

HOUSE BILL 1029

E1

8lr3806

By: **Delegates Branch, Anderson, Clippinger, Folden, Glenn, Sanchez, Walker, and Wilson**

Introduced and read first time: February 7, 2018

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 19, 2018

CHAPTER _____

1 AN ACT concerning

2 **Criminal Law – Wearing, Carrying, or Transporting Loaded Handgun –**
3 **Subsequent Offender**

4 FOR the purpose of prohibiting a person from wearing, carrying, or transporting a handgun
5 loaded with ammunition on or about the person or in a vehicle under certain
6 circumstances; prohibiting a court from suspending any part of certain sentences for
7 certain persons who have previously been convicted of certain offenses; clarifying
8 that certain sentences are mandatory minimum sentences; providing that certain
9 persons are not eligible for parole during certain sentences, with a certain exception;
10 providing that a certain mandatory minimum sentence may not be imposed unless
11 the State’s Attorney notifies a certain defendant in writing at a certain time of a
12 certain intention; and generally relating to the crime of wearing, carrying, or
13 transporting a handgun.

14 BY repealing and reenacting, with amendments,
15 Article – Criminal Law
16 Section 4–203
17 Annotated Code of Maryland
18 (2012 Replacement Volume and 2017 Supplement)

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

21 **Article – Criminal Law**

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.



1 4-203.

2 (a) (1) Except as provided in subsection (b) of this section, a person may not:

3 (i) wear, carry, or transport a handgun, whether concealed or open,
4 on or about the person;

5 (ii) wear, carry, or knowingly transport a handgun, whether
6 concealed or open, in a vehicle traveling on a road or parking lot generally used by the
7 public, highway, waterway, or airway of the State;

8 (iii) violate item (i) or (ii) of this paragraph while on public school
9 property in the State; ~~or~~

10 (iv) violate item (i) or (ii) of this paragraph with the deliberate
11 purpose of injuring or killing another person; **OR**

12 **(V) VIOLATE ITEM (I) OR (II) OF THIS PARAGRAPH WITH A**
13 **HANDGUN LOADED WITH AMMUNITION.**

14 (2) There is a rebuttable presumption that a person who transports a
15 handgun under paragraph (1)(ii) of this subsection transports the handgun knowingly.

16 (b) This section does not prohibit:

17 (1) the wearing, carrying, or transporting of a handgun by a person who is
18 authorized at the time and under the circumstances to wear, carry, or transport the
19 handgun as part of the person's official equipment, and is:

20 (i) a law enforcement official of the United States, the State, or a
21 county or city of the State;

22 (ii) a member of the armed forces of the United States or of the
23 National Guard on duty or traveling to or from duty;

24 (iii) a law enforcement official of another state or subdivision of
25 another state temporarily in this State on official business;

26 (iv) a correctional officer or warden of a correctional facility in the
27 State;

28 (v) a sheriff or full-time assistant or deputy sheriff of the State; or

29 (vi) a temporary or part-time sheriff's deputy;

1 (2) the wearing, carrying, or transporting of a handgun, in compliance with
2 any limitations imposed under § 5–307 of the Public Safety Article, by a person to whom a
3 permit to wear, carry, or transport the handgun has been issued under Title 5, Subtitle 3
4 of the Public Safety Article;

5 (3) the carrying of a handgun on the person or in a vehicle while the person
6 is transporting the handgun to or from the place of legal purchase or sale, or to or from a
7 bona fide repair shop, or between bona fide residences of the person, or between the bona
8 fide residence and place of business of the person, if the business is operated and owned
9 substantially by the person if each handgun is unloaded and carried in an enclosed case or
10 an enclosed holster;

11 (4) the wearing, carrying, or transporting by a person of a handgun used in
12 connection with an organized military activity, a target shoot, formal or informal target
13 practice, sport shooting event, hunting, a Department of Natural Resources–sponsored
14 firearms and hunter safety class, trapping, or a dog obedience training class or show, while
15 the person is engaged in, on the way to, or returning from that activity if each handgun is
16 unloaded and carried in an enclosed case or an enclosed holster;

17 (5) the moving by a bona fide gun collector of part or all of the collector’s
18 gun collection from place to place for public or private exhibition if each handgun is
19 unloaded and carried in an enclosed case or an enclosed holster;

20 (6) the wearing, carrying, or transporting of a handgun by a person on real
21 estate that the person owns or leases or where the person resides or within the confines of
22 a business establishment that the person owns or leases;

23 (7) the wearing, carrying, or transporting of a handgun by a supervisory
24 employee:

25 (i) in the course of employment;

26 (ii) within the confines of the business establishment in which the
27 supervisory employee is employed; and

28 (iii) when so authorized by the owner or manager of the business
29 establishment;

30 (8) the carrying or transporting of a signal pistol or other visual distress
31 signal approved by the United States Coast Guard in a vessel on the waterways of the State
32 or, if the signal pistol or other visual distress signal is unloaded and carried in an enclosed
33 case, in a vehicle; or

34 (9) the wearing, carrying, or transporting of a handgun by a person who is
35 carrying a court order requiring the surrender of the handgun, if:

36 (i) the handgun is unloaded;

1 (ii) the person has notified the law enforcement unit, barracks, or
2 station that the handgun is being transported in accordance with the court order; and

3 (iii) the person transports the handgun directly to the law
4 enforcement unit, barracks, or station.

5 (c) (1) A person who violates this section is guilty of a misdemeanor and on
6 conviction is subject to the penalties provided in this subsection.

7 (2) If the person has not previously been convicted under this section, §
8 4-204 of this subtitle, or § 4-101 or § 4-102 of this title:

9 (i) except as provided in item (ii) of this paragraph, the person is
10 subject to imprisonment for not less than 30 days and not exceeding 3 years or a fine of not
11 less than \$250 and not exceeding \$2,500 or both; or

12 (ii) if the person violates subsection (a)(1)(iii) of this section, the
13 person shall be sentenced to imprisonment for not less than 90 days.

14 (3) (i) If the person has previously been convicted once under this
15 section, § 4-204 of this subtitle, or § 4-101 or § 4-102 of this title:

16 1. except as provided in item 2 of this subparagraph, the
17 person is subject to imprisonment for not less than 1 year and not exceeding 10 years; or

18 2. if the person violates subsection (a)(1)(iii) of this section,
19 the person is subject to imprisonment for not less than 3 years and not exceeding 10 years.

20 (ii) **1. The EXCEPT AS PROVIDED IN SUBSUBPARAGRAPH 2**
21 **OF THIS SUBPARAGRAPH, THE** court may not ~~SUSPEND ANY PART OF OR~~ impose less
22 than the applicable ~~MANDATORY~~ minimum sentence provided under subparagraph (i) of
23 this paragraph.

24 **2. IF THE PERSON VIOLATES SUBSECTION (A)(1)(V) OF**
25 **THIS SECTION, THE COURT MAY NOT SUSPEND ANY PART OF OR IMPOSE LESS THAN**
26 **THE APPLICABLE MANDATORY MINIMUM SENTENCE PROVIDED UNDER**
27 **SUBPARAGRAPH (I) OF THIS PARAGRAPH.**

28 (iii) **EXCEPT AS PROVIDED IN § 4-305 OF THE CORRECTIONAL**
29 **SERVICES ARTICLE, IF THE PERSON VIOLATES SUBSECTION (A)(1)(V) OF THIS**
30 **SECTION, THE PERSON IS NOT ELIGIBLE FOR PAROLE DURING THE MANDATORY**
31 **MINIMUM SENTENCE.**

32 (iv) **A MANDATORY MINIMUM SENTENCE UNDER**
33 **SUBPARAGRAPH (II)2 OF THIS PARAGRAPH MAY NOT BE IMPOSED UNLESS THE**

1 STATE'S ATTORNEY NOTIFIES THE DEFENDANT IN WRITING AT LEAST 30 DAYS
 2 BEFORE TRIAL OF THE STATE'S INTENTION TO SEEK THE MANDATORY MINIMUM
 3 SENTENCE.

4 (4) (i) If the person has previously been convicted more than once under
 5 this section, § 4–204 of this subtitle, or § 4–101 or § 4–102 of this title, or of any combination
 6 of these crimes:

7 1. except as provided in item 2 of this subparagraph, the
 8 person is subject to imprisonment for not less than 3 years and not exceeding 10 years; or

9 2. A. if the person violates subsection (a)(1)(iii) of this
 10 section, the person is subject to imprisonment for not less than 5 years and not exceeding
 11 10 years; or

12 B. if the person violates subsection (a)(1)(iv) of this section,
 13 the person is subject to imprisonment for not less than 5 years and not exceeding 10 years.

14 (ii) 1. ~~The~~ EXCEPT AS PROVIDED IN SUBSUBPARAGRAPH 2
 15 OF THIS SUBPARAGRAPH, THE court may not ~~SUSPEND ANY PART OF OR~~ impose less
 16 than the applicable ~~MANDATORY~~ minimum sentence provided under subparagraph (i) of
 17 this paragraph.

18 2. IF THE PERSON VIOLATES SUBSECTION (A)(1)(V) OF
 19 THIS SECTION, THE COURT MAY NOT SUSPEND ANY PART OF OR IMPOSE LESS THAN
 20 THE APPLICABLE MANDATORY MINIMUM SENTENCE PROVIDED UNDER
 21 SUBPARAGRAPH (I) OF THIS PARAGRAPH.

22 (iii) EXCEPT AS PROVIDED IN § 4–305 OF THE CORRECTIONAL
 23 SERVICES ARTICLE, IF THE PERSON VIOLATES SUBSECTION (A)(1)(V) OF THIS
 24 SECTION, THE PERSON IS NOT ELIGIBLE FOR PAROLE DURING THE MANDATORY
 25 MINIMUM SENTENCE.

26 (iv) A MANDATORY MINIMUM SENTENCE UNDER
 27 SUBPARAGRAPH (II)2 OF THIS PARAGRAPH MAY NOT BE IMPOSED UNLESS THE
 28 STATE'S ATTORNEY NOTIFIES THE DEFENDANT IN WRITING AT LEAST 30 DAYS
 29 BEFORE TRIAL OF THE STATE'S INTENTION TO SEEK THE MANDATORY MINIMUM
 30 SENTENCE.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 32 October 1, 2018.