

HOUSE BILL 344

E1

11r1209

By: **Delegates Branch, Alston, Anderson, Conaway, Dumais, and Mitchell**
Introduced and read first time: February 2, 2011
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Electronic Control Devices – Restrictions on Possession and**
3 **Use**

4 FOR the purpose of including electronic control devices in the definition of “weapon”
5 for purposes of certain provisions of law that prohibit a person from wearing or
6 carrying a dangerous weapon under certain circumstances; prohibiting a person
7 from using an electronic control device in the commission of certain crimes or on
8 a law enforcement officer under certain circumstances; establishing a certain
9 penalty; defining certain terms; and generally relating to restrictions on the
10 possession and use of electronic control devices.

11 BY repealing and reenacting, with amendments,
12 Article – Criminal Law
13 Section 4–101 and 4–109
14 Annotated Code of Maryland
15 (2002 Volume and 2010 Supplement)

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

18 **Article – Criminal Law**
19 4–101.

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

21 **(2) “ELECTRONIC CONTROL DEVICE” MEANS A PORTABLE DEVICE**
22 **DESIGNED AS A WEAPON CAPABLE OF INJURING, IMMOBILIZING, OR INFLICTING**
23 **PAIN ON AN INDIVIDUAL BY THE DISCHARGE OF ELECTRICAL CURRENT.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



1 **[(2)] (3)** “Nunchaku” means a device constructed of two pieces of any
2 substance, including wood, metal, or plastic, connected by any chain, rope, leather, or
3 other flexible material not exceeding 24 inches in length.

4 **[(3)] (4)** (i) “Pepper mace” means an aerosol propelled
5 combination of highly disabling irritant pepper-based products.

6 (ii) “Pepper mace” is also known as oleoresin capsicum (o.c.)
7 spray.

8 **[(4)] (5)** “Star knife” means a device used as a throwing weapon,
9 consisting of several sharp or pointed blades arrayed as radially disposed arms about a
10 central disk.

11 **[(5)] (6)** (i) “Weapon” includes a dirk knife, A bowie knife, A
12 switchblade knife, A star knife, A sandclub, metal knuckles, A razor, [and] A
13 nunchaku, **AND AN ELECTRONIC CONTROL DEVICE.**

14 (ii) “Weapon” does not include:

15 1. a handgun; or

16 2. a penknife without a switchblade.

17 (b) This section does not prohibit the following individuals from carrying a
18 weapon:

19 (1) an officer of the State, or of any county or municipal corporation of
20 the State, who is entitled or required to carry the weapon as part of the officer’s official
21 equipment, or by any conservator of the peace, who is entitled or required to carry the
22 weapon as part of the conservator’s official equipment, or by any officer or conservator
23 of the peace of another state who is temporarily in this State;

24 (2) a special agent of a railroad;

25 (3) a holder of a permit to carry a handgun issued under Title 5,
26 Subtitle 3 of the Public Safety Article; or

27 (4) an individual who carries the weapon as a reasonable precaution
28 against apprehended danger, subject to the right of the court in an action arising
29 under this section to judge the reasonableness of the carrying of the weapon, and the
30 proper occasion for carrying it, under the evidence in the case.

31 (c) (1) A person may not wear or carry a dangerous weapon of any kind
32 concealed on or about the person.

1 (2) A person may not wear or carry a dangerous weapon, chemical
2 mace, pepper mace, or a tear gas device openly with the intent or purpose of injuring
3 an individual in an unlawful manner.

4 (3) (i) This paragraph applies in Anne Arundel County, Baltimore
5 County, Caroline County, Cecil County, Harford County, Kent County, Montgomery
6 County, Prince George's County, St. Mary's County, Talbot County, Washington
7 County, and Worcester County.

8 (ii) A minor may not carry a dangerous weapon between 1 hour
9 after sunset and 1 hour before sunrise, whether concealed or not, except while:

10 1. on a bona fide hunting trip; or

11 2. engaged in or on the way to or returning from a bona
12 fide trap shoot, sport shooting event, or any organized civic or military activity.

13 (d) (1) A person who violates this section is guilty of a misdemeanor and
14 on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding
15 \$1,000 or both.

16 (2) For a person convicted under subsection (c)(1) or (2) of this section,
17 if it appears from the evidence that the weapon was carried, concealed or openly, with
18 the deliberate purpose of injuring or killing another, the court shall impose the highest
19 sentence of imprisonment prescribed.

20 4-109.

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

22 (2) "Crime of violence" has the meaning stated in § 14-101 of this
23 article.

24 (3) "Electronic control device" [means a portable device designed as a
25 weapon capable of injuring, immobilizing, or inflicting pain on an individual by the
26 discharge of electrical current] **HAS THE MEANING STATED IN § 4-101 OF THIS**
27 **SUBTITLE.**

28 (4) **"LAW ENFORCEMENT OFFICER" HAS THE MEANING STATED IN**
29 **§ 3-201 OF THIS ARTICLE.**

30 (b) (1) A person may not possess or use an electronic control device unless
31 the person:

32 [(1)] (I) has attained the age of 18 years; and

1 ~~[(2)]~~ **(II)** has never been convicted of a crime of violence or a violation
2 of § 5-602, § 5-603, § 5-604, § 5-605, § 5-606, § 5-613, or § 5-614 of this article.

3 **(2) A PERSON MAY NOT USE AN ELECTRONIC CONTROL DEVICE:**

4 **(I) IN THE COMMISSION OF A CRIME OF VIOLENCE OR**
5 **FELONY; OR**

6 **(II) ON ANOTHER IF THE PERSON KNOWS OR HAS REASON**
7 **TO KNOW THAT THE OTHER PERSON IS A LAW ENFORCEMENT OFFICER**
8 **ENGAGED IN THE PERFORMANCE OF THE OFFICER'S OFFICIAL DUTIES.**

9 (c) An electronic control device may not be sold and activated in the State
10 unless:

11 (1) an instructional manual or audio or audiovisual instructions are
12 provided to the purchaser;

13 (2) the manufacturer maintains a record of the original owner of the
14 electronic control device; and

15 (3) the manufacturer or seller has obtained a State and federal
16 criminal history records check of the original owner to ensure compliance with
17 subsection (b)(2) of this section.

18 (d) A manufacturer of electronic control devices shall provide an
19 investigating law enforcement agency with prompt access to the manufacturer's
20 records on electronic control devices and cartridges sold in the State.

21 (e) (1) A person who violates subsection ~~[(b)]~~ **(B)(1)** of this section is
22 guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 2
23 months or a fine not exceeding \$500 or both.

24 (2) A person who violates subsection ~~[(b)]~~ **(B)(1)** of this section while
25 committing a separate crime that is a crime of violence is guilty of a felony and on
26 conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding
27 \$5,000 or both.

28 **(3) A PERSON WHO VIOLATES SUBSECTION (B)(2) OF THIS**
29 **SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO**
30 **IMPRISONMENT NOT EXCEEDING 5 YEARS.**

31 (f) This section does not prohibit a local government from adopting a
32 restriction or requirement concerning the possession of an electronic control device
33 that is more stringent than the requirements of this section.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2011.