

SENATE BILL 467

E4, E1

7lr2132
CF HB 318

By: **Senator Feldman**

Introduced and read first time: January 30, 2017

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Public Safety – Firearms Disqualifications – Antique Firearm**

3 FOR the purpose of applying certain provisions disqualifying a person from possessing a
4 rifle or shotgun to an antique firearm; making conforming changes; and generally
5 relating to firearms disqualifications.

6 BY repealing and reenacting, without amendments,
7 Article – Criminal Law
8 Section 4–201(a) and (b)
9 Annotated Code of Maryland
10 (2012 Replacement Volume and 2016 Supplement)

11 BY repealing and reenacting, without amendments,
12 Article – Public Safety
13 Section 5–101(a) and (b)
14 Annotated Code of Maryland
15 (2011 Replacement Volume and 2016 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article – Public Safety
18 Section 5–133.3(b) and (d) and 5–205
19 Annotated Code of Maryland
20 (2011 Replacement Volume and 2016 Supplement)

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

23 **Article – Criminal Law**

24 4–201.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

(b) “Antique firearm” means:

(1) a firearm, including a firearm with a matchlock, flintlock, percussion cap, or similar ignition system, manufactured before 1899; or

(2) a replica of a firearm described in item (1) of this subsection that:

(i) is not designed or redesigned to use rimfire or conventional centerfire fixed ammunition; or

(ii) uses rimfire or conventional centerfire fixed ammunition that is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

Article – Public Safety

5–101.

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

(b) “Antique firearm” has the meaning stated in § 4–201 of the Criminal Law Article.

5–133.3.

(b) A person subject to a regulated firearms disqualification under § 5–133(b)(6), (7), (8), (9), (10), or (11) of this subtitle, a rifle [or], A shotgun, **OR AN ANTIQUE FIREARM** disqualification under § [5–205(b)(6)] **5–205(A)(6)**, (7), (8), (9), (10), or (11) of this title, or prohibited from the shipment, transportation, possession, or receipt of a firearm by 18 U.S.C. §§ 922(d)(4) or (g)(4) as a result of an adjudication or commitment that occurred in the State may be authorized to possess a firearm if:

(1) the person is not subject to another firearms restriction under State or federal law; and

(2) the Health Department, in accordance with this section, determines that the person may possess a firearm.

(d) An application for relief from a firearms disqualification shall include:

(1) a complete and accurate statement explaining the reason why the applicant is prohibited from possessing a regulated firearm under § 5–133(b)(6), (7), (8), (9), (10), or (11) of this subtitle or a rifle [or], A shotgun, **OR AN ANTIQUE FIREARM** under § [5–205(b)(6)] **5–205(A)(6)**, (7), (8), (9), (10), or (11) of this title, or is prohibited from the

shipment, transportation, possession, or receipt of a firearm by 18 U.S.C. §§ 922(d)(4) or (g)(4) as a result of an adjudication or commitment that occurred in the State;

(2) a statement why the applicant should be relieved from the prohibition described in item (1) of this subsection;

(3) if the applicant is subject to a prohibition described in item (1) of this subsection, a certificate issued within 30 days of the submission of the application on a form approved by the Health Department and signed by an individual licensed in the State as a physician who is board certified in psychiatry or as a psychologist stating:

(i) the length of time that the applicant has not had symptoms that cause the applicant to be a danger to the applicant or others, or, if the disqualification relates to an intellectual disability, the length of time that the applicant has not engaged in behaviors that cause the applicant to be a danger to the applicant or others;

(ii) the length of time that the applicant has been compliant with the treatment plan for the applicant's mental illness, or, if the disqualification relates to an intellectual disability, the length of time that the applicant has been compliant with any behavior plan or behavior management plan;

(iii) an opinion as to whether the applicant, because of mental illness, would be a danger to the applicant if allowed to possess a firearm and a statement of reasons for the opinion; and

(iv) an opinion as to whether the applicant, because of mental illness, would be a danger to another person or poses a risk to public safety if allowed to possess a firearm;

(4) if the applicant is prohibited from possessing a firearm under § 5–133(b)(11) of this subtitle or § [5–205(b)(11)] **5–205(A)(11)** of this title:

(i) a copy of all pleadings, affidavits, and certificates submitted into evidence at the guardianship proceeding; and

(ii) all orders issued by the court relating to the guardianship, including, if applicable, an order indicating that the guardianship is no longer in effect;

(5) a signed authorization, on a form approved by the Health Department, allowing the Health Department to access any relevant health care, mental health, disability, guardianship, and criminal justice records, including court ordered or required mental health records, of the applicant for use in determining whether the applicant should be relieved from a firearms disqualification;

(6) three statements signed and dated within 30 days of submission to the Health Department on a form designated by the Health Department attesting to the applicant's reputation and character relevant to firearm ownership or possession including:

(i) at least two statements provided by an individual who is not related to the applicant; and

(ii) contact information for each individual providing a statement; and

(7) any other information required by the Health Department.

5–205.

(a) [This subtitle does not apply to a rifle or shotgun that is an antique firearm as defined in § 4–201 of the Criminal Law Article.

(b)] A person may not possess a rifle [or], A shotgun, **OR AN ANTIQUE FIREARM** if the person:

(1) has been convicted of a disqualifying crime as defined in § 5–101 of this title;

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

(3) is a fugitive from justice;

(4) is a habitual drunkard as defined in § 5–101 of this title;

(5) is addicted to a controlled dangerous substance or is a habitual user as defined in § 5–101 of this title;

(6) suffers from a mental disorder as defined in § 10–101(i)(2) of the Health – General Article and has a history of violent behavior against the person or another;

(7) has been found incompetent to stand trial under § 3–106 of the Criminal Procedure Article;

(8) has been found not criminally responsible under § 3–110 of the Criminal Procedure Article;

(9) has been voluntarily admitted for more than 30 consecutive days to a facility as defined in § 10–101 of the Health – General Article;

(10) has been involuntarily committed to a facility as defined in § 10–101 of the Health – General Article;

(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;

(12) except as provided in subsection [(c)] (B) of this section, 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 a Native American tribe and is in effect; or

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

[(c)](B) This section does not apply to a person transporting a rifle [or], A shotgun, **OR AN ANTIQUE FIREARM** if the person is carrying a civil protective order requiring the surrender of the [rifle or shotgun] **FIREARM** and:

(1) the [rifle or shotgun] **FIREARM** is unloaded;

(2) the person has notified the law enforcement unit, barracks, or station that the [rifle or shotgun] **FIREARM** is being transported in accordance with the civil protective order; and

(3) the person transports the [rifle or shotgun] **FIREARM** directly to the law enforcement unit, barracks, or station.

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

[(e)](D) A person who is disqualified from owning a rifle [or], A shotgun, **OR AN ANTIQUE FIREARM** under subsection [(b)(6)] (A)(6), (7), (8), (9), (10), or (11) of this section may seek relief from the disqualification in accordance with § 5–133.3 of this title.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.