HOUSE BILL 241

E1 (1lr0557)

ENROLLED BILL

— Judiciary/Judicial Proceedings —

Introduced by Delegate Anderson (By Request - Baltimore City Administration), the Speaker (By Request - Administration), and Delegates Conaway, Oaks, B. Robinson, Tarrant, Washington, and Wilson Wilson, Arora, Barkley, Clippinger, Davis, Dumais, Mitchell, Niemann, Reznik, and Waldstreicher

Read and I	Examined by Proofreaders:
	Proofreader.
	Proofreader.
Sealed with the Great Seal and 1	presented to the Governor, for his approval this
day of	at o'clock,M.
	Speaker.
AN ACT concerning	TIAT LEN
Criminal Law - Restrictions	s Against Use and Possession of Firearms
antique firearms in the comminclude the use of any fire predicate crimes and increase to a violation of the prohibit convicted of a certain crime certain regulated firearm; priminimum sentences are with the conviction of the prohibit convicted of a certain crime certain regulated firearm; priminimum sentences are with the conviction of the conviction of the prohibit con	prohibition against the use of handguns and certain mission of certain crimes of violence or felonies to earm, whether loaded or unloaded; altering the ing the maximum term of imprisonment applicable tion against a eertain person who was previously a of violence or drug—related crime possessing a roviding that the imposition of certain mandatory ithin the discretion of the court under certain at certain mandatory minimum sentences may not

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

<u>Underlining</u> indicates amendments to bill.

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

Italics indicate opposite chamber/conference committee amendments



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EXPLOSIVE; OR

1	be imposed unless the State's Attorney notifies a certain person in writing at a
2	certain time of the State's intention to seek a certain sentence; prohibiting a
3	person from possessing a rifle or shotgun if the person was previously convicted
4	of a certain crime of violence or drug-related crime; establishing certain
5	penalties; prohibiting a certain court from suspending any part of a certain
6	sentence; providing that a certain person is not eligible for parole during a
7	certain mandatory minimum sentence, with a certain exception; providing that
8	each violation of a certain provision of law is a separate crime; defining a
9	certain term; and generally relating to the use and possession of firearms.
10	BY repealing and reenacting, with amendments,
11	Article – Criminal Law
12	Section 4–204
13	Annotated Code of Maryland
14	(2002 Volume and 2010 Supplement)
	(= v = - v = v = v = v = v = v = r = r = r = r =
15	BY repealing and reenacting, with amendments,
16	Article – Public Safety
17	Section 5–133(c)
18	Annotated Code of Maryland
19	(2003 Volume and 2010 Supplement)
20	BY repealing and reenacting, without amendments,
$\frac{21}{21}$	Article – Public Safety
22	Section 5–143
23	Annotated Code of Maryland
24	(2003 Volume and 2010 Supplement)
	(2000 Volume and 2010 Supplement)
25	BY adding to
26	Article – Public Safety
27	Section 5–206
28	Annotated Code of Maryland
29	(2003 Volume and 2010 Supplement)
30	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
31	MARYLAND, That the Laws of Maryland read as follows:
01	White Hart of the barre of maryland read as follows.
32	Article - Criminal Law
33	4-204.
34	(a) (1) IN THIS SECTION, "FIREARM" MEANS:
35	(I) A WEAPON THAT EXPELS, IS DESIGNED TO EXPEL, OR
36	MAY READILY BE CONVERTED TO EXPEL A PROJECTILE BY THE ACTION OF AN

1	(II) THE FRAME OR RECEIVER OF SUCH A WEAPON.
2 3 4	(2) "FIREARM" INCLUDES AN ANTIQUE FIREARM, HANDGUN, RIFLE, SHOTGUN, SHORT-BARRELED RIFLE, SHORT-BARRELED SHOTGUN, STARTER GUN, OR ANY OTHER FIREARM, WHETHER LOADED OR UNLOADED.
5 6 7 8	(B) A person may not use [an antique firearm capable of being concealed on the person or any handgun] A FIREARM in the commission of a crime of violence, as defined in § 5–101 of the Public Safety Article, or any felony, whether the [antique firearm or handgun] FIREARM is operable or inoperable at the time of the crime.
9 10 11	[(b)] (C) (1) (i) A person who violates this section is guilty of a misdemeanor and, in addition to any other penalty imposed for the crime of violence or felony, shall be sentenced to imprisonment for not less than 5 years and not exceeding 20 years.
13 14 15	(ii) The court may not impose less than the minimum sentence of 5 years and, except as otherwise provided in § 4–305 of the Correctional Services Article, the person is not eligible for parole in less than 5 years.
16 17	(2) For each subsequent violation, the sentence shall be consecutive to and not concurrent with any other sentence imposed for the crime of violence or felony.
8	Article - Public Safety
9	5–133.
20 21	(c) (1) A person may not possess a regulated firearm if the person was previously convicted of:
22	(i) a crime of violence; or
23 24	(ii) a violation of § 5–602, § 5–603, § 5–604, § 5–605, $\frac{\$}{\$}$ 5–606, $\frac{\$}{\$}$ 5–607, $\frac{\$}{\$}$ 5–608, $\frac{\$}{\$}$ 5–612, § 5–613, or § 5–614 of the Criminal Law Article.
25 26 27	(2) (I) [A] SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, A person who violates this subsection is guilty of a felony and on conviction is subject to imprisonment for not less than 5 years[, no part of which may be suspended.
28 29	(3) A person sentenced under paragraph (1) of this subsection may not be eligible for parole] AND NOT EXCEEDING 15 YEARS.
30	(II) THE COURT MAY NOT SUSPEND ANY PART OF THE

MANDATORY MINIMUM SENTENCE OF 5 YEARS.

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1		(III)	Exc	EPT AS OTH	IERW	ISE PROV	(DE)	D IN §	§ 4–305 OF	THE
2	CORRECTIONAL	SERV	ICES	ARTICLE,	THE	PERSON	\mathbf{IS}	NOT	ELIGIBLE	FOR
2	DAPOLE DURING	тит м	ANDA	TODY MINI	мит	SENTENCI	יי			

- 4 **(3)** AT THE TIME OF THE COMMISSION OF THE OFFENSE, IF A PERIOD OF MORE THAN 5 YEARS HAS ELAPSED SINCE THE PERSON COMPLETED 5 SERVING THE SENTENCE FOR THE MOST RECENT CONVICTION UNDER 6 7 SUBSECTION (C)(1)(I) OR (II) \mathbf{OF} SECTION, THIS INCLUDING ALL IMPRISONMENT, MANDATORY SUPERVISION, PROBATION, AND PAROLE: 8
- 9 (I) THE IMPOSITION OF THE MANDATORY MINIMUM 10 SENTENCE IS WITHIN THE DISCRETION OF THE COURT; AND
- 11 (II) THE MANDATORY MINIMUM SENTENCE MAY NOT BE 12 IMPOSED UNLESS THE STATE'S ATTORNEY NOTIFIES THE PERSON IN WRITING 13 AT LEAST 30 DAYS BEFORE TRIAL OF THE STATE'S INTENTION TO SEEK THE 14 MANDATORY MINIMUM SENTENCE.
- 15 (4) Each violation of this subsection is a separate crime.
- 16 5–143.
- 17 (a) Except as otherwise provided in this subtitle, a dealer or other person 18 may not knowingly participate in the illegal sale, rental, transfer, purchase, 19 possession, or receipt of a regulated firearm in violation of this subtitle.
- 20 (b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding 22 \$10,000 or both.
- 23 (c) Each violation of this section is a separate crime.
- 24 **5–206.**
- 25 (A) A PERSON MAY NOT POSSESS A RIFLE OR SHOTGUN IF THE PERSON 26 WAS PREVIOUSLY CONVICTED OF:
- 27 (1) A CRIME OF VIOLENCE; OR
- 28 **(2)** A VIOLATION OF § 5–602, § 5–603, § 5–604, § 5–605, § 5–606, §
 29 5–607, § 5–608, § 5–609, § 5–612, § 5–613, OR § 5–614 OF THE CRIMINAL LAW
 30 ARTICLE.

1	(B) $\frac{\text{(1)}}{\text{SUBJECT TO SUBSECTION (C) OF THIS SECTION, A}}$ PERSON
2	WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY AND ON CONVICTION IS
3	SUBJECT TO IMPRISONMENT FOR NOT LESS THAN 5 YEARS AND NOT EXCEEDING
4	15 YEARS.
5	(2) THE COURT MAY NOT SUSPEND ANY PART OF THE
6	MANDATORY MINIMUM SENTENCE OF 5 YEARS.
7	(3) EXCEPT AS OTHERWISE PROVIDED IN § 4-305 OF THE
8	CORRECTIONAL SERVICES ARTICLE, THE PERSON IS NOT ELIGIBLE FOR
9	PAROLE DURING THE MANDATORY MINIMUM SENTENCE.
10	(C) AT THE TIME OF THE COMMISSION OF THE OFFENSE, IF A PERIOD
11	OF MORE THAN 5 YEARS HAS ELAPSED SINCE THE PERSON COMPLETED
12	SERVING THE SENTENCE FOR THE MOST RECENT CONVICTION UNDER
13	SUBSECTION (A)(1) OR (2) OF THIS SECTION, INCLUDING ALL IMPRISONMENT,
14	MANDATORY SUPERVISION, PROBATION, AND PAROLE:
15	(1) THE IMPOSITION OF THE MANDATORY MINIMUM SENTENCE IS
16	WITHIN THE DISCRETION OF THE COURT; AND
17	(2) THE MANDATORY MINIMUM SENTENCE MAY NOT BE IMPOSED
18	UNLESS THE STATE'S ATTORNEY NOTIFIES THE PERSON IN WRITING AT LEAST
19	30 DAYS BEFORE TRIAL OF THE STATE'S INTENTION TO SEEK THE MANDATORY
20	MINIMUM SENTENCE.
21	(D) (C) EACH VIOLATION OF THIS SUBSECTION IS A SEPARATE CRIME.
22	SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
23	October 1, 2011.
	Approved:
	Governor.
	Speaker of the House of Delegates.
	President of the Senate.