

SENATE BILL 558

E4, E2

8lr1604
CF 8lr1608

By: **Senators Gladden and McFadden (By Request – Baltimore City Administration)**

Introduced and read first time: February 1, 2008

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Consecutive or Concurrent Sentence for Unlawful**
3 **Possession of Regulated Firearm – Diminution Credit Eligibility**

4 FOR the purpose of decreasing the number of days per month that an inmate serving
5 a term of confinement that includes a consecutive or concurrent sentence for a
6 crime of possession of a regulated firearm by a person prohibited from
7 possessing a regulated firearm is allowed as a deduction in advance from the
8 inmate's term of confinement; making stylistic changes; and generally relating
9 to possession of firearms by certain persons and diminution credit eligibility.

10 BY repealing and reenacting, with amendments,
11 Article – Correctional Services
12 Section 3–704
13 Annotated Code of Maryland
14 (1999 Volume and 2007 Supplement)

15 BY repealing and reenacting, without amendments,
16 Article – Public Safety
17 Section 5–133
18 Annotated Code of Maryland
19 (2003 Volume and 2007 Supplement)

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

22 **Article – Correctional Services**

23 3–704.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) An inmate shall be allowed a deduction in advance from the inmate's
2 term of confinement.

3 (b) (1) The deduction allowed under subsection (a) of this section shall be
4 calculated:

5 (i) from the first day of commitment to the custody of the
6 Commissioner through the last day of the inmate's term of confinement;

7 (ii) except as provided in paragraph (2) of this subsection, at the
8 rate of 10 days for each calendar month; and

9 (iii) on a prorated basis for any portion of a calendar month.

10 [(2) If an inmate's term of confinement includes a consecutive or
11 concurrent sentence for a crime of violence as defined in § 14-101 of the Criminal Law
12 Article or a crime of manufacturing, distributing, dispensing, or possessing a
13 controlled dangerous substance in violation of §§ 5-602 through 5-609, § 5-612, or §
14 5-613 of the Criminal Law Article, the deduction described in subsection (a) of this
15 section shall be calculated at the rate of 5 days for each calendar month.]

16 **(2) THE DEDUCTION DESCRIBED IN SUBSECTION (A) OF THIS**
17 **SECTION SHALL BE CALCULATED AT THE RATE OF 5 DAYS FOR EACH CALENDAR**
18 **MONTH IF AN INMATE'S TERM OF CONFINEMENT INCLUDES A CONSECUTIVE OR**
19 **CONCURRENT SENTENCE FOR:**

20 **(I) A CRIME OF VIOLENCE AS DEFINED IN § 14-101 OF THE**
21 **CRIMINAL LAW ARTICLE;**

22 **(II) A CRIME OF MANUFACTURING, DISTRIBUTING,**
23 **DISPENSING, OR POSSESSING A CONTROLLED DANGEROUS SUBSTANCE IN**
24 **VIOLATION OF §§ 5-602 THROUGH 5-609, § 5-612, OR § 5-613 OF THE CRIMINAL**
25 **LAW ARTICLE; OR**

26 **(III) A CRIME OF POSSESSING A REGULATED FIREARM BY A**
27 **PERSON IN VIOLATION OF § 5-133 OF THE PUBLIC SAFETY ARTICLE.**

28 (c) A deduction under this section may not be allowed for a period during
29 which an inmate does not receive credit for service of the inmate's term of
30 confinement, including a period:

31 (1) during which the inmate's sentence is stayed;

32 (2) during which the inmate is not in the custody of the Commissioner
33 because of escape; or

(3) for which the Maryland Parole Commission has declined to grant credit after revocation of parole or mandatory supervision.

Article – Public Safety

5–133.

(a) 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;

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

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

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

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

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

(i) a crime of violence; or

1 (ii) a violation of § 5–602, § 5–603, § 5–604, § 5–605, § 5–606, §
2 5–607, § 5–608, § 5–609, § 5–612, § 5–613, or § 5–614 of the Criminal Law Article.

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

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

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

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

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

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

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

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

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

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

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

27 1. participating in marksmanship training of a
28 recognized organization; and

29 2. under the supervision of a qualified instructor;

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

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

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