeanor of reckless
17 endangerment and on conviction is subject to imprisonment not exceeding 5 years or
18 a fine not exceeding \$5,000 or both.

19 (c) (1) Subsection (a)(1) of this section does not apply to conduct involving:

20 (i) the use of a motor vehicle, as defined in § 11-135 of the
21 Transportation Article; or

22 (ii) the manufacture, production, or sale of a product or commodity.

23 (2) Subsection (a)(2) of this section does not apply to:

24 (i) a law enforcement officer or security guard in the performance
25 of an official duty; or

26 (ii) an individual acting in defense of a crime of violence as defined
27 in Article 27, § 441 of the Code.

28 4-101.

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

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

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

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

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

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

9 (ii) "Weapon" does not include:

10 1. a handgun; or

11 2. a penknife without a switchblade.

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

14 (1) an officer of the State, or of any county or municipal corporation of
15 the State, who is entitled or required to carry the weapon as part of the officer's
16 official equipment, or by any conservator of the peace, who is entitled or required to
17 carry the weapon as part of the conservator's official equipment, or by any officer or
18 conservator of the peace of another state who is temporarily in this State;

19 (2) a special agent of a railroad;

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

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

26 (c) (1) A person may not wear or carry a dangerous weapon of any kind OR
27 AN OBJECT THAT REASONABLY APPEARS TO BE A FIREARM concealed on or about the
28 person.

29 (2) A person may not wear or carry a dangerous weapon, AN OBJECT
30 THAT REASONABLY APPEARS TO BE A FIREARM, chemical mace, pepper mace, or a
31 tear gas device openly with the intent or purpose of injuring an individual in an
32 unlawful manner.

33 (3) (i) This paragraph applies in Anne Arundel County, Baltimore
34 County, Caroline County, Cecil County, Harford County, Kent County, Montgomery
35 County, Prince George's County, St. Mary's County, Talbot County, Washington
36 County, and Worcester County.

1 (ii) A minor may not carry a dangerous weapon OR AN OBJECT
2 THAT REASONABLY APPEARS TO BE A FIREARM between 1 hour after sunset and 1
3 hour before sunrise, whether concealed or not, except while:

4 1. on a bona fide hunting trip; or

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

7 (d) (1) A person who violates this section is guilty of a misdemeanor and on
8 conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding
9 \$1,000 or both.

10 (2) For a person convicted under subsection (c)(1) or (2) of this section, if
11 it appears from the evidence that the weapon was carried, concealed or openly, with
12 the deliberate purpose of injuring or killing another, the court shall impose the
13 highest sentence of imprisonment prescribed.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
15 effect October 1, 2003.