

HOUSE BILL 4

E4
HB 786/19 – JUD

(PRE-FILED)

0lr0608
CF SB 208

By: **Delegate Atterbeary**

Requested: September 4, 2019

Introduced and read first time: January 8, 2020

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted with floor amendments

Read second time: January 31, 2020

CHAPTER _____

1 AN ACT concerning

2 **Public Safety – Rifles and Shotguns – Secondary Transactions**

3 FOR the purpose of providing that a person who is not a certain licensee may not complete
4 the transfer of a certain rifle or shotgun in a certain role, except under certain
5 circumstances; requiring, before a certain transfer is conducted, the transferor and
6 transferee to ~~meet jointly with a certain licensee and~~ request that ~~the~~ a certain
7 licensee facilitate the transfer; requiring a certain licensee to take certain actions
8 when facilitating a certain transfer; authorizing a transferor to deliver a rifle or
9 shotgun to a licensee in a certain manner; prohibiting a certain licensee and
10 transferor from completing a certain transfer if a certain background check has a
11 certain result; authorizing a certain transferor to remove a certain rifle or shotgun
12 from certain premises if a certain background check has a certain result; authorizing
13 a certain licensee to charge a reasonable fee for facilitating a certain transfer;
14 establishing certain penalties for violating this Act and for providing false
15 information while conducting a transfer under this Act; providing for certain civil
16 immunity for a licensee under certain circumstances; excluding certain transfers
17 from the scope of this Act; defining certain terms; and generally relating to rifles and
18 shotguns.

19 BY repealing and reenacting, with amendments,
20 Article – Public Safety
21 Section 5–201
22 Annotated Code of Maryland
23 (2018 Replacement Volume and 2019 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.



BY adding to
Article – Public Safety
Section 5–204.1
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.

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

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

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

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

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

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

1 (M) “TRANSFEROR” MEANS A PERSON WHO DELIVERS OR INTENDS TO
2 DELIVER A FIREARM IN A TRANSFER.

3 5-204.1.

4 (A) THIS SECTION DOES NOT APPLY TO A TRANSFER:

5 (1) INVOLVING A LICENSEE OR A FEDERALLY LICENSED GUN
6 MANUFACTURER, DEALER, OR IMPORTER;

7 (2) BETWEEN IMMEDIATE FAMILY MEMBERS;

8 (3) INVOLVING LAW ENFORCEMENT PERSONNEL OF ANY UNIT OF THE
9 FEDERAL GOVERNMENT, A MEMBER OF THE ARMED FORCES OF THE UNITED
10 STATES, A MEMBER OF THE NATIONAL GUARD, OR LAW ENFORCEMENT PERSONNEL
11 OF THE STATE OR ANY LOCAL AGENCY IN THE STATE, WHILE ACTING IN THE SCOPE
12 OF OFFICIAL DUTY;

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

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

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

23 (7) OF AN UNSERVICEABLE RIFLE OR SHOTGUN TRANSFERRED AS A
24 CURIO OR MUSEUM PIECE;

25 (8) OF A RIFLE OR SHOTGUN MODIFIED TO RENDER IT PERMANENTLY
26 INOPERATIVE; OR

27 (9) THAT IS TEMPORARY, OCCURS UNDER CIRCUMSTANCES IN WHICH
28 THE TRANSFEROR HAS NO REASON TO BELIEVE THAT THE TRANSFEREE INTENDS TO
29 USE THE RIFLE OR SHOTGUN IN THE COMMISSION OF A CRIME OR TO ALLOW
30 ANOTHER PERSON TO USE THE RIFLE OR SHOTGUN, AND TAKES PLACE
31 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.

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

(C) (1) BEFORE A TRANSFER IS CONDUCTED, THE TRANSFEROR AND TRANSFEREE SHALL ~~MEET JOINTLY WITH A LICENSEE AND~~ BOTH REQUEST THAT ~~THE~~ A LICENSEE FACILITATE THE TRANSFER.

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

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

(3) THE TRANSFEROR MAY:

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

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

5 **(D) (1) THE LICENSEE OR THE TRANSFEROR MAY NOT COMPLETE THE**
6 **TRANSFER TO THE TRANSFEREE IF THE RESULTS OF THE BACKGROUND CHECK**
7 **INDICATE THAT THE TRANSFEREE MAY NOT POSSESS THE RIFLE OR SHOTGUN.**

8 **(2) ~~IF~~ UNLESS THE TRANSFEROR DELIVERED THE RIFLE OR**
9 **SHOTGUN IN ACCORDANCE WITH SUBSECTION (C)(3)(II) OF THIS SECTION OR**
10 **OTHERWISE LEFT THE RIFLE OR SHOTGUN IN THE EXCLUSIVE POSSESSION OF THE**
11 **LICENSEE, IF THE RESULTS OF THE BACKGROUND CHECK INDICATE THAT THE**
12 **TRANSFEREE MAY NOT POSSESS THE RIFLE OR SHOTGUN, THE TRANSFEROR MAY**
13 **REMOVE THE RIFLE OR SHOTGUN FROM THE PREMISES OF THE LICENSEE OR A GUN**
14 **SHOW.**

15 **(E) A LICENSEE MAY CHARGE A REASONABLE FEE FOR FACILITATING A**
16 **TRANSFER UNDER THIS SECTION.**

17 **(F) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A**
18 **PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON**
19 **CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 5 YEARS OR A FINE**
20 **NOT EXCEEDING \$10,000 OR BOTH.**

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

25 **(G) A LICENSEE WHO PROCESSES A TRANSFER UNDER THIS SECTION MAY**
26 **NOT BE HELD CIVILLY LIABLE FOR PERSONAL INJURY OR PROPERTY DAMAGE**
27 **RESULTING FROM THE MALFUNCTIONING OF A RIFLE OR SHOTGUN IF THE LICENSEE**
28 **DID NOT MODIFY OR ALTER THE RIFLE OR SHOTGUN.**

29 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
30 **October 1, 2020.**