

SENATE BILL 445

E4

EMERGENCY BILL

3lr1202

By: **Senators Ferguson, Conway, Forehand, Frosh, Madaleno, Montgomery, Pugh, and Raskin**

Introduced and read first time: January 30, 2013

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Public Safety – Handgun Permits – Requirements and Limitations**

3 FOR the purpose of specifying that a person who has been issued a permit to wear,
4 carry, or transport a handgun may only wear, carry, or transport the handgun
5 within the scope of the permit issued; altering a certain list of criteria that the
6 Secretary of State Police must use to determine whether a certain handgun
7 permit shall be issued to a person to include findings by the Secretary that the
8 person is not prohibited from possessing a certain regulated firearm under a
9 certain provision of law, has completed a certain firearms safety training course
10 within a certain time period unless a certain ground for exemption applies, has
11 not been discharged from the armed forces of the United States under
12 dishonorable conditions, does not have a pending charge for a felony or a
13 misdemeanor for which a sentence of imprisonment for more than a certain
14 amount of time may be imposed, has not been committed involuntarily to a
15 certain facility within a certain time period, or has not exhibited certain conduct
16 indicating the person is potentially dangerous to the public if issued a permit;
17 requiring a person renewing a certain handgun permit to complete a certain
18 firearms safety training course within a certain time period, unless a certain
19 ground for exemption applies; prohibiting a certain handgun permit holder from
20 possessing a handgun on certain real property; making the provisions of this
21 Act severable; making this Act an emergency measure; and generally relating to
22 the issuing by the Secretary of State Police of a permit to wear, carry, or
23 transport a handgun.

24 BY repealing and reenacting, without amendments,
25 Article – Criminal Law
26 Section 4–203(a)
27 Annotated Code of Maryland
28 (2012 Replacement Volume and 2012 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)(2)
4 Annotated Code of Maryland
5 (2012 Replacement Volume and 2012 Supplement)

6 BY repealing and reenacting, without amendments,
7 Article – Public Safety
8 Section 5–133
9 Annotated Code of Maryland
10 (2011 Replacement Volume and 2012 Supplement)

11 BY repealing and reenacting, with amendments,
12 Article – Public Safety
13 Section 5–306 and 5–309
14 Annotated Code of Maryland
15 (2011 Replacement Volume and 2012 Supplement)

16 BY adding to
17 Article – Public Safety
18 Section 5–315
19 Annotated Code of Maryland
20 (2011 Replacement Volume and 2012 Supplement)

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

23 **Article – Criminal Law**

24 4–203.

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

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

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

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

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

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

3 (b) This section does not prohibit:

4 (2) the wearing, carrying, or transporting of a handgun by a person [to
5 whom] **WHO:**

6 **(I) HAS BEEN ISSUED** a permit to wear, carry, or transport the
7 handgun [has been issued] under Title 5, Subtitle 3 of the Public Safety Article; **AND**

8 **(II) IS WEARING, CARRYING, OR TRANSPORTING THE**
9 **HANDGUN WITHIN THE SCOPE OF THE PERMIT ISSUED UNDER TITLE 5,**
10 **SUBTITLE 3 OF THE PUBLIC SAFETY ARTICLE;**

11 **Article – Public Safety**

12 5–133.

13 (a) This section supersedes any restriction that a local jurisdiction in the
14 State imposes on the possession by a private party of a regulated firearm, and the
15 State preempts the right of any local jurisdiction to regulate the possession of a
16 regulated firearm.

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

18 (1) has been convicted of a disqualifying crime;

19 (2) has been convicted of a violation classified as a common law crime
20 and received a term of imprisonment of more than 2 years;

21 (3) is a fugitive from justice;

22 (4) is a habitual drunkard;

23 (5) is addicted to a controlled dangerous substance or is a habitual
24 user;

25 (6) suffers from a mental disorder as defined in § 10–101(f)(2) of the
26 Health – General Article and has a history of violent behavior against the person or
27 another, unless the person has a physician’s certificate that the person is capable of
28 possessing a regulated firearm without undue danger to the person or to another;

29 (7) has been confined for more than 30 consecutive days to a facility as
30 defined in § 10–101 of the Health – General Article, unless the person has a

1 physician's certificate that the person is capable of possessing a regulated firearm
2 without undue danger to the person or to another;

3 (8) except as provided in subsection (e) of this section, is a respondent
4 against whom a current non ex parte civil protective order has been entered under §
5 4-506 of the Family Law Article; or

6 (9) if under the age of 30 years at the time of possession, has been
7 adjudicated delinquent by a juvenile court for an act that would be a disqualifying
8 crime if committed by an adult.

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

11 (i) a crime of violence;

12 (ii) a violation of § 5-602, § 5-603, § 5-604, § 5-605, § 5-612, §
13 5-613, or § 5-614 of the Criminal Law Article; or

14 (iii) an offense under the laws of another state or the United
15 States that would constitute one of the crimes listed in item (i) or (ii) of this paragraph
16 if committed in this State.

17 (2) (i) Subject to paragraph (3) of this subsection, a person who
18 violates this subsection is guilty of a felony and on conviction is subject to
19 imprisonment for not less than 5 years and not exceeding 15 years.

20 (ii) The court may not suspend any part of the mandatory
21 minimum sentence of 5 years.

22 (iii) Except as otherwise provided in § 4-305 of the Correctional
23 Services Article, the person is not eligible for parole during the mandatory minimum
24 sentence.

25 (3) At the time of the commission of the offense, if a period of more
26 than 5 years has elapsed since the person completed serving the sentence for the most
27 recent conviction under paragraph (1)(i) or (ii) of this subsection, including all
28 imprisonment, mandatory supervision, probation, and parole:

29 (i) the imposition of the mandatory minimum sentence is
30 within the discretion of the court; and

31 (ii) the mandatory minimum sentence may not be imposed
32 unless the State's Attorney notifies the person in writing at least 30 days before trial
33 of the State's intention to seek the mandatory minimum sentence.

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

1 (d) (1) Except as provided in paragraph (2) of this subsection, a person
2 who is under the age of 21 years may not possess a regulated firearm.

3 (2) Unless a person is otherwise prohibited from possessing a
4 regulated firearm, this subsection does not apply to:

5 (i) the temporary transfer or possession of a regulated firearm
6 if the person is:

7 1. under the supervision of another who is at least 21
8 years old and who is not prohibited by State or federal law from possessing a firearm;
9 and

10 2. acting with the permission of the parent or legal
11 guardian of the transferee or person in possession;

12 (ii) the transfer by inheritance of title, and not of possession, of
13 a regulated firearm;

14 (iii) a member of the armed forces of the United States or the
15 National Guard while performing official duties;

16 (iv) the temporary transfer or possession of a regulated firearm
17 if the person is:

18 1. participating in marksmanship training of a
19 recognized organization; and

20 2. under the supervision of a qualified instructor;

21 (v) a person who is required to possess a regulated firearm for
22 employment and who holds a permit under Subtitle 3 of this title; or

23 (vi) the possession of a firearm for self-defense or the defense of
24 others against a trespasser into the residence of the person in possession or into a
25 residence in which the person in possession is an invited guest.

26 (e) This section does not apply to a respondent transporting a regulated
27 firearm if the respondent is carrying a civil protective order requiring the surrender of
28 the regulated firearm and:

29 (1) the regulated firearm is unloaded;

30 (2) the respondent has notified the law enforcement unit, barracks, or
31 station that the regulated firearm is being transported in accordance with the civil
32 protective order; and

1 (3) the respondent transports the regulated firearm directly to the law
2 enforcement unit, barracks, or station.

3 5–306.

4 (a) Subject to subsection (b) of this section, the Secretary shall issue a permit
5 within a reasonable time to a person who the Secretary finds:

6 (1) is an adult;

7 (2) (i) has not been convicted of a felony or of a misdemeanor for
8 which a sentence of imprisonment for more than 1 year has been imposed; or

9 (ii) if convicted of a crime described in item (i) of this item, has
10 been pardoned or has been granted relief under 18 U.S.C. § 925(c);

11 (3) has not been convicted of a crime involving the possession, use, or
12 distribution of a controlled dangerous substance;

13 (4) is not presently an alcoholic, addict, or habitual user of a controlled
14 dangerous substance unless the habitual use of the controlled dangerous substance is
15 under legitimate medical direction; [and]

16 **(5) IS NOT PROHIBITED FROM POSSESSING A REGULATED**
17 **FIREARM UNDER § 5–133 OF THIS TITLE;**

18 **(6) HAS, WITHIN 6 MONTHS BEFORE SUBMITTING AN**
19 **APPLICATION FOR A PERMIT, COMPLETED IN PERSON A CERTIFIED FIREARMS**
20 **SAFETY TRAINING COURSE THAT THE POLICE TRAINING COMMISSION**
21 **CONDUCTS WITHOUT CHARGE OR THAT MEETS THE STANDARDS THAT THE**
22 **POLICE TRAINING COMMISSION ESTABLISHES UNDER § 3–207 OF THIS**
23 **ARTICLE, UNLESS A GROUND FOR EXEMPTION SET FORTH IN § 5–119(2)**
24 **THROUGH (4) OF THIS TITLE APPLIES;**

25 **(7) HAS NOT BEEN DISCHARGED FROM THE ARMED FORCES OF**
26 **THE UNITED STATES UNDER DISHONORABLE CONDITIONS;**

27 **(8) DOES NOT HAVE A PENDING CHARGE FOR A FELONY OR A**
28 **MISDEMEANOR FOR WHICH A SENTENCE OF IMPRISONMENT FOR MORE THAN 1**
29 **YEAR MAY BE IMPOSED;**

30 **(9) HAS NOT BEEN COMMITTED INVOLUNTARILY TO A FACILITY AS**
31 **DEFINED IN § 10–101 OF THE HEALTH – GENERAL ARTICLE WITHIN THE 5**
32 **YEARS PRECEDING THE DATE OF PERMIT APPLICATION; AND**

1 ~~[(5)]~~ **(10)** based on an investigation:

2 (i) has not exhibited a propensity for violence or instability that
3 may reasonably render the person's possession of a handgun a danger to the person or
4 to another; ~~[and]~~

5 (ii) has good and substantial reason to wear, carry, or transport
6 a handgun, such as a finding that the permit is necessary as a reasonable precaution
7 against apprehended danger; **AND**

8 **(III) HAS NOT EXHIBITED ANY CONDUCT THAT INDICATES**
9 **THE PERSON IS POTENTIALLY A DANGER TO THE PUBLIC IF ISSUED A PERMIT.**

10 (b) An applicant under the age of 30 years is qualified only if the Secretary
11 finds that the applicant has not been:

12 (1) committed to a detention, training, or correctional institution for
13 juveniles for longer than 1 year after an adjudication of delinquency by a juvenile
14 court; or

15 (2) adjudicated delinquent by a juvenile court for:

16 (i) an act that would be a crime of violence if committed by an
17 adult;

18 (ii) an act that would be a felony in this State if committed by
19 an adult; or

20 (iii) an act that would be a misdemeanor in this State that
21 carries a statutory penalty of more than 2 years if committed by an adult.

22 5-309.

23 (a) A permit expires on the last day of the holder's birth month following 2
24 years after the date the permit is issued.

25 (b) A permit may be renewed for successive periods of 3 years each if, at the
26 time of an application for renewal, the applicant:

27 **(1)** possesses the qualifications for the issuance of a permit;

28 **(2) HAS, WITHIN 6 MONTHS BEFORE SUBMITTING AN**
29 **APPLICATION FOR RENEWAL, COMPLETED IN PERSON A CERTIFIED FIREARMS**
30 **SAFETY TRAINING COURSE THAT THE POLICE TRAINING COMMISSION**
31 **CONDUCTS WITHOUT CHARGE OR THAT MEETS THE STANDARDS THAT THE**

1 POLICE TRAINING COMMISSION ESTABLISHES UNDER § 3-207 OF THIS
2 ARTICLE, UNLESS A GROUND FOR EXEMPTION SET FORTH IN § 5-119(2)
3 THROUGH (4) OF THIS TITLE APPLIES; and

4 (3) pays the renewal fee stated in this subtitle.

5 5-315.

6 (A) A PERSON WHO HOLDS A PERMIT MAY NOT WEAR, CARRY, OR
7 TRANSPORT A HANDGUN WHILE THE PERSON IS ON THE REAL PROPERTY OF:

8 (1) A CHURCH OR OTHER PLACE OF WORSHIP;

9 (2) AN ESTABLISHMENT LICENSED TO SERVE ALCOHOLIC
10 BEVERAGES;

11 (3) A GOVERNMENT BUILDING;

12 (4) A HOSPITAL;

13 (5) A PRIVATE SCHOOL, UNIVERSITY, OR COLLEGE;

14 (6) A PUBLIC SCHOOL, UNIVERSITY, OR COLLEGE;

15 (7) A PUBLIC LIBRARY;

16 (8) A THEATER OR MOVIE THEATER; OR

17 (9) A YOUTH CENTER.

18 (B) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A
19 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT
20 EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING \$1,000 OR BOTH.

21 SECTION 2. AND BE IT FURTHER ENACTED, That if any provision of this
22 Act or the application thereof to any person or circumstance is held invalid for any
23 reason in a court of competent jurisdiction, the invalidity does not affect other
24 provisions or any other application of this Act which can be given effect without the
25 invalid provision or application, and for this purpose the provisions of this Act are
26 declared severable.

27 SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency
28 measure, is necessary for the immediate preservation of the public health or safety,
29 has been passed by a ye and nay vote supported by three-fifths of all the members

1 elected to each of the two Houses of the General Assembly, and shall take effect from
2 the date it is enacted.