

# SENATE BILL 22

E1, D4

0lr0515

(PRE-FILED)

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By: **Senator Muse**

Requested: August 26, 2009

Introduced and read first time: January 13, 2010

Assigned to: Judicial Proceedings

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 3, 2010

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## CHAPTER \_\_\_\_\_

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~~ if the handgun is unloaded, the person notifies a certain law  
8 enforcement unit that the person is transporting the handgun to the unit in  
9 accordance with the court order, and the person transports the handgun directly  
10 to the unit; prohibiting a local government from prohibiting a person from  
11 transporting a certain firearm, ammunition, or firearm component if the person  
12 is carrying a certain court order ~~and is in the immediate process of surrendering~~  
13 ~~the firearm, ammunition, or component to law enforcement,~~ if applicable, the  
14 firearm is unloaded, the person notifies a certain law enforcement unit that the  
15 person is transporting the firearm, ammunition, or firearm component to the  
16 unit in accordance with the court order, and the person transports the firearm,  
17 ammunition, or firearm component directly to the unit; authorizing a person  
18 who lawfully possesses an assault pistol and who is carrying a certain court  
19 order to transport the assault pistol ~~while in the immediate process of~~  
20 ~~surrendering the assault pistol to law enforcement~~ if the assault pistol is  
21 unloaded, the person notifies a certain law enforcement unit that the person is  
22 transporting the assault pistol to the unit in accordance with the court order,  
23 and the person transports the assault pistol directly to the unit; authorizing a  
24 person who lawfully possesses a machine gun and who is carrying a certain

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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 court order to transport the machine gun ~~while in the immediate process of~~  
 2 ~~surrendering the machine gun to law enforcement~~ if the machine gun is  
 3 unloaded, the person notifies a certain law enforcement unit that the person is  
 4 transporting the machine gun to the unit in accordance with the court order,  
 5 and the person transports the machine gun directly to the unit; establishing  
 6 that, notwithstanding any other law, a respondent against whom a certain  
 7 protective order has been issued and who is carrying ~~a certain court~~ the  
 8 protective order may transport a firearm while in the immediate process of  
 9 ~~surrendering the firearm to law enforcement~~ if the firearm is unloaded, the  
 10 respondent notifies a certain law enforcement unit that the respondent is  
 11 transporting the firearm to the unit in accordance with the protective order, and  
 12 the respondent transports the firearm directly to the unit; establishing that a  
 13 respondent who is carrying a certain protective order may transport a regulated  
 14 firearm ~~while in the immediate process of surrendering the firearm to law~~  
 15 ~~enforcement~~ if the regulated firearm is unloaded, the respondent notifies a  
 16 certain law enforcement unit that the respondent is transporting the regulated  
 17 firearm to the unit in accordance with the protective order, and the respondent  
 18 transports the regulated firearm directly to the unit; making stylistic changes;  
 19 and generally relating to exceptions to the prohibitions on wearing, carrying, or  
 20 transporting firearms.

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

26 BY repealing and reenacting, with amendments,  
 27 Article – Criminal Law  
 28 Section 4–203(b)(7) and (8), 4–303, and 4–402(b)  
 29 Annotated Code of Maryland  
 30 (2002 Volume and 2009 Supplement)

31 BY adding to  
 32 Article – Criminal Law  
 33 Section 4–203(b)(9) and 4–209(b)(3)  
 34 Annotated Code of Maryland  
 35 (2002 Volume and 2009 Supplement)

36 BY repealing and reenacting, with amendments,  
 37 Article – Family Law  
 38 Section 4–506.1  
 39 Annotated Code of Maryland  
 40 (2006 Replacement Volume and 2009 Supplement)

41 BY repealing and reenacting, with amendments,  
 42 Article – Public Safety

1 Section 5–133(b)(8)  
2 Annotated Code of Maryland  
3 (2003 Volume and 2009 Supplement)

4 BY adding to  
5 Article – Public Safety  
6 Section 5–133(e)  
7 Annotated Code of Maryland  
8 (2003 Volume and 2009 Supplement)

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

11 **Article – Criminal Law**

12 4–203.

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

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

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

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

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

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

26 (b) This section does not prohibit:

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

29 (i) in the course of employment;

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

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

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

7 (9) **THE WEARING, CARRYING, OR TRANSPORTING OF A HANDGUN**  
8 **BY A PERSON WHO IS CARRYING A COURT ORDER REQUIRING THE SURRENDER**  
9 **OF THE HANDGUN ~~AND WHO IS IN THE IMMEDIATE PROCESS OF SURRENDERING~~**  
10 **~~THE HANDGUN TO LAW ENFORCEMENT, IF:~~**

11 (I) THE HANDGUN IS UNLOADED;

12 (II) THE PERSON HAS NOTIFIED THE LAW ENFORCEMENT  
13 UNIT, BARRACKS, OR STATION THAT THE HANDGUN IS BEING TRANSPORTED IN  
14 ACCORDANCE WITH THE COURT ORDER; AND

15 (III) THE PERSON TRANSPORTS THE HANDGUN DIRECTLY TO  
16 THE LAW ENFORCEMENT UNIT, BARRACKS, OR STATION.

17 4-209.

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

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

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

24 (b) (3) **A COUNTY, MUNICIPAL CORPORATION, OR SPECIAL TAXING**  
25 **DISTRICT MAY NOT PROHIBIT THE TRANSPORTATION OF AN ITEM LISTED IN**  
26 **SUBSECTION (A) OF THIS SECTION BY A PERSON WHO IS CARRYING A COURT**  
27 **ORDER REQUIRING THE SURRENDER OF THE ITEM ~~AND WHO IS IN THE~~**  
28 **~~IMMEDIATE PROCESS OF SURRENDERING THE ITEM TO LAW ENFORCEMENT, IF:~~**

29 (I) THE HANDGUN, RIFLE, OR SHOTGUN IS UNLOADED;

30 (II) THE PERSON HAS NOTIFIED THE LAW ENFORCEMENT  
31 UNIT, BARRACKS, OR STATION THAT THE ITEM IS BEING TRANSPORTED IN  
32 ACCORDANCE WITH THE COURT ORDER; AND

1                   **(III) THE PERSON TRANSPORTS THE ITEM DIRECTLY TO THE**  
2 **LAW ENFORCEMENT UNIT, BARRACKS, OR STATION.**

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 **DIRECTLY TO THE LAW ENFORCEMENT UNIT, BARRACKS, OR STATION IF THE**  
16 **PERSON HAS NOTIFIED THE LAW ENFORCEMENT UNIT, BARRACKS, OR STATION**  
17 **THAT THE PERSON IS TRANSPORTING THE ASSAULT PISTOL IN ACCORDANCE**  
18 **WITH A COURT ORDER AND THE ASSAULT PISTOL IS UNLOADED.**

19 4-402.

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

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

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

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

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

29                   **(5) THE TRANSPORTATION OF A LAWFULLY POSSESSED MACHINE**  
30 **GUN BY A PERSON WHO IS CARRYING A COURT ORDER REQUIRING THE**  
31 **SURRENDER OF THE MACHINE GUN ~~AND WHO IS IN THE IMMEDIATE PROCESS OF~~**  
32 **SURRENDERING THE MACHINE GUN TO LAW ENFORCEMENT, IF:**

- 1                   **(I) THE MACHINE GUN IS UNLOADED;**
- 2                   **(II) THE PERSON HAS NOTIFIED THE LAW ENFORCEMENT**  
 3 **UNIT, BARRACKS, OR STATION THAT THE MACHINE GUN IS BEING TRANSPORTED**  
 4 **IN ACCORDANCE WITH THE COURT ORDER; AND**
- 5                   **(III) THE PERSON TRANSPORTS THE MACHINE GUN**  
 6 **DIRECTLY TO THE LAW ENFORCEMENT UNIT, BARRACKS, OR STATION.**

7                   **Article – Family Law**

8                   4–506.1.

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

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

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

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

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

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

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

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

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

28                   **(C) NOTWITHSTANDING ANY OTHER LAW, A RESPONDENT MAY**  
 29 **TRANSPORT A FIREARM IF THE RESPONDENT IS CARRYING A PROTECTIVE**  
 30 **ORDER REQUIRING THE SURRENDER OF THE FIREARM AND ~~IS IN THE~~**  
 31 **~~IMMEDIATE PROCESS OF TRANSPORTING THE FIREARM TO SURRENDER IT TO~~**  
 32 **~~LAW ENFORCEMENT.~~**

1           **(1) THE FIREARM IS UNLOADED;**

2           **(2) THE RESPONDENT HAS NOTIFIED THE LAW ENFORCEMENT**  
3 **UNIT, BARRACKS, OR STATION THAT THE FIREARM IS BEING TRANSPORTED IN**  
4 **ACCORDANCE WITH THE PROTECTIVE ORDER; AND**

5           **(3) THE RESPONDENT TRANSPORTS THE FIREARM DIRECTLY TO**  
6 **THE LAW ENFORCEMENT UNIT, BARRACKS, OR STATION.**

7   Article – Public Safety

8           5–133.

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

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

13           **(E) THIS SECTION DOES NOT APPLY TO A RESPONDENT TRANSPORTING**  
14 **A REGULATED FIREARM IF THE PERSON IS CARRYING A CIVIL PROTECTIVE**  
15 **ORDER REQUIRING THE SURRENDER OF THE REGULATED FIREARM AND ~~IS IN~~**  
16 **~~THE IMMEDIATE PROCESS OF SURRENDERING IT TO LAW ENFORCEMENT.~~**

17           **(1) THE REGULATED FIREARM IS UNLOADED;**

18           **(2) THE RESPONDENT HAS NOTIFIED THE LAW ENFORCEMENT**  
19 **UNIT, BARRACKS, OR STATION THAT THE REGULATED FIREARM IS BEING**  
20 **TRANSPORTED IN ACCORDANCE WITH THE CIVIL PROTECTIVE ORDER; AND**

21           **(3) THE RESPONDENT TRANSPORTS THE REGULATED FIREARM**  
22 **DIRECTLY TO THE LAW ENFORCEMENT UNIT, BARRACKS, OR STATION.**

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