

HOUSE BILL 947

D3
HB 259/23 – JUD

4lr2974
CF SB 488

By: **Delegates Phillips, Atterbeary, Amprey, Bartlett, Crutchfield, Embry, Kaufman, Roberson, Simmons, Taylor, Toles, White Holland, Williams, and Woods Woods, Conaway, and Moon**

Introduced and read first time: February 2, 2024

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 23, 2024

CHAPTER _____

1 AN ACT concerning

2 **Civil Actions – Public Nuisances – Firearm Industry Members**
3 **(Gun Industry Accountability Act of 2024)**

4 FOR the purpose of prohibiting certain firearm industry members from knowingly creating,
5 maintaining, or contributing to harm to the public through the sale, manufacture,
6 importation, or marketing of a firearm–related product under certain circumstances;
7 requiring a firearm industry member to establish and implement certain reasonable
8 controls regarding the sale, manufacture, importation, distribution, marketing,
9 possession, and use of certain firearm–related products; establishing that a violation
10 of this Act is a public nuisance; authorizing the Attorney General ~~or certain persons,~~
11 a county attorney, or the Baltimore City Solicitor to bring an action against a firearm
12 industry member for violations under this Act; requiring that the Attorney General
13 study the legality and feasibility of a certain statutory requirement; and generally
14 relating to civil actions against firearm industry members.

15 BY adding to
16 Article – Courts and Judicial Proceedings
17 Section 3–2301 through 3–2304 to be under the new subtitle “Subtitle 23. Civil
18 Actions for Public Nuisance Against Firearm Industry Members”
19 Annotated Code of Maryland
20 (2020 Replacement Volume and 2023 Supplement)

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.



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

Article – Courts and Judicial Proceedings

**SUBTITLE 23. CIVIL ACTIONS FOR PUBLIC NUISANCE AGAINST FIREARM
INDUSTRY MEMBERS.**

3–2301.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
INDICATED.

(B) (1) “FIREARM” HAS THE MEANING STATED IN § 5–101 OF THE PUBLIC
SAFETY ARTICLE.

(2) “FIREARM” INCLUDES AN ANTIQUE FIREARM AS DEFINED IN §
4–201 OF THE CRIMINAL LAW ARTICLE.

~~(C) “FIREARM ACCESSORY” MEANS AN ATTACHMENT OR DEVICE DESIGNED
OR ADAPTED TO BE INSERTED INTO, AFFIXED ONTO, OR USED IN CONJUNCTION
WITH A FIREARM.~~

~~(D)~~ (C) “FIREARM INDUSTRY MEMBER” MEANS A PERSON ENGAGED IN
THE SALE, MANUFACTURE, DISTRIBUTION, IMPORTATION, OR MARKETING OF A
FIREARM-RELATED PRODUCT.

~~(E)~~ (D) “FIREARM-RELATED PRODUCT” MEANS A FIREARM,
AMMUNITION, A COMPONENT OR PART OF A FIREARM, OR A FIREARM ACCESSORY
THAT IS:

(1) SOLD, MANUFACTURED, DISTRIBUTED, OR MARKETED IN THE
STATE; OR

(2) INTENDED TO BE SOLD, MANUFACTURED, DISTRIBUTED, OR
MARKETED IN THE STATE; ~~OR~~

~~(3) POSSESSED IN THE STATE, IF IT WAS REASONABLY FORESEEABLE
THAT POSSESSION WOULD OCCUR IN THE STATE.~~

~~(F)~~ (E) “FIREARM TRAFFICKER” MEANS A PERSON WHO ACQUIRES,
TRANSFERS, OR ATTEMPTS TO ACQUIRE OR TRANSFER A FIREARM FOR THE
PURPOSE OF SELLING OR DISPOSING OF THE FIREARM IN VIOLATION OF STATE OR
FEDERAL LAW.

~~(G)~~ (F) "REASONABLE CONTROLS" MEANS POLICIES THAT ARE
DESIGNED:

(1) TO PREVENT THE SALE OR DISTRIBUTION OF A
FIREARM-RELATED PRODUCT TO:

(I) A STRAW PURCHASER;

(II) A FIREARM TRAFFICKER;

(III) A PERSON PROHIBITED FROM POSSESSING A FIREARM
UNDER STATE OR FEDERAL LAW; AND

(IV) A PERSON WHO THE FIREARM INDUSTRY MEMBER HAS
REASONABLE CAUSE TO BELIEVE INTENDS TO USE THE FIREARM-RELATED
PRODUCT:

1. TO COMMIT A CRIME; OR

2. TO CAUSE HARM TO THE PERSON OR ANOTHER
PERSON;

(2) TO PREVENT THE LOSS OR THEFT OF A FIREARM-RELATED
PRODUCT FROM A FIREARM INDUSTRY MEMBER; AND

(3) TO ENSURE THAT THE FIREARM INDUSTRY MEMBER COMPLIES
WITH ALL PROVISIONS OF STATE AND FEDERAL LAW AND DOES NOT OTHERWISE
PROMOTE THE UNLAWFUL SALE, MANUFACTURE, ALTERATION, IMPORTATION,
MARKETING, POSSESSION, OR USE OF A FIREARM-RELATED PRODUCT.

~~(H)~~ (G) "STRAW PURCHASER" MEANS A PERSON WHO ENGAGES OR
ATTEMPTS TO ENGAGE IN A STRAW PURCHASE AS DEFINED IN § 5-101 OF THE
PUBLIC SAFETY ARTICLE.

3-2302.

(A) A FIREARM INDUSTRY MEMBER MAY NOT KNOWINGLY CREATE,
MAINTAIN, OR CONTRIBUTE TO HARM TO THE PUBLIC THROUGH THE SALE,
MANUFACTURE, DISTRIBUTION, IMPORTATION, OR MARKETING OF A
FIREARM-RELATED PRODUCT BY ENGAGING IN CONDUCT THAT IS:

(1) UNLAWFUL; OR

(2) UNREASONABLE UNDER THE TOTALITY OF THE CIRCUMSTANCES.

(B) A FIREARM INDUSTRY MEMBER SHALL ESTABLISH AND IMPLEMENT REASONABLE CONTROLS REGARDING THE SALE, MANUFACTURE, DISTRIBUTION, IMPORTATION, MARKETING, POSSESSION, AND USE OF THE FIREARM INDUSTRY MEMBER'S FIREARM-RELATED PRODUCTS.

(C) A VIOLATION OF THIS SECTION IS A PUBLIC NUISANCE.

3-2303.

(A) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE ATTORNEY GENERAL, A COUNTY ATTORNEY, OR THE BALTIMORE CITY SOLICITOR MAY BRING AN ACTION AGAINST A FIREARM INDUSTRY MEMBER FOR A PUBLIC NUISANCE CAUSED BY A VIOLATION OF § 3-2302 OF THIS SUBTITLE.

(2) IN AN ACTION BROUGHT UNDER THIS SUBSECTION, THE ATTORNEY GENERAL, COUNTY ATTORNEY, OR BALTIMORE CITY SOLICITOR MAY SEEK:

(I) INJUNCTIVE RELIEF;

(II) RESTITUTION;

(III) COMPENSATORY AND PUNITIVE DAMAGES;

(IV) REASONABLE ATTORNEY'S FEES AND COSTS; AND

(V) ANY OTHER APPROPRIATE RELIEF.

~~(B) (1) A PERSON MAY BRING AN ACTION FOR DAMAGES AGAINST A FIREARM INDUSTRY MEMBER FOR INJURY OR LOSS SUSTAINED AS A RESULT OF A VIOLATION OF § 3-2302 OF THIS SUBTITLE.~~

~~(2) A PERSON WHO BRINGS AN ACTION UNDER THIS SUBSECTION MAY SEEK AND BE AWARDED:~~

~~(I) INJUNCTIVE RELIEF;~~

~~(II) COMPENSATORY DAMAGES;~~

~~(III) PUNITIVE DAMAGES; AND~~

~~(IV) REASONABLE ATTORNEY'S FEES AND COSTS.~~

~~(3) A PERSON WHO BRINGS AN ACTION UNDER THIS SUBSECTION SHALL, WITHIN 5 DAYS AFTER FILING THE COMPLAINT:~~

~~(i) NOTIFY THE ATTORNEY GENERAL THAT THE PERSON HAS BROUGHT THE ACTION; AND~~

~~(ii) PROVIDE THE ATTORNEY GENERAL WITH A COPY OF THE COMPLAINT AND ANY OTHER DOCUMENTS OR PLEADINGS FILED WITH THE COMPLAINT.~~

~~(c)~~ (B) A PARTY SEEKING RELIEF UNDER THIS SECTION IS NOT REQUIRED TO PROVE THAT A FIREARM INDUSTRY MEMBER ACTED WITH THE INTENT TO VIOLATE THIS SUBTITLE.

3-2304.

NOTHING IN THIS SUBTITLE MAY BE CONSTRUED TO AFFECT:

(1) ANY OTHER COMMON LAW OR STATUTORY CAUSE OF ACTION; OR

(2) ANY OTHER OBLIGATION OR RESTRICTION IMPOSED ON A FIREARM INDUSTRY MEMBER UNDER STATE OR FEDERAL LAW.

SECTION 2. AND BE IT FURTHER ENACTED, That, if any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act that can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) The Attorney General, in consultation with the Department of State Police, shall study and make recommendations regarding the legality and feasibility of a statutory requirement that would compel licensed firearm dealers within the State to provide records of firearm trace requests received from the Bureau of Alcohol, Tobacco, Firearms, and Explosives to the Attorney General.

(b) The Attorney General shall provide staff for the study.

(c) On or before June 30, 2025, the Attorney General shall report to the General Assembly, in accordance with § 2-1257 of the State Government Article, on its recommendations and findings.

SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2024.