

HOUSE BILL 4

E4
HB 786/19 – JUD

(PRE-FILED)

0lr0608
CF 0lr1864

By: **Delegate Atterbeary**

Requested: September 4, 2019

Introduced and read first time: January 8, 2020

Assigned to: Judiciary

A BILL ENTITLED

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 licensee
7 facilitate the transfer; requiring a certain licensee to take certain actions when
8 facilitating a certain transfer; prohibiting a certain licensee and transferor from
9 completing a certain transfer if a certain background check has a certain result;
10 authorizing a certain transferor to remove a certain rifle or shotgun from certain
11 premises if a certain background check has a certain result; authorizing a certain
12 licensee to charge a reasonable fee for facilitating a certain transfer; establishing
13 certain penalties for violating this Act and for providing false information while
14 conducting a transfer under this Act; excluding certain transfers from the scope of
15 this Act; defining certain terms; and generally relating to rifles and shotguns.

16 BY repealing and reenacting, with amendments,
17 Article – Public Safety
18 Section 5–201
19 Annotated Code of Maryland
20 (2018 Replacement Volume and 2019 Supplement)

21 BY adding to
22 Article – Public Safety
23 Section 5–204.1
24 Annotated Code of Maryland
25 (2018 Replacement Volume and 2019 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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, AN AUNT, AN UNCLE, A SIBLING, A STEPSIBLING, A CHILD, A STEPCHILD, A GRANDCHILD, 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.

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

5–204.1.

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

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

3 (2) BETWEEN IMMEDIATE FAMILY MEMBERS;

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

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

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

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

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

21 (8) OF A RIFLE OR SHOTGUN MODIFIED TO RENDER IT PERMANENTLY
22 INOPERATIVE; OR

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

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

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

33 (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) 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 REQUEST THAT THE 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.

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

(2) IF THE RESULTS OF THE BACKGROUND CHECK INDICATE THAT THE TRANSFEREE MAY NOT POSSESS THE RIFLE OR SHOTGUN, THE TRANSFEROR MAY REMOVE THE RIFLE OR SHOTGUN FROM THE PREMISES OF THE LICENSEE OR A GUN SHOW.

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

(F) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, 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.

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

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2020.