

MARYLAND

MD. CODE

Article 27. Crimes and Punishments

Carrying or Wearing Weapon

36. Carrying or wearing concealed weapon; carrying openly with intent to injure; carrying by person under eighteen at night in certain counties.

(a) In general.

(1) Every person who shall wear or carry any dirk knife, bowie knife, switchblade knife, star knife, sandclub, metal knuckles, razor, nunchaku, or any other dangerous or deadly weapon of any kind, whatsoever (penknives without switchblade and handguns, excepted) concealed upon or about his person, and every person who shall wear or carry any such weapon, chemical mace, pepper mace, or tear gas device openly with the intent or purpose of injuring any person in any unlawful manner, shall be guilty of a misdemeanor, and upon conviction, shall be fined not more than \$1,000 or be imprisoned in jail, or sentenced to the Maryland Department of Correction for not more than three years.

(2) In case of a conviction under the provisions of this subsection, if it shall appear from the evidence that such weapon was carried, concealed or openly, with the deliberate purpose of injuring the person or destroying the life of another, the court shall impose the highest sentence of imprisonment prescribed.

(3) In Cecil, Anne Arundel, Talbot, Harford, Caroline, Prince George's, Montgomery, St. Mary's, Washington, Worcester, Kent, and Baltimore Counties it shall also be unlawful and a misdemeanor, punishable as provided in paragraph (1) of this subsection, for any person under eighteen years of age to carry any dangerous or deadly weapon, other than a handgun, between one hour after sunset and one hour before sunrise, whether concealed or not, except while on a bona fide hunting trip, or except while engaged in or on the way to or returning from a bona fide trap shoot, sport shooting event, or any organized civic or military activity.

(b) Possession of pepper mace.

(1) Except as provided in subsection (f) of this section, a minor may not possess pepper mace, either openly or concealed.

(2) A person who violates this subsection is guilty of a misdemeanor and on conviction shall be subject to a fine of up to \$1,000 or imprisonment for up to 3 years or both. ...

(f) **Exceptions.** Nothing in this section shall be construed to prevent the carrying of any of the weapons mentioned in subsections (a) and (b) of this section by:

(1) An officer of this State, or of any county or city, who is entitled or required to carry such weapon as part of the officer's official equipment, or by any conservator of the peace, who is entitled or required to carry such weapon as part of the conservator's official equipment, or by any officer or conservator of the peace of some other state temporarily sojourning in this State;

(2) Any special agent of a railway;

(3) Any person to whom a permit to carry a concealed weapon has been issued under § 36E of this article; or

(4) Any person who shall carry such weapon as a reasonable precaution against apprehended danger, but the tribunal before which

any case arising under the provisions of this section may be tried, shall have the right to judge of the reasonableness of the carrying of any such weapon, and the proper occasion therefor, under the evidence in the case.

Carrying Deadly Weapons on Public School Property

36A. Carrying or possessing deadly weapon upon school property.

(a) **In general.** No person, unless otherwise excepted in this section, shall carry or possess any rifle, gun, knife, or deadly weapon of any kind on any public school property in this State.

(b) **Exceptions.** Nothing in this section shall be construed to apply to:

(1) Law enforcement officers in the regular course of their duty;

(2) Persons hired by the boards of education in the counties and Baltimore City specifically for the purpose of guarding public school property;

(3) Persons engaged in organized shooting activity for educational purposes; or

(4) Persons who, with a written invitation from the school principal, display or engage in historical demonstrations using weapons or replicas of weapons for educational purposes.

(c) **Penalty.** Any person who violates this section shall be guilty of a misdemeanor and on conviction shall be sentenced to pay a fine of no more than \$1,000 or shall be sentenced to the Maryland Department of Correction for a period of not more than 3 years. Any such person who shall be found to carry a handgun in violation of this section, shall be sentenced as provided in § 36B of this article.

Handguns

36B. Wearing, carrying or transporting handgun; unlawful use in commission of crime.

(a) Declaration of policy....

(b) **Unlawful wearing, carrying, or transporting of handguns; penalties.** Any person who shall wear, carry, or transport any handgun, whether concealed or open, upon or about his person, and any person who shall wear, carry or knowingly transport any handgun, whether concealed or open, in any vehicle traveling upon the public roads, highways, waterways, or airways or upon roads or parking lots generally used by the public in this State shall be guilty of a misdemeanor; and it shall be a rebuttable presumption that the person is knowingly transporting the handgun; and on conviction of the misdemeanor shall be fined or imprisoned as follows:

(1) If the person has not previously been convicted of unlawfully wearing, carrying or transporting a handgun in violation of this section, or of unlawfully using a handgun in the commission of a crime in violation of subsection (d) of this section, or of unlawfully carrying a concealed weapon in violation of § 36 of this article, or of unlawfully carrying a deadly weapon on public school property in violation of § 36A of this article, he shall be fined not less than two hundred and fifty (\$250.00) dollars, nor more than twenty-five hundred (\$2,500.00) dollars, or be imprisoned in jail or sentenced to the Maryland Division of Correction for a term of not less than 30

days nor more than three years, or both; provided, however, that if it shall appear from the evidence that the handgun was worn, carried, or transported on any public school property in this State, the court shall impose a sentence of imprisonment of not less than 90 days.

(2) If the person has previously been once convicted of unlawfully wearing, carrying, or transporting a handgun in violation of this section, or of unlawfully using a handgun in the commission of a crime in violation of subsection (d) of this section, or of unlawfully carrying a concealed weapon in violation of § 36 of this article, or of unlawfully carrying a deadly weapon on public school property in violation of § 36A of this article, he shall be sentenced to the Maryland Division of Correction for a term of not less than 1 year nor more than 10 years, and it is mandatory upon the court to impose no less than the minimum sentence of 1 year; provided, however, that if it shall appear from the evidence that the handgun was worn, carried, or transported on any public school property in this State, the court shall impose a sentence of imprisonment of not less than three years.

(3) If the person has previously been convicted more than once of unlawfully wearing, carrying, or transporting a handgun in violation of this section, or of unlawfully using a handgun in the commission of a crime in violation of subsection (d) of this section, or of unlawfully carrying a concealed weapon in violation of § 36 of this article, or of unlawfully carrying a deadly weapon on public school property in violation of § 36A of this article, or any combination thereof, he shall be sentenced to the Maryland Division of Correction for a term of not less than three years nor more than 10 years, and it is mandatory upon the court to impose no less than the minimum sentence of three years; provided, however, that if it shall appear from the evidence that the handgun was worn, carried, or transported on any public school property in this State, the court shall impose a sentence of imprisonment of not less than 5 years.

(4) If it shall appear from the evidence that any handgun referred to in this subsection was carried, worn, or transported with the deliberate purpose of injuring or killing another person, the court shall impose a sentence of imprisonment of not less than 5 years.

(c) Exceptions.

(1) Nothing in this section shall prevent the wearing, carrying, or transporting of a handgun by: (i) law-enforcement personnel of the United States, or of this State, or of any county or city of this State; (ii) members of the armed forces of the United States or of the National Guard while on duty or traveling to or from duty; (iii) law-enforcement personnel of some other state or subdivision thereof temporarily in this State on official business; (iv) any jailer, prison guard, warden, or guard or keeper at any penal, correctional or detention institution in this State; or (v) sheriffs and temporary or full-time sheriffs' deputies, as to all of whom this exception shall apply only when they are on active assignment engaged in law enforcement; provided, that any such person mentioned in this paragraph is duly authorized at the time and under the circumstances he is wearing, carrying, or transporting the weapon to

wear, carry, or transport such weapon as part of his official equipment.

(2) Nothing in this section shall prevent the wearing, carrying, or transporting of a handgun by any person to whom a permit to wear, carry or transport any such weapon has been issued under § 36E of this article.

(3) Nothing in this section shall prevent any person from carrying a handgun on his person or in any vehicle while transporting the same to or from the place of legal purchase or sale, or between bona fide residences of the individual, or between his bona fide residence and his place of business, if the business is operated and substantially owned by the individual, or to or from any bona fide repair shop. Nothing in this section shall prevent any person from wearing, carrying, or transporting a handgun used in connection with a target shoot, formal or informal target practice, sport shooting event, hunting, a Department of Natural Resources sponsored firearms and hunter safety class, trapping, dog obedience training class or show or any organized military activity while engaged in, on the way to, or returning from any such activity. Nothing in this section shall prevent any bona fide gun collector from moving any part or all of his gun collection from place to place for public or private exhibition. However, while traveling to or from any such place or event referred to in this paragraph, a handgun shall be unloaded and carried in an enclosed case or enclosed holster.

(4) Nothing in this section shall prevent a person from wearing, carrying, or transporting a handgun within the confines of real estate owned or leased by him or upon which he resides or within the confines of a business establishment owned or leased by him. Nothing in this section shall prevent a supervisory employee from wearing, carrying, or transporting a handgun within the confines of a business establishment in which he is employed during such time as he is acting in the course of his employment and has been authorized to wear, carry, or transport the handgun by the owner or manager of the business establishment.

(5) Nothing in this section shall prevent a person from carrying or transporting any signal pistol or other visual distress signal approved by the United States Coast Guard, in any vessel used upon the waterways of this State, or if unloaded and carried in an enclosed case, in any vehicle.

(d) Unlawful use of handgun or antique firearm in commission of crime; penalties. Any person who shall use a handgun or an antique firearm capable of being concealed on the person in the commission of any felony or any crime of violence as defined in § 441 of this article, whether operable or inoperable at the time of the offense, shall be guilty of a separate misdemeanor and on conviction thereof shall, in addition to any other sentence imposed by virtue of commission of said felony or misdemeanor:...

36E. Permits.

(a) Issuance. A permit to carry a handgun shall be issued within a reasonable time by the Secretary of the State Police, upon application under oath therefor, to any person whom the Secretary finds:

- (1) Is eighteen years of age or older; and
- (2) Has not been convicted of a felony or of a misdemeanor for which a sentence of imprisonment for more than one year has been imposed or, if convicted of such a crime, has been pardoned or has been granted relief pursuant to Title 18, § 925 (c) of the United States Code; and
- (3) If the person is less than 30 years of age and who has not been:

(i) Committed to any detention, training, or correctional institution for juveniles for longer than one year after an adjudication of delinquency by a juvenile court; or

(ii) Adjudicated delinquent by a juvenile court for:

1. A crime of violence;
2. Any violation classified as a felony in this State; or
3. Any violation classified as a misdemeanor in this State that carries a statutory penalty of more than 2 years; and

(4) Has not been convicted of any offense involving the possession, use, or distribution of controlled dangerous substances; and is not presently an addict, an habitual user of any controlled dangerous substance not under legitimate medical direction, or an alcoholic; and

(5) Has, based on the results of investigation, not exhibited a propensity for violence or instability which may reasonably render his possession of a handgun a danger to himself or other law-abiding persons; and

(6) Has, based on the results of investigation, good and substantial reason to wear, carry, or transport a handgun, provided however, that the phrase "good and substantial reason" as used herein shall be deemed to include a finding that such permit is necessary as a reasonable precaution against apprehended danger. ...

(e) Possession of permit; handguns to which applicable. Any person to whom a permit shall be issued or renewed shall carry such permit in his possession every time he carries, wears, or transports a handgun. A permit issued pursuant to this section shall be valid for any handgun legally in the possession of the person to whom the permit was issued. ...

(i) Persons authorized to wear or carry handgun without permit. Notwithstanding any other provision of this subheading, the following persons may, to the extent authorized prior to March 27, 1972, and subject to the conditions specified in this subsection and subsection (j) hereof, continue to wear, carry, or transport a handgun without a permit:

(1) Holders of special police commissions issued under Title 4, Subtitle 9 of Article 41 of the Annotated Code of Maryland, while actually on duty on the property for which the commission was issued or while traveling to or from such duty;

(2) Uniformed security guards, special railway police, and watchmen who have been cleared for such employment by the Department of State Police, while in the course of their employment or while traveling to or from the place of employment;

(3) Guards in the employ of a bank, savings and loan association, building and loan association, or express or armored car agency, while in the course of their employment or while traveling to or from the place of employment; and

(4) Private detectives and employees of private detectives previously licensed under former Article 56, § 90A of the Code, while in the course of their employment or while traveling to or from the place of employment.

(j) Same - Application for permit. Each person referred to in subsection (i) hereof shall, within one year after March 27, 1972, make application for a permit as provided in this section. Such application shall include evidence satisfactory to the Secretary of the State Police that the applicant is trained and qualified in the use of handguns. The right to wear, carry, or transport a handgun provided for in subsection (i) hereof shall terminate at the expiration of one year after March 27, 1972, if no such application is made,

or immediately upon notice to the applicant that his application for a permit has not been approved.

(k) Meaning of "Secretary". As used in this section, Secretary means the Secretary of the State Police, acting directly or through duly authorized officers and agents of the Secretary.

(l) Permit holder under influence of alcohol or drugs. It is unlawful for a person to whom a permit has been issued or renewed to carry, wear, or transport a handgun while he is under the influence of alcohol or drugs. A person violating this subsection is guilty of a misdemeanor, and upon conviction he shall be fined \$1,000 or be imprisoned for not more than one year or both.

36F. Definitions.

(a) As used in this subheading, the following words have the meanings indicated.

(b) "Handgun" means any pistol, revolver, or other firearm capable of being concealed on the person, including a short-barreled shotgun and a short-barreled rifle as these terms are defined below, except it does not include a shotgun, rifle or antique firearm as those terms are defined below.

(c) "Antique firearm" means:

(1) Any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898; and

(2) Any replica of any firearm described in paragraph (1) of this subsection if such replica:

(i) Is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition, or

(ii) Uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.

(d) "Rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

(e) "Short-barreled shotgun" means a shotgun having one or more barrels less than eighteen inches in length and any weapon made from a shotgun (whether by alteration, modification, or otherwise) if such weapon, as modified, has an overall length of less than twenty-six inches.

(f) "Short-barreled rifle" means a rifle having one or more barrels less than sixteen inches in length and any weapon made from a rifle (whether by alteration, modification, or otherwise) if such weapon, as modified, has an overall length of less than twenty-six inches.

(g) "Shotgun" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

(h) "Handgun roster" means the roster of permitted handguns compiled by the Board under section 36J of this article.

(i) "Law enforcement personnel" means:

(1) Any full-time member of a police force or other agency of the United States, a state, a county, a municipality or other political subdivision who is responsible for the prevention and detection of crime and the enforcement of the laws of the United States, a state, or of a county

or municipality or other political sub-division of a state;

(2) Any part-time member of a police force of a county or municipality who is certified by the county or municipality as being trained and qualified in the use of handguns; and

(3) Any fire investigator of the Prince George's County Fire Department who:

(i) Is certified by Prince George's County as being trained and qualified in the use of handguns; and

(ii) Has met the minimum qualifications and has satisfactorily completed the training required by the Maryland Police Training Commission.

(j) **"Secretary"** means the Secretary of the State Police, or the Secretary's designee.

(k) **"Vehicle"** means any motor vehicle, as defined in Title 11 of the Transportation Article, trains, aircraft, and vessels.

(l) **"Board"** means the Handgun Roster Board.

36H. State preemption of weapons and ammunition regulations.

(a) **Handguns, rifles, shotguns, and ammunition.** Except as provided in sub-sections (b), (c), and (d) of this section, the State of Maryland hereby preempts the rights of any county, municipal corporation, or special taxing district whether by law, ordinance, or regulation to regulate the purchase, sale, taxation, transfer, manufacture, repair, ownership, possession, and transportation of the following:

(1) Handgun, as defined in § 36F (b) of this article;

(2) Rifle, as defined in § 36F (d) of this article;

(3) Shotgun, as defined in § 36F (g) of this article; and

(4) Ammunition and components for the above enumerated items.

(b) **Exceptions.-** Any county, municipal corporation, or special taxing district may regulate the purchase, sale, transfer, ownership, possession, and transportation of the weapons and ammunition listed in subsection (a) of this section:

(1) With respect to minors;

(2) With respect to these activities on or within 100 yards of parks, churches, schools, public buildings, and other places of public assembly; however, the teaching of firearms safety training or other educational or sporting use may not be prohibited; and

(3) With respect to law enforcement personnel of the subdivision.

(c) **Authority to amend local laws or regulations.** To the extent that local laws or regulations do not create an inconsistency with the provisions of this section or expand existing regulatory control, any county, municipal corporation, or special taxing district may exercise its existing authority to amend any local laws or regulations that exist before January 1, 1985.

(d) **Discharge of handguns, rifles, and shotguns.** In accordance with law, any county, municipal corporation, or special taxing district may continue to regulate the discharge of handguns, rifles, and shotguns, but may not prohibit the discharge of firearms at established ranges.

Assault Pistols

36H-1. Assault pistols defined. In this sub-heading, "assault pistol" means any of the following specified firearms or their copies regardless of which company produced and manufactured the firearm:

(1) AA Arms AP-9 semiautomatics;

(2) Bushmaster semiautomatic pistol;

(3) Claridge HI-TEC, semiautomatic pistol;

(4) D Max Industries semiautomatic pistol;

(5) Encom MK-IV, MP-9, MP-45 semi-automatic pistols;

(6) Heckler and Koch semiautomatic SP-89;

(7) Holmes MP-83 semiautomatic pistol;

(8) Ingram MAC 10/11 semiautomatics and any variation including the Partisan Avenger and the SWD Cobray;

(9) Intratec TEC-9/DC-9 in any centerfire variation;

(10) P.A.W.S. type semiautomatic pistol;

(11) Skorpion semiautomatic pistol;

(12) Spectre double action semiautomatic pistol (Sile, F.I.E., Mitchell);

(13) UZI semiautomatic pistol;

(14) Weaver Arms semiautomatic Nighthawk pistol; and

(15) Wilkinson semiautomatic "Linda" pistol.

36H-2. Exemptions from subheading. The prohibitions under section 36H-3 of this sub-heading do not apply to:

(1) Personnel of the United States government or any agency or department of the United States, members of the armed forces of the United States or of the national guard, or law enforcement personnel of this State or any local agency in this State while such persons are acting within the scope of their official business;

(2) Any firearm modified to render it permanently inoperative;

(3) Purchases, sales, and transport to or by a licensed gun dealer or manufacturer who is:

(i) Providing or servicing an assault pistol for law enforcement agencies or for any entity exempted under paragraph (1) of this section; or

(ii) Acting to sell or transfer an assault pistol to a licensed gun dealer in another state.

(4) Organizations that are required or authorized by federal law or regulations governing their specific business or activity to maintain assault pistols and applicable ammunition;

(5) The receipt of an assault pistol by inheritance if the decedent lawfully possessed the assault pistol; or

(6) The receipt of an assault pistol by a personal representative of an estate for purposes of exercising the powers and duties of a personal representative of an estate.

36H-3. Transportation; possession, sale, transfer or purchase as of June 1, 1994.

(a) **Transportation; possession, transfer or purchase.** Subject to the provisions of this sub-heading and except as provided in subsection (b) of this section, on or after June 1, 1994, a person may not:

(1) Transport an assault pistol into the State; or

(2) Possess, sell, offer to sell, transfer, purchase, or receive an assault pistol in the State.

(b) **Lawful possession.** A person who lawfully possesses an assault pistol before June 1, 1994 may continue to possess the assault pistol if the person registers the assault pistol with the Secretary of the State Police before August 1, 1994.

36H-4. Seizure and disposition. Any assault pistol in violation may be seized. Any assault pistol transported, sold, transferred, purchased, received, or possessed in violation of this sub-heading may be seized by a law enforcement agency as contraband and disposed of according to regulation.

36H-5. Detachable magazines.

(a) **Applicability.** This section does not apply to:

(1) The personnel or to the agencies specified under § 36H-2 (1) through (4) of this sub-heading; or

(2) A transfer described under § 36H-2 (5) or (6) of this sub-heading.

(b) **Detachable magazines.** A person may not manufacture, sell, offer for sale, purchase, receive, or transfer a detachable magazine for any type of firearm, except a .22 caliber rifle with a tubular magazine, if the magazine has a capacity of more than 20 rounds of ammunition.

36H-6. Penalty.

(a) **Violation of any provision.** Any person who violates any provision of this sub-heading is upon conviction guilty of a misdemeanor and subject to imprisonment for not more than 3 years or a fine of not more than \$5,000 or both.

(b) **Use in felony or crime of violence.** Any person who uses an assault pistol, or a magazine that has a capacity of more than 20 rounds of ammunition, in the commission of any felony or any crime of violence as defined in § 441 of this article shall be guilty of a separate misdemeanor and on conviction thereof shall, in addition to any other sentence imposed by virtue of commission of the felony or misdemeanor:

(1) For a first offense, be sentenced to the Maryland Division of Correction for a term of not less than 5 nor more than 20 years, and:

(i) It is mandatory upon the court to impose no less than the minimum sentence of 5 years no part of which shall be suspended; and

(ii) Except as otherwise provided in Article 31B, § 11 of the Code, the person is not eligible for parole in less than 5 years; and

(2) For a second or subsequent offense, be sentenced to the Maryland Division of Correction for a term of not less than 10 nor more than 20 years, and it is mandatory upon the court to impose no less than a minimum sentence of 10 years which shall be served consecutively and not concurrently to any other sentence imposed by virtue of the commission of the felony or misdemeanor.

36I. Manufacture, sale or offer for sale of handguns not included on handgun roster; obliteration, removal, etc., of manufacturer's identification mark.

(a) **Manufacture for distribution or sale generally.** Except as provided in subsection (f) of this section, a person may not manufacture for distribution or sale any handgun that is not included on the handgun roster in the State.

(b) **Sale or offer for sale generally.** A person may not sell or offer for sale in the State a handgun manufactured after January 1, 1985 that is not on the handgun roster.

(c) **Obliteration, removal, etc., of manufacturer's identification mark.** A person may not manufacture, sell, or offer for sale any handgun on which the manufacturer's identification mark or number is obliterated, removed, changed, or otherwise altered.

(d) **Injunctions.** The Secretary may seek a permanent or temporary injunction from a circuit court to enjoin the willful and continuous manufacture, sale, or offer for sale, in violation of this section, of a handgun not included on the handgun roster.

(e) **Rules and regulations.** Subject to the provisions of the Administrative Procedure Act, the Secretary of the State Police shall adopt rules and regulations necessary to carry out the provisions of this section and § 36J of this sub-heading.

(f) **Manufacture for distribution or sale of other weapons.** Nothing in this section shall be construed to interfere with:

(1) A person's ability to:

(i) Manufacture, sell, or offer to sell rifles or other weapons not defined as handguns in § 36F (b) of this article; or

(ii) Manufacture prototype handgun models required for design, development, testing, and approval by the Board; and

(2) The manufacturing in the State of a handgun not on the handgun roster by a federally licensed gun manufacturer that was also licensed as a regulated firearms dealer in the State as of January 1, 1998, for direct sale to a unit of:

- (i) The federal government;
- (ii) A state other than the State of Maryland;
- (iii) An out-of-state local government; or
- (iv) An out-of-state law enforcement agency.

(g) Violation of section.

(1) Any person who manufactures a handgun for distribution or sale in violation of this section shall be guilty of a misdemeanor and shall be fined not more than \$10,000 for each violation.

(2) Any person or entity who sells or offers to sell a handgun in violation of this section shall be guilty of a misdemeanor and shall be fined not more than \$2,500 for each violation.

(3) For purposes of this subsection, each handgun manufactured, sold, or offered for sale in violation of this subsection shall be a separate violation.

(h) Liability for damages.

(1) A person or entity may not be held strictly liable for damages of any kind resulting from injuries to another person sustained as a result of the criminal use of any firearm by a third person, unless the person or entity conspired with the third person to commit, or willfully aided, abetted, or caused the commission of the criminal act in which the firearm was used.

(2) This section may not be construed to otherwise negate, limit, or modify the doctrine of negligence or strict liability relating to abnormally dangerous products or activities and defective products.

36J. Handgun roster; Handgun Roster Board.

(a) Handgun Roster Board.

(1) There is a Handgun Roster Board in the Department of State Police.

(2) The Board shall consist of 11 members, appointed by the Governor with the advice and consent of the Senate, each of whom shall serve for a term of 4 years.

(3) The members of the Board shall be:

- (i) The Secretary;
- (ii) A representative of the Association of Chiefs of Police;
- (iii) A representative of the Maryland State's Attorneys' Association;
- (iv) A handgun dealer, a gunsmith, or a representative of a handgun manufacturer;
- (v) A representative of the National Rifle Association or its affiliated State association, who is a resident of the State;
- (vi) A representative of the Marylanders Against Handgun Abuse; and
- (vii) 5 citizen members, 2 of whom shall be mechanical or electrical engineers.

(4) The Secretary shall serve as Chairman of the Board.

(5) The Board shall meet at the request of the Chairman of the Board or by request of a majority of the members.

(b) Establishment of roster; factors to consider in placing handgun on roster; publication.

(1) There is a handgun roster that the Board shall compile and publish in the Maryland Register by July 1, 1989, and thereafter maintain, of permitted handguns that are useful for legitimate sporting, self-protection, or law enforcement purposes.

(2) The Board shall consider the following characteristics of a handgun in determining

whether any handgun should be placed on the handgun roster:

- (i) Concealability;
- (ii) Ballistic accuracy;
- (iii) Weight;
- (iv) Quality of materials;
- (v) Quality of manufacture;
- (vi) Reliability as to safety;
- (vii) Caliber;
- (viii) Detectability by the standard security equipment commonly used at airports or courthouses and approved by the Federal Aviation Administration for use at airports in the United States; and
- (ix) Utility for legitimate sporting activities, self-protection, or law enforcement.

(3) In determining whether any handgun should be placed on the handgun roster, the Board shall carefully consider each of the characteristics listed under paragraph (2) of this subsection and may not place undue weight on any one characteristic.

(4) The Board shall semiannually:

(i) Publish the handgun roster in the Maryland Register; and

(ii) Send a copy of the handgun roster to all regulated firearm dealers that are licensed under § 443 of this article.

(c) Placement of handgun on roster.

(1) The Board may place a handgun on the handgun roster upon the Board's own initiative.

(2) On the successful petition of any person, subject to the provisions of subsections (e) and (f) of this section, the Board shall place a handgun on the handgun roster unless a court, after all appeals are exhausted, has made a finding that the decision of the Board shall be affirmed.

(d) Burden of proof and form of petition to place handgun on roster.

(1) A person who petitions for placement of a handgun on the handgun roster shall bear the burden of proof that the handgun should be placed on the roster.

(2) A petition to place a handgun on the handgun roster shall be submitted in writing and shall be in the form and manner prescribed by the Board.

(e) Action by Board upon petition.

(1) Upon receipt of a petition to place a handgun on the handgun roster, the Board shall, within 45 days of receipt of the petition:

(i) Deny the petition in writing, stating the reasons for denial; or

(ii) Approve the petition and publish a description of the handgun in the Maryland Register, including notice that any objection to its inclusion in the handgun roster must be filed with the Board within 30 days.

(2) If the Board fails to deny or approve a petition within the time required under paragraph (1) of this subsection, the petition shall be considered denied.

(f) Notice and hearing upon denial of petition; appeal; construction of section.

(1) (i) If the Board denies a petition to place a handgun on the handgun roster, the Board shall notify the petitioner by certified mail, return receipt requested.

(ii) The petitioner may request a hearing within 15 days from the date that the Board's denial letter is received.

(2) The Board shall, within a reasonable time not to exceed 90 days after receiving a request for a hearing, both hold a hearing on the petition and issue a written final decision on the petition.

(3) The Board shall provide notice of the hearing in accordance with the Administrative Procedure Act.

(4) At a hearing held under this subsection, the petitioner shall have the burden of proving to the Board that the handgun at issue is useful for legitimate sporting, law enforcement, or self-protection purposes, and therefore should be placed on the roster.

(5) Any aggrieved party of record may appeal within 30 days a final decision of the Board in accordance with the Administrative Procedure Act.

(6) Nothing in this section shall be construed as requiring the Board to test any handgun or have any handgun tested at the Board's expense.

36K. Access to firearms by minors.

(a) Definitions.

(1) In this section the following words have the meanings indicated.

(2) (i) "**Firearm**" means a pistol, revolver, rifle, shotgun, short-barreled rifle, short-barreled shotgun, or any other firearm.

(ii) "Firearm" does not include antique firearms as defined in § 36F of this article.

(3) "**Minor**" means an individual under the age of 16.

(4) "**Ammunition**" means any ammunition cartridge, shell or other device containing explosive or incendiary material designed and intended for use in a firearm.

(b) **Prohibited acts.**- Except as provided in this section, an individual may not store or leave a loaded firearm in any location where the individual knew or should have known that an unsupervised minor would gain access to the firearm.

(c) **Applicability.** This section does not apply if:

(1) A minor's access to a firearm is supervised by a person 18 years old or older;

(2) A minor's access to a firearm was obtained as a result of an unlawful entry;

(3) A firearm is in the possession or control of a law enforcement officer while the officer is engaged in official duties; or

(4) A minor has a certificate of firearm and hunter safety as set forth in § 10-301.1 of the Natural Resources Article.

(d) Effect of violation.

(1) A violation of this section may not:

(i) Be considered evidence of negligence;

(ii) Be considered evidence of contributory negligence;

(iii) Limit liability of a party or an insurer; or

(iv) Diminish recovery for damages arising out of the ownership, maintenance, or operation of a firearm or ammunition.

(2) A party, witness, or counsel may not make reference to a violation of this section during a trial of a civil action that involves property damage, personal injury, or death.

(e) **Penalty.** Any person who violates this section is guilty of a misdemeanor and upon conviction shall be fined not more than \$1,000.

Destructive Devices

139A. Definitions.

(a) **Definitions.** In this subheading the following words have the meanings indicated.

(b) "**Child**" means a person under the age of 18 years.

(c) Destructive device.

(1) "Destructive device" means explosive, incendiary, or toxic material that has been combined with a delivery or detonating apparatus so as to be capable of inflicting injury to persons or damage to property.

(2) "Destructive device" includes:

(i) Devices which are primarily designed and manufactured for military purposes as instru-

mentalities of destruction, including any bomb, grenade, mine, shell, missile, flamethrower, or poison gas; and

(ii) Any explosive, incendiary, or toxic material which has been deliberately modified, containerized or otherwise equipped with any sort of special delivery, activation or detonation component so as to give it the destructive characteristics of a military ordnance, including a Molotov cocktail, pipe bomb, or petroleum soaked ammonium nitrate.

(d) Explosive material.

(1) "Explosive material" means material which explodes when detonated and has a destructive capability.

(2) "Explosive material" includes:

(i) Explosives as defined in Article 38A, § 26 of the Code; and

(ii) Dynamite for construction work, ammonium nitrate, natural gas in pipelines and storage tanks, ether, and cannisterized oxygen for health care facilities.

(3) "Explosive material" does not include those items excluded as explosives in Article 38A, § 26 of the Code when those items are used in their original configuration.

(e) Incendiary material.

(1) "Incendiary material" means a flammable or combustible liquid.

(2) "Incendiary material" includes gasoline, acetone, benzene, butane, jet fuel, fuel oil, kerosene, and diesel fuel.

(f) Toxic material.

(1) "Toxic material" means material which is capable of causing death or serious bodily injury almost immediately on being absorbed through the skin, inhaled, or ingested.

(2) "Toxic material" includes but is not limited to:

(i) Nerve gas, mustard gas, cyanide gas, chlorine gas, or sulphuric acid, or their precursors; and

(ii) A biological substance containing a disease organism or microorganism.

139B. Exemptions from application of subheading. The prohibitions of this subheading do not apply to:

(1) Law enforcement personnel of the United States government or any agency or department of the United States, members of the armed forces of the United States or of the National Guard, or law enforcement personnel of the State or a political subdivision of the State while acting within the scope of their official duties;

(2) Officers or employees of the United States, the State, or a political subdivision of the State who are authorized to handle a destructive device within the scope of their official duties and who are acting within the scope of their official duties;

(3) A person authorized or licensed under law to possess the explosive, incendiary, or toxic material while the person is acting within the scope of the authorization or license if possession of a particular explosive, incendiary, or toxic material is specifically regulated or licensed under law; or

(4) A person who:

(i) Possesses smokeless or black gunpowder under the provisions of Article 38A of the Code; and

(ii) Uses smokeless or black gunpowder for loading or reloading small arms ammunition, antique firearms, or replicas of antique firearms.

139C. Prohibitions. A person may not knowingly:

(1) Manufacture, transport, possess, control, store, sell, distribute, or use a destructive device; or

(2) Possess any explosive, incendiary, or toxic material with intent to create a destructive device.

139D. Penalties.

(a) **In general.** A person who violates the provisions of this subheading is guilty of a felony and on conviction is subject to a fine of not more than \$250,000 or by imprisonment for not more than 25 years or both.

(b) **Sentencing.** The sentence imposed under this section may be imposed separate from and consecutive to or concurrent with a sentence for an offense based on the act or acts establishing the violation of this subheading.

(c) Restitution.

(1) In addition to the penalty provided in this section, a person convicted under this subheading may be ordered by the court to pay restitution to:

(i) The State, county, municipal corporation, bicounty agency, or special taxing district for actual costs reasonably incurred due to the placement, delivery, or detonation of a destructive device, including the search for, removal of, and damages caused by a destructive device; and

(ii) The owner or tenant of a property for the actual value of any goods, services, or income lost as a result of the evacuation of the property or damage sustained due to the placement, delivery, or detonation of a destructive device.

(2) This subsection may not be construed to limit the right of a person to restitution under § 807 of this article.

(3)(i) If the person convicted or found to have committed a delinquent act under this subheading is a child, the court may order the child, the child's parent, or both to pay the restitution described in paragraph (1) of this subsection.

(ii) Except as otherwise provided in this section, the provisions of § 807 of this article apply to an order of restitution under this paragraph.

(d) In addition to any other penalty authorized by law, if the person convicted or found to have committed a delinquent act under this subheading is a child, the court may order the Motor Vehicle Administration to initiate an action, under the motor vehicle laws, to suspend the driving privilege of the child for a specified period not to exceed:

(1) For a first offense, 6 months; and

(2) For a second or subsequent offense, 1 year or until the person is 21 years old, whichever is longer.

Health - Controlled Dangerous Substances

291A. Possession, ownership, transportation, etc., of a firearm.

(a) **Definition.** In this section "firearm" includes:

(1) Handgun, antique firearm, rifle, shotgun, short-barreled shotgun, and short-barreled rifle, as those terms are defined in § 36F of this article;

(2) Machine gun, as defined in § 372 of this article; and

(3) Regulated firearm, as defined in § 441 of this article.

(b) **Prohibited acts.** A person may not possess, own, carry, or transport a firearm if the person has been convicted of:

(1) A felony under this subheading;

(2) An offense under the laws of the United States, another state, or the District of Columbia that would be a felony under this subheading if committed in this State; or

(3) Conspiracy or attempt to commit any of the offenses listed in paragraphs (1) and (2) of this subsection.

(c) **Penalty.** A person who violates this section is guilty of a felony and shall, on conviction, be fined not more than \$10,000 or imprisoned for not more than 5 years or both.

Machine Guns

372. Definitions.

"Machine gun" as used in this subtitle, means a weapon, of any description, by whatever name known, loaded or unloaded, from which more than one shot or bullet may be automatically discharged from a magazine, by a single function of the firing device.

"Crime of violence" applies to and includes any of the following crimes or an attempt to commit any of the same, namely, murder of any degree, manslaughter, kidnapping, rape in any degree, assault in the first degree, robbery under § 486 or § 487 of this article, burglary in any degree, and theft.

"Person" applies to and includes firm, partnership, association, or corporation.

373. Use of machine gun for crime. Possession or use of a machine gun in the perpetration or attempted perpetration of a crime of violence is hereby declared to be a felony punishable by imprisonment in the State penitentiary for a term of not more than twenty years.

374. Use of machine gun for aggressive purpose. Possession or use of a machine gun for offensive or aggressive purpose is hereby declared to be a crime punishable by imprisonment in the State penitentiary for a term of not more than ten years.

375. What constitutes aggressive purpose. Possession or use of a machine gun shall be presumed to be for offensive or aggressive purpose:

(a) When the machine gun is on premises not owned or rented, for bona fide permanent residence or business occupancy, by the person in whose possession the machine gun may be found; or

(b) When in the possession of, or used by, an unnaturalized foreign-born person, or a person who has been convicted of a crime of violence in any court of record, state or federal, of the United States of America, its territories or insular possessions; or

(c) When the machine gun is of the kind described in section 379 and has not been registered as in said section required; or

(d) When empty or loaded shells which have been used or are susceptible of being used in the machine gun are found in the immediate vicinity thereof.

376. Presence prima facie evidence of use. The presence of a machine gun in any room, boat, or vehicle shall be evidence of the possession or use of the machine gun by each person occupying the room, boat, or vehicle where the weapon is found.

377. Exceptions. Nothing contained in this subtitle shall prohibit or interfere with:

(1) The manufacture for, and sale of, machine guns to the military forces or the peace officers of the United States, the several states or of any political subdivision thereof, or the transportation required for that purpose;

(2) The possession of a machine gun for scientific purpose; or the possession of a machine gun not usable as a weapon and possessed as a curiosity, ornament, or keepsake;

(3) The possession of a machine gun for a purpose manifestly not aggressive or offensive.

378. Manufacturer's register; inspection of stock. Every manufacturer shall keep a register of all machine guns manufactured or handled by

him. This register shall show the method and serial number, date of manufacture, sale, loan, gift, delivery or receipt, of every machine gun, the name, address, and occupation of the person to whom the machine gun was sold, loaned, given or delivered, or from whom it was received; and the purpose for which it was acquired by the person to whom the machine gun was sold, loaned, given or delivered, or from whom received. Upon demand every manufacturer shall permit any marshal, sheriff or police officer to inspect his entire stock of machine guns, parts, and supplies therefor, and shall produce the register, herein required, for inspection. A violation of any provision of this section shall be punishable by a fine of not more than one hundred dollars.

379. Registration of machine guns.

(a) **In general.** Except in the calendar year it was purchased, every machine gun in this State shall be registered with the Secretary of the State Police annually during the month of May. Also, every machine gun shall be registered within 24 hours after its acquisition. Blanks for registration shall be prepared by the Secretary of the State Police and furnished upon application. To comply with this section the application as filed must show the make, model, serial number, caliber, type, barrel length, finish, country of origin of the gun, and the name, address, race, sex, date of birth, Maryland driver's license number, and occupation of the person in possession of the gun, from whom and the purpose for which the gun was acquired. The registration data shall not be subject to inspection by the public. Any person failing to register any gun as required by this section shall be presumed to possess the same for offensive or aggressive purpose.

(b) **Fee.** Each registration application filed with the Secretary shall be accompanied by a nonrefundable registration fee of \$10.

382. **Uniformity of interpretation.** This subtitle shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

383. **Short title.** This subtitle may be cited as the Uniform Machine Gun Act.

Regulated Firearms

441. Definitions.

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

(b) **"Alcohol offense"** means an offense under section 21-902(a), (b), or (c) of the Transportation Article.

(c) **"Antique firearm"** means:

(1) Any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured prior to 1899; or

(2) Any replica of any firearm described in paragraph (1) of this subsection if the replica:

(i) Is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition; or

(ii) Uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.

(d) **"Assault weapon"** means any of the following specific firearms or their copies regardless of which company produced and manufactured that firearm:

- (1) American Arms Spectre DA semiautomatic carbine;
- (2) AK-47 in all forms;
- (3) Algimec AGM-1 type semi-auto;

- (4) AR 100 type semi-auto;
 - (5) AR 180 type semi-auto;
 - (6) Argentine L.S.R. semi-auto;
 - (7) Australian Automatic Arms SAR type semi-auto;
 - (8) Auto-Ordnance Thompson M1 and 1927 semi-automatics;
 - (9) Barrett light .50 cal. semi-auto;
 - (10) Beretta AR70 type semi-auto;
 - (11) Bushmaster semi-auto rifle;
 - (12) Calico models M-100 and M-900;
 - (13) CIS SR 88 type semi-auto;
 - (14) Claridge HI TEC C-9 carbines;
 - (15) Colt AR-15, CAR-15, and all imitations except Colt AR-15 Sporter H-BAR rifle; (16) Daewoo MAX 1 and MAX 2, aka AR 100, 110C, K-1, and K-2;
 - (17) Dragunov Chinese made semi-auto;
 - (18) Famas semi-auto (.223 caliber);
 - (19) Feather AT-9 semi-auto;
 - (20) FN LAR and FN FAL assault rifle;
 - (21) FNC semi-auto type carbine;
 - (22) F.I.E./Franchi LAW 12 and SPAS 12 assault shotgun;
 - (23) Steyr-AUG-SA semi-auto;
 - (24) Galil models AR and ARM semi-auto;
 - (25) Heckler and Koch HK-91 A3, HK-93 A2, HK-94 A2 and A3;
 - (26) Holmes model 88 shotgun;
 - (27) Avtomat Kalashnikov semiautomatic rifle in any format;
 - (28) Manchester Arms "Commando" MK-45, MK-9;
 - (29) Mandell TAC-1 semi-auto carbine;
 - (30) Mossberg model 500 Bullpup assault shotgun;
 - (31) Sterling Mark 6;
 - (32) P.A.W.S. carbine;
 - (33) Ruger mini-14 folding stock model (.223 caliber);
 - (34) SIG 550/551 assault rifle (.223 caliber);
 - (35) SKS with detachable magazine;
 - (36) AP-74 commando type semi-auto;
 - (37) Springfield Armory BM-59, SAR-48, G3, SAR-3, M-21 sniper rifle, M1A, excluding the M1 Garand;
 - (38) Street sweeper assault type shotgun;
 - (39) Striker 12 assault shotgun in all formats;
 - (40) Unique F11 semi-auto type;
 - (41) Daewoo USAS 12 semi-auto shotgun;
 - (42) UZI 9mm carbine or rifle;
 - (43) Valmet M-76 and M-78 semi-auto;
 - (44) Weaver Arms "Nighthawk" semi-auto carbine; or
 - (45) Wilkinson Arms 9mm semi-auto "Terry".
- (e) **"Crime of violence"** means:
- (1) Abduction;
 - (2) Arson in the first degree;
 - (3) Assault in the first or second degree;
 - (4) Burglary in the first, second, or third degree;
 - (5) Carjacking and armed carjacking;
 - (6) Escape in the first degree;
 - (7) Kidnapping;
 - (8) Voluntary manslaughter;
 - (9) Maiming;
 - (10) Mayhem as previously proscribed under former § 384 of this article;
 - (11) Murder in the first or second degree;
 - (12) Rape in the first or second degree;
 - (13) Robbery under § 486 or § 487 of this article;
 - (14) Sexual offense in the first, second, or third degree;
 - (15) An attempt to commit any of the aforesaid offenses; or
 - (16) Assault with intent to commit any of the aforesaid offenses or any offense punishable by imprisonment for more than 1 year.

(f) **"Dealer"** means any person who is engaged in the business of:

- (1) Selling, renting, or transferring firearms at wholesale or retail; or
- (2) Repairing firearms.

(g) **"Designated law enforcement agency"** means any law enforcement agency approved and designated by the Secretary to process applications to purchase regulated firearms for secondary sales.

(h) **"Engaged in the business"** means any person who:

(1) Is licensed as a Maryland regulated firearms dealer;

(2) Is licensed as a federal firearms dealer;

(3) Devotes time, attention, and labor to dealing in firearms as a regular course of trade or business with the principal objective of earning a profit through the repeated purchase and resale of firearms; or

(4) Repairs firearms as a regular course of trade or business.

(i) **"Firearms"** means:

(1) Any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; or

(2) The frame or receiver of any such weapon.

(j) **"Fugitive from justice"** means any person who has fled from a sheriff or other peace officer within this State, or who has fled from any state, the District of Columbia, or territory or possession of the United States, to avoid prosecution for a crime or to avoid giving testimony in any criminal proceeding.

(k) **"Gun show"** means any organized gathering open to the public at which any firearm is displayed.

(l) **"Habitual drunkard"** means any person who has been found guilty of any three alcohol offenses, one of which occurred within the past year.

(m) **"Habitual user of controlled dangerous substances"** means any person who has been found guilty of two controlled dangerous substance offenses, one of which occurred within the past 5 years.

(n) **"Handgun"** means any firearm with a barrel less than 16 inches in length including signal, starter, and blank pistols.

(o) **"Minor"** means any person under the age of 18 years.

(p) **"Pepper mace"** means any aerosol propelled combination of highly disabling irritant pepper based products and is also known as Oleo-Resin Capsicum (O.C.) spray.

(q) **"Person"** means an individual, partnership, association, or corporation.

(r) **"Regulated firearm"** means:

(1) Any handgun as defined in this section; or

(2) Any assault weapon as defined in this section.

(s) **"Regulated firearms dealer"** means any person who possesses a valid Maryland regulated firearms dealers license issued by the Secretary.

(t) **"Rent"** means the temporary transfer of a regulated firearm for consideration where the firearm is taken from the firearm owner's property.

(u) **"Secondary sale"** means any sale of a regulated firearm where neither party to the transaction is engaged in the business as defined in this section.

(v) **"Secretary"** means the Secretary of the State Police or the Secretary's designee.

(w) **"Straw purchase"** means any sale of a regulated firearm where an individual uses an-

other person (the straw purchaser) to complete the application to purchase a regulated firearm, take initial possession of that firearm, and subsequently transfer that firearm to the individual.

441A. Exemptions from application of sub-heading. The prohibitions of this sub-heading do not apply to:

(1) The transfer or possession of a regulated firearm or detachable magazine by a licensed manufacturer, dealer, or importer for the purposes of testing or experimentation authorized by the Secretary;

(2) The transfer or possession of an antique firearm;

(3) Law enforcement personnel of the United States government or any agency or department of the United States, members of the armed forces of the United States or of the national guard, or law enforcement personnel of this State or any local agency in this State while such persons are acting within the scope of their official duties;

(4) Any regulated firearm modified to render it permanently inoperative;

(5) Purchases, sales, and transport to or by a licensed gun dealer, manufacturer, or importer;

(6) Organizations that are required or authorized by federal law or regulations governing their specific business or activity to maintain firearms; or

(7) The receipt of a regulated firearm by inheritance, provided the heir completes an application for the purchase or transfer of a regulated firearm and forwards it to the Secretary.

442. Sale or transfer of regulated firearms.

(a) Right to regulate sales preempted by State. All restrictions imposed by the laws, ordinances or regulations of all subordinated jurisdictions within the State of Maryland on sales of regulated firearms are superseded by this section, and the State of Maryland hereby preempts the rights of such jurisdictions to regulate the sale of regulated firearms.

(b) Straw purchase.

(1) Except as otherwise provided in this subsection, a person may not knowingly or willfully participate in a straw purchase of a regulated firearm.

(2) The prohibitions of this subsection do not apply to a person purchasing a regulated firearm as a gift provided:

(i) The recipient of the gift is a resident of this State; and

(ii) Both the purchaser and recipient of the gift comply with the requirements under this sub-heading pertaining to the possession, sale, rental, receipt, transfer, or purchase of a regulated firearm, unless the gift is in the form of a gift certificate, in which case only the recipient shall comply with the requirements.

(3) If the regulated firearm is a gift to a spouse, parent, grandparent, grandchild, brother, sister, son, or daughter:

(i) An application to purchase or transfer a regulated firearm shall be completed by the recipient and forwarded to the Secretary within 5 days of receipt of the regulated firearm; and

(ii) The \$10 application fee, as provided by subsection (g) of this section, shall be waived by the Secretary.

(c) Sale by regulated firearms dealer. No regulated firearms dealer shall sell, rent, or transfer any regulated firearm until after seven days shall have elapsed from the time an application to purchase or transfer shall have been executed by the prospective purchaser or transferee, in triplicate, and the original copy is forwarded by the prospective seller or transferor to the Secretary.

(d) Sale by other than regulated firearms dealer.

(1) A person who is not a regulated firearms dealer may not sell, rent, transfer, or purchase any regulated firearm until after 7 days shall have elapsed from the time an application to purchase or transfer shall have been executed by the prospective purchaser or transferee, in triplicate, and the original copy is forwarded by a regulated firearms dealer to the Secretary.

(2) As an alternative to completing a secondary sale of a regulated firearm through a regulated firearms dealer, the prospective seller or transferor and the prospective purchaser or transferee may complete the transaction through a designated law enforcement agency.

(3) A person who makes an application to purchase, rent, or transfer a regulated firearm by secondary sale shall pay a processing fee not to exceed \$20 to the regulated firearms dealer.

(e) Disposition of copies of application. The regulated firearms dealer or designated law enforcement agency shall promptly after receiving an application to purchase, rent, or transfer, completed in accordance with subsection (h) below, forward one copy of the same, by certified mail or by facsimile machine, to the Secretary. The copy forwarded to the Secretary shall contain the name, address, and signature of the prospective seller, lessor, or transferor. The prospective seller, lessor, or transferor shall retain one copy of the application for a period of not less than three years. The prospective purchaser, lessee, or transferee shall be entitled to the remaining copy of the application.

(f) Application fee.

(1) A person who makes an application to purchase, rent, or transfer a regulated firearm shall pay to the regulated firearms dealer or designated law enforcement agency a \$10 application fee with the application to purchase, rent, or transfer.

(2) The regulated firearms dealer or designated law enforcement agency shall forward the \$10 application fee along with the application to the Secretary.

(3) If the regulated firearms dealer or designated law enforcement agency utilizes a facsimile machine to forward the application to the Secretary, the dealer or designated law enforcement agency shall:

(i) Be billed \$10 for each application forwarded to the Secretary during the month; and

(ii) Pay the total application fee by the 15th day of the next month.

(g) Warning on application. The application to purchase, rent, or transfer shall bear the following legend: "Any false information supplied or statement made in this application is a crime which may be punished by imprisonment for a period of not more than three years, or a fine of not more than \$5,000, or both."

(h) Contents of application. The application to purchase, rent, or transfer shall contain the following information:

(1) Applicant's name, address, driver's or photographic identification soundex number, Social Security number, occupation, place and date of birth, height, weight, race, eye and hair color and signature and regulated firearm information for each firearm to be purchased, rented, or transferred. In the event the applicant is a corporation, the application shall be completed and executed by a corporate officer who is a resident of this State.

(2) A statement by the applicant under the penalty of perjury that he or she:

(i) Has never been convicted of:

1. A crime of violence;

2. Any violation classified as a felony in this State;

3. Any violation classified as a misdemeanor in this State that carries a statutory penalty of more than 2 years; or

4. Any violation classified as a common law offense where the person received a term of imprisonment of more than 2 years.

(ii) Is not a fugitive from justice.

(iii) Is not a habitual drunkard.

(iv) Is not an addict or habitual user of any controlled dangerous substances.

(v) Has never spent more than thirty consecutive days in any medical institution for treatment of a mental disorder or disorders, unless there is attached to the application a physician's certificate, issued within thirty days prior to the date of application, certifying that the applicant is capable of possessing a regulated firearm without undue danger to himself or herself, or to others.

(vi) Is at least 21 years of age.

(vii) Is not a respondent against whom a current non ex parte civil protective order has been entered under § 4-506 of the Family Law Article.

(viii) Is less than 30 years of age at the time of application and has not been: adjudicated delinquent by a juvenile court for:

1. A crime of violence;

2. Any violation classified as a felony in this State; or

3. Any violation classified as a misdemeanor in this State that carries a statutory penalty of more than 2 years; and

(ix) Subject to subsection (h-1) of this section, for an application made on or after January 1, 2002 has completed a certified firearms safety training course conducted free of charge by the Maryland Police Training Commission or that meets standards by the Maryland Police Training Commission as provided Article 41, § 4-201(d-l) of the Code.

(3) The date and hour the application was delivered in completed form to the prospective seller or transferor by the prospective purchaser, lessee, or transferee.

(h-1) A person is not required to complete a certified firearms training course under subsection (h)(2)(ix) of this section and § 445(b)(4) of this sub-heading if the person:

(1) Has completed a certified firearms training course required under subsection (h)(2)(ix) of this section and § 445(b)(4) of this sub-heading;

(2) Is a law enforcement officer of the State or any local law enforcement agency in the State;

(3) Is a member, retired member, or honorably discharged member of the Armed Forces of the United States or the National Guard;

(4) Is a member of an organization that is required by Federal law or regulations governing their specific business or activity to maintain handguns and applicable ammunition; or

(5) Has been issued a permit to carry a handgun under § 36E of this article.

(i) Investigation of applicant. The Secretary may request the assistance of the Police Commissioner of Baltimore City, the chief of police in any county maintaining a police force, or the sheriff in a county not maintaining a police force and shall promptly upon receipt of an application to purchase, rent, or transfer conduct an investigation in order to determine the truth or falsity of the information supplied and statements made in the application. If it be thereupon determined that any false information or statement has been supplied or made by the applicant, that the application has not been properly completed, or that written notification from the applicant's licensed attending physician has been received stating that the applicant is suffering from a

mental disorder or disorders and is a danger to himself or herself or to others, the Secretary shall notify the prospective seller, lessor, or transferor, in writing, within seven days from the date the executed application to purchase or transfer was forwarded by certified mail or facsimile machine, of his disapproval of the application. Written notification of such disapproval shall be thereafter forwarded by the Secretary to the prospective purchaser, lessee, or transferee. The date upon which the executed application to purchase, rent, or transfer was forwarded by certified mail or by facsimile machine to the Secretary by the prospective seller, lessor, or transferor shall be considered as the first day of the seven-day period allowed for notice of disapproval to the prospective seller, lessor, or transferor. If the seventh day of the seven-day period allowed for the notice of disapproval shall fall on a Sunday or legal holiday, the computation period shall be extended to the first day next following, which is neither a Sunday nor a legal holiday.

(j) Limitations on sale.

(1) No regulated firearms dealer or person shall sell, rent, or transfer a regulated firearm to an applicant whose application has been placed on hold because of an open disposition of criminal proceedings against the applicant or disapproved, unless such disapproval has been subsequently withdrawn by the Secretary or overruled by the action of the courts pursuant to subsection (k) of this section.

(2) An approved application is valid only for the purchase, rental, or transfer of the regulated firearm listed in the application.

(k) Hearing; judicial review.-

(1) Any prospective purchaser, lessee, or transferee aggrieved by the action of the State Police may request a hearing within 30 days from the date when written notice was forwarded to the aggrieved person by writing to the Secretary, who shall grant the hearing within fifteen days of the request.

(2) The hearing and subsequent proceedings of judicial review, if any, thereupon following shall be conducted in accordance with the provisions of the Administrative Procedure Act.

(3) The hearing shall be held in the county of the legal residence of the aggrieved person.

(l) Notice of completed transaction. Any regulated firearms dealer or person who sells, rents, or transfers a regulated firearm in compliance with this subtitle shall forward a copy of the written notification of such completed transaction, within seven days from the date of delivery of the regulated firearm, to the Secretary, whose duty it shall be to maintain a permanent record of all such completed sales, rentals, and transfers of regulated firearms in the State. The notification shall contain an identifying description of the regulated firearm sold, rented, or transferred including its caliber, make, model, manufacturer's serial number, if any, and any other special or peculiar characteristics or marking by which the regulated firearm may be identified.

(m) Sale must be completed within 90 days.

(1) A regulated firearms dealer or person shall complete the sale, rental, or transfer of a regulated firearm within 90 days of the date the application of the prospective purchaser, lessee, or transferee was stamped by the Secretary as not being disapproved.

(2) A regulated firearms dealer or person shall within 7 days, return to the Secretary any application for which the sale, rental, or transfer of a regulated firearm was not completed within 90 days of the date the application was stamped by

the Secretary as not being disapproved. All such applications returned to the Secretary shall be voided as an incomplete sale, rental, or transfer.

(n) Construction of section. Nothing in this section shall be construed to affect sales and/or transfers for bona fide resale in the ordinary course of business of a person duly licensed under § 443 of this subtitle, or sales, rentals, transfers, and/or the use of regulated firearms by any person authorized or required to sell, rent, transfer, and/or use regulated firearms as part of his or her duties as a member of any official police force or other law enforcement agency, the armed forces of the United States, including all official reserve organizations, or the Maryland National Guard.

442A. Purchase of firearms in a 30-day period.

(a) Purchase limited to one regulated firearm; exceptions.

(1) Except as provided in this subsection, a person may not purchase more than one regulated firearm in a 30-day period.

(2) The provisions of this subsection do not apply to:

- (i) A law enforcement agency;
- (ii) An agency duly authorized to perform law enforcement duties;
- (iii) State or local correctional facilities;
- (iv) A private security company licensed to do business within the State;
- (v) The purchase of antique firearms as defined in § 441 of this article;
- (vi) Purchases by a licensed firearms dealer;
- (vii) The exchange or replacement of a regulated firearm by a seller for a regulated firearm purchased from the seller by the same person seeking the exchange or replacement within the 30-day period immediately preceding the date of exchange or replacement; or

(viii) A person whose regulated firearm is stolen or irretrievably lost and who considers it essential that the regulated firearm be replaced immediately, if:

1. The person provides the licensed regulated firearms dealer with a copy of the official police report or an official summary of the report a copy of which shall be attached to the application to purchase or transfer a regulated firearm;

2. The official police report or official summary of the report contains the name and address of the regulated firearm owner, a description of the regulated firearm, the location of the loss or theft, the date of the loss or theft, and the date which the loss or theft was reported to the law enforcement agency; and

3. The date of the loss or theft as reflected on the official police report or official summary of the report occurred within 30 days of the person's attempt to replace the regulated firearm.

(b) Purchase of more than one regulated firearm.

(1) Upon application for a multiple purchase and approval by the Secretary, purchases in excess of one regulated firearm in a 30-day period may be made under the following circumstances:

- (i) The purchase of the regulated firearms is for a private collection or is a collector series;
- (ii) The purchase of the regulated firearms is a bulk purchase from an estate sale;
- (iii) The purchase of not more than two regulated firearms is a multiple purchase for the purpose of taking advantage of a regulated firearms dealer's discounted price available only for a multiple purchase, provided that the purchaser is prohibited from purchasing a regulated firearm the following 30-day period unless approved for

a multiple purchase under item (i) or (ii) of this paragraph; or

(iv) Other similar purposes.

(2) The application shall:

(i) Contain a list of the regulated firearms to be purchased or transferred;

(ii) State the purpose of the purchase in excess of one regulated firearm in a 30-day period;

(iii) Be witnessed by a regulated firearms dealer or designated law enforcement agency; and

(iv) Be signed under the penalty of perjury by the applicant.

(c) Application for purchase of more than one regulated firearm. The application for a multiple purchase of regulated firearms shall be attached to a completed application to purchase a regulated firearm and forwarded to the Secretary by a licensed regulated firearms dealer or designated law enforcement agency.

(d) Background investigation. Upon receipt of the application to purchase a regulated firearm and the application for a multiple purchase, the Secretary shall complete a background investigation as defined in § 442 of this subtitle.

(e) Sale to disapproved applicant prohibited. A dealer or person may not sell, rent, or transfer any regulated firearms to a person whose application has been placed on hold because of an open disposition of criminal proceedings against the applicant or disapproved, unless the hold or disapproval has been subsequently withdrawn by the Secretary or overruled by actions of the courts.

442B. [Handgun identification]

(a)(1) In this section the following words have the meanings indicated.

(2) **"Manufacturer"** means any person who possesses a valid Federal license issued by the Secretary of the Treasury that permits that person to engage in the business of manufacturing firearms or ammunition for the purpose of sale or distribution.

(3) **"Projectile"** means that part of handgun ammunition that is, by means of an explosion, expelled through the barrel of the handgun.

(4) **"Shell casing"** means that part of handgun ammunition that contains the primer and propellant powder to discharge the projectile.

(b) Any manufacturer that ships or transports a handgun to be sold, rented, or transferred in the state shall include in the box with the handgun in a separate sealed container:

(1) A shell casing of a projectile discharged from that handgun; and

(2) Additional information that identifies the type of handgun and shell casing as required by the Secretary to meet the provisions of this section.

(c) Upon receipt of a handgun from the manufacturer, the dealer shall confirm to the Department of State Police that the manufacturer complied with the provisions of subsection (b).

(d) Upon the sale or transfer of the handgun, the dealer shall forward the sealed container to the Department of State Police Crime Laboratory.

(e) Upon receipt of the shell casing and required information, the Department of State Police Crime Laboratory shall enter the information in all pertinent databases.

(f) The Secretary shall promulgate regulations to carry out the provisions of this section.

442C. [Handgun safety devices]

(a)(1) In this section the following words have the meanings indicated.

(2) **"Authorized user"** means the owner and any person authorized by the owner to possess and use the handgun.

(3) **"External safety lock"** means an external device that is:

(i) Attached to a handgun with a key or combination lock; and

(ii) Designed to prevent a handgun from being discharged unless the device has been deactivated.

(4) **"Handgun"** has the meaning stated in § 441(n) of this subheading but does not include signal, starter, and blank pistols.

(5) **"Handgun Roster Board"** has the meaning stated in § 36J(a) of this article.

(6) **"Integrated mechanical safety device"** means a disabling or locking device that:

(i) Is built into a handgun; and

(ii) Is designed to prevent the handgun from being discharged unless the device has been deactivated.

(7) **"Personalized handgun"** means a handgun manufactured with incorporated design technology allowing it to be fired only by a person who is the authorized user of the handgun and that prevents any of the safety characteristics from being readily deactivated.

(b) The provisions of this section do not apply to:

(1) Purchases, sales, and transport to or by a licensed gun dealer or manufacturer that provides or services a handgun for:

(i) Personnel of the United States government or any agency or department of the United States;

(ii) Members of the Armed Forces of the United States or the National Guard

(iii) Law enforcement personnel of the State or any local law enforcement agency in the State while that personnel is acting within the scope of their official business; and

(iv) Organizations that are required by Federal law or regulations governing their specific business or activity to maintain handguns and applicable ammunition;

(2) Any firearm modified to render it permanently inoperative;

(3) Sales or transfers by any licensed gun dealer or manufacturer covered under paragraph (1) of this subsection;

(4) Sales or transfers by a licensed gun dealer or manufacturer to a lawful customer outside the State; or

(5) Antique firearms.

(c) A dealer may not sell, offer for sale, rent, or transfer in the State any handgun manufactured on or before December 31, 2002 unless the handgun is sold, offered for sale, rented, or transferred with an external safety lock.

(d) Beginning on January 1, 2003, a dealer may not sell, offer for sale, rent, or transfer in the state any handgun manufactured after December 31, 2002 unless the handgun has an integrated mechanical safety device.

(e)(1) The Handgun Roster Board shall review the status of personalized handgun technology and report its findings to the Governor and, in accordance with § 2-1246 of the State Government Article, to the General Assembly on an annual basis, beginning on or before July 1, 2002.

(2) In reviewing the status of personalized handgun technology under paragraph (1) of this subsection, the Handgun Roster Board shall consider:

(i) The number and variety of models and calibers of personalized handguns that are available for sale;

(ii) Any studies, analyses, or other evaluations of personalized handguns conducted by or commissioned by the National Institute of Justice, any Federal, State, or local law enforcement laboratory, or any other entity with an expertise in the field of handgun technology; and

(iii) Any other information that the Handgun Roster Board considers relevant.

443. Regulated firearms dealer's license.

(a) **Required.** No person shall engage in the business of selling, renting, or transferring regulated firearms unless he lawfully possesses and conspicuously displays at his place of business, in addition to any other license required by law, a regulated firearms dealer's license issued by the Secretary. Such license shall identify the licensee and the location of the licensee's place of business. One such license shall be required for each place of business where regulated firearms are sold.

(b) **Expiration date; fees; change of place of business; fingerprint record check.**

(1) The license required by subsection (a) above shall expire on the 30th day of June of each year.

(2) The initial fee for the license shall be \$50, and the annual renewal shall be \$25, payable to the Comptroller of the State of Maryland.

(3) The license shall not be transferable nor shall any refund or proration of the annual fee therefor be allowed. Provided, however, that before any licensee changes his or her place of business, the licensee shall so inform the Secretary and surrender his or her license, whereupon the Secretary shall, if no cause exists for the revocation of the license, issue a new license, without fee, covering the new place of business for the duration of the unexpired term of the surrendered license.

(4) As part of the application for a license, the applicant shall submit to the Department of State Police:

(i) A complete set of the applicant's legible fingerprints taken on standard fingerprint cards; and

(ii) Payment for the cost of the fingerprint card record checks.

(c) **Warning on application.** Every annual application for a regulated firearms dealer's license shall bear the following legend: "Any false information supplied or statement made in this application is a crime which may be punished by imprisonment for a period of not more than 3 years, or a fine of not more than \$5,000 or both."

(d) **Contents of application.** The application for a regulated firearms dealer's license shall contain the following information:

(1) Applicant's name, address, Social Security number, place and date of birth, height, weight, race, eye and hair color and signature. In the event the applicant is a corporation, the application shall be completed and executed by a corporate officer who is a resident of this State.

(2) A clear and recognizable photograph of the applicant, except where such photograph has been submitted with a prior year's application.

(3) A set of the applicant's fingerprints, except where such fingerprints have been submitted with a prior year's application.

(4) A statement by the applicant that he or she:

(i) Is a citizen of the United States.

(ii) Is at least 21 years of age.

(iii) Has never been convicted of:

1. A crime of violence;

2. Any violation classified as a felony in this State;

3. Any violation classified as a misdemeanor in this State that carries a statutory penalty of more than 2 years; or

4. Any violation classified as a common law offense where the person received a term of imprisonment of more than 2 years.

(iv) Is not a fugitive from justice.

(v) Is not a habitual drunkard.

(vi) Is not an addict or a habitual user of any controlled dangerous substances.

(vii) Has never spent more than thirty consecutive days in any medical institution for treatment of a mental disorder or disorders, unless there is attached to the application a physician's certificate, issued within thirty days prior to the date of application, certifying that the applicant is capable of possessing a pistol or revolver without undue danger to himself or herself, or to others.

(e) **Investigation of applicant.** The Secretary shall conduct an investigation in order to determine the truth or falsity of the information supplied and statements made in an application for a regulated firearms dealer's license. If it be thereupon determined that any false information or statement has been supplied or made by the applicant, a written notification is received from the applicant's licensed attending physician that the applicant is suffering from a mental disorder or disorders and is a danger to himself or herself or to others, or that the application has not been properly completed, the Secretary shall forward written notification to the prospective licensee of the Secretary's disapproval of said application.

(f) **Effect of disapproval.** No person shall engage in the business of selling regulated firearms whose application for a regulated firearms dealer's license has been disapproved, unless such disapproval has been subsequently withdrawn by the Secretary or overruled by the action of the courts pursuant to subsection (g) below.

(g) **Appeal of disapproval.** Any person aggrieved by the action of the Secretary may appeal the disapproval of his or her application for a regulated firearms dealer's license to the circuit court of the county where the applicant's intended place of business is to be conducted. Such appeal must be filed not later than thirty days from the date written notification of disapproval to the prospective licensee was mailed by the Secretary. The court wherein an appeal is properly and timely filed shall affirm or reverse the determination of disapproval rendered by the Secretary, depending upon whether it finds that any false information or statement was supplied or made by the applicant, or that the application was not properly completed. A further appeal to the Court of Special Appeals may be prosecuted by either the Secretary or the applicant from the decision reached by the circuit court in accordance with this subsection.

(h) **Suspension of license.** The Secretary shall suspend an issued regulated firearms dealer's license by written notification forwarded to the licensee under any of the following circumstances if the licensee:

(1) Is under indictment for a crime of violence; or

(2) Is arrested for any violation of this subheading that would prohibit the purchase or possession of a regulated firearm.

(i) **Revocation of license.** The Secretary shall revoke an issued regulated firearm dealer's license, by written notification forwarded to the licensee, under any of the following circumstances:

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

(2) If the licensee:

(i) Is convicted of a crime of violence;

(ii) Is convicted of any violation classified as a felony in this State;

(iii) Is convicted of any violation classified as a misdemeanor in this State that carries a statutory penalty of more than 2 years;

(iv) Is convicted of any violation classified as a common law offense where the licensee received a term of imprisonment of more than 2 years;

(v) Is a fugitive from justice;

(vi) Is a habitual drunkard;

(vii) Is addicted to or a habitual user of any controlled dangerous substance;

(viii) Has spent more than 30 consecutive days in any medical institution for treatment of a mental disorder or disorders, unless the licensee produces a physician's certificate, issued subsequent to the last period of institutionalization, certifying that the licensee is capable of possessing a regulated firearm without undue danger to himself or herself, or to others;

(ix) Has knowingly or willfully manufactured, offered to sell, or sold a handgun not on the handgun roster in violation of § 36-1 of this article; or

(x) Has knowingly or willfully participated in a straw purchase of a regulated firearm.

(j) **Effect of suspension or revocation.** No person shall engage in the business of selling regulated firearms whose regulated firearms dealer's license has been suspended or revoked, unless such suspension or revocation has been subsequently withdrawn by the Secretary or overruled by the action of the courts pursuant to subsection (k) below.

(k) **Hearing; judicial review.** Any prospective dealer aggrieved by the action of the Secretary may request a hearing within 30 days from the date when written notice was forwarded to such aggrieved person by writing to the Secretary, who shall grant the hearing within 15 days of said request. Said hearing and subsequent proceedings of judicial review, if any, thereupon following shall be conducted in accordance with the provisions of the Administrative Procedure Act. A revocation shall not take effect while an appeal is pending.

443A. Sale or transfer of regulated firearm at gun show.

(a) **Temporary transfer permit.**

(1) (i) A person who displays a regulated firearm for sale or transfer from a table or fixed display at a gun show shall first obtain a temporary transfer permit from the Secretary.

(ii) The cost of an initial temporary transfer permit each calendar year is \$10.

(iii) An additional temporary transfer permit during the same calendar year shall be issued without charge.

(iv) A person may not receive more than five temporary transfer permits during a single calendar year.

(v) A temporary transfer permit shall be clearly labeled "temporary" and shall include the statement: "This is not a license to engage in the business of selling firearms."

(vi) The application for a temporary transfer permit shall contain any information that is necessary for the Secretary to conduct a computer background investigation.

(vii) Every application for a temporary transfer permit shall bear the following statement: "Any false information supplied or statement made in

this application is a crime which may be punished by imprisonment for a period of not more than 3 years or a fine of not more than \$5,000 or both."

(2)(i) The Secretary shall conduct an investigation to determine the truth or falsity of the information supplied, and the statements made in the application for a temporary transfer permit.

(ii) If there is no reason to disapprove the application for a temporary transfer permit, the Secretary shall issue the permit within 7 days of the date of application.

(3) The Secretary shall forward written notification of the disapproval to the applicant, if it is determined that:

(i) The application is improperly completed;

(ii) Any false information has been supplied; or

(iii) A false statement has been made.

(4) The temporary transfer permit shall be placed in public view as part of any display.

(5) Any person who holds a valid regulated firearms dealer's license issued under § 443 of this article is exempt from the requirements of this subsection.

(b) **Sale or transfer governed by §§ 442 and 442A.** Any sale or transfer of a regulated firearm from a table or a fixed display at a gun show shall be governed by the provisions of §§ 442 and 442A of this article.

(c) **Displays must comply with § 443.** Any person who, in any calendar year, displays a regulated firearm for sale, trade, or transfer at more than five gun shows shall comply with § 443 of this article.

444. Obliterating, etc., identification mark or number. It shall be unlawful for anyone to obliterate, remove, change or alter the manufacturer's identification mark or number on any firearms. Whenever on trial for a violation of this section the defendant is shown to have or have had possession of any such firearms, such fact shall be presumptive evidence that the defendant obliterated, removed, changed or altered the manufacturer's identification mark or number.

445. Restrictions on sale, transfer and possession of regulated firearms.

(a) **Rights of subordinate jurisdictions.** All restrictions imposed by the laws, ordinances or regulations of all subordinate jurisdictions within the State of Maryland on possession or transfers by private parties of regulated firearms are superseded by this section and the State of Maryland hereby preempts the right of such jurisdictions to regulate the possession and transfer of regulated firearms.

(b) **Sale, rent, or transfer by dealer or person - In general.** A dealer or person may not sell, rent, or transfer a regulated firearm to any person whom he knows or has reasonable cause to believe:

(1) Has been convicted of:

(i) A crime of violence;

(ii) Any violation classified as a felony in this State or any conspiracy to commit any crimes established by those sections;

(iii) Any violation classified as a misdemeanor in this State that carries a statutory penalty of more than 2 years; or

(iv) Any violation classified as a common law offense where the person received a term of imprisonment of more than 2 years.

(2) Is:

(i) A fugitive from justice;

(ii) A habitual drunkard;

(iii) Addicted to or a habitual user of any controlled dangerous substance or substances;

(iv) Suffering from a mental disorder as defined in § 10-101 (f) (2) of the Health-General Article and has a history of violent behavior against another person or self, or has been confined for more than 30 consecutive days to a facility as defined in § 10-101 of the Health-General Article, unless the person possesses a physician's certification that the person is capable of possessing a regulated firearm without undue danger to the person or to others;

(v) Visibly under the influence of alcohol or drugs;

(vi) Under 21 years of age;

(vii) A participant in a "straw purchase" as defined in § 441 of this article; or

(viii) A respondent against whom a current non ex parte civil protective order has been entered under § 4-506 of the Family Law Article.

(3) Is less than 30 years of age at the time of transaction and has been adjudicated delinquent by a juvenile court for committing:

1. A crime of violence;

2. Any violation classified as a felony in this State; or

3. Any violation classified as a misdemeanor in this State that carries a statutory penalty of more than 2 years.

(4) Subject to subsection (b-1) of this section, for an application made on or after January 1, 2002 has completed a certified firearms safety training course conducted free of charge by the Maryland Police Training Commission or that meets standards by the Maryland Police Training Commission as provided Article 41, § 4-201(d-1) of the Code.

(b-1) A person is not required to complete a certified firearms training course under subsection (b)(4) of this section and § 442(h)(2) (ix) of this subheading if the person:

(1) Has completed a certified firearms training course required under subsection(b)(4) of this section and § 442(h)(2)(ix) of this subheading;

(2) Is a law enforcement officer of the State or any local law enforcement agency in the State;

(3) Is a member, retired member, or honorably discharged member of the Armed Forces of the United States or the National Guard;

(4) Is a member of an organization that is required by Federal law or regulations governing their specific business or activity to maintain handguns and applicable ammunition; or

(5) Has been issued a permit to carry a handgun under § 36E of this article.

(c) **Same - Minors.** A person may not sell, rent, or transfer:

(1) Ammunition solely designed for a regulated firearm to a person who is under 21 years of age; or

(2) A firearm, other than a regulated firearm, ammunition for a firearm, pepper mace, or other deadly weapon to a minor.

(d) **Restrictions on possession - In general.** A person may not possess a regulated firearm if the person:

(1) Has been convicted of:

(i) A crime of violence;

(ii) Any violation classified as a felony in this State;

(iii) Any violation classified as a misdemeanor in this State that carries a statutory penalty of more than 2 years; or

(iv) Any violation classified as a common law offense where the person received a term of imprisonment of more than 2 years.

(2) Is:

(i) A fugitive from justice;

(ii) A habitual drunkard;

(iii) Addicted to or a habitual user of any controlled dangerous substances;

(iv) Suffering from a mental disorder as defined in § 10-101 (f) (2) of the Health-General Article and has a history of violent behavior against another person or self, or has been confined for more than 30 consecutive days to a facility as defined in § 10-101 of the Health-General Article, unless the person possesses a physician's certification that the person is capable of possessing a regulated firearm without undue danger to the person or to others; or

(v) A respondent against whom a current non ex parte civil protective order has been entered under § 4-506 of the Family Law Article.

(3) Is less than 30 years of age at the time of possessing and has been adjudicated delinquent by a juvenile court for committing:

1. A crime of violence;
2. Any violation classified as a felony in this State; or
3. Any violation classified as a misdemeanor in this State that carries a statutory penalty of more than 2 years.

(e) Same - Minors.

(1) Except as provided in paragraph (2) of this subsection, a person who is under 21 years of age may not possess a regulated firearm or ammunition solely designed for a regulated firearm.

(2) Unless a person is otherwise prohibited from possessing a regulated firearm, this subsection does not apply to:

(i) The temporary transfer or possession of a regulated firearm or regulated firearm ammunition if the person is under 21 years of age and is:

1. Under the supervision of a person at least 21 years of age who is not prohibited by State or federal law from possessing firearms; 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 of possession, of a regulated firearm;

(iii) A person who is a member of the armed forces of the United States or of the national guard while performing official duties;

(iv) The temporary transfer or possession of a regulated firearm or regulated firearm ammunition if the person is under 21 years of age and 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 regulated firearm for employment purposes and has been issued a permit under § 36E of this article; or

(vi) The possession of a firearm or ammunition for the purpose of 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.

445A. Purchase of regulated firearms from out-of-state seller.

(a) **In general.**- Any person who purchases a regulated firearm from an out-of-state licensed importer, licensed manufacturer, or licensed dealer where the regulated firearm will be owned by that person shall:

(1) Have the licensed importer, licensed manufacturer, or licensed dealer ship the regulated firearm to a regulated firearms dealer in this State for processing; and

(2) Comply with §§ 442 and 442A of this subheading.

(b) **Waiting period waived for law enforcement personnel.** The Secretary may waive the 7-day waiting period for law enforcement per-

sonnel of the United States government or any agency or department of the United States, members of the armed forces of the United States or of the national guard, or law enforcement personnel of this State or any local agency in this State when the person is purchasing the regulated firearm for use within the scope of his or her official duties.

445B. Firearms subject to seizure. Any regulated firearm sold, rented, transferred, possessed, received, or purchased in violation of this subheading may be seized by a law enforcement agency as contraband and, after a finding of guilt, disposed of in accordance with § 36C of this Article.

446. Sale, transfer, etc., of stolen regulated firearm. It shall be unlawful for any person to possess, sell, transfer or otherwise dispose of any stolen regulated firearm, knowing or having reasonable cause to believe same to have been stolen.

447. Antique or unserviceable firearms accepted. The provisions of this subtitle shall not be construed to include any antique or unserviceable firearms sold or transferred and/or held as curios or museum pieces.

447A. Marine signal pistols, etc. This subtitle does not apply to any signal pistol or other visual distress signal approved by the United States Coast Guard for use as a marine safety device.

448. Regulations. The Secretary shall promulgate regulations to carry out the provisions of this subheading.

449. Penalties.

(a) **Penalties generally.** Any person who violates any of the provisions of § 445 (c) of this subheading is guilty of a misdemeanor and upon conviction shall be fined not more than \$1,000 or imprisoned for not more than 1 year or both.

(b) **False information or material misstatement on application.** Any person who knowingly gives any false information or makes any material misstatement in an application to purchase a regulated firearm or an application for a regulated firearms dealer's license shall be guilty of a misdemeanor and upon conviction be fined not more than \$5,000 or imprisoned for not more than 3 years, or both.

(c) **Violation of 30-day purchase period.** Any person who violates any of the provisions of § 442A of this subheading is guilty of a misdemeanor and shall upon conviction be fined not more than \$5,000 or imprisoned for not more than 3 years or both.

(d) **Knowing participants in straw purchase or trafficking.** Any person or dealer who is a knowing participant in a straw purchase of a regulated firearm to a prohibited person or to a minor, or transports regulated firearms into this State for the purpose of illegal sale or trafficking of a regulated firearm shall be guilty of a misdemeanor and upon conviction be fined not more than \$25,000 or imprisoned for not more than 10 years, or both. Each violation shall be considered a separate offense.

(e) A person who was previously convicted of a crime of violence as defined in § 441(e) of this article or convicted of a violation of § 286 or § 286A of this article, and who is in illegal possession of a firearm as defined in § 445(d)(1)(i) and (ii) of this article, is guilty of a felony and upon conviction shall be imprisoned for not less than 5 years, no part of which may be suspended and the person may not be eligible for parole. Each violation shall be considered a separate offense.

(f) **Knowing participants in sale, rental, etc.** Except as otherwise provided in this section, any dealer or person who knowingly participates in

the illegal sale, rental, transfer, purchase, possession, or receipt of a regulated firearm in violation of this subheading shall be guilty of a misdemeanor and upon conviction shall be fined not more than \$10,000 or imprisoned for not more than 5 years, or both. Each violation shall be considered a separate offense.

Rifles and Shotguns

481A. Purchase from licensed dealer in adjoining state. It shall be lawful for any Maryland resident to purchase a rifle or shotgun from a federally licensed gun dealer in an adjoining state provided the purchaser is eligible to purchase a rifle or shotgun under the laws of such state.

481B. Purchase by resident of adjacent state from licensed dealer in Maryland. It shall be lawful for any resident of an adjacent state (Pennsylvania, Delaware, Virginia, West Virginia) to purchase a rifle or shotgun from a federally licensed gun dealer in this State provided the purchaser is eligible to purchase a rifle or shotgun under the laws of the State of Maryland

481C. Possession of short-barreled rifles and short-barreled shotguns prohibited - exceptions - penalty.

(a) (1) In this section, the following words have the meanings indicated.

(2) **"Rifle"** means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

(3) **"Short-barreled shotgun"** means a shotgun having one or more barrels less than 18 inches in length and any weapon made from a shotgun (whether by alteration, modification, or otherwise) if such weapon as modified has an overall length of less than 26 inches.

(4) **"Short-barreled rifle"** means a rifle having one or more barrels less than 16 inches in length and any weapon made from a rifle (whether by alteration, modification, or otherwise) if such weapon, as modified, has an overall length of less than 26 inches.

(5) **"Shotgun"** means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

(6) The terms short-barreled shotgun and short-barreled rifle do not include:

(i) Antique firearms as defined in section 36F(c) of this article;

(ii) Any device which is neither designed nor redesigned for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; or

(iii) Any firearm which is incapable of discharging a shot by means of an explosive and incapable of being readily restored to a firing condition.

(b) **Possession of short-barreled rifle or short-barreled shotgun prohibited.** Except as provided in subsection (c), a person may not possess a short-barreled rifle or short-barreled shotgun.

(c) Exceptions; registration.

(1) The provisions of subsection (b) of this section do not apply to the following individuals, while on official business:

(i) Law enforcement personnel of the United States or of this State, or of any political subdivision of this State;

(ii) A member of the armed forces of the United States or the National Guard while on duty or travelling to or from duty;

(iii) Law enforcement personnel of another state or of a political subdivision of another state, while temporarily in this State;

(iv) A jailer, prison guard, warden, or guard or keeper of any penal, correctional, or detention institution in this State; and

(v) A sheriff, and a temporary or full-time deputy sheriff.

(2) A person may possess a short-barreled shotgun or short-barreled rifle which has been registered with the United States government in accordance with United States statutes. In any prosecution under this section, the defendant has the burden of proving the lawful registration of the short-barreled shotgun or short-barreled rifle.

(d) **Penalty.** Any person violating the provisions of this section is guilty of a misdemeanor and upon conviction is subject to a fine not exceeding \$5,000 or imprisonment not exceeding five years, or both.

481D. Possession by persons suffering from mental disorder having history of violent behavior.

(a) **In general.** A person may not possess a rifle or a shotgun if the person is suffering from a mental disorder as defined in § 10-101 (f) (2) of the Health-General Article and has a history of violent behavior against another person or self, or has been confined for more than 30 consecutive days to a facility as defined in § 10-101 of the Health-General Article, unless the person possesses a physician's certification that the person is capable of possessing a rifle or a shotgun without undue danger to the person or to others.

(b) **Penalty.** Any person violating the provisions of this section is guilty of a misdemeanor and upon conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 3 years, or both.

[Current through 2000 Regular Session, including 2000 Md. Laws 1, (SB 158), 2 (SB 211, eff. Oct. 1, 2000) & 288 (SB 591; eff. Oct. 1, 2000)]

Publisher's Notes:

The following jurisdictions restrict the age at which it is legal for a person to purchase or receive a firearm: Annapolis, Baltimore County, and Montgomery County.

Montgomery County prohibits the sale, possession, or receipt of any type of firearm by a particular class of persons (e.g. convicted felons, fugitives, illegal aliens, mental incompetents, illegal drug users or addicts).

Cumberland prohibits concealed weapons.

Annapolis imposes recordkeeping requirements as a condition of lawful sale of firearms and ammunition and requires sellers to register with the city clerk.

Montgomery County requires ammunition dealers to register with the police and maintain receipts.

Baltimore County holds parents/guardians of underage persons liable for acts wrongfully committed with firearms.

MASSACHUSETTS

MASS. GEN. L.

Chapter 140. Licenses - Sale of Firearms

121. Definitions. As used in sections 122 to 131P, inclusive, the following words shall, unless the context clearly requires otherwise, have the following meanings:

"Ammunition", cartridges or cartridge cases, primers (igniter), bullets or propellant powder designed for use in any firearm, rifle or shotgun. The term "ammunition" shall also mean tear gas cartridges, chemical mace or any device or instrument which contains or emits a liquid, gas, powder or any other substance designed to incapacitate.

"Assault weapon", shall have the same meaning as a semiautomatic assault weapon as defined in the federal Public Safety and Recreational Firearms Use Protection Act, 18 U.S.C. section 921(a)(30), and shall include, but not be limited to, any of the weapons, or copies or duplicates of the weapons, of any caliber, known as: (i) Avtomat Kalashnikov (AK) (all models); (ii) Action Arms Israeli Military Industries UZI and Galil; (iii) Beretta Ar70 (SC-70); (iv) Colt AR-15; (v) Fabrique National FN/FAL, FN/LAR and FNC; (vi) SWD M-10, M-11, M-11/9 and M-12; (vii) Steyr AUG; (viii) INTRATEC TEC-9, TEC-DC9 and TEC-22; and (ix) revolving cylinder shotguns, such as, or similar to, the Street Sweeper and Striker 12; provided, however, that the term assault weapon shall not include: (i) any of the weapons, or replicas or duplicates of such weapons, specified in appendix A to 18 U.S.C. section 922, as such weapons were manufactured on October 1, 1993; (ii) any weapon that is operated by manual bolt, pump, lever or slide action; (iii) any weapon that has been rendered permanently inoperable or otherwise rendered permanently unable to be designated a semiautomatic assault weapon; (iv) any weapon that was manufactured prior to the year 1899; (v) any weapon that is an antique or relic, theatrical prop or other weapon that is not capable of firing a projectile and which is not intended for use as a functional weapon and cannot be readily modified through a combination of available

parts into an operable assault weapon; (vi) any semiautomatic rifle that cannot accept a detachable magazine that holds more than five rounds of ammunition; or (vii) any semiautomatic shotgun that cannot hold more than five rounds of ammunition in a fixed or detachable magazine.

"Conviction", a finding or verdict of guilt or a plea of guilty, whether or not final sentence is imposed.

"Firearm", a pistol, revolver or other weapon of any description, loaded or unloaded, from which a shot or bullet can be discharged and of which the length of the barrel or barrels is less than 16 inches or 18 inches in the case of a shotgun as originally manufactured; provided, however, that the term firearm shall not include any weapon that is: (i) constructed in a shape that does not resemble a handgun, short-barreled rifle or short-barreled shotgun including, but not limited to, covert weapons that resemble key-chains, pens, cigarette-lighters or cigarette-packages; or (ii) not detectable as a weapon or potential weapon by x-ray machines commonly used at airports or walk-through metal detectors.

"Gunsmith", any person who engages in the business of repairing, altering, cleaning, polishing, engraving, blueing or performing any mechanical operation on any firearm, rifle, shotgun or machine gun.

"Imitation firearm", any weapon which is designed, manufactured or altered in such a way as to render it incapable of discharging a shot or bullet.

"Large capacity feeding device", (i) a fixed or detachable magazine, box, drum, feed strip or similar device capable of accepting, or that can be readily converted to accept, more than ten rounds of ammunition or more than five shotgun shells; or (ii) a large capacity ammunition feeding device as defined in the federal Public Safety and Recreational Firearms Use Protection Act, 18 U.S.C. section 921(a)(31). The term "large capacity feeding device" shall not include an attached tubular device designed to accept, and capable of operating only with, .22 caliber ammunition.

"Large capacity weapon", any firearm, rifle or shotgun: (i) that is semiautomatic with a fixed large capacity feeding device; (ii) that is semiautomatic and capable of accepting, or readily modifiable to accept, any detachable large capacity feeding device; (iii) that employs a rotating cylinder capable of accepting more than ten rounds of ammunition in a rifle or firearm and more than five shotgun shells in the case of a shotgun or firearm; or (iv) that is an assault weapon. The term "large capacity weapon" shall be a secondary designation and shall apply to a weapon in addition to its primary designation as a firearm, rifle or shotgun and shall not include: (i) any weapon that was manufactured in or prior to the year 1899; (ii) any weapon that operates by manual bolt, pump, lever or slide action; (iii) any weapon that is a single-shot weapon; (iv) any weapon that has been modified so as to render it permanently inoperable or otherwise rendered permanently unable to be designated a large capacity weapon; or (v) any weapon that is an antique or relic, theatrical prop or other weapon that is not capable of firing a projectile and which is not intended for use as a functional weapon and cannot be readily modified through a combination of available parts into an operable large capacity weapon.

"Length of barrel" or "barrel length", that portion of a firearm, rifle, shotgun or machine gun through which a shot or bullet is driven, guided or stabilized and shall include the chamber.

"Licensing authority", the chief of police or the board or officer having control of the police in a city or town, or persons authorized by them.

"Machine gun", a weapon of any description, by whatever name known, loaded or unloaded, from which a number of shots or bullets may be rapidly or automatically discharged by one continuous activation of the trigger, including a sub-machine gun.

"Purchase" and **"sale"** shall include exchange; the word "purchaser" shall include exchanger; and the verbs "sell" and "purchase", in