

HOUSE BILL 1133

E4
HB 1100/12 – JUD

3lr1183

By: **Delegates Wilson, Anderson, Barnes, Branch, Braveboy, Holmes, Ivey,
McComas, Mitchell, Pena–Melnyk, Valderrama, and Walker**

Introduced and read first time: February 8, 2013

Assigned to: Health and Government Operations and Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Public Safety – Restrictions on Possession of Firearms – Convicted Felons**
3 **and People with Mental Disorders**

4 FOR the purpose of prohibiting a person from possessing a firearm if the person has
5 been convicted of a felony or, under certain circumstances, suffers from a mental
6 disorder or has been confined to a certain facility for a certain period of time;
7 establishing a penalty for a violation of this Act; establishing that each violation
8 of a certain provision of law is a separate crime; making conforming changes;
9 and generally relating to restrictions on the possession of firearms.

10 BY repealing and reenacting, with amendments,
11 Article – Public Safety
12 Section 5–101(g), 5–133, and 5–206
13 Annotated Code of Maryland
14 (2011 Replacement Volume and 2012 Supplement)

15 BY repealing and reenacting, without amendments,
16 Article – Public Safety
17 Section 5–101(h) and (p)
18 Annotated Code of Maryland
19 (2011 Replacement Volume and 2012 Supplement)

20 BY adding to
21 Article – Public Safety
22 Section 5–133.1
23 Annotated Code of Maryland
24 (2011 Replacement Volume and 2012 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Public Safety

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5–101.

(g) “Disqualifying crime” means:

(1) a crime of violence; **OR**

(2) [a violation classified as a felony in the State; or

(3)] a violation classified as a misdemeanor in the State that carries a statutory penalty of more than 2 years.

(h) (1) “Firearm” means:

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

(ii) the frame or receiver of such a weapon.

(2) “Firearm” includes a starter gun.

(p) “Regulated firearm” means:

(1) a handgun; or

(2) a firearm that is any of the following specific assault weapons or their copies, regardless of which company produced and manufactured that assault weapon:

(i) American Arms Spectre da Semiautomatic carbine;

(ii) AK–47 in all forms;

(iii) Algimec AGM–1 type semi–auto;

(iv) AR 100 type semi–auto;

(v) AR 180 type semi–auto;

(vi) Argentine L.S.R. semi–auto;

(vii) Australian Automatic Arms SAR type semi–auto;

(viii) Auto–Ordnance Thompson M1 and 1927 semi–automatics;

- 1 (ix) Barrett light .50 cal. semi-auto;
- 2 (x) Beretta AR70 type semi-auto;
- 3 (xi) Bushmaster semi-auto rifle;
- 4 (xii) Calico models M-100 and M-900;
- 5 (xiii) CIS SR 88 type semi-auto;
- 6 (xiv) Claridge HI TEC C-9 carbines;
- 7 (xv) Colt AR-15, CAR-15, and all imitations except Colt AR-15
8 Sporter H-BAR rifle;
- 9 (xvi) Daewoo MAX 1 and MAX 2, aka AR 100, 110C, K-1, and
10 K-2;
- 11 (xvii) Dragunov Chinese made semi-auto;
- 12 (xviii) Famas semi-auto (.223 caliber);
- 13 (xix) Feather AT-9 semi-auto;
- 14 (xx) FN LAR and FN FAL assault rifle;
- 15 (xxi) FNC semi-auto type carbine;
- 16 (xxii) F.I.E./Franchi LAW 12 and SPAS 12 assault shotgun;
- 17 (xxiii) Steyr-AUG-SA semi-auto;
- 18 (xxiv) Galil models AR and ARM semi-auto;
- 19 (xxv) Heckler and Koch HK-91 A3, HK-93 A2, HK-94 A2 and A3;
- 20 (xxvi) Holmes model 88 shotgun;
- 21 (xxvii) Avtomat Kalashnikov semiautomatic rifle in any format;
- 22 (xxviii) Manchester Arms "Commando" MK-45, MK-9;
- 23 (xxix) Mandell TAC-1 semi-auto carbine;
- 24 (xxx) Mossberg model 500 Bullpup assault shotgun;
- 25 (xxxi) Sterling Mark 6;

- 1 (xxxii) P.A.W.S. carbine;
- 2 (xxxiii) Ruger mini-14 folding stock model (.223 caliber);
- 3 (xxxiv) SIG 550/551 assault rifle (.223 caliber);
- 4 (xxxv) SKS with detachable magazine;
- 5 (xxxvi) AP-74 Commando type semi-auto;
- 6 (xxxvii) Springfield Armory BM-59, SAR-48, G3, SAR-3,
7 M-21 sniper rifle, M1A, excluding the M1 Garand;
- 8 (xxxviii) Street sweeper assault type shotgun;
- 9 (xxxix) Striker 12 assault shotgun in all formats;
- 10 (xl) Unique F11 semi-auto type;
- 11 (xli) Daewoo USAS 12 semi-auto shotgun;
- 12 (xlii) UZI 9mm carbine or rifle;
- 13 (xliii) Valmet M-76 and M-78 semi-auto;
- 14 (xliv) Weaver Arms "Nighthawk" semi-auto carbine; or
- 15 (xlv) Wilkinson Arms 9mm semi-auto "Terry".

16 5-133.

17 (a) This section supersedes any restriction that a local jurisdiction in the
18 State imposes on the possession by a private party of a regulated firearm, and the
19 State preempts the right of any local jurisdiction to regulate the possession of a
20 regulated firearm.

21 (b) A person may not possess a regulated firearm if the person:

22 (1) has been convicted of a disqualifying crime;

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

25 (3) is a fugitive from justice;

26 (4) is a habitual drunkard;

1 (5) is addicted to a controlled dangerous substance or is a habitual
2 user;

3 [(6) suffers from a mental disorder as defined in § 10–101(f)(2) of the
4 Health – General Article and has a history of violent behavior against the person or
5 another, unless the person has a physician’s certificate that the person is capable of
6 possessing a regulated firearm without undue danger to the person or to another;

7 (7) has been confined for more than 30 consecutive days to a facility as
8 defined in § 10–101 of the Health – General Article, unless the person has a
9 physician’s certificate that the person is capable of possessing a regulated firearm
10 without undue danger to the person or to another;]

11 [(8)] (6) except as provided in subsection (e) of this section, is a
12 respondent against whom a current non ex parte civil protective order has been
13 entered under § 4–506 of the Family Law Article; or

14 [(9)] (7) if under the age of 30 years at the time of possession, has
15 been adjudicated delinquent by a juvenile court for an act that would be a
16 disqualifying crime if committed by an adult.

17 (c) (1) A person may not possess a regulated firearm if the person was
18 previously convicted of:

19 (i) a crime of violence; **OR**

20 [(ii) a violation of § 5–602, § 5–603, § 5–604, § 5–605, § 5–612, §
21 5–613, or § 5–614 of the Criminal Law Article; or

22 [(iii)] (II) an offense under the laws of another state or the
23 United States that would constitute [one of the crimes listed in item (i) or (ii) of this
24 paragraph] **A CRIME OF VIOLENCE** if committed in this State.

25 (2) (i) Subject to paragraph (3) of this subsection, a person who
26 violates this subsection is guilty of a felony and on conviction is subject to
27 imprisonment for not less than 5 years and not exceeding 15 years.

28 (ii) The court may not suspend any part of the mandatory
29 minimum sentence of 5 years.

30 (iii) Except as otherwise provided in § 4–305 of the Correctional
31 Services Article, the person is not eligible for parole during the mandatory minimum
32 sentence.

1 (3) At the time of the commission of the offense, if a period of more
2 than 5 years has elapsed since the person completed serving the sentence for the most
3 recent conviction under paragraph (1)(i) [or (ii)] of this subsection, including all
4 imprisonment, mandatory supervision, probation, and parole:

5 (i) the imposition of the mandatory minimum sentence is
6 within the discretion of the court; and

7 (ii) the mandatory minimum sentence may not be imposed
8 unless the State's Attorney notifies the person in writing at least 30 days before trial
9 of the State's intention to seek the mandatory minimum sentence.

10 (4) Each violation of this subsection is a separate crime.

11 (d) (1) Except as provided in paragraph (2) of this subsection, a person
12 who is under the age of 21 years may not possess a regulated firearm.

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

15 (i) the temporary transfer or possession of a regulated firearm
16 if the person is:

17 1. under the supervision of another who is at least 21
18 years old and who is not prohibited by State or federal law from possessing a firearm;
19 and

20 2. acting with the permission of the parent or legal
21 guardian of the transferee or person in possession;

22 (ii) the transfer by inheritance of title, and not of possession, of
23 a regulated firearm;

24 (iii) a member of the armed forces of the United States or the
25 National Guard while performing official duties;

26 (iv) the temporary transfer or possession of a regulated firearm
27 if the person is:

28 1. participating in marksmanship training of a
29 recognized organization; and

30 2. under the supervision of a qualified instructor;

31 (v) a person who is required to possess a regulated firearm for
32 employment and who holds a permit under Subtitle 3 of this title; or

1 (vi) the possession of a firearm for self-defense or the defense of
2 others against a trespasser into the residence of the person in possession or into a
3 residence in which the person in possession is an invited guest.

4 (e) This section does not apply to a respondent transporting a regulated
5 firearm if the respondent is carrying a civil protective order requiring the surrender of
6 the regulated firearm and:

7 (1) the regulated firearm is unloaded;

8 (2) the respondent has notified the law enforcement unit, barracks, or
9 station that the regulated firearm is being transported in accordance with the civil
10 protective order; and

11 (3) the respondent transports the regulated firearm directly to the law
12 enforcement unit, barracks, or station.

13 **5-133.1.**

14 (A) **A PERSON MAY NOT POSSESS A FIREARM IF THE PERSON:**

15 (1) **HAS BEEN CONVICTED OF A FELONY;**

16 (2) **SUFFERS FROM A MENTAL DISORDER AS DEFINED IN §**
17 **10-101(F)(2) OF THE HEALTH - GENERAL ARTICLE AND HAS A HISTORY OF**
18 **VIOLENT BEHAVIOR AGAINST THE PERSON OR ANOTHER, UNLESS THE PERSON**
19 **HAS A PHYSICIAN'S CERTIFICATE THAT THE PERSON IS CAPABLE OF**
20 **POSSESSING A FIREARM WITHOUT UNDUE DANGER TO THE PERSON OR TO**
21 **ANOTHER; OR**

22 (3) **HAS BEEN CONFINED FOR MORE THAN 30 CONSECUTIVE DAYS**
23 **TO A FACILITY AS DEFINED IN § 10-101 OF THE HEALTH - GENERAL ARTICLE,**
24 **UNLESS THE PERSON HAS A PHYSICIAN'S CERTIFICATE THAT THE PERSON IS**
25 **CAPABLE OF POSSESSING A FIREARM WITHOUT UNDUE DANGER TO THE PERSON**
26 **OR TO ANOTHER.**

27 (B) (1) **A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A**
28 **FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING**
29 **15 YEARS.**

30 (2) **EACH VIOLATION OF THIS SECTION IS A SEPARATE CRIME.**

31 **5-206.**

1 (a) A person may not possess a rifle or shotgun if the person was previously
2 convicted of:

3 (1) a crime of violence; **OR**

4 [(2) a violation of § 5-602, § 5-603, § 5-604, § 5-605, § 5-612, § 5-613,
5 or § 5-614 of the Criminal Law Article; or

6 (3)] **(2)** an offense under the laws of another state or the United
7 States that would constitute [one of the crimes listed in item (1) or (2) of this
8 subsection] **A CRIME OF VIOLENCE** if committed in this State.

9 (b) A person who violates this section is guilty of a felony and on conviction is
10 subject to imprisonment not exceeding 15 years.

11 (c) Each violation of this subsection is a separate crime.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2013.