

SENATE BILL 387

E4

2lr1538
CF HB 425

By: **The President (By Request – Office of the Attorney General) and Senator Lee**
 Introduced and read first time: January 24, 2022
 Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments
 Senate action: Adopted
 Read second time: March 1, 2022
 Returned to second reading: March 4, 2022
 Senate action: Adopted with floor amendments
 Read second time: March 4, 2022

CHAPTER _____

1 AN ACT concerning

2 **Public Safety – Untraceable Firearms**

3 FOR the purpose of altering a certain definition of “firearm” to include a certain unfinished
 4 frame or receiver; prohibiting a person from purchasing, receiving, selling, offering
 5 to sell, or transferring an unfinished frame or ~~receiver, or~~ receiver; prohibiting a
 6 person from selling, offering to sell, or transferring a certain firearm; prohibiting a
 7 person from possessing a firearm on or after a certain date, unless it is required by
 8 federal law to be, and has been, imprinted with a certain number in a certain
 9 manner; requiring the Secretary of State Police to suspend a certain dealer’s license
 10 if the dealer is charged with a certain crime; requiring the Secretary to revoke a
 11 certain dealer’s license if the dealer is convicted of a certain crime; providing for a
 12 system of registration of a certain firearm with the Secretary; ~~requiring a certain~~
 13 ~~person to register a certain firearm;~~ requiring the Governor to include a certain
 14 appropriation in the annual State budget; and generally relating to firearms.

15 BY repealing and reenacting, without amendments,
 16 Article – Public Safety
 17 Section 5–101(a)
 18 Annotated Code of Maryland
 19 (2018 Replacement Volume and 2021 Supplement)

20 BY repealing and reenacting, with amendments,

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.

1 Article – Public Safety
 2 Section 5–101(h) and 5–114
 3 Annotated Code of Maryland
 4 (2018 Replacement Volume and 2021 Supplement)

5 BY adding to
 6 Article – Public Safety
 7 Section 5–701 through ~~5–705~~ 5–706 to be under the new subtitle “Subtitle 7.
 8 Untraceable Firearms”
 9 Annotated Code of Maryland
 10 (2018 Replacement Volume and 2021 Supplement)

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

13 **Article – Public Safety**

14 5–101.

15 (a) In this subtitle the following words have the meanings indicated.

16 (h) (1) “Firearm” means:

17 (i) a weapon that expels, is designed to expel, or may readily be
 18 converted to expel a projectile by the action of an explosive; [or]

19 (ii) the frame or receiver of such a weapon; **OR**

20 **(III) AN UNFINISHED FRAME OR RECEIVER, AS DEFINED IN §**
 21 **5–701 OF THIS TITLE.**

22 (2) “Firearm” includes a starter gun.

23 5–114.

24 (a) (1) The Secretary shall suspend a dealer’s license if the licensee:

25 (i) is under indictment for a crime of violence; [or]

26 (ii) is arrested for a violation of this subtitle that prohibits the
 27 purchase or possession of a regulated firearm; **OR**

28 **(III) IS CHARGED WITH A CRIME UNDER SUBTITLE 7 OF THIS**
 29 **TITLE.**

1 (2) (i) The Secretary may suspend a dealer's license if the licensee is
2 not in compliance with the record keeping and reporting requirements of § 5-145 of this
3 subtitle.

4 (ii) The Secretary may lift a suspension under this paragraph after
5 the licensee provides evidence that the record keeping violation has been corrected.

6 (b) The Secretary shall revoke a dealer's license if:

7 (1) it is discovered that false information has been supplied or false
8 statements have been made in an application required by this subtitle; or

9 (2) the licensee:

10 (i) is convicted of a disqualifying crime;

11 (ii) is convicted of a violation classified as a common law crime and
12 receives a term of imprisonment of more than 2 years;

13 (iii) is a fugitive from justice;

14 (iv) is a habitual drunkard;

15 (v) is addicted to a controlled dangerous substance or is a habitual
16 user;

17 (vi) has spent more than 30 consecutive days in a medical institution
18 for treatment of a mental disorder, unless the licensee produces a physician's certificate,
19 issued after the last institutionalization and certifying that the licensee is capable of
20 possessing a regulated firearm without undue danger to the licensee or to another;

21 (vii) has knowingly or willfully manufactured, offered to sell, or sold
22 a handgun not on the handgun roster in violation of § 5-406 of this title; [or]

23 (viii) has knowingly or willfully participated in a straw purchase of a
24 regulated firearm; **OR**

25 **(IX) IS CONVICTED OF A CRIME UNDER SUBTITLE 7 OF THIS**
26 **TITLE.**

27 (c) If the Secretary suspends or revokes a dealer's license, the Secretary shall
28 notify the licensee in writing of the suspension or revocation.

29 (d) A person whose dealer's license is suspended or revoked may not engage in
30 the business of selling, renting, or transferring regulated firearms, unless the suspension
31 or revocation has been subsequently withdrawn by the Secretary or overruled by a court in
32 accordance with § 5-116 of this subtitle.

1 (I) WAS MANUFACTURED BEFORE OCTOBER 22, 1968; OR

2 (II) IS AN ANTIQUE FIREARM;

3 (2) A SALE, AN OFFER TO SELL, A TRANSFER, OR A DELIVERY OF A
4 FIREARM OR AN UNFINISHED FRAME OR RECEIVER TO, OR POSSESSION OF A
5 FIREARM OR UNFINISHED FRAME OR RECEIVER BY:

6 (I) A FEDERALLY LICENSED FIREARMS DEALER;

7 (II) A FEDERALLY LICENSED FIREARMS MANUFACTURER; OR

8 (III) A FEDERALLY LICENSED FIREARMS IMPORTER; OR

9 (3) A TRANSFER OR SURRENDER OF A FIREARM OR AN UNFINISHED
10 FRAME OR RECEIVER TO A LAW ENFORCEMENT AGENCY.

11 **5-703.**

12 (A) (1) A PERSON MAY NOT PURCHASE, RECEIVE, SELL, OFFER TO SELL,
13 OR TRANSFER AN UNFINISHED FRAME OR RECEIVER UNLESS IT IS REQUIRED BY
14 FEDERAL LAW TO BE, AND HAS BEEN, IMPRINTED WITH A SERIAL NUMBER BY A
15 FEDERALLY LICENSED FIREARMS MANUFACTURER OR FEDERALLY LICENSED
16 FIREARMS IMPORTER IN COMPLIANCE WITH ALL FEDERAL LAWS AND REGULATIONS
17 APPLICABLE TO THE MANUFACTURE AND IMPORT OF FIREARMS.

18 (2) EXCEPT AS PROVIDED IN PARAGRAPH (1) OF THIS SUBSECTION, A
19 PERSON MAY NOT SELL, OFFER TO SELL, OR TRANSFER A FIREARM UNLESS IT IS
20 IMPRINTED WITH A SERIAL NUMBER AS DESCRIBED UNDER SUBSECTION (B) OF THIS
21 SECTION.

22 (B) (1) THIS SUBSECTION DOES NOT APPLY TO:

23 (I) POSSESSION OF A FIREARM UNLESS A PERSON KNEW OR
24 REASONABLY SHOULD HAVE KNOWN THAT THE FIREARM WAS NOT IMPRINTED WITH
25 A SERIAL NUMBER AS DESCRIBED UNDER THIS SUBSECTION;

26 (II) POSSESSION OF A FIREARM THAT DOES NOT COMPLY WITH
27 THE MARKING REQUIREMENTS DESCRIBED UNDER THIS SUBSECTION BY A PERSON
28 WHO RECEIVED THE FIREARM THROUGH INHERITANCE, AND IS NOT OTHERWISE
29 PROHIBITED FROM POSSESSING THE FIREARM, FOR A PERIOD NOT EXCEEDING 30
30 DAYS AFTER INHERITING THE FIREARM; OR

1 **(III) POSSESSION OF AN UNFINISHED FRAME OR RECEIVER BY A**
 2 **PERSON THAT MADE OR MANUFACTURED THE UNFINISHED FRAME OR RECEIVER,**
 3 **WITHOUT THE USE OF ANY PREFABRICATED PARTS, AND WHO IS NOT OTHERWISE**
 4 **PROHIBITED FROM POSSESSING THE UNFINISHED FRAME OR RECEIVER, FOR A**
 5 **PERIOD NOT EXCEEDING 30 DAYS AFTER THE PERSON MADE OR MANUFACTURED**
 6 **THE UNFINISHED FRAME OR RECEIVER.**

7 **(2) ON OR AFTER ~~JANUARY~~ MARCH 1, 2023, A PERSON MAY NOT**
 8 **POSSESS A FIREARM UNLESS:**

9 **~~(1)~~ (I) THE FIREARM IS REQUIRED BY FEDERAL LAW TO BE, AND**
 10 **HAS BEEN, IMPRINTED BY A FEDERALLY LICENSED FIREARMS MANUFACTURER, ~~OR~~**
 11 **FEDERALLY LICENSED FIREARMS IMPORTER, ~~OR OTHER FEDERAL LICENSEE~~**
 12 **AUTHORIZED TO PROVIDE MARKING SERVICES, WITH A SERIAL NUMBER IN**
 13 **COMPLIANCE WITH ALL FEDERAL LAWS AND REGULATIONS APPLICABLE TO THE**
 14 **MANUFACTURE AND IMPORT OF FIREARMS; OR**

15 **~~(2)~~ (II) THE FIREARM:**

16 **1. HAS BEEN IMPRINTED BY A FEDERALLY LICENSED**
 17 **FIREARMS DEALER, FEDERAL FIREARMS MANUFACTURER, OR OTHER FEDERAL**
 18 **LICENSEE AUTHORIZED TO PROVIDE MARKING SERVICES, WITH ~~THE FIRST THREE~~**
 19 **~~AND LAST FIVE DIGITS OF THE LICENSEE'S FEDERAL FIREARMS LICENSE NUMBER,~~**
 20 **~~FOLLOWED BY A HYPHEN, AND THEN FOLLOWED BY ANOTHER NUMBER:~~**

21 **A. THE ZIP CODE OF THE CURRENT ~~LEGAL~~ OWNER OR**
 22 **PERSON THAT MADE, COMPLETED, OR INITIALLY ASSEMBLED THE FIREARM;**

23 **B. THE INITIALS OF THE CURRENT ~~LEGAL~~ OWNER OR**
 24 **PERSON THAT MADE, COMPLETED, OR INITIALLY ASSEMBLED THE FIREARM; AND**

25 **C. A NUMBER THAT DOES NOT MATCH A NUMBER USED**
 26 **BY THE CURRENT ~~LEGAL~~ OWNER ON ANOTHER FIREARM OR BY THE PERSON WHO**
 27 **MADE, COMPLETED, OR INITIALLY ASSEMBLED THE FIREARM ON ANY OTHER**
 28 **FIREARM THAT THE PERSON HAS MADE, COMPLETED, OR INITIALLY ASSEMBLED;**
 29 **AND**

30 **2. HAS BEEN REGISTERED WITH THE SECRETARY.**

31 **(C) (1) A PERSON WHO VIOLATES SUBSECTION (A) OF THIS SECTION IS**
 32 **GUILTY OF A MISDEMEANOR AND SUBJECT TO IMPRISONMENT NOT EXCEEDING 5**
 33 **YEARS OR A FINE NOT EXCEEDING \$10,000 OR BOTH.**

1 **(2) A PERSON WHO VIOLATES SUBSECTION (B) OF THIS SECTION IS**
2 **GUILTY OF A MISDEMEANOR AND SUBJECT TO IMPRISONMENT NOT EXCEEDING 2**
3 **YEARS OR A FINE NOT EXCEEDING \$10,000 OR BOTH.**

4 **(3) EACH VIOLATION OF THIS SECTION IS A SEPARATE CRIME.**

5 **(D) A FEDERALLY LICENSED FIREARMS DEALER OR OTHER FEDERAL**
6 **LICENSEE AUTHORIZED TO PROVIDE MARKING SERVICES WHO IMPRINTS A FIREARM**
7 **UNDER SUBSECTION ~~(B)(2)~~ (B)(2)(II) OF THIS SECTION SHALL:**

8 **(1) IMPRINT THE FIREARM IN COMPLIANCE WITH ALL FEDERAL LAWS**
9 **AND REGULATIONS APPLICABLE TO AFFIXING SERIAL NUMBERS TO FIREARMS,**
10 **INCLUDING:**

11 **(1) MINIMUM SIZE AND DEPTH REQUIREMENTS; AND**

12 **(2) REQUIREMENTS THAT THE NUMBERS NOT BE**
13 **READILY SUSCEPTIBLE TO BEING OBLITERATED, ALTERED, OR REMOVED; AND.**

14 **~~(2) RETAIN RECORDS FOR ALL FIREARMS IMPRINTED IN~~**
15 **~~ACCORDANCE WITH ALL FEDERAL LAWS AND REGULATIONS APPLICABLE TO THE~~**
16 **~~SALE OF A FIREARM.~~**

17 **5-704.**

18 **~~(A) A PERSON WHO MAKES, COMPLETES, OR INITIALLY ASSEMBLES A~~**
19 **~~FIREARM, OR THE CURRENT LEGAL OWNER OF THE FIREARM, SHALL REGISTER THE~~**
20 **~~FIREARM WITH THE SECRETARY.~~**

21 **~~(B) THE SECRETARY SHALL MAINTAIN A SYSTEM TO REGISTER FIREARMS~~**
22 **~~IMPRINTED WITH SERIAL NUMBERS UNDER § 5-703(B)(2)(II) OF THIS SUBTITLE.~~**

23 **~~(C) (B) REGISTRATION DATA PROVIDED FOR REGISTRATION IS NOT OPEN~~**
24 **~~TO PUBLIC INSPECTION.~~**

25 **~~(D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,~~**
26 **~~INFORMATION OR EVIDENCE OBTAINED FROM A REGISTRATION APPLICATION OR~~**
27 **~~RECORDS REQUIRED TO BE SUBMITTED TO REGISTER A FIREARM UNDER THIS~~**
28 **~~SECTION MAY NOT BE USED, DIRECTLY OR INDIRECTLY, AS EVIDENCE AGAINST THE~~**
29 **~~PERSON APPLYING TO REGISTER THE FIREARM IN A CRIMINAL PROCEEDING FOR A~~**
30 **~~VIOLATION OF LAW THAT OCCURRED BEFORE OR AT THE TIME THE PERSON APPLIED~~**
31 **~~TO REGISTER THE FIREARM OR PROVIDE RECORDS REQUIRED TO REGISTER THE~~**
32 **~~FIREARM.~~**

~~(2) INFORMATION DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION MAY BE USED AS EVIDENCE IN A PROSECUTION RELATING TO PROVIDING FALSE INFORMATION.~~

~~(E)~~ (C) FOR EACH FISCAL YEAR, THE GOVERNOR SHALL INCLUDE IN THE ANNUAL STATE BUDGET AN APPROPRIATION OF AT LEAST \$150,000 TO FUND REGISTRATION ACTIVITIES CONDUCTED BY THE SECRETARY UNDER THIS SECTION.

~~(A) A PERSON WHO VIOLATES THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 3 YEARS OR A FINE NOT EXCEEDING \$10,000 OR BOTH.~~

~~(B) EACH VIOLATION OF THIS SUBTITLE IS A SEPARATE CRIME.~~

5-705.

THE SECRETARY MAY ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SUBTITLE.

5-706.

NOTHING IN THIS SUBTITLE MAY BE CONSTRUED IN A MANNER THAT ABRIDGES OR OTHERWISE LIMITS A PERSON'S RIGHT AGAINST SELF-INCRIMINATION UNDER THE UNITED STATES CONSTITUTION OR THE MARYLAND DECLARATION OF RIGHTS.

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

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be construed in a manner that is consistent with proposed federal rule 2021R-05, updating parts 447, 478, and 479 of the Code of Federal Regulations, published in the Federal Register (Volume 86, No. 97) on May 21, 2021. If the proposed federal rule is modified at the time of adoption, this Act shall be construed in a manner that is consistent with those modifications.

SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2022.