

SENATE BILL 86

E4

3lr0327

(PRE-FILED)

By: **Senators Waldstreicher and Lee**

Requested: August 16, 2022

Introduced and read first time: January 11, 2023

Assigned to: Judicial Proceedings

A BILL ENTITLED

AN ACT concerning

Rifles and Shotguns – Possession – Age Requirement (Raise the Age Act of 2023)

FOR the purpose of altering the prohibition on selling, renting, or transferring certain ammunition to a person under a certain age; prohibiting a person who is under a certain age from possessing a rifle or shotgun except under certain circumstances; prohibiting a licensed firearms dealer or any other person from selling, renting, loaning, or transferring a rifle or shotgun to a purchaser, lessee, borrower, or transferee who the licensee or other person knows or has reasonable cause to believe is under a certain age except under certain circumstances; and generally relating to age requirements for the possession of rifles and shotguns.

BY repealing and reenacting, with amendments,

Article – Public Safety

Section 5–134(d), 5–205, and 5–207

Annotated Code of Maryland

(2022 Replacement Volume)

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

Article – Public Safety

5–134.

(d) (1) A person may not sell, rent, or transfer:

(i) ammunition [solely designed for a regulated] **FOR A** firearm to a person who is under the age of 21 years; or

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- (ii) 1. [a firearm other than a regulated firearm to a minor;
2. ammunition for a firearm to a minor;
- 3.] pepper mace, which is an aerosol propelled combination of highly disabling irritant based products and is also known as oleo-resin capsicum (O.C.) spray, to a minor; or
- [4.] 2. another deadly weapon to a minor.

(2) A person who violates this subsection is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding \$1,000 or both.

5–205.

(a) This subtitle does not apply to a rifle or shotgun that is an antique firearm as defined in § 4–201 of the Criminal Law Article.

(b) A person may not possess a rifle or shotgun if the person:

(1) has been convicted of a disqualifying crime as defined in § 5–101 of this title;

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

(3) is a fugitive from justice;

(4) is a habitual drunkard as defined in § 5–101 of this title;

(5) is addicted to a controlled dangerous substance or is a habitual user as defined in § 5–101 of this title;

(6) suffers from a mental disorder as defined in § 10–101(i)(2) of the Health – General Article and has a history of violent behavior against the person or another;

(7) has been found incompetent to stand trial under § 3–106 of the Criminal Procedure Article;

(8) has been found not criminally responsible under § 3–110 of the Criminal Procedure Article;

(9) has been voluntarily admitted for more than 30 consecutive days to a facility as defined in § 10–101 of the Health – General Article;

(10) has been involuntarily committed to a facility as defined in § 10–101 of the Health – General Article;

(11) is under the protection of a guardian appointed by a court under § 13–201(c) or § 13–705 of the Estates and Trusts Article, except for cases in which the appointment of a guardian is solely a result of a physical disability;

(12) except as provided in subsection (c) of this section, is a respondent against whom:

(i) a current non ex parte civil protective order has been entered under § 4–506 of the Family Law Article; or

(ii) an order for protection, as defined in § 4–508.1 of the Family Law Article, has been issued by a court of another state or a Native American tribe and is in effect; or

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

(c) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A PERSON WHO IS UNDER THE AGE OF 21 YEARS MAY NOT POSSESS A RIFLE OR SHOTGUN.

(2) UNLESS A PERSON IS OTHERWISE PROHIBITED FROM POSSESSING A RIFLE OR SHOTGUN, THIS SUBSECTION DOES NOT APPLY TO:

(I) THE TEMPORARY TRANSFER OR POSSESSION OF A RIFLE OR SHOTGUN IF THE PERSON IS:

1. UNDER THE SUPERVISION OF ANOTHER WHO IS AT LEAST 21 YEARS OLD AND WHO IS NOT PROHIBITED BY STATE OR FEDERAL LAW FROM POSSESSING A FIREARM; AND

2. ACTING WITH THE PERMISSION OF THE PARENT OR LEGAL GUARDIAN OF THE TRANSFEREE OR PERSON IN POSSESSION;

(II) THE TRANSFER BY INHERITANCE OF TITLE, AND NOT POSSESSION, OF A RIFLE OR SHOTGUN;

(III) A MEMBER OF THE ARMED FORCES OF THE UNITED STATES OR THE NATIONAL GUARD WHILE PERFORMING OFFICIAL DUTIES;

(IV) THE TEMPORARY TRANSFER OR POSSESSION OF A RIFLE OR SHOTGUN IF THE PERSON IS:

1. PARTICIPATING IN MARKSMANSHIP TRAINING OF A RECOGNIZED ORGANIZATION; AND

2. UNDER THE SUPERVISION OF A QUALIFIED INSTRUCTOR;

(V) A PERSON WHO IS REQUIRED TO POSSESS A RIFLE OR SHOTGUN FOR EMPLOYMENT; OR

(VI) THE POSSESSION OF A FIREARM FOR SELF-DEFENSE OR THE DEFENSE OF OTHERS AGAINST A TRESPASSER INTO THE RESIDENCE OF THE PERSON IN POSSESSION OR INTO A RESIDENCE IN WHICH THE PERSON IN POSSESSION IS AN INVITED GUEST.

(3) A PERSON WHO VIOLATES THIS SUBSECTION 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.

(D) This section does not apply to:

(1) a person transporting a rifle or shotgun if the person is carrying a civil protective order requiring the surrender of the rifle or shotgun and:

(i) the rifle or shotgun is unloaded;

(ii) the person has notified the law enforcement unit, barracks, or station that the rifle or shotgun is being transported in accordance with the civil protective order; and

(iii) the person transports the rifle or shotgun directly to the law enforcement unit, barracks, or station; or

(2) the carrying or transporting of a rifle or shotgun by a person who is carrying a court order requiring the surrender of the rifle or shotgun, if:

(i) the rifle or shotgun is unloaded;

(ii) the person has notified a law enforcement unit, barracks, or station that the rifle or shotgun is being transported in accordance with the order; and

(iii) the person transports the rifle or shotgun directly to a State or local law enforcement agency or a federally licensed firearms dealer.

[(d)] (E) [A] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding \$1,000 or both.

[(e)] (F) A person who is disqualified from owning a rifle or shotgun under subsection (b)(6), (7), (8), (9), (10), or (11) of this section may seek relief from the disqualification in accordance with § 5–133.3 of this title.

5–207.

(a) This section supersedes any restriction that a local jurisdiction in the State imposes on the transfer by a private party of a rifle or shotgun, and the State preempts the right of any local jurisdiction to regulate the transfer of a rifle or shotgun.

(b) In this section, “loan” includes a temporary gratuitous exchange of a rifle or shotgun.

(c) A licensee or any other person may not sell, rent, **[transfer, or] loan, OR TRANSFER** a rifle or shotgun to a purchaser, lessee, **[transferee, or recipient] BORROWER, OR TRANSFEREE** who the licensee or other person knows or has reasonable cause to believe:

(1) **IS UNDER THE AGE OF 21 YEARS, UNLESS THE RIFLE OR SHOTGUN IS LOANED TO A BORROWER WHO MAY POSSESS THE RIFLE OR SHOTGUN UNDER § 5–205(C) OF THIS SUBTITLE;**

(2) has been convicted of a disqualifying crime, as defined in § 5–101 of this title;

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

[(3)] (4) is a fugitive from justice;

[(4)] (5) is a habitual drunkard as defined in § 5–101 of this title;

[(5)] (6) is addicted to a controlled dangerous substance or is a habitual user as defined in § 5–101 of this title;

[(6)] (7) suffers from a mental disorder as defined in § 10–101(i)(2) of the Health – General Article, and has a history of violent behavior against the purchaser, lessee, **[transferee, recipient,] BORROWER, TRANSFEREE,** or another, unless the purchaser, lessee, **[transferee, or recipient] BORROWER, OR TRANSFEREE** has received a

certificate from the Maryland Department of Health relieving the purchaser, lessee, [transferee, or recipient] **BORROWER, OR TRANSFEREE** of the disqualification;

[(7)] (8) has been found incompetent to stand trial under § 3–106 of the Criminal Procedure Article, unless the purchaser, lessee, [transferee, or recipient] **BORROWER, OR TRANSFEREE** has received a certificate from the Maryland Department of Health relieving the purchaser, lessee, [transferee, or recipient] **BORROWER, OR TRANSFEREE** of the disqualification;

[(8)] (9) has been found not criminally responsible under § 3–110 of the Criminal Procedure Article, unless the purchaser, lessee, [transferee, or recipient] **BORROWER, OR TRANSFEREE** has received a certificate from the Maryland Department of Health relieving the purchaser, lessee, [transferee, or recipient] **BORROWER, OR TRANSFEREE** of the disqualification;

[(9)] (10) has been voluntarily admitted for more than 30 consecutive days to a facility as defined in § 10–101 of the Health – General Article, unless the purchaser, lessee, [transferee, or recipient] **BORROWER, OR TRANSFEREE** has received a certificate from the Maryland Department of Health relieving the purchaser, lessee, [transferee, or recipient] **BORROWER, OR TRANSFEREE** of the disqualification;

[(10)] (11) has been involuntarily committed for more than 30 consecutive days to a facility as defined in § 10–101 of the Health – General Article, unless the purchaser, lessee, [transferee, or recipient] **BORROWER, OR TRANSFEREE** has received a certificate from the Maryland Department of Health relieving the purchaser, lessee, [transferee, or recipient] **BORROWER, OR TRANSFEREE** of the disqualification;

[(11)] (12) is under the protection of a guardian appointed by a court under § 13–201(c) or § 13–705 of the Estates and Trusts Article, except for cases in which the appointment of a guardian is solely a result of a physical disability, unless the purchaser, lessee, [transferee, or recipient] **BORROWER, OR TRANSFEREE** has received a certificate from the Maryland Department of Health relieving the purchaser, lessee, [transferee, or recipient] **BORROWER, OR TRANSFEREE** of the disqualification;

[(12)] (13) is a respondent against whom:

(i) a current non ex parte civil protective order has been entered under § 4–506 of the Family Law Article; or

(ii) an order for protection, as defined in § 4–508.1 of the Family Law Article, has been issued by a court of another state or Native American tribe and is in effect;

[(13)] (14) if under the age of 30 years at the time of the transaction, has been adjudicated delinquent by a juvenile court for an act that would be a disqualifying crime if committed by an adult;

[(14)] (15) is visibly under the influence of alcohol or drugs;

[(15)] (16) is a participant in a straw purchase; or

[(16)] (17) intends to use the rifle or shotgun to:

(i) commit a crime; or

(ii) cause harm to the purchaser, lessee, [transferee, or recipient]
BORROWER, TRANSFEREE, or another person.

(d) 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.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2023.