

Chapter 18

(House Bill 425)

AN ACT concerning

Public Safety – Untraceable Firearms

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

BY repealing and reenacting, without amendments,

Article – Public Safety

Section 5–101(a)

Annotated Code of Maryland

(2018 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, with amendments,

Article – Public Safety

Section 5–101(h) and 5–114

Annotated Code of Maryland

(2018 Replacement Volume and 2021 Supplement)

BY adding to

Article – Public Safety

Section 5–701 through ~~5–705~~ 5–706 to be under the new subtitle “Subtitle 7. Untraceable Firearms”

Annotated Code of Maryland

(2018 Replacement Volume and 2021 Supplement)

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

Article – Public Safety

5–101.

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

(h) (1) “Firearm” means:

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

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

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

(2) “Firearm” includes a starter gun.

5–114.

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

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

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

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

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

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

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

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

(2) the licensee:

(i) is convicted of a disqualifying crime;

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

(iii) is a fugitive from justice;

(iv) is a habitual drunkard;

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

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

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

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

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

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

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

SUBTITLE 7. UNTRACEABLE FIREARMS.

5-701.

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

(B) "ANTIQUE FIREARM" HAS THE MEANING STATED IN § 4-201 OF THE CRIMINAL LAW ARTICLE.

(C) "FEDERALLY LICENSED FIREARMS DEALER" MEANS A PERSON LICENSED BY THE FEDERAL BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES TO DEAL IN FIREARMS.

(D) “FEDERALLY LICENSED FIREARMS IMPORTER” MEANS A PERSON LICENSED BY THE FEDERAL BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES TO IMPORT FIREARMS.

(E) “FEDERALLY LICENSED FIREARMS MANUFACTURER” MEANS A PERSON LICENSED BY THE FEDERAL BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES TO MANUFACTURE FIREARMS.

(F) “FIREARM” HAS THE MEANING STATED IN § 5-101 OF THIS TITLE.

(G) “SECRETARY” MEANS THE SECRETARY OF STATE POLICE OR THE SECRETARY’S DESIGNEE.

(H) “UNFINISHED FRAME OR RECEIVER” MEANS A FORGED, CAST, PRINTED, EXTRUDED, OR MACHINED BODY OR SIMILAR ARTICLE THAT:

~~(1) HAS REACHED A STAGE IN MANUFACTURE WHERE IT MAY READILY BE COMPLETED, ASSEMBLED, OR CONVERTED TO BE USED AS THE FRAME OR RECEIVER OF A FUNCTIONAL FIREARM; OR~~

~~(2) IS MARKETED OR SOLD TO THE PUBLIC TO BECOME OR BE USED AS THE FRAME OR RECEIVER OF A FUNCTIONAL FIREARM ONCE COMPLETED, ASSEMBLED, OR CONVERTED.~~

5-702.

THIS SUBTITLE DOES NOT APPLY TO:

(1) A FIREARM THAT:

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

(II) IS AN ANTIQUE FIREARM;

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

(I) A FEDERALLY LICENSED FIREARMS DEALER;

(II) A FEDERALLY LICENSED FIREARMS MANUFACTURER; OR

(III) A FEDERALLY LICENSED FIREARMS IMPORTER; OR

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

5-703.

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

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

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

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

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

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

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

(~~1~~) (1) THE FIREARM IS REQUIRED BY FEDERAL LAW TO BE, AND HAS BEEN, IMPRINTED BY A FEDERALLY LICENSED FIREARMS MANUFACTURER OR FEDERALLY LICENSED FIREARMS IMPORTER WITH A SERIAL NUMBER IN COMPLIANCE WITH ALL FEDERAL LAWS AND REGULATIONS APPLICABLE TO THE MANUFACTURE AND IMPORT OF FIREARMS; OR

~~(2)~~ (II) THE FIREARM;

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

A. THE ZIP CODE OF THE CURRENT OWNER OR PERSON THAT MADE, COMPLETED, OR INITIALLY ASSEMBLED THE FIREARM;

B. THE INITIALS OF THE CURRENT OWNER OR PERSON THAT MADE, COMPLETED, OR INITIALLY ASSEMBLED THE FIREARM; AND

C. A NUMBER THAT DOES NOT MATCH A NUMBER USED BY THE CURRENT OWNER ON ANOTHER FIREARM OR BY THE PERSON WHO MADE, COMPLETED, OR INITIALLY ASSEMBLED THE FIREARM ON ANY OTHER FIREARM THAT THE PERSON HAS MADE, COMPLETED, OR INITIALLY ASSEMBLED; AND

2. HAS BEEN REGISTERED WITH THE SECRETARY.

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

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

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

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

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

~~(1)~~ (1) MINIMUM SIZE AND DEPTH REQUIREMENTS; AND

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

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

5-704.

~~(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.~~

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

(B) REGISTRATION DATA PROVIDED FOR REGISTRATION IS NOT OPEN TO PUBLIC INSPECTION.

(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.

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.

Enacted under Article II, § 17(b) of the Maryland Constitution, April 9, 2022.