

SENATE BILL 22

E1, D4

0lr0515

(PRE-FILED)

By: **Senator Muse**

Requested: August 26, 2009

Introduced and read first time: January 13, 2010

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Prohibitions on Wearing, Carrying, or Transporting**
3 **Firearms – Exceptions**

4 FOR the purpose of establishing an exception to the prohibition against wearing,
5 carrying, or transporting a handgun for a person who is carrying a certain court
6 order and is in the immediate process of surrendering the handgun to law
7 enforcement; prohibiting a local government from prohibiting a person from
8 transporting a certain firearm, ammunition, or firearm component if the person
9 is carrying a certain court order and is in the immediate process of surrendering
10 the firearm, ammunition, or component to law enforcement; authorizing a
11 person who lawfully possesses an assault pistol and who is carrying a certain
12 court order to transport the assault pistol while in the immediate process of
13 surrendering the assault pistol to law enforcement; authorizing a person who
14 lawfully possesses a machine gun and who is carrying a certain court order to
15 transport the machine gun while in the immediate process of surrendering the
16 machine gun to law enforcement; establishing that, notwithstanding any other
17 law, a respondent against whom a certain protective order has been issued and
18 who is carrying a certain court order may transport a firearm while in the
19 immediate process of surrendering the firearm to law enforcement; establishing
20 that a respondent who is carrying a certain protective order may transport a
21 regulated firearm while in the immediate process of surrendering the firearm to
22 law enforcement; and generally relating to exceptions to the prohibitions on
23 wearing, carrying, or transporting firearms.

24 BY repealing and reenacting, without amendments,
25 Article – Criminal Law
26 Section 4–203(a) and 4–209(a)
27 Annotated Code of Maryland
28 (2002 Volume and 2009 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,
2 Article – Criminal Law
3 Section 4–203(b)(7) and (8), 4–303, and 4–402(b)
4 Annotated Code of Maryland
5 (2002 Volume and 2009 Supplement)

6 BY adding to
7 Article – Criminal Law
8 Section 4–203(b)(9) and 4–209(b)(3)
9 Annotated Code of Maryland
10 (2002 Volume and 2009 Supplement)

11 BY repealing and reenacting, with amendments,
12 Article – Family Law
13 Section 4–506.1
14 Annotated Code of Maryland
15 (2006 Replacement Volume and 2009 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article – Public Safety
18 Section 5–133(b)(8)
19 Annotated Code of Maryland
20 (2003 Volume and 2009 Supplement)

21 BY adding to
22 Article – Public Safety
23 Section 5–133(e)
24 Annotated Code of Maryland
25 (2003 Volume and 2009 Supplement)

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

28 **Article – Criminal Law**

29 4–203.

30 (a) (1) Except as provided in subsection (b) of this section, a person may
31 not:

32 (i) wear, carry, or transport a handgun, whether concealed or
33 open, on or about the person;

34 (ii) wear, carry, or knowingly transport a handgun, whether
35 concealed or open, in a vehicle traveling on a road or parking lot generally used by the
36 public, highway, waterway, or airway of the State;

1 (iii) violate item (i) or (ii) of this paragraph while on public
2 school property in the State; or

3 (iv) violate item (i) or (ii) of this paragraph with the deliberate
4 purpose of injuring or killing another person.

5 (2) There is a rebuttable presumption that a person who transports a
6 handgun under paragraph (1)(ii) of this subsection transports the handgun knowingly.

7 (b) This section does not prohibit:

8 (7) the wearing, carrying, or transporting of a handgun by a
9 supervisory employee:

10 (i) in the course of employment;

11 (ii) within the confines of the business establishment in which
12 the supervisory employee is employed; and

13 (iii) when so authorized by the owner or manager of the business
14 establishment; [or]

15 (8) the carrying or transporting of a signal pistol or other visual
16 distress signal approved by the United States Coast Guard in a vessel on the
17 waterways of the State or, if the signal pistol or other visual distress signal is
18 unloaded and carried in an enclosed case, in a vehicle; **OR**

19 **(9) THE WEARING, CARRYING, OR TRANSPORTING OF A HANDGUN**
20 **BY A PERSON WHO IS CARRYING A COURT ORDER REQUIRING THE SURRENDER**
21 **OF THE HANDGUN AND WHO IS IN THE IMMEDIATE PROCESS OF SURRENDERING**
22 **THE HANDGUN TO LAW ENFORCEMENT.**

23 4-209.

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

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

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

30 (b) **(3) A COUNTY, MUNICIPAL CORPORATION, OR SPECIAL TAXING**
31 **DISTRICT MAY NOT PROHIBIT THE TRANSPORTATION OF AN ITEM LISTED IN**
32 **SUBSECTION (A) OF THIS SECTION BY A PERSON WHO IS CARRYING A COURT**

1 **ORDER REQUIRING THE SURRENDER OF THE ITEM AND WHO IS IN THE**
 2 **IMMEDIATE PROCESS OF SURRENDERING THE ITEM TO LAW ENFORCEMENT.**

3 4–303.

4 (a) Except as provided in subsection (b) of this section, a person may not:

5 (1) transport an assault pistol into the State; or

6 (2) possess, sell, offer to sell, transfer, purchase, or receive an assault
 7 pistol.

8 (b) A person who lawfully possessed an assault pistol before June 1, 1994
 9 and who registered the assault pistol with the Secretary of the State Police before
 10 August 1, 1994 may:

11 (1) continue to possess the assault pistol; **OR**

12 (2) **WHILE CARRYING A COURT ORDER REQUIRING THE**
 13 **SURRENDER OF THE ASSAULT PISTOL, TRANSPORT THE ASSAULT PISTOL WHILE**
 14 **IN THE IMMEDIATE PROCESS OF SURRENDERING IT TO LAW ENFORCEMENT.**

15 4–402.

16 (b) This subtitle does not prohibit or interfere with:

17 (1) the manufacture, sale, and transportation of a machine gun for or
 18 to a military force or peace officer of the United States, a state, or a political
 19 subdivision of a state;

20 (2) the possession of a machine gun for a scientific purpose;

21 (3) the possession, as a curiosity, ornament, or keepsake, of a machine
 22 gun that cannot be used as a weapon; [or]

23 (4) the possession of a machine gun for a purpose that is manifestly
 24 not aggressive or offensive; **OR**

25 (5) **THE TRANSPORTATION OF A LAWFULLY POSSESSED MACHINE**
 26 **GUN BY A PERSON WHO IS CARRYING A COURT ORDER REQUIRING THE**
 27 **SURRENDER OF THE MACHINE GUN AND WHO IS IN THE IMMEDIATE PROCESS OF**
 28 **SURRENDERING THE MACHINE GUN TO LAW ENFORCEMENT.**

29 **Article – Family Law**

30 4–506.1.

1 (a) If a respondent surrenders a firearm under § 4–505 or § 4–506 of this
2 subtitle, a law enforcement officer shall:

3 (1) provide to the respondent information on the process for retaking
4 possession of the firearm; and

5 (2) transport and store the firearm in a protective case, if one is
6 available, and in a manner intended to prevent damage to the firearm during the time
7 the protective order is in effect.

8 (b) (1) The respondent may retake possession of the firearm at the
9 expiration of a temporary protective order unless:

10 (i) the respondent is ordered to surrender the firearm in a
11 protective order issued under § 4–506 of this subtitle; or

12 (ii) the respondent is not otherwise legally entitled to own or
13 possess the firearm.

14 (2) The respondent may retake possession of the firearm at the
15 expiration of a final protective order unless:

16 (i) the protective order is extended under § 4–507(a)(2) of this
17 subtitle; or

18 (ii) the respondent is not otherwise legally entitled to own or
19 possess the firearm.

20 **(C) NOTWITHSTANDING ANY OTHER LAW, A RESPONDENT MAY**
21 **TRANSPORT A FIREARM IF THE RESPONDENT IS CARRYING A PROTECTIVE**
22 **ORDER REQUIRING THE SURRENDER OF THE FIREARM AND IS IN THE**
23 **IMMEDIATE PROCESS OF TRANSPORTING THE FIREARM TO SURRENDER IT TO**
24 **LAW ENFORCEMENT.**

25 **Article – Public Safety**

26 5–133.

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

28 (8) **EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION,**
29 is a respondent against whom a current non ex parte civil protective order has been
30 entered under § 4–506 of the Family Law Article; or

31 **(E) THIS SECTION DOES NOT APPLY TO A RESPONDENT TRANSPORTING**
32 **A REGULATED FIREARM IF THE PERSON IS CARRYING A CIVIL PROTECTIVE**

1 ORDER REQUIRING THE SURRENDER OF THE REGULATED FIREARM AND IS IN
2 THE IMMEDIATE PROCESS OF SURRENDERING IT TO LAW ENFORCEMENT.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2010.