

HOUSE BILL 617

E4

71r0816

By: **Montgomery County Delegation**

Introduced and read first time: February 8, 2007

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Montgomery County – Firearms Regulations – State Preemption Exemptions**

3 **MC 710-07**

4 FOR the purpose of authorizing Montgomery County to enact certain ordinances
5 regulating the purchase, sale, taxation, transfer, manufacture, repair,
6 ownership, possession, and transportation of certain firearms; authorizing
7 Montgomery County to enact certain ordinances regulating the sale of a
8 regulated firearm; authorizing Montgomery County to enact certain ordinances
9 regulating the possession by a private party of a regulated firearm; authorizing
10 Montgomery County to enact certain ordinances regulating the transfer by a
11 private party of a regulated firearm; and generally relating to the authority of
12 Montgomery County to regulate firearms.

13 BY repealing and reenacting, with amendments,
14 Article – Criminal Law
15 Section 4-209
16 Annotated Code of Maryland
17 (2002 Volume and 2006 Supplement)

18 BY repealing and reenacting, with amendments,
19 Article – Public Safety
20 Section 5-104, 5-133, and 5-134
21 Annotated Code of Maryland
22 (2003 Volume and 2006 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

Article – Criminal Law

4–209.

(a) Except as otherwise provided in this section, the State preempts the right of a county, municipal corporation, or special taxing district to regulate the purchase, sale, taxation, transfer, manufacture, repair, ownership, possession, and transportation of:

(1) a handgun, rifle, or shotgun; and

(2) ammunition for and components of a handgun, rifle, or shotgun.

(b) (1) A county, municipal corporation, or special taxing district may regulate the purchase, sale, transfer, ownership, possession, and transportation of the items listed in subsection (a) of this section:

(i) with respect to minors;

(ii) with respect to law enforcement officials of the subdivision;

and

(iii) except as provided in paragraph (2) of this subsection, within 100 yards of or in a park, church, school, public building, and other place of public assembly.

(2) A county, municipal corporation, or special taxing district may not prohibit the teaching of or training in firearms safety, or other educational or sporting use of the items listed in subsection (a) of this section.

(c) To the extent that a local law does not create an inconsistency with this section or expand existing regulatory control, a county, municipal corporation, or special taxing district may exercise its existing authority to amend any local law that existed on or before December 31, 1984.

(d) (1) Except as provided in paragraph (2) of this subsection, in accordance with law, a county, municipal corporation, or special taxing district may regulate the discharge of handguns, rifles, and shotguns.

(2) A county, municipal corporation, or special taxing district may not prohibit the discharge of firearms at established ranges.

(E) MONTGOMERY COUNTY MAY ENACT ORDINANCES THAT IMPOSE GREATER RESTRICTIONS OR LIMITATIONS THAN THOSE IMPOSED BY THIS SECTION.

Article – Public Safety

5–104.

(A) [This] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THIS subtitle supersedes any restriction that a local jurisdiction in the State imposes on a sale of a regulated firearm, and the State preempts the right of any local jurisdiction to regulate the sale of a regulated firearm.

(B) MONTGOMERY COUNTY MAY ENACT ORDINANCES THAT IMPOSE GREATER RESTRICTIONS OR LIMITATIONS THAN THOSE IMPOSED BY THIS SUBTITLE.

5–133.

(a) [This] EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, THIS section supersedes any restriction that a local jurisdiction in the State imposes on the possession by a private party of a regulated firearm, and the State preempts the right of any local jurisdiction to regulate the possession of a regulated firearm.

(b) A person may not possess a regulated firearm if the person:

(1) has been convicted of a disqualifying crime;

(2) has been convicted of a violation classified as a common law crime and received a term of imprisonment of more than 2 years;

(3) is a fugitive from justice;

(4) is a habitual drunkard;

(5) is addicted to a controlled dangerous substance or is a habitual user;

1 (6) suffers from a mental disorder as defined in § 10–101(f)(2) of the
2 Health – General Article and has a history of violent behavior against the person or
3 another, unless the person has a physician’s certificate that the person is capable of
4 possessing a regulated firearm without undue danger to the person or to another;

5 (7) has been confined for more than 30 consecutive days to a facility as
6 defined in § 10–101 of the Health – General Article, unless the person has a
7 physician’s certificate that the person is capable of possessing a regulated firearm
8 without undue danger to the person or to another;

9 (8) is a respondent against whom a current non ex parte civil
10 protective order has been entered under § 4–506 of the Family Law Article; or

11 (9) if under the age of 30 years at the time of possession, has been
12 adjudicated delinquent by a juvenile court for an act that would be a disqualifying
13 crime if committed by an adult.

14 (c) (1) A person may not possess a regulated firearm if the person was
15 previously convicted of:

16 (i) a crime of violence; or

17 (ii) a violation of § 5–602, § 5–603, § 5–604, § 5–605, § 5–606, §
18 5–607, § 5–608, § 5–609, § 5–612, § 5–613, or § 5–614 of the Criminal Law Article.

19 (2) A person who violates this subsection is guilty of a felony and on
20 conviction is subject to imprisonment for not less than 5 years, no part of which may
21 be suspended.

22 (3) A person sentenced under paragraph (1) of this subsection may not
23 be eligible for parole.

24 (4) Each violation of this subsection is a separate crime.

25 (d) (1) Except as provided in paragraph (2) of this subsection, a person
26 who is under the age of 21 years may not possess a regulated firearm or ammunition
27 solely designed for a regulated firearm.

28 (2) Unless a person is otherwise prohibited from possessing a
29 regulated firearm, this subsection does not apply to:

30 (i) the temporary transfer or possession of a regulated firearm
31 or ammunition solely designed for a regulated firearm if the person is:

1 1. under the supervision of another who is at least 21
2 years old and who is not prohibited by State or federal law from possessing a firearm;
3 and

4 2. acting with the permission of the parent or legal
5 guardian of the transferee or person in possession;

6 (ii) the transfer by inheritance of title, and not of possession, of
7 a regulated firearm;

8 (iii) a member of the armed forces of the United States or the
9 National Guard while performing official duties;

10 (iv) the temporary transfer or possession of a regulated firearm
11 or ammunition solely designed for a regulated firearm if the person is:

12 1. participating in marksmanship training of a
13 recognized organization; and

14 2. under the supervision of a qualified instructor;

15 (v) a person who is required to possess a regulated firearm for
16 employment and who holds a permit under Subtitle 3 of this title; or

17 (vi) the possession of a firearm or ammunition for self-defense
18 or the defense of others against a trespasser into the residence of the person in
19 possession or into a residence in which the person in possession is an invited guest.

20 **(E) MONTGOMERY COUNTY MAY ENACT ORDINANCES THAT IMPOSE**
21 **GREATER RESTRICTIONS OR LIMITATIONS THAN THOSE IMPOSED BY THIS**
22 **SECTION.**

23 5-134.

24 (a) **[This] EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION,**
25 **THIS** section supersedes any restriction that a local jurisdiction in the State imposes
26 on the transfer by a private party of a regulated firearm, and the State preempts the
27 right of any local jurisdiction to regulate the transfer of a regulated firearm.

1 (b) A dealer or other person may not sell, rent, or transfer a regulated
2 firearm to a purchaser, lessee, or transferee who the dealer or other person knows or
3 has reasonable cause to believe:

4 (1) is under the age of 21 years;

5 (2) has been convicted of a disqualifying crime;

6 (3) has been convicted of a conspiracy to commit a felony;

7 (4) has been convicted of a violation classified as a common law crime
8 and received a term of imprisonment of more than 2 years;

9 (5) is a fugitive from justice;

10 (6) is a habitual drunkard;

11 (7) is addicted to a controlled dangerous substance or is a habitual
12 user;

13 (8) suffers from a mental disorder as defined in § 10–101(f)(2) of the
14 Health – General Article, and has a history of violent behavior against the purchaser,
15 lessee, or transferee or another, unless the purchaser, lessee, or transferee possesses a
16 physician’s certificate that the recipient is capable of possessing a regulated firearm
17 without undue danger to the purchaser, lessee, or transferee or to another;

18 (9) has been confined for more than 30 consecutive days to a facility as
19 defined in § 10–101 of the Health – General Article, unless the purchaser, lessee, or
20 transferee possesses a physician’s certificate that the recipient is capable of possessing
21 a regulated firearm without undue danger to the purchaser, lessee, or transferee or to
22 another;

23 (10) is a respondent against whom a current non ex parte civil
24 protective order has been entered under § 4–506 of the Family Law Article;

25 (11) if under the age of 30 years at the time of the transaction, has been
26 adjudicated delinquent by a juvenile court for an act that would be a disqualifying
27 crime if committed by an adult;

28 (12) is visibly under the influence of alcohol or drugs;

29 (13) is a participant in a straw purchase; or

(14) subject to subsection (c) of this section for a transaction under this subsection that is made on or after January 1, 2002, has not completed a certified firearms safety training course conducted free of charge by the Police Training Commission or that meets standards established by the Police Training Commission under § 3-207 of this article.

(c) A person is not required to complete a certified firearms safety training course under subsection (b)(14) of this section and § 5-118(b)(3)(x) of this subtitle if the person:

(1) has already completed a certified firearms safety training course required under subsection (b)(14) of this section and § 5-118(b)(3)(x) of this subtitle;

(2) is a law enforcement officer of the State or any local law enforcement agency in the State;

(3) is a member, retired member, or honorably discharged member of the armed forces of the United States or the National Guard;

(4) is a member of an organization that is required by federal law governing its specific business or activity to maintain handguns and applicable ammunition; or

(5) has been issued a permit to carry a handgun under Subtitle 3 of this title.

(d) (1) A person may not sell, rent, or transfer:

(i) ammunition solely designed for a regulated firearm to a person who is under the age of 21 years; or

(ii) 1. a firearm other than a regulated firearm to a minor;

2. ammunition for a firearm to a minor;

3. pepper mace, which is an aerosol propelled combination of highly disabling irritant based products and is also known as oleo-resin capsicum (O.C.) spray, to a minor; or

4. another deadly weapon to a minor.

1 (2) A person who violates this subsection is guilty of a misdemeanor
2 and on conviction is subject to imprisonment not exceeding 1 year or a fine not
3 exceeding \$1,000 or both.

4 **(E) MONTGOMERY COUNTY MAY ENACT ORDINANCES THAT IMPOSE**
5 **GREATER RESTRICTIONS OR LIMITATIONS THAN THOSE IMPOSED BY THIS**
6 **SECTION.**

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2007.