

SENATE BILL 174

E1

(11r0120)

ENROLLED BILL

— Judicial Proceedings/Judiciary —

Introduced by **The President (By Request – Administration) and Senators Astle, Brochin, Forehand, Gladden, Manno, Peters, Raskin, Robey, Stone, and Zirkin**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Criminal Law – ~~Use of Firearm in the Commission of a Crime of Violence or a~~**
3 **~~Felony~~ Restrictions Against Use and Possession of Firearms**

4 FOR the purpose of ~~prohibiting the use of certain firearms in the commission of~~
5 ~~certain crimes of violence or felonies;~~ expanding the prohibition against the use
6 of handguns and certain antique firearms in the commission of certain crimes of
7 violence or felonies to include the use of any firearm, whether loaded or
8 unloaded; altering the predicate crimes and increasing the maximum term of
9 imprisonment applicable to a violation of the prohibition against a person who
10 was previously convicted of a certain crime of violence or drug-related crime
11 possessing a certain regulated firearm; providing that the imposition of certain
12 mandatory minimum sentences are within the discretion of the court under
13 certain circumstances; providing that certain mandatory minimum sentences

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.

Italics indicate opposite chamber/conference committee amendments.



1 may not be imposed unless the State's Attorney notifies a certain person in
 2 writing at a certain time of the State's intention to seek a certain sentence;
 3 prohibiting a person from possessing a rifle or shotgun if the person was
 4 previously convicted of a certain crime of violence or drug-related crime;
 5 establishing certain penalties; providing that each violation of a certain
 6 provision of law is a separate crime; defining a certain term; and generally
 7 relating to the use of certain firearms in the commission of certain crimes of
 8 ~~violence or felonies~~ and possession of firearms.

9 BY repealing and reenacting, with amendments,
 10 Article – Criminal Law
 11 Section 4–204
 12 Annotated Code of Maryland
 13 (2002 Volume and 2010 Supplement)

14 BY repealing and reenacting, with amendments,
 15 Article – Public Safety
 16 Section 5–133(c)
 17 Annotated Code of Maryland
 18 (2003 Volume and 2010 Supplement)

19 BY repealing and reenacting, without amendments,
 20 Article – Public Safety
 21 Section 5–143
 22 Annotated Code of Maryland
 23 (2003 Volume and 2010 Supplement)

24 BY adding to
 25 Article – Public Safety
 26 Section 5–206
 27 Annotated Code of Maryland
 28 (2003 Volume and 2010 Supplement)

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

31 **Article – Criminal Law**

32 4–204.

33 (a) (1) IN THIS SECTION, “FIREARM” MEANS:

34 (i) A WEAPON THAT EXPELS, IS DESIGNED TO EXPEL, OR
 35 MAY READILY BE CONVERTED TO EXPEL A PROJECTILE BY THE ACTION OF AN
 36 EXPLOSIVE; OR

1 (II) THE FRAME OR RECEIVER OF SUCH A WEAPON.

2 (2) "FIREARM" INCLUDES AN ANTIQUE FIREARM, HANDGUN,
3 RIFLE, SHOTGUN, SHORT-BARRELED RIFLE, SHORT-BARRELED SHOTGUN,
4 STARTER GUN, OR ANY OTHER FIREARM, WHETHER LOADED OR UNLOADED.

5 (B) A person may not use [an antique firearm capable of being concealed on
6 the person or any handgun] A FIREARM in the commission of a crime of violence, as
7 defined in § 5-101 of the Public Safety Article, or any felony, whether the [antique
8 firearm or handgun] FIREARM is operable or inoperable at the time of the crime.

9 [(b)] (C) (1) (i) A person who violates this section is guilty of a
10 misdemeanor and, in addition to any other penalty imposed for the crime of violence or
11 felony, shall be sentenced to imprisonment for not less than 5 years and not exceeding
12 20 years.

13 (ii) The court may not impose less than the minimum sentence
14 of 5 years and, except as otherwise provided in § 4-305 of the Correctional Services
15 Article, the person is not eligible for parole in less than 5 years.

16 (2) For each subsequent violation, the sentence shall be consecutive to
17 and not concurrent with any other sentence imposed for the crime of violence or felony.

18 Article – Public Safety

19 5-133.

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

22 (i) a crime of violence; or

23 (ii) a violation of § 5-602, § 5-603, § 5-604, § 5-605, [§ 5-606, §
24 5-607, § 5-608, § 5-609.] § 5-612, § 5-613, or § 5-614 of the Criminal Law Article.

25 (2) (1) [A] SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION,
26 A person who violates this subsection is guilty of a felony and on conviction is subject to
27 imprisonment for not less than 5 years[, no part of which may be suspended.

28 (3) A person sentenced under paragraph (1) of this subsection may not
29 be eligible for parole] AND NOT EXCEEDING 15 YEARS.

30 (II) THE COURT MAY NOT SUSPEND ANY PART OF THE
31 MANDATORY MINIMUM SENTENCE OF 5 YEARS.

1 (III) EXCEPT AS OTHERWISE PROVIDED IN § 4-305 OF THE
2 CORRECTIONAL SERVICES ARTICLE, THE PERSON IS NOT ELIGIBLE FOR PAROLE
3 DURING THE MANDATORY MINIMUM SENTENCE.

4 (3) AT THE TIME OF THE COMMISSION OF THE OFFENSE, IF A
5 PERIOD OF MORE THAN 5 YEARS HAS ELAPSED SINCE THE PERSON COMPLETED
6 SERVING THE SENTENCE FOR THE MOST RECENT CONVICTION UNDER
7 SUBSECTION (C)(1)(I) OR (II) OF THIS SECTION, INCLUDING ALL
8 IMPRISONMENT, MANDATORY SUPERVISION, PROBATION, AND PAROLE:

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 may
18 not knowingly participate in the illegal sale, rental, transfer, purchase, possession, or
19 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
21 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, § 5-612, §
29 5-613, OR § 5-614 OF THE CRIMINAL LAW ARTICLE.

30 (B) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY
31 AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 15 YEARS.

1 **(C) EACH VIOLATION OF THIS SUBSECTION IS A SEPARATE CRIME.**

2 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
3 October 1, 2011.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.