

SB 39 Gun Theft Felony Act of 2024.pdf

Uploaded by: Cathy Wright

Position: FAV



SB 39
Gun Theft Felony Act of 2024

FAVORABLE

The Maryland State Rifle & Pistol Association (MSRPA) supports SB 39, Gun Theft Felony Act of 2024, a bill that would make the theft of a firearm a felony, rather than a misdemeanor, and increase penalties accordingly, regardless of the value of the stolen firearm.

The MSRPA is the official National Rifle Association state organization for Maryland. The MSRPA's mission is to defend your rights in Maryland, support training in firearm safety and shooting skills through its affiliated clubs, and sponsor and sanction local competition throughout the state.

Gun thefts are a serious threat to public safety. If Maryland's leaders are serious about reducing violent crime, then our state should treat gun thefts as a serious crime, not a slap on the wrist. Governor Wes Moore has made public safety a priority and our state's attorneys, Aisha Braveboy (Prince George County) and Ivan Bates (Baltimore) recently announced proposals they say will help curb violent crime: "The ultimate goal is not to lock everyone up forever; the ultimate goal is rehabilitation," Braveboy said. "But how can you have rehabilitation without accountability? That's what we are looking for." Theft of a firearm is considered a felony in many states, including Idaho, Arizona, Ohio, Washington, and California. In 2016, California voters approved Proposition 63 by more than 63%, which among other policies moved theft of a firearm from a misdemeanor to a felony.

Thieves and criminals know that if they steal a rifle, a shotgun, or a handgun, they will not be held accountable because the value of such firearm is most likely valued at less than \$1,500, and its theft is not punishable with imprisonment. The monetary value of a firearm is irrelevant when it is in the hands of someone with evil intent. We need to be committed to ensuring that our state laws are tools used to deter crime and make criminals accountable for their actions.

In previous years similar bills have been proposed and received significant favorable testimony. The MSRPA respectfully requests a FAVORABLE report on SB 39.

Cathy S. Wright
MSRPA VP, Legislative Affairs
cwright@msrpa.org
<https://msrpa.org>

SB0039.pdf

Uploaded by: Galen Muhammad

Position: FAV

SB0039

After all safety measures of firearm storage are taken, those who steal firearms are a menace to society and should receive a penalty worthy of the crime that they have committed. Thank you for acknowledging that a firearm is a firearm, regardless of its value. Unlike law-abiding citizens who invest time, effort, energy and money in not merely being armed to protect themselves, but being properly trained and licensed, criminals have no good intentions with the stolen firearms that they steal from others. Current law minimizes the penalty for the theft of a gun valued at \$1400 or less. There are many firearms on the market, brand new and popular brands, that sell for **far less** the \$1400. This bill acknowledges the fact that a criminal stolen \$200 gun may commit as much mayhem as a criminal with a stolen \$2500 gun. And it's that criminal that should be held accountable.

I ask that this bill receives a favorable review.

SB0039 Criminal Law.pdf

Uploaded by: Karla Mooney

Position: FAV

SB0039 Criminal Law – Gun Theft Felony Act of 2024

Karla Mooney
21175 Marigold St
Leonardtown MD 20650
Resident of St. Mary' County Dist. 29C

I am State Director of The DC Project Women for Gun Rights and the State Leader of the Armed Women of America. I stand in solidarity with the Ladies of both of these groups, numbering many more than just myself.

I agree with the update to consider theft of a firearm to be considered a felony. The penalty now is not even a penalty because the cost of a firearm is often under \$1500 – it is a slap on the wrist. We have to go after the persons who are knowingly committing the crimes – not law abiding citizens. When there are consequences there are deterrents for criminals. Please consider this bill as an increase to law-abiding citizens safety as it will remove criminals from the streets who knowingly possess and use stolen firearms to commit violent crimes.

Please find a favorable report on SB0039

MSI Testimony on HB 304 and SB 39 theft of firearm

Uploaded by: Mark Pennak

Position: FAV



January 31, 2024

WRITTEN TESTIMONY OF MARK W. PENNAK, PRESIDENT, MSI, IN SUPPORT OF HB 304 and SB 39

I am the President of Maryland Shall Issue (“MSI”). Maryland Shall Issue is a Section 501(c)(4), all-volunteer, non-partisan organization dedicated to the preservation and advancement of gun owners’ rights in Maryland. It seeks to educate the community about the right of self-protection, the safe handling of firearms, and the responsibility that goes with carrying a firearm in public. I am also an attorney and an active member of the Bar of Maryland and of the Bar of the District of Columbia. I recently retired from the United States Department of Justice, where I practiced law for 33 years in the Courts of Appeals of the United States and in the Supreme Court of the United States. I am an expert in Maryland firearms law, federal firearms law, and the law of self-defense. I am also a Maryland State Police certified handgun instructor for the Maryland Wear and Carry Permit and the Maryland Handgun Qualification License (“HQL”) and a certified NRA instructor in rifle, pistol, personal protection in the home, personal protection outside the home and in muzzle loader. I appear today as President of MSI in SUPPORT of HB 304 and the cross-file, SB 39.

The Bill:

The purpose of this bill is to provide for greatly enhanced penalties for the theft of a firearm. Under current law, theft of a firearm is treated just like the theft of any other piece of personal property. For example, under MD Code Criminal Law § 7-104(g)(2), “a person convicted of theft of property or services with a value of at least \$100 but less than \$1,500, is guilty of a misdemeanor and: (i) is subject to: 1. for a first conviction, imprisonment not exceeding 6 months or a fine not exceeding \$500 or both; and 2. for a second or subsequent conviction, imprisonment not exceeding 1 year or a fine not exceeding \$500 or both. The bill would change these penalties for theft of a firearm to a felony and would impose, on the first offense, a term of imprisonment not exceeding 5 years and/or a fine of \$1,000. Subsequent offenses are punishable by imprisonment for a term not exceeding 10 years and/or a fine not exceeding \$2,500. These punishments are like the provisions passed in 2020 by the Senate in SB 35 by a vote of 43-4. <https://mgaleg.maryland.gov/mgawebsite/Legislation/Details/sb0035/?ys=2020rs>. The Senate Judicial Proceedings Committee favorably reported on SB 35 by a vote of 10-1. *Id.* SB35 likewise made theft of a firearm a felony and punished such theft with imprisonment for up to 5 years and a fine of \$10,000. SB 35 further required the thief to restore the firearm to the owner or pay the owner the value of the firearm.

The Bill Is Necessary For The Public Safety:

Simply put, it is unbelievable that theft of a firearm is punishable so lightly under current law. The value of most firearms, including most handguns, easily falls into the range of between \$100 and \$1,500 and thus theft of such firearms is currently punished at most by

6 months in prison and/or a small fine. In reality, persons convicted of such a crime don't see any jail time at all, as the Maryland Sentencing Guidelines classify this property crime as the least serious offense listed in the Guidelines and one that is actually punished by mere probation. See <http://www.msccsp.org/Files/Guidelines/MSGM/guidelinesmanual.pdf>. Since this offense is currently a misdemeanor and is not punishable by imprisonment by more than two years, a conviction for this crime is not even sufficient to render the person a disqualified person under federal and state law. See 18 U.S.C. 921(a)(20)(B), MD Code, Public Safety, § 5-101(g)(3). In contrast, by changing the offense to a felony, this bill would render a person convicted of this crime a disqualified person under federal and state law and thus may not possess modern firearms or modern ammunition for life. See 18 U.S.C. § 922(g)(1), MD Code, Public Safety, § 5-101(g)(2). Given the severe public safety consequences associated with stolen firearms, that result is fully appropriate.

Subsequent possession of any modern firearm or ammunition by a person subject to this firearms disability is punishable by up to 15 years of imprisonment under federal law. See 18 U.S.C. § 924(a)(9). Maryland law likewise bans possession of a regulated firearm (handgun or assault weapon) by a disqualified person. MD Code, Public Safety, § 5-133(b)(1). Possession of a regulated firearm by such a disqualified person is punishable with up to 5 years of imprisonment and/or a fine of \$10,000 under MD Code, Public Safety, § 5-144(b). Possession of a regulated firearm by a felon previously convicted of a crime of violence is “subject to imprisonment for **not less** than 5 years and not exceeding 15 years.” MD Code, Public Safety, § 5-133(c)(2). Similarly, simple possession of a rifle or a shotgun by any disqualified person is punishable by imprisonment of 3 years and/or a fine of \$1,000. See MD Code, Public Safety, § 5-205(d).

There is simply no incentive to investigate and/or prosecute this theft crime under current law and thus actual prosecution to conviction is very rare. Compare this non-punishment for the thief to the \$500 fine imposed on **the victim** of gun theft for a mere failure **to report** a theft of a firearm within 72 hours. See MD Code, Public Safety, § 5-146. A second offense of a failure to report is punished even more severely, with 90 days of imprisonment and/or a \$500 fine. It should be obvious that the thief is more culpable than the victim. Yet, with non-prosecution and non-punishment the rule, the victim has little or no incentive to report a theft. Indeed, because this theft crime is punished so lightly under current law, the convicted thief **remains free to legally buy and legally possess a firearm, including a handgun.**

Stealing a firearm is a serious threat to the community and, as such, well deserving of actual punishment. We note that Senate Bill 404 (sponsored by Senator Smith) would amend MD Code, Public Safety, § 5-138, to make the mere knowing possession, sale, transfer, or other disposition of a stolen regulated firearm **a felony** punishable with imprisonment for 5 years or a \$10,000 fine or both. This Bill would dovetail with that increased penalty for stolen handguns. Both Bills recognize appropriately that stolen firearms are a “threat to community safety as well as law enforcement,” and that “stolen firearms are crime guns; they fuel illicit trafficking and are used by violent criminals to terrorize our communities.” <https://www.foxnews.com/us/where-do-criminals-get-guns>. See also David J. Cherrington, *Crime and Punishment: Does Punishment Work?* at 4 (2007) (“Studies of punishment have shown that individuals who have observed others being punished change their behavior almost as much as those who were actually punished.”), available at <https://scholarsarchive.byu.edu/cgi/viewcontent.cgi?article=1953&context=facpub>.

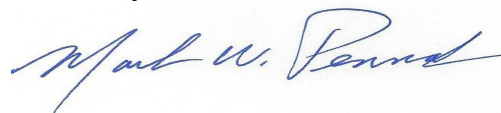
Indeed, the non-punishment accorded to the firearm thief is particularly striking considering the **severe penalties** that Maryland metes out to otherwise law-abiding citizens of Maryland who inadvertently happen to run afoul of one of the many criminal provisions of Maryland's firearms law. For example, a new resident of Maryland who neglected to register his or her regulated firearm within 90 days of becoming a Maryland resident, as required by MD Code, Public Safety, § 5-143, risks imprisonment for **5 years** and/or a \$10,000 fine under MD Code, Public Safety, § 5-144(b). A law-abiding person who "receives" a handgun in Maryland without possessing a Handgun Qualification License issued under by MD Code, Public Safety, § 5-117.1, likewise risks **5 years** imprisonment and/or a fine under Section 5-144.

An otherwise innocent "transport" or possession in Maryland of a so-called "assault weapon" banned by MD Code Criminal Law §4-303, including by a non-resident who is merely traveling through the State, is punishable by up to **3 years** imprisonment and/or a fine of \$5,000 under MD Code Criminal Law §4-306, regardless of whether the person even knew of the prohibition. No *mens rea* showing is required. Under MD Code Criminal Law § 4-203(c)(2), a person is "subject to imprisonment **for not less than 30 days and not exceeding 5 years** or a fine of not less than \$250 and not exceeding \$2,500 or both" for as little as leaving an unloaded handgun in the car's trunk while doing grocery shopping on the way home from the range. Such a stop is arguably an improper "transport" in a vehicle under Section 4-203(a)(1)(ii) under the exception set forth in Section 4-203(b)(4). The "knowingly" *mens rea* requirement for this "transport" offense is presumed under Section 4-203(a)(2).

And severe punishment is not restricted to firearms. Absentmindedly taking a penknife (e.g., a Swiss Army knife) anywhere onto school "property" (including while in a vehicle) is an arguable violation of MD Code Criminal Law §4-102, and that crime is punishable by imprisonment not exceeding **3 years** or a fine not exceeding \$1,000 or both, regardless of scienter. Under MD Code Criminal Law, § 4-101(c)(1),(d), merely carrying **pepper mace** in one's pocket can be punished by **3 years** of imprisonment and/or a \$1,000 fine. Again, no *mens rea* required. Because all these crimes are punishable by more than 2 years of imprisonment, a conviction of any one of these crimes will result in a life-time firearms disqualification under both federal and State law.

Maryland should not be punishing mistakes by otherwise innocent persons so severely while letting actual **thieves of firearms** off the hook with the proverbial "slap on the wrist" (if they are prosecuted at all). After all, thieves know that stealing is criminal. Nothing good can come from stealing a firearm. We urge a unanimous favorable report on this stand-alone Bill.

Sincerely,



Mark W. Pennak
President, Maryland Shall Issue, Inc.
mpennak@marylandshallissue.org

SB0039 Witness Testimony 2024 PDF.pdf

Uploaded by: Patricia Fallon

Position: FAV



To: Senate Judiciary Committee

Subject: SB0039 (HB0381)

Date January 29, 2024

Dear Senators,

SB0039 – Gun Felony Theft Act

The Baltimore County Republican Party completely **SUPPORTS** SB0039 and HB0381 Gun Felony Theft Act.

Illegal weapons are involved in a high percentage of criminal activity.

Studies in Chicago and San Fransisco show that 90% of crimes committed with weapons are with illegal firearms and that the firearms are stolen and /or easy to acquire.

Therefore, stealing a firearm should be a felony.

Thank you,

Patricia Fallon
Chair, Baltimore County Republican Central Committee
14823 Hanover Pike
Upperco, MD 21155
Baltimore County



Patricia Fallon
Baltimore County Republican Central Committee
Chairman
410-429-6005
www.BaltimoreCountyGOP.com
email: hanoverprf@comcast.net



Tibbals_SB 39_ Support Gun Theft Felony Act of 20

Uploaded by: Trudy Tibbals

Position: FAV

SB 39: Gun Theft Felony Act of 2024: Please SUPPORT this bill!!

Dear Chair Smith & Vice Chair Waldstreicher and all other esteemed Committee Members:

Please vote to SUPPORT this bill. As we all know, the commission of a crime using a firearm is serious. The theft of a firearm should be treated just as seriously! There is no reason for a rational human being to steal a firearm. Therefore, we can conclude that if a person commits theft of a firearm, then that person is going to use that firearm in the commission of a crime.

For that reason, I agree that the theft of a firearm should be automatically considered a felony, due to the gravity of what was stolen and the danger to the public that it represents.

Please treat this matter with the seriousness it deserves by SUPPORTING this bill!!

Thank you for your courtesy and cooperation.

Trudy Tibbals
A Very concerned Mother and Maryland resident

0A28C78C-A85E-4D00-83BA-6028E7D715FC.pdf

Uploaded by: Justin Ready

Position: FWA



SB0039/843822/1

AMENDMENTS
PREPARED
BY THE
DEPT. OF LEGISLATIVE
SERVICES

31 JAN 24
08:32:25

BY: Senator Ready
(To be offered in the Judicial Proceedings Committee)

AMENDMENTS TO SENATE BILL 39
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 7, after “Section” insert “7-101 and”.

AMENDMENT NO. 2

On page 1, after line 12, insert:

“7-101.

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

(b) (1) “Deception” means knowingly to:

(i) create or confirm in another a false impression that the offender does not believe to be true;

(ii) fail to correct a false impression that the offender previously has created or confirmed;

(iii) prevent another from acquiring information pertinent to the disposition of the property involved;

(iv) sell or otherwise transfer or encumber property without disclosing a lien, adverse claim, or other legal impediment to the enjoyment of the property, regardless of whether the impediment is of value or a matter of official record;

(v) insert or deposit a slug in a vending machine;

(vi) remove or alter a label or price tag;

(vii) promise performance that the offender does not intend to perform or knows will not be performed; or

(viii) misrepresent the value of a motor vehicle offered for sale by tampering or interfering with its odometer, or by disconnecting, resetting, or altering its odometer with the intent to change the mileage indicated.

(2) “Deception” does not include puffing or false statements of immaterial facts and exaggerated representations that are unlikely to deceive an ordinary individual.

(c) “Deprive” means to withhold property of another:

(1) permanently;

(2) for a period that results in the appropriation of a part of the property’s value;

(3) with the purpose to restore it only on payment of a reward or other compensation; or

(4) to dispose of the property or use or deal with the property in a manner that makes it unlikely that the owner will recover it.

(d) (1) “Exert control” includes to take, carry away, appropriate to a person’s own use or sell, convey, or transfer title to an interest in or possession of property.

(2) “Exert control” does not include:

(i) to trespass on the land of another; or

(ii) to occupy the land of another without authorization.

(E) (1) “FIREARM” HAS THE MEANING STATED IN § 5-101 OF THE PUBLIC SAFETY ARTICLE.

(2) “FIREARM” INCLUDES AN ANTIQUE FIREARM, AS DEFINED IN § 4–201 OF THE CRIMINAL LAW ARTICLE.

[(e)] (F) (1) “Interactive computer service” means an information service, system, or access software provider that provides or enables computer access by multiple users to a computer server.

(2) “Interactive computer service” includes a service or system that provides access to the Internet.

[(f)] (G) “Motor vehicle” has the meaning stated in § 11–135 of the Transportation Article.

[(g)] (H) “Obtain” means:

(1) in relation to property, to bring about a transfer of interest in or possession of the property; and

(2) in relation to a service, to secure the performance of the service.

[(h)] (I) Except as otherwise expressly provided in this part, “owner” means a person, other than the offender:

(1) who has an interest in or possession of property regardless of whether the person’s interest or possession is unlawful; and

(2) without whose consent the offender has no authority to exert control over the property.

[(i)] (J) (1) “Property” means anything of value.

(2) “Property” includes:

(i) real estate;

(ii) money;

(iii) a commercial instrument;

- (iv) an admission or transportation ticket;
- (v) a written instrument representing or embodying rights concerning anything of value, or services, or anything otherwise of value to the owner;
- (vi) a thing growing on or affixed to, or found on land, or part of or affixed to any building;
- (vii) electricity, gas, and water;
- (viii) a bird, animal, or fish that ordinarily is kept in a state of confinement;
- (ix) food or drink;
- (x) a sample, culture, microorganism, or specimen;
- (xi) a record, recording, document, blueprint, drawing, map, or a whole or partial copy, description, photograph, prototype, or model of any of them;
- (xii) an article, material, device, substance, or a whole or partial copy, description, photograph, prototype, or model of any of them that represents evidence of, reflects, or records a secret:
 - 1. scientific, technical, merchandising, production, or management information; or
 - 2. designed process, procedure, formula, invention, trade secret, or improvement;
- (xiii) a financial instrument; and
- (xiv) information, electronically produced data, and a computer software or program in a form readable by machine or individual.

[(j)] (K) “Property of another” means property in which a person other than the offender has an interest that the offender does not have the authority to defeat or impair, even though the offender also may have an interest in the property.

[(k)] (L) “Service” includes:

- (1) labor or professional service;
- (2) telecommunication, public utility, toll facility, or transportation service;
- (3) lodging, entertainment, or restaurant service; and
- (4) the use of computers, data processing, or other equipment.

[(l)] (M) “Slug” means an object that, because of its size, shape, or other quality, can be deposited or inserted in a vending machine as an improper substitute for the payment required to operate the vending machine.

[(m)] (N) (1) “Theft” means the conduct described in §§ 7–104 through 7–107 of this subtitle.

- (2) “Theft” includes motor vehicle theft, unless otherwise indicated.

[(n)] (O) “Vending machine” means a device designed to receive a specified payment and in exchange automatically offer, provide, assist in providing, or allow a person to acquire property or service.”.

SB39StolenFirearms.pdf

Uploaded by: Justin Ready

Position: FWA



THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

February 1, 2024

SB 39 - Gun Theft Felony Act of 2024

Chair Smith, Vice Chair Waldstreicher, and members of the Judicial Proceedings Committee,

Senate Bill 39 would exclude theft of a firearm from the general theft statute and classify theft of a firearm as a felony offense. The first conviction would impose a 5-year imprisonment and/or a \$1,000 fine. The second conviction would impose a 10-year imprisonment and/or a \$2,500 fine.

Under current law, theft of a firearm is subject to general theft statute, which imposes penalties based on the value of the stolen property. Therefore, a first offender firearm thief who steals a \$600 handgun would receive a misdemeanor charge, with a maximum 6-months in jail and/or a \$500 fine. A second or subsequent conviction is only a possible 1-year imprisonment and/or a \$500 fine. SB 39 establishes penalties that are far more fitting to stealing a firearm and will do more to deter citizens from doing so.

According to the Bureau of Alcohol, Tobacco, Firearms, and Explosives, more than 4,500 firearms were reported stolen from private citizens in Maryland between 2017 and 2021. An estimated 22.8% of all firearms reported stolen between those years were ultimately recovered in-state.¹

Additionally, a 2023 Gonzales Poll shows 89 percent of Marylanders think it should be a felony to possess a stolen firearm.² It is clear that our communities want stronger punishments for those who knowingly steal a firearm.

Current law does not impose serious enough penalties to deter people from stealing firearms, or using a firearm that you knowingly purchased from someone who stole it. We need to get illegal guns off the streets of Maryland and reduce the violent crimes they are used to commit.

I respectfully request a favorable report on Senate Bill 39.

¹ National Firearms Commerce and Trafficking Assessment (NFCTA): Crime Guns – Volume Two

<https://www.atf.gov/firearms/national-firearms-commerce-and-trafficking-assessment-nfcta-crime-guns-volume-two>

² Marylanders Overwhelmingly Feel the Possession of A Stolen Firearm Should Be A Felony

<https://foxbaltimore.com/morning/marylanders-overwhelmingly-feel-the-possession-of-a-stolen-firearm-should-be-a-felony>

Testimony Favorable with Amendments for SB0039.pdf

Uploaded by: Richard KAP Kaplowitz

Position: FWA

2/1/2024

Richard Keith Kaplowitz
Frederick, MD 21703

TESTIMONY ON SB#/0039 - POSITION: FAVORABLE WITH AMENDMENTS
Gun Theft Felony Act of 2024

TO: Chair Smith, Jr., Vice Chair Waldstreicher, and members of the Judicial Proceedings Committee

FROM: Richard Keith Kaplowitz

My name is Richard Keith Kaplowitz. I am a resident of District 3. I am submitting this testimony as favorable with amendments for SB#0039, Gun Theft Felony Act of 2024

I agree with the main thrust of this bill but urge an amendment to it. I want to see an exception where the gun is seized or in any way concealed from its owner in support of a perceived threat of self-harm that might occur by the individual owner. If a family member or friend becomes aware that someone is in possession of a gun and is threatening to harm or kill themselves the seizure of that weapon can be the difference between life and death. Over 60 percent of gun deaths in Maryland are suicide. There may not be time to involve authorities in a red flag law seizure of the weapon.

While we do have a need to make gun theft a felony, without adding context in which such seizure is made based on a perceived threat of self-harm if that gun is present, I can only support this bill if that amendment is made. It should include a way for the person from whom that weapon is seized to be subject to a mental health evaluation by a professional who treats mental illness or depression. If that seizure was found to be valid based on the owner's mental condition no penalty should accrue. If the person is cleared from the evaluation a return of the weapon should occur but monitoring of the owner should continue for a set period of time. The mental health evaluation should include an opportunity for the person who seized the weapon to present evidence they evaluated that lead to the weapon being seized. A recommendation for further action should then occur for continued absence of the weapon or a plan for its return and for whether the person who took the weapon should face any consequences if the taking was based on a good faith evaluation of the conditions under which the weapon was taken.

I respectfully urge this committee to return a favorable with amendments report on SB#0039.