

# HOUSE BILL 95

E4  
HB 402/18 – JUD

9lr1081

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By: **Delegate Dumais**

Introduced and read first time: January 18, 2019

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Public Safety – Firearms Disqualifications – Antique Firearm**  
3 **(Shadé’s Law)**

4 FOR the purpose of applying certain provisions disqualifying a person from possessing a  
5 rifle or shotgun to an antique firearm; defining a certain term; making conforming  
6 changes; and generally relating to firearms disqualifications.

7 BY repealing and reenacting, without amendments,  
8 Article – Criminal Law  
9 Section 4–201(a) and (b)  
10 Annotated Code of Maryland  
11 (2012 Replacement Volume and 2018 Supplement)

12 BY repealing and reenacting, without amendments,  
13 Article – Public Safety  
14 Section 5–101(a) and (b)  
15 Annotated Code of Maryland  
16 (2018 Replacement Volume)

17 BY repealing and reenacting, with amendments,  
18 Article – Public Safety  
19 Section 5–133.3(b) and (d) and 5–205  
20 Annotated Code of Maryland  
21 (2018 Replacement Volume)

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

24 **Article – Criminal Law**

25 4–201.

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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 indicated.

2 (b) “Antique firearm” means:

3 (1) a firearm, including a firearm with a matchlock, flintlock, percussion  
4 cap, or similar ignition system, manufactured before 1899; or

5 (2) a replica of a firearm described in item (1) of this subsection that:

6 (i) is not designed or redesigned to use rimfire or conventional  
7 centerfire fixed ammunition; or

8 (ii) uses rimfire or conventional centerfire fixed ammunition that is  
9 no longer manufactured in the United States and is not readily available in the ordinary  
10 channels of commercial trade.

## 11 Article – Public Safety

12 5–101.

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

14 (b) “Antique firearm” has the meaning stated in § 4–201 of the Criminal Law  
15 Article.

16 5–133.3.

17 (b) A person subject to a regulated firearms disqualification under § 5–133(b)(6),  
18 (7), (8), (9), (10), or (11) of this subtitle, a rifle [or], A shotgun, **OR AN ANTIQUE FIREARM**  
19 disqualification under § 5–205(b)(6), (7), (8), (9), (10), or (11) of this title, or prohibited from  
20 the shipment, transportation, possession, or receipt of a firearm by 18 U.S.C. §§ 922(d)(4)  
21 or (g)(4) as a result of an adjudication or commitment that occurred in the State may be  
22 authorized to possess a firearm if:

23 (1) the person is not subject to another firearms restriction under State or  
24 federal law; and

25 (2) the Health Department, in accordance with this section, determines  
26 that the person may possess a firearm.

27 (d) An application for relief from a firearms disqualification shall include:

28 (1) a complete and accurate statement explaining the reason why the  
29 applicant is prohibited from possessing a regulated firearm under § 5–133(b)(6), (7), (8), (9),  
30 (10), or (11) of this subtitle or a rifle [or], A shotgun, **OR AN ANTIQUE FIREARM** under §  
31 5–205(b)(6), (7), (8), (9), (10), or (11) of this title, or is prohibited from the shipment,

1 transportation, possession, or receipt of a firearm by 18 U.S.C. §§ 922(d)(4) or (g)(4) as a  
2 result of an adjudication or commitment that occurred in the State;

3 (2) a statement why the applicant should be relieved from the prohibition  
4 described in item (1) of this subsection;

5 (3) if the applicant is subject to a prohibition described in item (1) of this  
6 subsection, a certificate issued within 30 days of the submission of the application on a form  
7 approved by the Health Department and signed by an individual licensed in the State as a  
8 physician who is board certified in psychiatry or as a psychologist stating:

9 (i) the length of time that the applicant has not had symptoms that  
10 cause the applicant to be a danger to the applicant or others, or, if the disqualification  
11 relates to an intellectual disability, the length of time that the applicant has not engaged  
12 in behaviors that cause the applicant to be a danger to the applicant or others;

13 (ii) the length of time that the applicant has been compliant with the  
14 treatment plan for the applicant's mental illness, or, if the disqualification relates to an  
15 intellectual disability, the length of time that the applicant has been compliant with any  
16 behavior plan or behavior management plan;

17 (iii) an opinion as to whether the applicant, because of mental illness,  
18 would be a danger to the applicant if allowed to possess a firearm and a statement of  
19 reasons for the opinion; and

20 (iv) an opinion as to whether the applicant, because of mental illness,  
21 would be a danger to another person or poses a risk to public safety if allowed to possess a  
22 firearm;

23 (4) if the applicant is prohibited from possessing a firearm under §  
24 5–133(b)(11) of this subtitle or § 5–205(b)(11) of this title:

25 (i) a copy of all pleadings, affidavits, and certificates submitted into  
26 evidence at the guardianship proceeding; and

27 (ii) all orders issued by the court relating to the guardianship,  
28 including, if applicable, an order indicating that the guardianship is no longer in effect;

29 (5) a signed authorization, on a form approved by the Health Department,  
30 allowing the Health Department to access any relevant health care, mental health,  
31 disability, guardianship, and criminal justice records, including court ordered or required  
32 mental health records, of the applicant for use in determining whether the applicant should  
33 be relieved from a firearms disqualification;

34 (6) three statements signed and dated within 30 days of submission to the  
35 Health Department on a form designated by the Health Department attesting to the  
36 applicant's reputation and character relevant to firearm ownership or possession including:

1 (i) at least two statements provided by an individual who is not  
2 related to the applicant; and

3 (ii) contact information for each individual providing a statement;  
4 and

5 (7) any other information required by the Health Department.

6 5–205.

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

9 **(A) IN THIS SECTION, “ANTIQUÉ FIREARM” HAS THE MEANING STATED IN §**  
10 **4–201 OF THE CRIMINAL LAW ARTICLE.**

11 (b) A person may not possess a rifle [or], A shotgun, **OR AN ANTIQUÉ FIREARM**  
12 if the person:

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

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

17 (3) is a fugitive from justice;

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

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

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

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

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

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

29 (10) has been involuntarily committed to a facility as defined in § 10–101 of

1 the Health – General Article;

2 (11) is under the protection of a guardian appointed by a court under §  
3 13–201(c) or § 13–705 of the Estates and Trusts Article, except for cases in which the  
4 appointment of a guardian is solely a result of a physical disability;

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

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

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

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

15 (c) This section does not apply to:

16 (1) a person transporting a rifle [or], A shotgun, **OR AN ANTIQUE**  
17 **FIREARM** if the person is carrying a civil protective order requiring the surrender of the  
18 [rifle or shotgun] **FIREARM** and:

19 (i) the [rifle or shotgun] **FIREARM** is unloaded;

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

23 (iii) the person transports the [rifle or shotgun] **FIREARM** directly to  
24 the law enforcement unit, barracks, or station; or

25 (2) the carrying or transporting of a rifle [or], A shotgun, **OR AN ANTIQUE**  
26 **FIREARM** by a person who is carrying a court order requiring the surrender of the [rifle or  
27 shotgun] **FIREARM**, if:

28 (i) the [rifle or shotgun] **FIREARM** is unloaded;

29 (ii) the person has notified a law enforcement unit, barracks, or  
30 station that the [rifle or shotgun] **FIREARM** is being transported in accordance with the  
31 order; and

32 (iii) the person transports the [rifle or shotgun] **FIREARM** directly to

1 a State or local law enforcement agency or a federally licensed firearms dealer.

2 (d) A person who violates this section is guilty of a misdemeanor and on conviction  
3 is subject to imprisonment not exceeding 3 years or a fine not exceeding \$1,000 or both.

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

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
8 October 1, 2019.