

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 653

(Senators Norman and Astle)

Judicial Proceedings

Public Safety - Knife Restrictions - State Preemption

This bill establishes that the State preempts the right of a county, municipal corporation, or special taxing district to regulate the purchase, sale, taxation, transfer, manufacture, repair, possession, and transportation of a “knife.” If authorized by a provision of law, a county, municipal corporation, or special taxing district may enact a law or an ordinance regulating knives if the law or ordinance (1) is not more restrictive than State law and (2) does not have a criminal penalty that is greater than the State penalty for a similar offense. A local law regulating knives in existence before October 1, 2016, may not be enforced.

“Knife” means a cutting instrument that includes a sharpened or pointed blade.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State operations or finances.

Local Effect: Minimal decrease in local revenues in some jurisdictions due to the establishment of State preemption regarding the regulation of knives and the limitation on the establishment of local prohibitions and penalties. The bill may also result in operational impacts in local jurisdictions that currently regulate knives differently and more stringently than the State.

Small Business Effect: Minimal.

Analysis

Current Law: A person may not wear or carry a dangerous weapon of any kind concealed on or about the person. In addition, a person may not wear or carry a dangerous weapon, chemical mace, pepper mace, or a tear gas device openly with the intent or purpose of injuring an individual in an unlawful manner. A violator of either prohibition is guilty of a misdemeanor punishable by imprisonment up to three years and/or a fine up to \$1,000. If it appears from the evidence that the weapon was carried, concealed or openly, with the deliberate purpose of injuring or killing another, the court must impose the highest prescribed sentence of imprisonment.

The prohibition does not apply to:

- an officer of the State, or of any county or municipal corporation of the State, who is entitled or required to carry the weapon as part of the officer's official equipment, or by any conservator of the peace, who is entitled or required to carry the weapon as part of the conservator's official equipment, or by any officer or conservator of the peace of another state who is temporarily in this State;
- a special agent of a railroad;
- a holder of a permit to carry a handgun; or
- an individual who carries the weapon as a reasonable precaution against apprehended danger, subject to the right of the court in an action to judge the reasonableness of the carrying of the weapon, and the proper occasion for carrying it, under the evidence in the case.

In Anne Arundel, Baltimore, Caroline, Cecil, Harford, Kent, Montgomery, Prince George's, St. Mary's, Talbot, Washington, and Worcester counties, a minor may not carry a dangerous weapon between one hour after sunset and one hour before sunrise, whether concealed or not, except while on a bona fide hunting trip, or engaged in or on the way to or returning from a bona fide trap shoot, sport shooting event, or any organized civic or military activity. A violator is guilty of a misdemeanor punishable by imprisonment up to three years and/or a fine up to \$1,000.

"Weapon" includes a dirk knife, bowie knife, switchblade knife, star knife, sandclub, metal knuckles, razor, and nunchaku but does not include a handgun, or a penknife without a switchblade. "Nunchaku" means a device constructed of two pieces of any substance, including wood, metal, or plastic, connected by any chain, rope, leather, or other flexible material not exceeding 24 inches in length. "Pepper mace," also known as oleoresin capicum (o.c.) spray, means an aerosol propelled combination of highly disabling irritant pepper-based products. "Star knife" means a device used as a throwing weapon, consisting of several sharp or pointed blades arrayed as radially disposed arms about a central disk.

A person may not sell, barter, display, or offer to sell or barter:

- a knife or a penknife having a blade that opens automatically by hand pressure applied to a button, spring, or other device in the handle of the knife, commonly called a switchblade knife or a switchblade penknife; or
- a device that is designed to propel a knife from a metal sheath by means of a high-compression ejector spring, commonly called a shooting knife.

A violator is guilty of a misdemeanor, punishable by imprisonment up to 12 months and/or a fine of not less than \$50 and not exceeding \$500.

Several jurisdictions in the State currently have additional prohibitions on knives. For example, the Baltimore City Police Ordinances prohibit a person from selling, carrying, or possessing any knife with an automatic spring or other device for opening and/or closing the blade, commonly known as a switchblade knife. A violation is punishable by imprisonment up to one year and/or a fine of up to \$500. In Howard County, a permit is required under specified circumstances to carry, possess, or discharge a firearm, bow, dart, knife, or any other dangerous weapon on park property. Unauthorized weapons must be confiscated.

Background: On April 12, 2015, one day before the close of the 2015 legislative session, Freddie Carlos Gray, Jr., a 25-year-old African American man, was arrested by the Baltimore City Police Department for possessing what the police alleged was an illegal switchblade. While being transported in a police van, Mr. Gray fell into a coma and was taken to the hospital. Mr. Gray died as a result of injuries to his spinal cord on April 19, 2015.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Baltimore City; Kent, Montgomery, and Worcester counties; Maryland Association of Counties; Judiciary (Administrative Office of the Courts); Department of State Police; Department of Legislative Services

Fiscal Note History: First Reader - February 28, 2016
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