

SB1097/583727/1

BY: Judicial Proceedings Committee

AMENDMENTS TO SENATE BILL 1097
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, strike “**Gun Buyback Programs – Destruction of Firearms**” and substitute “**Firearm Safety and Firearm Crimes**”; in line 3, after “of” insert “exempting an employee of the Department of Natural Resources in the course of performing official duties from certain prohibitions against knowingly wearing, carrying, or transporting a firearm in certain locations; classifying the theft of a firearm as a felony; establishing certain penalties for theft of a firearm;”; in line 8, after “Act;” insert “classifying the trafficking of a regulated firearm as a felony;”; in line 9, strike “gun buyback programs” and substitute “firearm safety and firearm crimes”; and after line 9, insert:

“BY repealing and reenacting, with amendments,

Article - Criminal Law

Section 4–111(b)(10) and (11) and 7–104

Annotated Code of Maryland

(2021 Replacement Volume and 2023 Supplement)

BY adding to

Article – Criminal Law

Section 4–111(b)(12)

Annotated Code of Maryland

(2021 Replacement Volume and 2023 Supplement)

BY repealing and reenacting, without amendments,

Article - Criminal Law

Section 4–111(c) through (e)

Annotated Code of Maryland

(2021 Replacement Volume and 2023 Supplement)”;

and in line 12, after “5–114(b)” insert “and 5–140”.

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AMENDMENT NO. 2

On page 1, after line 22, insert:

“Article – Criminal Law

4–111.

(b) This section does not apply to:

(10) a location being used with the permission of the person or governmental unit that owns, leases, or controls the location for:

(i) an organized shooting activity for educational purposes;

(ii) a historical demonstration using a firearm; or

(iii) hunting or target shooting; [or]

(11) a firearm that is carried or transported in a motor vehicle if the firearm is:

(i) locked in a container; or

(ii) a handgun worn, carried, or transported in compliance with any limitations imposed under § 5–307 of the Public Safety Article, by a person to whom a permit to wear, carry, or transport the handgun has been issued under Title 5, Subtitle 3 of the Public Safety Article; OR

(12) AN EMPLOYEE OF THE DEPARTMENT OF NATURAL RESOURCES IN THE COURSE OF PERFORMING OFFICIAL DUTIES.

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(c) A person may not wear, carry, or transport a firearm in an area for children or vulnerable individuals.

(d) (1) A person may not wear, carry, or transport a firearm in a government or public infrastructure area.

(2) A government or public infrastructure area specified under subsection (a)(4)(i) of this section must display a clear and conspicuous sign at the main entrance of the building or the part of a building that is owned or leased by the unit of State or local government indicating that it is not permissible to wear, carry, or transport a firearm in the building or that part of the building.

(e) A person may not wear, carry, or transport a firearm in a special purpose area.

7-104.

(a) A person may not willfully or knowingly obtain or exert unauthorized control over property, if the person:

(1) intends to deprive the owner of the property;

(2) willfully or knowingly uses, conceals, or abandons the property in a manner that deprives the owner of the property; or

(3) uses, conceals, or abandons the property knowing the use, concealment, or abandonment probably will deprive the owner of the property.

(b) A person may not obtain control over property by willfully or knowingly using deception, if the person:

(1) intends to deprive the owner of the property;

(2) willfully or knowingly uses, conceals, or abandons the property in a manner that deprives the owner of the property; or

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(3) uses, conceals, or abandons the property knowing the use, concealment, or abandonment probably will deprive the owner of the property.

(c) (1) A person may not possess stolen personal property knowing that it has been stolen, or believing that it probably has been stolen, if the person:

(i) intends to deprive the owner of the property;

(ii) willfully or knowingly uses, conceals, or abandons the property in a manner that deprives the owner of the property; or

(iii) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment probably will deprive the owner of the property.

(2) In the case of a person in the business of buying or selling goods, the knowledge required under this subsection may be inferred if:

(i) the person possesses or exerts control over property stolen from more than one person on separate occasions;

(ii) during the year preceding the criminal possession charged, the person has acquired stolen property in a separate transaction; or

(iii) being in the business of buying or selling property of the sort possessed, the person acquired it for a consideration that the person knew was far below a reasonable value.

(3) In a prosecution for theft by possession of stolen property under this subsection, it is not a defense that:

(i) the person who stole the property has not been convicted, apprehended, or identified;

(ii) the defendant stole or participated in the stealing of the property;

(iii) the property was provided by law enforcement as part of an investigation, if the property was described to the defendant as being obtained through

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the commission of theft; or

(iv) the stealing of the property did not occur in the State.

(4) Unless the person who criminally possesses stolen property participated in the stealing, the person who criminally possesses stolen property and a person who has stolen the property are not accomplices in theft for the purpose of any rule of evidence requiring corroboration of the testimony of an accomplice.

(d) A person may not obtain control over property knowing that the property was lost, mislaid, or was delivered under a mistake as to the identity of the recipient or nature or amount of the property, if the person:

(1) knows or learns the identity of the owner or knows, is aware of, or learns of a reasonable method of identifying the owner;

(2) fails to take reasonable measures to restore the property to the owner; and

(3) intends to deprive the owner permanently of the use or benefit of the property when the person obtains the property or at a later time.

(e) A person may not obtain the services of another that are available only for compensation:

(1) by deception; or

(2) with knowledge that the services are provided without the consent of the person providing them.

(f) Under this section, an offender's intention or knowledge that a promise would not be performed may not be established by or inferred solely from the fact that the promise was not performed.

(g) (1) **THIS SUBSECTION DOES NOT APPLY TO THEFT OF A FIREARM, AS DEFINED IN § 5-101 OF THE PUBLIC SAFETY ARTICLE.**

(2) A person convicted of theft of property or services with a value of:

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(i) at least \$1,500 but less than \$25,000 is guilty of a felony and:

1. is subject to imprisonment not exceeding 5 years or a fine not exceeding \$10,000 or both; and

2. shall restore the property taken to the owner or pay the owner the value of the property or services;

(ii) at least \$25,000 but less than \$100,000 is guilty of a felony and:

1. is subject to imprisonment not exceeding 10 years or a fine not exceeding \$15,000 or both; and

2. shall restore the property taken to the owner or pay the owner the value of the property or services; or

(iii) \$100,000 or more is guilty of a felony and:

1. is subject to imprisonment not exceeding 20 years or a fine not exceeding \$25,000 or both; and

2. shall restore the property taken to the owner or pay the owner the value of the property or services.

[(2)] (3) Except as provided in paragraph [(3)] (4) of this subsection, a person convicted of theft of property or services with a value of at least \$100 but less than \$1,500, is guilty of a misdemeanor and:

(i) is subject to:

1. for a first conviction, imprisonment not exceeding 6 months or a fine not exceeding \$500 or both; and

2. for a second or subsequent conviction, imprisonment not exceeding 1 year or a fine not exceeding \$500 or both; and

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(ii) shall restore the property taken to the owner or pay the owner the value of the property or services.

[(3)] (4) A person convicted of theft of property or services with a value of less than \$100 is guilty of a misdemeanor and:

(i) is subject to imprisonment not exceeding 90 days or a fine not exceeding \$500 or both; and

(ii) shall restore the property taken to the owner or pay the owner the value of the property or services.

[(4)] (5) Subject to paragraph [(5)] (6) of this subsection, a person who has four or more prior convictions under this subtitle and who is convicted of theft of property or services with a value of less than \$1,500 under paragraph [(2)] (3) of this subsection is guilty of a misdemeanor and:

(i) is subject to imprisonment not exceeding 5 years or a fine not exceeding \$5,000 or both; and

(ii) shall restore the property taken to the owner or pay the owner the value of the property or services.

[(5)] (6) The court may not impose the penalties under paragraph [(4)] (5) of this subsection unless the State's Attorney serves notice on the defendant or the defendant's counsel before the acceptance of a plea of guilty or nolo contendere or at least 15 days before trial that:

(i) the State will seek the penalties under paragraph [(4)] (5) of this subsection; and

(ii) lists the alleged prior convictions.

(H) A PERSON CONVICTED OF THEFT OF A FIREARM, AS DEFINED IN § 5-101 OF THE PUBLIC SAFETY ARTICLE, IS GUILTY OF A FELONY AND IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 5 YEARS OR A FINE NOT EXCEEDING \$1,000 OR BOTH.

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[(h)] (I) (1) If a person is convicted of a violation under this section for failure to pay for motor fuel after the motor fuel was dispensed into a vehicle, the court shall:

(i) notify the person that the person's driver's license may be suspended under § 16-206.1 of the Transportation Article; and

(ii) notify the Motor Vehicle Administration of the violation.

(2) The Chief Judge of the District Court and the Administrative Office of the Courts, in conjunction with the Motor Vehicle Administration, shall establish uniform procedures for reporting a violation under this subsection.

[(i)] (J) An action or prosecution for a violation of subsection [(g)(2) or (3)] (G)(3) OR (4) of this section shall be commenced within 2 years after the commission of the crime.

[(j)] (K) A person who violates this section by use of an interactive computer service may be prosecuted, indicted, tried, and convicted in any county in which the victim resides or the electronic communication originated or terminated."

AMENDMENT NO. 3

On page 2, after line 22, insert:

"5-140.

(a) A dealer or other person may not transport a regulated firearm into the State for the purpose of unlawfully selling or trafficking of the regulated firearm.

(b) A person who violates this section is guilty of a [misdemeanor] FELONY and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding \$25,000 or both.

(c) Each violation of this section is a separate crime."

AMENDMENT NO. 4

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On page 3, in line 1, strike “PUBLIC OR PRIVATE PERSON OR ENTITY THAT” and substitute “FEDERAL FIREARMS LICENSEE OR A LAW ENFORCEMENT AGENCY AND THAT:”

(1);

in line 2, strike “TRADE IN THEIR FIREARMS FOR COMPENSATION” and substitute “SURRENDER FIREARMS;”

(2) IS OPERATED, EITHER EXPLICITLY OR IMPLIEDLY, FOR THE PURPOSE OF REDUCING THE NUMBER OF FIREARMS IN A COMMUNITY; AND

(3) ADVERTISES THAT FIREARMS THAT ARE SURRENDERED TO THE PROGRAM WILL BE DESTROYED OR MADE PERMANENTLY INOPERABLE”;

in line 5, after “(A)” insert “THIS SECTION DOES NOT APPLY TO A FIREARM IF A LAW ENFORCEMENT AGENCY DETERMINES THAT THE FIREARM IS STOLEN OR IS EVIDENCE OF A CRIME.”

(B);

in line 6, strike “PERSON OR ENTITY” and substitute “FEDERAL FIREARMS LICENSEE OR LAW ENFORCEMENT AGENCY”; in the same line, strike the second “A” and substitute “EACH”; in line 8, strike “TRADED IN” and substitute “SURRENDERED TO THE FEDERAL FIREARMS LICENSEE OR LAW ENFORCEMENT AGENCY”; in line 10, after “SHALL” insert “:

1. BE COMPLETED WITHIN 6 MONTHS AFTER THE FIREARM WAS SURRENDERED IN THE GUN BUYBACK PROGRAM; AND

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2.;

in line 12, strike “PERSON OR ENTITY” and substitute “FEDERAL FIREARMS LICENSEE OR LAW ENFORCEMENT AGENCY”; in line 13, strike “AGENCY, AN ORGANIZATION,” and substitute “AGENCY”; in lines 15 and 17, strike “(B)” and “(C)”, respectively, and substitute “(C)” and “(D)”, respectively; in line 15, strike “PERSON OR ENTITY” and substitute “FEDERAL FIREARMS LICENSEE OR LAW ENFORCEMENT AGENCY”; and after line 22, insert:

“(E) NOTHING IN THIS SECTION MAY BE INTERPRETED AS AN EXCEPTION TO ANY OTHER REQUIREMENT OR RESTRICTION UNDER STATE OR FEDERAL LAW RELATING TO THE PURCHASE, RENTAL, LOAN, OR TRANSFER OF A FIREARM.”.