

HOUSE BILL 4

E4

(0lr0608)

ENROLLED BILL

— Judiciary/Judicial Proceedings —

Introduced by **Delegate Atterbeary**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Public Safety – Rifles and Shotguns – ~~Secondary Transactions~~ Sales, Rentals,**
3 **and Transfers**

4 FOR the purpose of providing that a person who is not a certain licensee may not complete
5 the sale, rental, or transfer of a certain rifle or shotgun in a certain role, except under
6 certain circumstances; requiring, before a certain sale, rental, or transfer is
7 conducted, the seller, lessor, or transferor and purchaser, lessee, or transferee to ~~meet~~
8 ~~jointly with a certain licensee and~~ request that ~~the~~ a certain licensee facilitate the
9 sale, rental, or transfer; requiring a certain licensee to take certain actions when
10 facilitating a certain sale, rental, or transfer; authorizing a seller, lessor, or transferor
11 to deliver a rifle or shotgun to a licensee in a certain manner; prohibiting a certain
12 licensee and transferor from completing a certain transfer if a certain background
13 check has a certain result; authorizing a certain transferor to remove a certain rifle
14 or shotgun from certain premises if a certain background check has a certain result;
15 authorizing a certain licensee to charge a reasonable fee, ~~not exceeding a certain~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



~~amount~~ for facilitating a certain sale, rental, or transfer; establishing certain penalties for violating this Act and for providing false information while conducting a sale, rental, or transfer under this Act; providing for certain civil immunity for a licensee under certain circumstances; providing that a certain licensee or other person may not sell, rent, transfer, or loan a rifle or shotgun to a certain person under certain circumstances; establishing a certain penalty; excluding certain transfers from the scope of this Act; establishing that a certain provision of law supersedes certain local provisions; establishing the intent of the General Assembly that a certain term be construed in a certain manner; defining certain terms; and generally relating to rifles and shotguns.

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 5–201
Annotated Code of Maryland
(2018 Replacement Volume and 2019 Supplement)

BY adding to
Article – Public Safety
Section 5–204.1 and 5–207
Annotated Code of Maryland
(2018 Replacement Volume and 2019 Supplement)

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

Article – Public Safety

5–201.

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

(B) “DEALER’S LICENSE” MEANS A FEDERAL FIREARMS LICENSE.

(C) “IMMEDIATE FAMILY MEMBER” MEANS A SPOUSE, A PARENT, A STEPPARENT, A GRANDPARENT, A STEPGRANDPARENT, AN AUNT, AN UNCLE, A SIBLING, A STEPSIBLING, A CHILD, A STEPCHILD, A GRANDCHILD, A STEPGRANDCHILD, A NIECE, OR A NEPHEW, AS RELATED BY BLOOD OR MARRIAGE.

(D) “LICENSEE” MEANS A PERSON WHO HOLDS A DEALER’S LICENSE.

(E) “NICS INDEX” HAS THE MEANING STATED IN § 5–133.2 OF THIS TITLE.

[(b)] (F) “Rifle” has the meaning stated in § 4–201 of the Criminal Law Article.

1 [(c)] (G) “Short-barreled rifle” has the meaning stated in § 4-201 of the
2 Criminal Law Article.

3 [(d)] (H) “Short-barreled shotgun” has the meaning stated in § 4-201 of the
4 Criminal Law Article.

5 [(e)] (I) “Shotgun” has the meaning stated in § 4-201 of the Criminal Law
6 Article.

7 ~~(J) “SPORT SHOOTING RANGE” HAS THE MEANING STATED IN § 5-403.1 OF~~
8 ~~THE COURTS ARTICLE.~~

9 ~~(K) “TRANSFER” MEANS A SALE, A RENTAL, A FURNISHING, A GIFT, A LOAN,~~
10 ~~OR ANY OTHER DELIVERY, WITH OR WITHOUT CONSIDERATION.~~

11 ~~(L) “TRANSFeree” MEANS A PERSON WHO RECEIVES OR INTENDS TO~~
12 ~~RECEIVE A FIREARM IN A TRANSFER.~~

13 ~~(M) “TRANSFEROR” MEANS A PERSON WHO DELIVERS OR INTENDS TO~~
14 ~~DELIVER A FIREARM IN A TRANSFER.~~

15 5-204.1.

16 (A) THIS SECTION DOES NOT APPLY TO ~~A TRANSFER~~:

17 (1) A SALE, RENTAL, OR TRANSFER:

18 ~~(1)~~ (I) INVOLVING A LICENSEE OR A FEDERALLY LICENSED GUN
19 MANUFACTURER, DEALER, OR IMPORTER;

20 ~~(2)~~ (II) BETWEEN IMMEDIATE FAMILY MEMBERS;

21 ~~(3)~~ (III) INVOLVING LAW ENFORCEMENT PERSONNEL OF ANY UNIT
22 OF THE FEDERAL GOVERNMENT, A MEMBER OF THE ARMED FORCES OF THE UNITED
23 STATES, A MEMBER OF THE NATIONAL GUARD, OR LAW ENFORCEMENT PERSONNEL
24 OF THE STATE OR ANY LOCAL AGENCY IN THE STATE, WHILE ACTING IN THE SCOPE
25 OF OFFICIAL DUTY;

26 ~~(4)~~ (IV) OF A CURIO OR RELIC FIREARM BETWEEN COLLECTORS
27 WHO EACH HAVE IN THEIR POSSESSION A VALID COLLECTOR OF CURIOS AND RELICS
28 LICENSE, AS THE TERMS ARE DEFINED IN FEDERAL LAW OR DETERMINATIONS
29 PUBLISHED BY THE BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES;

~~(5) THAT IS TEMPORARY AND NECESSARY TO PREVENT IMMINENT DEATH OR SERIOUS BODILY HARM IF THE TRANSFER LASTS ONLY AS LONG AS NECESSARY TO PREVENT IMMINENT DEATH OR SERIOUS BODILY HARM;~~

~~(6) THAT OCCURS BY OPERATION OF LAW ON THE DEATH OF A PERSON FOR WHOM THE TRANSFEREE IS AN EXECUTOR, AN ADMINISTRATOR, A TRUSTEE, OR A PERSONAL REPRESENTATIVE OF AN ESTATE OR A TRUST CREATED IN A WILL;~~

~~(7) (V) OF AN UNSERVICEABLE RIFLE OR SHOTGUN SOLD, RENTED, OR TRANSFERRED AS A CURIO OR MUSEUM PIECE;~~

~~(8) (VI) OF A RIFLE OR SHOTGUN MODIFIED TO RENDER IT PERMANENTLY INOPERATIVE; OR~~

~~(VII) IN WHICH THE PURCHASER, LESSEE, OR TRANSFEREE:~~

~~1. HAS A DEMONSTRABLE RELIGIOUS BELIEF AGAINST TAKING A PORTRAIT PHOTOGRAPH; AND~~

~~2. DOES NOT POSSESS A LICENSE OR AN IDENTIFICATION CARD OF ANY KIND WITH PHOTOGRAPHIC IDENTIFICATION; OR~~

~~(9) THAT IS TEMPORARY, OCCURS UNDER CIRCUMSTANCES IN WHICH THE TRANSFEROR HAS NO REASON TO BELIEVE THAT THE TRANSFEREE INTENDS TO USE THE RIFLE OR SHOTGUN IN THE COMMISSION OF A CRIME OR TO ALLOW ANOTHER PERSON TO USE THE RIFLE OR SHOTGUN, AND TAKES PLACE EXCLUSIVELY:~~

~~(I) AT AN ESTABLISHED SPORT SHOOTING RANGE OR GUN CLUB OPERATED IN ACCORDANCE WITH THE LOCAL LAW OF THE JURISDICTION IN WHICH THE RANGE OR CLUB IS LOCATED;~~

~~(II) DURING A LAWFULLY ORGANIZED COMPETITION INVOLVING THE USE OF A RIFLE OR SHOTGUN;~~

~~(III) DURING A PERFORMANCE OR A PRACTICE FOR A PERFORMANCE BY AN ORGANIZED GROUP THAT USES RIFLES OR SHOTGUNS AS PART OF THE PERFORMANCE;~~

~~(IV) WHILE THE TRANSFEREE IS HUNTING OR TRAPPING IF THE HUNTING OR TRAPPING IS LEGAL IN ALL PLACES AND AT ALL TIMES WHEN THE HUNTING OR TRAPPING IS CONDUCTED AND THE TRANSFEREE HOLDS ANY LICENSE OR PERMIT REQUIRED FOR THE HUNTING OR TRAPPING; OR~~

~~(V) WHILE THE TRANSFEREE IS TRANSPORTING THE RIFLE OR SHOTGUN TO OR FROM A GUN CLUB OPERATED IN ACCORDANCE WITH THE LOCAL LAW OF THE JURISDICTION IN WHICH THE CLUB IS LOCATED WHEN PARTICIPATING IN ACTIVITIES DESCRIBED UNDER ITEMS (II) THROUGH (IV) OF THIS ITEM; OR~~

~~(V) (VI) IN THE ACTUAL PRESENCE OF THE TRANSFEROR.~~

(2) A TRANSFER THAT OCCURS BY OPERATION OF LAW ON THE DEATH OF A PERSON FOR WHOM THE TRANSFEREE IS AN EXECUTOR, AN ADMINISTRATOR, A TRUSTEE, OR A PERSONAL REPRESENTATIVE OF AN ESTATE OR A TRUST CREATED IN A WILL.

(B) A PERSON WHO IS NOT A LICENSEE MAY NOT COMPLETE ~~THE~~ A SALE, RENTAL, OR TRANSFER OF A RIFLE OR SHOTGUN OTHER THAN A REGULATED FIREARM, AS A PURCHASER, LESSEE, OR TRANSFEREE OR SELLER, LESSOR, OR TRANSFEROR, UNLESS THE PERSON IS IN COMPLIANCE WITH THIS SECTION.

(C) (1) BEFORE A SALE, RENTAL, OR TRANSFER IS CONDUCTED, THE SELLER, LESSOR, OR TRANSFEROR AND PURCHASER, LESSEE, OR TRANSFEREE SHALL ~~MEET JOINTLY WITH A LICENSEE AND BOTH~~ REQUEST THAT ~~THE~~ A LICENSEE FACILITATE THE SALE, RENTAL, OR TRANSFER.

(2) (I) A LICENSEE WHO AGREES TO FACILITATE A SALE, RENTAL, OR TRANSFER UNDER THIS SECTION SHALL PROCESS THE SALE, RENTAL, OR TRANSFER AS THOUGH TRANSFERRING THE RIFLE OR SHOTGUN FROM THE LICENSEE'S OWN INVENTORY TO THE PURCHASER, LESSEE, OR TRANSFEREE.

(II) THE LICENSEE SHALL CONDUCT A BACKGROUND CHECK ON THE PURCHASER, LESSEE, OR TRANSFEREE THROUGH THE NICS INDEX AND COMPLY WITH ALL FEDERAL AND STATE LAW THAT WOULD APPLY TO THE SALE, RENTAL, OR TRANSFER, INCLUDING ALL INVENTORY AND RECORD-KEEPING REQUIREMENTS.

(3) THE SELLER, LESSOR, OR TRANSFEROR MAY:

(I) DELIVER THE RIFLE OR SHOTGUN TO A LICENSEE; OR

(II) WITHOUT APPEARING IN PERSON BEFORE THE LICENSEE, ALLOW ANOTHER PERSON, TO WHOM THE TRANSFEROR IS AUTHORIZED TO TRANSFER THE RIFLE OR SHOTGUN, TO DELIVER THE RIFLE OR SHOTGUN TO THE LICENSEE.

(D) (1) THE LICENSEE OR THE SELLER, LESSOR, OR TRANSFEROR MAY NOT COMPLETE THE SALE, RENTAL, OR TRANSFER TO THE PURCHASER, LESSEE, OR

1 TRANSFEREE IF THE RESULTS OF THE BACKGROUND CHECK INDICATE THAT THE
2 PURCHASER, LESSEE, OR TRANSFEREE MAY NOT POSSESS THE RIFLE OR SHOTGUN.

3 (2) ~~IF~~ UNLESS THE SELLER, LESSOR, OR TRANSFEROR DELIVERED
4 THE RIFLE OR SHOTGUN IN ACCORDANCE WITH SUBSECTION (C)(3)(II) OF THIS
5 SECTION OR OTHERWISE LEFT THE RIFLE OR SHOTGUN IN THE EXCLUSIVE
6 POSSESSION OF THE LICENSEE, IF THE RESULTS OF THE BACKGROUND CHECK
7 INDICATE THAT THE PURCHASER, LESSEE, OR TRANSFEREE MAY NOT POSSESS THE
8 RIFLE OR SHOTGUN, THE SELLER, LESSOR, OR TRANSFEROR MAY REMOVE THE
9 RIFLE OR SHOTGUN FROM THE PREMISES OF THE LICENSEE OR A GUN SHOW.

10 (E) A LICENSEE MAY CHARGE A REASONABLE FEE ~~NOT EXCEEDING \$30~~ FOR
11 FACILITATING A SALE, RENTAL, OR TRANSFER UNDER THIS SECTION.

12 (F) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A
13 PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON
14 CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING ~~5 YEARS~~ 6 MONTHS OR
15 A FINE NOT EXCEEDING \$10,000 OR BOTH.

16 (2) A PERSON WHO PROVIDES FALSE INFORMATION WHILE
17 CONDUCTING A TRANSACTION UNDER THIS SECTION IS GUILTY OF A MISDEMEANOR
18 AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 3 YEARS OR A
19 FINE NOT EXCEEDING \$5,000 OR BOTH.

20 (G) A LICENSEE WHO PROCESSES A SALE, RENTAL, OR TRANSFER UNDER
21 THIS SECTION MAY NOT BE HELD CIVILLY LIABLE FOR PERSONAL INJURY OR
22 PROPERTY DAMAGE RESULTING FROM THE MALFUNCTIONING OF A RIFLE OR
23 SHOTGUN IF THE LICENSEE DID NOT MODIFY OR ALTER THE RIFLE OR SHOTGUN.

24 5-207.

25 (A) THIS SECTION SUPERSEDES ANY RESTRICTION THAT A LOCAL
26 JURISDICTION IN THE STATE IMPOSES ON THE TRANSFER BY A PRIVATE PARTY OF A
27 RIFLE OR SHOTGUN, AND THE STATE PREEMPTS THE RIGHT OF ANY LOCAL
28 JURISDICTION TO REGULATE THE TRANSFER OF A RIFLE OR SHOTGUN.

29 (B) IN THIS SECTION, "LOAN" INCLUDES A TEMPORARY GRATUITOUS
30 EXCHANGE OF A RIFLE OR SHOTGUN.

31 (C) A LICENSEE OR ANY OTHER PERSON MAY NOT SELL, RENT, TRANSFER,
32 OR LOAN A RIFLE OR SHOTGUN TO A PURCHASER, LESSEE, TRANSFEREE, OR
33 RECIPIENT WHO THE LICENSEE OR OTHER PERSON KNOWS OR HAS REASONABLE
34 CAUSE TO BELIEVE:

1 (1) HAS BEEN CONVICTED OF A DISQUALIFYING CRIME, AS DEFINED IN
2 § 5-101 OF THIS TITLE;

3 (2) HAS BEEN CONVICTED OF A VIOLATION CLASSIFIED AS A COMMON
4 LAW CRIME AND RECEIVED A TERM OF IMPRISONMENT OF MORE THAN 2 YEARS;

5 (3) IS A FUGITIVE FROM JUSTICE;

6 (4) IS A HABITUAL DRUNKARD AS DEFINED IN § 5-101 OF THIS TITLE;

7 (5) IS ADDICTED TO A CONTROLLED DANGEROUS SUBSTANCE OR IS A
8 HABITUAL USER AS DEFINED IN § 5-101 OF THIS TITLE;

9 (6) SUFFERS FROM A MENTAL DISORDER AS DEFINED IN §
10 10-101(1)(2) OF THE HEALTH – GENERAL ARTICLE, AND HAS A HISTORY OF VIOLENT
11 BEHAVIOR AGAINST THE PURCHASER, LESSEE, TRANSFEREE, RECIPIENT, OR
12 ANOTHER, UNLESS THE PURCHASER, LESSEE, TRANSFEREE, OR RECIPIENT HAS
13 RECEIVED A CERTIFICATE FROM THE MARYLAND DEPARTMENT OF HEALTH
14 RELIEVING THE PURCHASER, LESSEE, TRANSFEREE, OR RECIPIENT OF THE
15 DISQUALIFICATION;

16 (7) HAS BEEN FOUND INCOMPETENT TO STAND TRIAL UNDER § 3-106
17 OF THE CRIMINAL PROCEDURE ARTICLE, UNLESS THE PURCHASER, LESSEE,
18 TRANSFEREE, OR RECIPIENT HAS RECEIVED A CERTIFICATE FROM THE MARYLAND
19 DEPARTMENT OF HEALTH RELIEVING THE PURCHASER, LESSEE, TRANSFEREE, OR
20 RECIPIENT OF THE DISQUALIFICATION;

21 (8) HAS BEEN FOUND NOT CRIMINALLY RESPONSIBLE UNDER § 3-110
22 OF THE CRIMINAL PROCEDURE ARTICLE, UNLESS THE PURCHASER, LESSEE,
23 TRANSFEREE, OR RECIPIENT HAS RECEIVED A CERTIFICATE FROM THE MARYLAND
24 DEPARTMENT OF HEALTH RELIEVING THE PURCHASER, LESSEE, TRANSFEREE, OR
25 RECIPIENT OF THE DISQUALIFICATION;

26 (9) HAS BEEN VOLUNTARILY ADMITTED FOR MORE THAN 30
27 CONSECUTIVE DAYS TO A FACILITY AS DEFINED IN § 10-101 OF THE
28 HEALTH – GENERAL ARTICLE, UNLESS THE PURCHASER, LESSEE, TRANSFEREE, OR
29 RECIPIENT HAS RECEIVED A CERTIFICATE FROM THE MARYLAND DEPARTMENT OF
30 HEALTH RELIEVING THE PURCHASER, LESSEE, TRANSFEREE, OR RECIPIENT OF THE
31 DISQUALIFICATION;

32 (10) HAS BEEN INVOLUNTARILY COMMITTED FOR MORE THAN 30
33 CONSECUTIVE DAYS TO A FACILITY AS DEFINED IN § 10-101 OF THE
34 HEALTH – GENERAL ARTICLE, UNLESS THE PURCHASER, LESSEE, TRANSFEREE, OR
35 RECIPIENT HAS RECEIVED A CERTIFICATE FROM THE MARYLAND DEPARTMENT OF

HEALTH RELIEVING THE PURCHASER, LESSEE, TRANSFEREE, OR RECIPIENT OF THE DISQUALIFICATION;

(11) IS UNDER THE PROTECTION OF A GUARDIAN APPOINTED BY A COURT UNDER § 13-201(C) OR § 13-705 OF THE ESTATES AND TRUSTS ARTICLE, EXCEPT FOR CASES IN WHICH THE APPOINTMENT OF A GUARDIAN IS SOLELY A RESULT OF A PHYSICAL DISABILITY, UNLESS THE PURCHASER, LESSEE, TRANSFEREE, OR RECIPIENT HAS RECEIVED A CERTIFICATE FROM THE MARYLAND DEPARTMENT OF HEALTH RELIEVING THE PURCHASER, LESSEE, TRANSFEREE, OR RECIPIENT OF THE DISQUALIFICATION;

(12) IS A RESPONDENT AGAINST WHOM:

(I) A CURRENT NON EX PARTE CIVIL PROTECTIVE ORDER HAS BEEN ENTERED UNDER § 4-506 OF THE FAMILY LAW ARTICLE; OR

(II) AN ORDER FOR PROTECTION, AS DEFINED IN § 4-508.1 OF THE FAMILY LAW ARTICLE, HAS BEEN ISSUED BY A COURT OF ANOTHER STATE OR NATIVE AMERICAN TRIBE AND IS IN EFFECT;

(13) IF UNDER THE AGE OF 30 YEARS AT THE TIME OF THE TRANSACTION, HAS BEEN ADJUDICATED DELINQUENT BY A JUVENILE COURT FOR AN ACT THAT WOULD BE A DISQUALIFYING CRIME IF COMMITTED BY AN ADULT;

(14) IS VISIBLY UNDER THE INFLUENCE OF ALCOHOL OR DRUGS;

(15) IS A PARTICIPANT IN A STRAW PURCHASE; OR

(16) INTENDS TO USE THE RIFLE OR SHOTGUN TO:

(I) COMMIT A CRIME; OR

(II) CAUSE HARM TO THE PURCHASER, LESSEE, TRANSFEREE, OR RECIPIENT OR ANOTHER PERSON.

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

SECTION 2. AND BE IT FURTHER ENACTED, That ~~this Act shall take effect October 1, 2020~~ it is the intent of the General Assembly that the term "transfer" in §§ 5-204.1 and 5-207 of the Public Safety Article, as enacted by Section 1 of this Act:

1 (1) be interpreted in a manner that is consistent with the ruling of the Court
2 of Appeals in Chow v. State, 393 Md. 388 (2006); and

3 (2) does not include the temporary gratuitous exchange of a rifle or shotgun.

4 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2020.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.