

SB0208/398179/2

BY: Judicial Proceedings Committee

AMENDMENTS TO SENATE BILL 208
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, strike “Secondary Transactions” and substitute “Sales, Rentals, and Transfers”; in lines 4, 5, 7, 8, 9, 12, and 14, in each instance, before “transfer” insert “sale, rental, or”; in lines 5 and 10, in each instance, before “transferor” insert “seller, lessor, or”; in line 6, before “transferee” insert “purchaser, lessee, or”; in the same line, strike “meet jointly with a certain licensee and”; in the same line, strike “the” and substitute “a certain”; in line 8, after “transfer;” insert “authorizing a seller, lessor, or transferor to deliver a rifle or shotgun to a licensee in a certain manner;”; in line 12, after “fee” insert “, not exceeding a certain amount;”; in line 14, after “Act;” insert “providing for certain civil immunity for a licensee under certain circumstances; providing that a certain licensee or other person may not sell, rent, transfer, or loan a rifle or shotgun to a certain person under certain circumstances; establishing a certain penalty;”; in line 15, after “Act;” insert “establishing that a certain provision of law supersedes certain local provisions; establishing the intent of the General Assembly that a certain term be construed in a certain manner;”; and in line 23, after “5–204.1” insert “and 5–207”.

AMENDMENT NO. 2

On page 2, strike in their entirety lines 19 through 26, inclusive.

AMENDMENT NO. 3

On page 2, in line 28, strike “A TRANSFER:” and substitute “:

(1) A SALE, RENTAL, OR TRANSFER:

On page 3, in lines 1, 3, 4, 9, 19, and 21, strike “(1)”, “(2)”, “(3)”, “(4)”, “(7)”, and “(8)”, respectively, and substitute “(I)”, “(II)”, “(III)”, “(IV)”, “(V)”, and “(VI)”,

(Over)

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respectively; strike in their entirety lines 13 through 18, inclusive; in line 19, after “SHOTGUN” insert “SOLD, RENTED, OR”; and in line 20, after “PIECE;” insert “OR”.

On pages 3 and 4, strike in their entirety the lines beginning with line 23 on page 3 through line 8 on page 4, inclusive.

On page 4, after line 8, insert:

“(2) A TRANSFER THAT OCCURS BY OPERATION OF LAW ON THE DEATH OF A PERSON FOR WHOM THE TRANSFEREE IS AN EXECUTOR, AN ADMINISTRATOR, A TRUSTEE, OR A PERSONAL REPRESENTATIVE OF AN ESTATE OR A TRUST CREATED IN A WILL.”;

in line 9, strike “THE” and substitute “A SALE, RENTAL, OR”; in line 10, after the third “A” insert “PURCHASER, LESSEE, OR”; in lines 13, 18, 20, 24, 25, and 27, in each instance, before “TRANSFEREE” insert “PURCHASER, LESSEE, OR”; in lines 11, 12, 23, and 27, in each instance, before “TRANSFEROR” insert “SELLER, LESSOR, OR”; and in lines 12, 14, 15, 16, 21, 24, and 31, in each instance, before “TRANSFER” insert “SALE, RENTAL, OR”.

AMENDMENT NO. 4

On page 4, in line 13, strike “MEET JOINTLY WITH A LICENSEE AND” and substitute “BOTH”; and in the same line, strike “THE” and substitute “A”.

AMENDMENT NO. 5

On page 4, after line 22, insert:

“(3) THE SELLER, LESSOR, OR TRANSFEROR MAY:

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

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(II) WITHOUT APPEARING IN PERSON BEFORE THE LICENSEE, ALLOW ANOTHER PERSON TO DELIVER THE RIFLE OR SHOTGUN TO THE LICENSEE.”.

AMENDMENT NO. 6

On page 4, in line 26, strike “**IF**” and substitute “**UNLESS THE SELLER, LESSOR, OR TRANSFEROR DELIVERED THE RIFLE OR SHOTGUN IN ACCORDANCE WITH SUBSECTION (C)(3)(II) OF THIS SECTION OR OTHERWISE LEFT THE RIFLE OR SHOTGUN IN THE EXCLUSIVE POSSESSION OF THE LICENSEE, IF**”.

AMENDMENT NO. 7

On page 2, in line 7, after “**GRANDPARENT,**” insert “**A STEPGRANDPARENT,**”; and in line 8, after “**GRANDCHILD,**” insert “**A STEPGRANDCHILD,**”.

AMENDMENT NO. 8

On page 5, after line 5, insert:

“(G) A LICENSEE WHO PROCESSES A SALE, RENTAL, OR TRANSFER UNDER THIS SECTION MAY NOT BE HELD CIVILLY LIABLE FOR PERSONAL INJURY OR PROPERTY DAMAGE RESULTING FROM THE MALFUNCTIONING OF A RIFLE OR SHOTGUN IF THE LICENSEE DID NOT MODIFY OR ALTER THE RIFLE OR SHOTGUN.”.

AMENDMENT NO. 9

On page 4, in line 34, strike “**5 YEARS**” and substitute “**6 MONTHS**”.

AMENDMENT NO. 10

On page 5, before line 6, insert:

“5-207.

(Over)

(A) THIS SECTION SUPERSEDES ANY RESTRICTION THAT A LOCAL JURISDICTION IN THE STATE IMPOSES ON THE TRANSFER BY A PRIVATE PARTY OF A RIFLE OR SHOTGUN, AND THE STATE PREEMPTS THE RIGHT OF ANY LOCAL JURISDICTION TO REGULATE THE TRANSFER OF A RIFLE OR SHOTGUN.

(B) IN THIS SECTION, "LOAN" INCLUDES A TEMPORARY GRATUITOUS EXCHANGE OF A RIFLE OR SHOTGUN.

(C) A LICENSEE OR ANY OTHER PERSON MAY NOT SELL, RENT, TRANSFER, OR LOAN A RIFLE OR SHOTGUN TO A PURCHASER, LESSEE, TRANSFEREE, OR RECIPIENT WHO THE LICENSEE OR OTHER PERSON KNOWS OR HAS REASONABLE CAUSE TO BELIEVE:

(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 COMMON LAW CRIME 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 PURCHASER, LESSEE, TRANSFEREE, RECIPIENT, OR ANOTHER, UNLESS THE PURCHASER, LESSEE, TRANSFEREE, OR RECIPIENT HAS RECEIVED A CERTIFICATE FROM THE MARYLAND DEPARTMENT OF HEALTH RELIEVING THE PURCHASER, LESSEE, TRANSFEREE, OR RECIPIENT OF THE DISQUALIFICATION;

(7) HAS BEEN FOUND INCOMPETENT TO STAND TRIAL UNDER § 3-106 OF THE CRIMINAL PROCEDURE ARTICLE, UNLESS THE PURCHASER, LESSEE, TRANSFEREE, OR RECIPIENT HAS RECEIVED A CERTIFICATE FROM THE MARYLAND DEPARTMENT OF HEALTH RELIEVING THE PURCHASER, LESSEE, TRANSFEREE, OR RECIPIENT OF THE DISQUALIFICATION;

(8) HAS BEEN FOUND NOT CRIMINALLY RESPONSIBLE UNDER § 3-110 OF THE CRIMINAL PROCEDURE ARTICLE, UNLESS THE PURCHASER, LESSEE, TRANSFEREE, OR RECIPIENT HAS RECEIVED A CERTIFICATE FROM THE MARYLAND DEPARTMENT OF HEALTH RELIEVING THE PURCHASER, LESSEE, TRANSFEREE, OR RECIPIENT OF THE DISQUALIFICATION;

(9) HAS BEEN VOLUNTARILY ADMITTED FOR MORE THAN 30 CONSECUTIVE DAYS TO A FACILITY AS DEFINED IN § 10-101 OF THE HEALTH – GENERAL ARTICLE, UNLESS THE PURCHASER, LESSEE, TRANSFEREE, OR RECIPIENT HAS RECEIVED A CERTIFICATE FROM THE MARYLAND DEPARTMENT OF HEALTH RELIEVING THE PURCHASER, LESSEE, TRANSFEREE, OR RECIPIENT OF THE DISQUALIFICATION;

(10) HAS BEEN INVOLUNTARILY COMMITTED FOR MORE THAN 30 CONSECUTIVE DAYS TO A FACILITY AS DEFINED IN § 10-101 OF THE HEALTH –

(Over)

GENERAL ARTICLE, UNLESS THE PURCHASER, LESSEE, TRANSFEREE, OR RECIPIENT HAS RECEIVED A CERTIFICATE FROM THE MARYLAND DEPARTMENT OF HEALTH RELIEVING THE PURCHASER, LESSEE, TRANSFEREE, OR RECIPIENT OF THE DISQUALIFICATION;

(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, UNLESS THE PURCHASER, LESSEE, TRANSFEREE, OR RECIPIENT HAS RECEIVED A CERTIFICATE FROM THE MARYLAND DEPARTMENT OF HEALTH RELIEVING THE PURCHASER, LESSEE, TRANSFEREE, OR RECIPIENT OF THE DISQUALIFICATION;

(12) 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 NATIVE AMERICAN TRIBE AND IS IN EFFECT;

(13) IF UNDER THE AGE OF 30 YEARS AT THE TIME OF THE TRANSACTION, HAS BEEN ADJUDICATED DELINQUENT BY A JUVENILE COURT FOR AN ACT THAT WOULD BE A DISQUALIFYING CRIME IF COMMITTED BY AN ADULT;

(14) IS VISIBLY UNDER THE INFLUENCE OF ALCOHOL OR DRUGS;

(15) IS A PARTICIPANT IN A STRAW PURCHASE; OR

(16) INTENDS TO USE THE RIFLE OR SHOTGUN TO:

(I) COMMIT A CRIME; OR

(II) CAUSE HARM TO THE PURCHASER, LESSEE, TRANSFEREE, OR RECIPIENT OR ANOTHER PERSON.

(D) 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.”.

AMENDMENT NO. 11

On page 5, strike beginning with “this” in line 6 down through “2020” in line 7 and substitute “it is the intent of the General Assembly that the term “transfer” in §§ 5–204.1 and 5–207 of the Public Safety Article, as enacted by Section 1 of this Act:

(1) be interpreted in a manner that is consistent with the ruling of the Court of Appeals in Chow v. State, 393 Md. 388 (2006); and

(2) does not include the temporary gratuitous exchange of a rifle or shotgun.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2020”.

AMENDMENT NO. 12

On page 4, in line 30, after “FEE” insert “NOT EXCEEDING \$30”.