

Chapter 165

(House Bill 241)

AN ACT concerning

Criminal Law – Restrictions Against Use and Possession of Firearms

FOR the purpose of expanding the prohibition against the use of handguns and certain antique firearms in the commission of certain crimes of violence or felonies to include the use of any firearm, whether loaded or unloaded; altering the predicate crimes and increasing the maximum term of imprisonment applicable to a violation of the prohibition against a ~~certain~~ person who was previously convicted of a certain crime of violence or drug-related crime possessing a certain regulated firearm; providing that the imposition of certain mandatory minimum sentences are within the discretion of the court under certain circumstances; providing that certain mandatory minimum sentences may not be imposed unless the State's Attorney notifies a certain person in writing at a certain time of the State's intention to seek a certain sentence; prohibiting a person from possessing a rifle or shotgun if the person was previously convicted of a certain crime of violence or drug-related crime; establishing certain penalties; ~~prohibiting a certain court from suspending any part of a certain sentence; providing that a certain person is not eligible for parole during a certain mandatory minimum sentence, with a certain exception;~~ providing that each violation of a certain provision of law is a separate crime; defining a certain term; and generally relating to the use and possession of firearms.

BY repealing and reenacting, with amendments,

Article – Criminal Law

Section 4-204

Annotated Code of Maryland

(2002 Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,

Article – Public Safety

Section 5-133(c)

Annotated Code of Maryland

(2003 Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,

Article – Public Safety

Section 5-143

Annotated Code of Maryland

(2003 Volume and 2010 Supplement)

BY adding to

Article – Public Safety

Section 5–206

Annotated Code of Maryland

(2003 Volume and 2010 Supplement)

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

Article – Criminal Law

4–204.

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

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

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

(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.

(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.

[(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.

(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.

(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.

Article – Public Safety

5–133.

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

(i) a crime of violence; or

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

(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.

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

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

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

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

(I) THE IMPOSITION OF THE MANDATORY MINIMUM SENTENCE IS WITHIN THE DISCRETION OF THE COURT; AND

(II) THE MANDATORY MINIMUM SENTENCE MAY NOT BE IMPOSED UNLESS THE STATE'S ATTORNEY NOTIFIES THE PERSON IN WRITING AT LEAST 30 DAYS BEFORE TRIAL OF THE STATE'S INTENTION TO SEEK THE MANDATORY MINIMUM SENTENCE.

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

5-143.

(a) Except as otherwise provided in this subtitle, a dealer or other person may not knowingly participate in the illegal sale, rental, transfer, purchase, possession, or receipt of a regulated firearm in violation of this subtitle.

(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 \$10,000 or both.

(c) Each violation of this section is a separate crime.

5-206.

(A) A PERSON MAY NOT POSSESS A RIFLE OR SHOTGUN IF THE PERSON WAS PREVIOUSLY CONVICTED OF:

(1) A CRIME OF VIOLENCE; OR

(2) A VIOLATION OF § 5-602, § 5-603, § 5-604, § 5-605, ~~§ 5-606, § 5-607, § 5-608, § 5-609,~~ § 5-612, § 5-613, OR § 5-614 OF THE CRIMINAL LAW ARTICLE.

(B) ~~(1) SUBJECT TO SUBSECTION (C) OF THIS SECTION,~~ A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT ~~FOR NOT LESS THAN 5 YEARS AND~~ NOT EXCEEDING 15 YEARS.

~~(2) THE COURT MAY NOT SUSPEND ANY PART OF THE MANDATORY MINIMUM SENTENCE OF 5 YEARS.~~

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

~~(C) AT THE TIME OF THE COMMISSION OF THE OFFENSE, IF A PERIOD OF MORE THAN 5 YEARS HAS ELAPSED SINCE THE PERSON COMPLETED SERVING THE SENTENCE FOR THE MOST RECENT CONVICTION UNDER SUBSECTION (A)(1) OR (2) OF THIS SECTION, INCLUDING ALL IMPRISONMENT, MANDATORY SUPERVISION, PROBATION, AND PAROLE:~~

~~(1) THE IMPOSITION OF THE MANDATORY MINIMUM SENTENCE IS WITHIN THE DISCRETION OF THE COURT; AND~~

~~(2) THE MANDATORY MINIMUM SENTENCE MAY NOT BE IMPOSED UNLESS THE STATE'S ATTORNEY NOTIFIES THE PERSON IN WRITING AT LEAST 30 DAYS BEFORE TRIAL OF THE STATE'S INTENTION TO SEEK THE MANDATORY MINIMUM SENTENCE.~~

~~(D)~~ (C) EACH VIOLATION OF THIS SUBSECTION IS A SEPARATE CRIME.

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

Approved by the Governor, May 10, 2011.