

HOUSE BILL 87

E2, E4
HB 964/08 – JUD

9lr1375
CF SB 182

By: **Delegate Anderson (By Request – Baltimore City Administration)**

Introduced and read first time: January 20, 2009

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 24, 2009

CHAPTER _____

1 AN ACT concerning

2 ~~Criminal Procedure – No Good Time for Gun Crime~~
3 Crimes – Violation of Restriction Against Possession of Regulated Firearm –
4 Penalties

5 FOR the purpose of ~~decreasing the number of days per month that an inmate serving~~
6 ~~a term of confinement that includes a consecutive or concurrent sentence for a~~
7 ~~crime of possession of a regulated firearm by a certain person prohibited from~~
8 ~~possessing a regulated firearm is allowed as a deduction in advance from the~~
9 ~~inmate's term of confinement; making stylistic changes; and generally relating~~
10 ~~to possession of firearms by certain persons and diminution credit eligibility~~
11 increasing the penalty for a second or subsequent offense of violating the
12 restriction against possession of a certain regulated firearm by a person who
13 was previously convicted of a certain crime; requiring the State to provide a
14 certain notice before a certain time if the State intends to seek a certain
15 sentence; and generally relating to the possession of regulated firearms.

16 ~~BY repealing and reenacting, with amendments,~~
17 ~~Article – Correctional Services~~
18 ~~Section 3–704~~
19 ~~Annotated Code of Maryland~~
20 ~~(1999 Volume and 2007 Supplement)~~

21 BY repealing and reenacting, ~~without~~ with amendments,
22 Article – Public Safety
23 Section 5–133
24 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (2003 Volume and 2007 Supplement)

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

4 ~~Article — Correctional Services~~

5 ~~§ 704.~~

6 ~~(a) An inmate shall be allowed a deduction in advance from the inmate's~~
7 ~~term of confinement.~~

8 ~~(b) (1) The deduction allowed under subsection (a) of this section shall be~~
9 ~~calculated:~~

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

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

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

15 ~~[(2) If an inmate's term of confinement includes a consecutive or~~
16 ~~concurrent sentence for a crime of violence as defined in § 14-101 of the Criminal Law~~
17 ~~Article or a crime of manufacturing, distributing, dispensing, or possessing a~~
18 ~~controlled dangerous substance in violation of §§ 5-602 through 5-609, § 5-612, or §~~
19 ~~5-613 of the Criminal Law Article, the deduction described in subsection (a) of this~~
20 ~~section shall be calculated at the rate of 5 days for each calendar month.]~~

21 ~~(2) THE DEDUCTION DESCRIBED IN SUBSECTION (A) OF THIS~~
22 ~~SECTION SHALL BE CALCULATED AT THE RATE OF 5 DAYS FOR EACH CALENDAR~~
23 ~~MONTH IF AN INMATE'S TERM OF CONFINEMENT INCLUDES A CONSECUTIVE OR~~
24 ~~CONCURRENT SENTENCE FOR:~~

25 ~~(I) A CRIME OF VIOLENCE AS DEFINED IN § 14-101 OF THE~~
26 ~~CRIMINAL LAW ARTICLE;~~

27 ~~(II) A CRIME OF MANUFACTURING, DISTRIBUTING,~~
28 ~~DISPENSING, OR POSSESSING A CONTROLLED DANGEROUS SUBSTANCE IN~~
29 ~~VIOLATION OF §§ 5-602 THROUGH 5-609, § 5-612, OR § 5-613 OF THE CRIMINAL~~
30 ~~LAW ARTICLE; OR~~

31 ~~(III) A CRIME OF POSSESSING A REGULATED FIREARM BY A~~
32 ~~PERSON IN VIOLATION OF § 5-133(C) OF THE PUBLIC SAFETY ARTICLE.~~

1 ~~(e) A deduction under this section may not be allowed for a period during~~
 2 ~~which an inmate does not receive credit for service of the inmate's term of~~
 3 ~~confinement, including a period:~~

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

5 ~~(2) during which the inmate is not in the custody of the Commissioner~~
 6 ~~because of escape; or~~

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

9 Article - Public Safety

10 5-133.

11 (a) This section supersedes any restriction that a local jurisdiction in the
 12 State imposes on the possession by a private party of a regulated firearm, and the
 13 State preempts the right of any local jurisdiction to regulate the possession of a
 14 regulated firearm.

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

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

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

19 (3) is a fugitive from justice;

20 (4) is a habitual drunkard;

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

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

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

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

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

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

6 (i) a crime of violence; or

7 (ii) a violation of § 5-602, § 5-603, § 5-604, § 5-605, § 5-606, §
 8 5-607, § 5-608, § 5-609, § 5-612, § 5-613, or § 5-614 of the Criminal Law Article.

9 (2) A person who violates this subsection is guilty of a felony and on
 10 conviction is subject to:

11 **(I) FOR A FIRST OFFENSE, imprisonment for not less than 5**
 12 **years, no part of which may be suspended; AND**

13 **(II) FOR A SECOND OR SUBSEQUENT OFFENSE,**
 14 **IMPRISONMENT FOR NOT LESS THAN 5 YEARS AND NOT EXCEEDING 8 YEARS.**

15 **(3) A COURT MAY NOT SUSPEND THE 5-YEAR MINIMUM**
 16 **SENTENCE REQUIRED BY PARAGRAPH (2) OF THIS SUBSECTION.**

17 ~~(3) (4)~~ A person sentenced under ~~paragraph (1)~~ of this subsection may not
 18 be eligible for parole.

19 ~~(4) (5)~~ Each violation of this subsection is a separate crime.

20 **(6) IF THE STATE INTENDS TO SEEK A SENTENCE OF**
 21 **IMPRISONMENT FOR MORE THAN 5 YEARS UNDER PARAGRAPH (2)(II) OF THIS**
 22 **SUBSECTION, THE STATE SHALL NOTIFY THE PERSON IN WRITING OF THE**
 23 **STATE'S INTENTION AT LEAST 30 DAYS BEFORE TRIAL.**

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

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

29 (i) the temporary transfer or possession of a regulated firearm
 30 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 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 2009.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.