

HOUSE BILL 275

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8lr0674

By: **Delegates Riley, James, Jennings, Norman, Smigiel, and Sossi**

Introduced and read first time: January 23, 2008

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Crimes – Violation of Restriction Against Possession of Regulated Firearm –**
3 **Penalties**

4 FOR the purpose of increasing the penalty for violation of the restriction against
5 possession of a certain regulated firearm by a person who was previously
6 convicted of a certain crime; and generally relating to the possession of
7 regulated firearms.

8 BY repealing and reenacting, with amendments,
9 Article – Public Safety
10 Section 5–133
11 Annotated Code of Maryland
12 (2003 Volume and 2007 Supplement)

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

15 **Article – Public Safety**

16 5–133.

17 (a) This section supersedes any restriction that a local jurisdiction in the
18 State imposes on the possession by a private party of a regulated firearm, and the
19 State preempts the right of any local jurisdiction to regulate the possession of a
20 regulated firearm.

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

22 (1) has been convicted of a disqualifying crime;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 (3) is a fugitive from justice;

4 (4) is a habitual drunkard;

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

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

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

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

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

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

22 (i) a crime of violence; or

23 (ii) a violation of § 5–602, § 5–603, § 5–604, § 5–605, § 5–606, §
24 5–607, § 5–608, § 5–609, § 5–612, § 5–613, or § 5–614 of the Criminal Law Article.

25 (2) (I) A person who violates this subsection is guilty of a felony
26 and on conviction is subject to imprisonment for not less than 5 years[, no part of
27 which may be suspended] **AND NOT EXCEEDING 10 YEARS.**

28 (II) **A COURT MAY NOT SUSPEND THE 5–YEAR MINIMUM**
29 **SENTENCE REQUIRED BY SUBPARAGRAPH (I) OF THIS PARAGRAPH.**

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

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

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

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

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

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

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

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

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

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

19 1. participating in marksmanship training of a
20 recognized organization; and

21 2. under the supervision of a qualified instructor;

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

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

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 October 1, 2008.