

SENATE BILL 488

D3
SB 113/23 – JPR

4lr2092
CF 4lr2974

By: **Senators Waldstreicher and Smith**
Introduced and read first time: January 24, 2024
Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Civil Actions – Public Nuisances – Firearm Industry Members**
3 **(Gun Industry Accountability Act of 2024)**

4 FOR the purpose of prohibiting certain firearm industry members from knowingly creating,
5 maintaining, or contributing to harm to the public through the sale, manufacture,
6 importation, or marketing of a firearm–related product under certain circumstances;
7 requiring a firearm industry member to establish and implement certain reasonable
8 controls regarding the sale, manufacture, importation, distribution, marketing,
9 possession, and use of certain firearm–related products; establishing that a violation
10 of this Act is a public nuisance; authorizing the Attorney General or certain persons
11 to bring an action against a firearm industry member for violations under this Act;
12 and generally relating to civil actions against firearm industry members.

13 BY adding to

14 Article – Courts and Judicial Proceedings
15 Section 3–2301 through 3–2304 to be under the new subtitle “Subtitle 23. Civil
16 Actions for Public Nuisance Against Firearm Industry Members”
17 Annotated Code of Maryland
18 (2020 Replacement Volume and 2023 Supplement)

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

21 **Article – Courts and Judicial Proceedings**

22 **SUBTITLE 23. CIVIL ACTIONS FOR PUBLIC NUISANCE AGAINST FIREARM**
23 **INDUSTRY MEMBERS.**

24 **3–2301.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



1 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
2 INDICATED.

3 (B) (1) "FIREARM" HAS THE MEANING STATED IN § 5-101 OF THE PUBLIC
4 SAFETY ARTICLE.

5 (2) "FIREARM" INCLUDES AN ANTIQUE FIREARM AS DEFINED IN §
6 4-201 OF THE CRIMINAL LAW ARTICLE.

7 (C) "FIREARM ACCESSORY" MEANS AN ATTACHMENT OR DEVICE DESIGNED
8 OR ADAPTED TO BE INSERTED INTO, AFFIXED ONTO, OR USED IN CONJUNCTION
9 WITH A FIREARM.

10 (D) "FIREARM INDUSTRY MEMBER" MEANS A PERSON ENGAGED IN THE
11 SALE, MANUFACTURE, DISTRIBUTION, IMPORTATION, OR MARKETING OF A
12 FIREARM-RELATED PRODUCT.

13 (E) "FIREARM-RELATED PRODUCT" MEANS A FIREARM, AMMUNITION, A
14 COMPONENT OR PART OF A FIREARM, OR A FIREARM ACCESSORY THAT IS:

15 (1) SOLD, MANUFACTURED, DISTRIBUTED, OR MARKETED IN THE
16 STATE;

17 (2) INTENDED TO BE SOLD, MANUFACTURED, DISTRIBUTED, OR
18 MARKETED IN THE STATE; OR

19 (3) POSSESSED IN THE STATE, IF IT WAS REASONABLY FORESEEABLE
20 THAT POSSESSION WOULD OCCUR IN THE STATE.

21 (F) "FIREARM TRAFFICKER" MEANS A PERSON WHO ACQUIRES,
22 TRANSFERS, OR ATTEMPTS TO ACQUIRE OR TRANSFER A FIREARM FOR THE
23 PURPOSE OF SELLING OR DISPOSING OF THE FIREARM IN VIOLATION OF STATE OR
24 FEDERAL LAW.

25 (G) "REASONABLE CONTROLS" MEANS POLICIES THAT ARE DESIGNED:

26 (1) TO PREVENT THE SALE OR DISTRIBUTION OF A
27 FIREARM-RELATED PRODUCT TO:

28 (I) A STRAW PURCHASER;

29 (II) A FIREARM TRAFFICKER;

1 **(III) A PERSON PROHIBITED FROM POSSESSING A FIREARM**
2 **UNDER STATE OR FEDERAL LAW; AND**

3 **(IV) A PERSON WHO THE FIREARM INDUSTRY MEMBER HAS**
4 **REASONABLE CAUSE TO BELIEVE INTENDS TO USE THE FIREARM-RELATED**
5 **PRODUCT:**

6 1. **TO COMMIT A CRIME; OR**

7 2. **TO CAUSE HARM TO THE PERSON OR ANOTHER**
8 **PERSON;**

9 **(2) TO PREVENT THE LOSS OR THEFT OF A FIREARM-RELATED**
10 **PRODUCT FROM A FIREARM INDUSTRY MEMBER; AND**

11 **(3) TO ENSURE THAT THE FIREARM INDUSTRY MEMBER COMPLIES**
12 **WITH ALL PROVISIONS OF STATE AND FEDERAL LAW AND DOES NOT OTHERWISE**
13 **PROMOTE THE UNLAWFUL SALE, MANUFACTURE, ALTERATION, IMPORTATION,**
14 **MARKETING, POSSESSION, OR USE OF A FIREARM-RELATED PRODUCT.**

15 **(H) "STRAW PURCHASER" MEANS A PERSON WHO ENGAGES OR ATTEMPTS**
16 **TO ENGAGE IN A STRAW PURCHASE AS DEFINED IN § 5-101 OF THE PUBLIC SAFETY**
17 **ARTICLE.**

18 **3-2302.**

19 **(A) A FIREARM INDUSTRY MEMBER MAY NOT KNOWINGLY CREATE,**
20 **MAINTAIN, OR CONTRIBUTE TO HARM TO THE PUBLIC THROUGH THE SALE,**
21 **MANUFACTURE, DISTRIBUTION, IMPORTATION, OR MARKETING OF A**
22 **FIREARM-RELATED PRODUCT BY ENGAGING IN CONDUCT THAT IS:**

23 **(1) UNLAWFUL; OR**

24 **(2) UNREASONABLE UNDER THE TOTALITY OF THE CIRCUMSTANCES.**

25 **(B) A FIREARM INDUSTRY MEMBER SHALL ESTABLISH AND IMPLEMENT**
26 **REASONABLE CONTROLS REGARDING THE SALE, MANUFACTURE, DISTRIBUTION,**
27 **IMPORTATION, MARKETING, POSSESSION, AND USE OF THE FIREARM INDUSTRY**
28 **MEMBER'S FIREARM-RELATED PRODUCTS.**

29 **(C) A VIOLATION OF THIS SECTION IS A PUBLIC NUISANCE.**

30 **3-2303.**

1 **(A) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE**
2 **ATTORNEY GENERAL MAY BRING AN ACTION AGAINST A FIREARM INDUSTRY**
3 **MEMBER FOR A PUBLIC NUISANCE CAUSED BY A VIOLATION OF § 3-2302 OF THIS**
4 **SUBTITLE.**

5 **(2) IN AN ACTION BROUGHT UNDER THIS SUBSECTION, THE**
6 **ATTORNEY GENERAL MAY SEEK:**

7 **(I) INJUNCTIVE RELIEF;**

8 **(II) RESTITUTION;**

9 **(III) COMPENSATORY AND PUNITIVE DAMAGES;**

10 **(IV) REASONABLE ATTORNEY'S FEES AND COSTS; AND**

11 **(V) ANY OTHER APPROPRIATE RELIEF.**

12 **(B) (1) A PERSON MAY BRING AN ACTION FOR DAMAGES AGAINST A**
13 **FIREARM INDUSTRY MEMBER FOR INJURY OR LOSS SUSTAINED AS A RESULT OF A**
14 **VIOLATION OF § 3-2302 OF THIS SUBTITLE.**

15 **(2) A PERSON WHO BRINGS AN ACTION UNDER THIS SUBSECTION MAY**
16 **SEEK AND BE AWARDED:**

17 **(I) INJUNCTIVE RELIEF;**

18 **(II) COMPENSATORY DAMAGES;**

19 **(III) PUNITIVE DAMAGES; AND**

20 **(IV) REASONABLE ATTORNEY'S FEES AND COSTS.**

21 **(3) A PERSON WHO BRINGS AN ACTION UNDER THIS SUBSECTION**
22 **SHALL, WITHIN 5 DAYS AFTER FILING THE COMPLAINT:**

23 **(I) NOTIFY THE ATTORNEY GENERAL THAT THE PERSON HAS**
24 **BROUGHT THE ACTION; AND**

25 **(II) PROVIDE THE ATTORNEY GENERAL WITH A COPY OF THE**
26 **COMPLAINT AND ANY OTHER DOCUMENTS OR PLEADINGS FILED WITH THE**
27 **COMPLAINT.**

1 **(C) A PARTY SEEKING RELIEF UNDER THIS SECTION IS NOT REQUIRED TO**
2 **PROVE THAT A FIREARM INDUSTRY MEMBER ACTED WITH THE INTENT TO VIOLATE**
3 **THIS SUBTITLE.**

4 **3-2304.**

5 **NOTHING IN THIS SUBTITLE MAY BE CONSTRUED TO AFFECT:**

6 **(1) ANY OTHER COMMON LAW OR STATUTORY CAUSE OF ACTION; OR**

7 **(2) ANY OTHER OBLIGATION OR RESTRICTION IMPOSED ON A**
8 **FIREARM INDUSTRY MEMBER UNDER STATE OR FEDERAL LAW.**

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

14 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June
15 1, 2024.