

Bill No.: _____

Requested: _____

Committee: _____

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By: **Montgomery County Delegation**

A BILL ENTITLED

1 AN ACT concerning

2 **Montgomery County – Firearms Regulations – State Preemption Exemptions**

3 **MC 710-07**

4 FOR the purpose of authorizing Montgomery County to enact certain ordinances
5 regulating the purchase, sale, taxation, transfer, manufacture, repair,
6 ownership, possession, and transportation of certain firearms; authorizing
7 Montgomery County to enact certain ordinances regulating the sale of a
8 regulated firearm; authorizing Montgomery County to enact certain ordinances
9 regulating the possession by a private party of a regulated firearm; authorizing
10 Montgomery County to enact certain ordinances regulating the transfer by a
11 private party of a regulated firearm; and generally relating to the authority of
12 Montgomery County to regulate firearms.

13 BY repealing and reenacting, with amendments,
14 Article – Criminal Law
15 Section 4-209
16 Annotated Code of Maryland
17 (2002 Volume and 2006 Supplement)

18 BY repealing and reenacting, with amendments,
19 Article – Public Safety

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



20 Section 5–104, 5–133, and 5–134
21 Annotated Code of Maryland
22 (2003 Volume and 2006 Supplement)

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

25 **Article – Criminal Law**

26 4–209.

27 (a) Except as otherwise provided in this section, the State preempts the right
28 of a county, municipal corporation, or special taxing district to regulate the purchase,
29 sale, taxation, transfer, manufacture, repair, ownership, possession, and
30 transportation of:

31 (1) a handgun, rifle, or shotgun; and

32 (2) ammunition for and components of a handgun, rifle, or shotgun.

33 (b) (1) A county, municipal corporation, or special taxing district may
34 regulate the purchase, sale, transfer, ownership, possession, and transportation of the
35 items listed in subsection (a) of this section:

36 (i) with respect to minors;

37 (ii) with respect to law enforcement officials of the subdivision;
38 and

39 (iii) except as provided in paragraph (2) of this subsection,
40 within 100 yards of or in a park, church, school, public building, and other place of
41 public assembly.

42 (2) A county, municipal corporation, or special taxing district may not
43 prohibit the teaching of or training in firearms safety, or other educational or sporting
44 use of the items listed in subsection (a) of this section.

45 (c) To the extent that a local law does not create an inconsistency with this
46 section or expand existing regulatory control, a county, municipal corporation, or
47 special taxing district may exercise its existing authority to amend any local law that
48 existed on or before December 31, 1984.

49 (d) (1) Except as provided in paragraph (2) of this subsection, in
50 accordance with law, a county, municipal corporation, or special taxing district may
51 regulate the discharge of handguns, rifles, and shotguns.

52 (2) A county, municipal corporation, or special taxing district may not
53 prohibit the discharge of firearms at established ranges.

54 **(E) MONTGOMERY COUNTY MAY ENACT ORDINANCES THAT IMPOSE**
55 **GREATER RESTRICTIONS OR LIMITATIONS THAN THOSE IMPOSED BY THIS**
56 **SECTION.**

57 **Article – Public Safety**

58 5–104.

59 **(A) [This] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION,**
60 **THIS** subtitle supersedes any restriction that a local jurisdiction in the State imposes
61 on a sale of a regulated firearm, and the State preempts the right of any local
62 jurisdiction to regulate the sale of a regulated firearm.

63 **(B) MONTGOMERY COUNTY MAY ENACT ORDINANCES THAT IMPOSE**
64 **GREATER RESTRICTIONS OR LIMITATIONS THAN THOSE IMPOSED BY THIS**
65 **SUBTITLE.**

66 5–133.

67 **(a) [This] EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION,**
68 **THIS** section supersedes any restriction that a local jurisdiction in the State imposes
69 on the possession by a private party of a regulated firearm, and the State preempts
70 the right of any local jurisdiction to regulate the possession of a regulated firearm.

71 **(b) A person may not possess a regulated firearm if the person:**

- 72 (1) has been convicted of a disqualifying crime;
- 73 (2) has been convicted of a violation classified as a common law crime
74 and received a term of imprisonment of more than 2 years;
- 75 (3) is a fugitive from justice;
- 76 (4) is a habitual drunkard;
- 77 (5) is addicted to a controlled dangerous substance or is a habitual
78 user;
- 79 (6) suffers from a mental disorder as defined in § 10–101(f)(2) of the
80 Health – General Article and has a history of violent behavior against the person or
81 another, unless the person has a physician’s certificate that the person is capable of
82 possessing a regulated firearm without undue danger to the person or to another;
- 83 (7) has been confined for more than 30 consecutive days to a facility as
84 defined in § 10–101 of the Health – General Article, unless the person has a
85 physician’s certificate that the person is capable of possessing a regulated firearm
86 without undue danger to the person or to another;
- 87 (8) is a respondent against whom a current non ex parte civil
88 protective order has been entered under § 4–506 of the Family Law Article; or
- 89 (9) if under the age of 30 years at the time of possession, has been
90 adjudicated delinquent by a juvenile court for an act that would be a disqualifying
91 crime if committed by an adult.
- 92 (c) (1) A person may not possess a regulated firearm if the person was
93 previously convicted of:
- 94 (i) a crime of violence; or
- 95 (ii) a violation of § 5–602, § 5–603, § 5–604, § 5–605, § 5–606, §
96 5–607, § 5–608, § 5–609, § 5–612, § 5–613, or § 5–614 of the Criminal Law Article.

97 (2) A person who violates this subsection is guilty of a felony and on
98 conviction is subject to imprisonment for not less than 5 years, no part of which may
99 be suspended.

100 (3) A person sentenced under paragraph (1) of this subsection may not
101 be eligible for parole.

102 (4) Each violation of this subsection is a separate crime.

103 (d) (1) Except as provided in paragraph (2) of this subsection, a person
104 who is under the age of 21 years may not possess a regulated firearm or ammunition
105 solely designed for a regulated firearm.

106 (2) Unless a person is otherwise prohibited from possessing a
107 regulated firearm, this subsection does not apply to:

108 (i) the temporary transfer or possession of a regulated firearm
109 or ammunition solely designed for a regulated firearm if the person is:

110 1. under the supervision of another who is at least 21
111 years old and who is not prohibited by State or federal law from possessing a firearm;
112 and

113 2. acting with the permission of the parent or legal
114 guardian of the transferee or person in possession;

115 (ii) the transfer by inheritance of title, and not of possession, of
116 a regulated firearm;

117 (iii) a member of the armed forces of the United States or the
118 National Guard while performing official duties;

119 (iv) the temporary transfer or possession of a regulated firearm
120 or ammunition solely designed for a regulated firearm if the person is:

121 1. participating in marksmanship training of a
122 recognized organization; and

147 (7) is addicted to a controlled dangerous substance or is a habitual
148 user;

149 (8) suffers from a mental disorder as defined in § 10–101(f)(2) of the
150 Health – General Article, and has a history of violent behavior against the purchaser,
151 lessee, or transferee or another, unless the purchaser, lessee, or transferee possesses a
152 physician’s certificate that the recipient is capable of possessing a regulated firearm
153 without undue danger to the purchaser, lessee, or transferee or to another;

154 (9) has been confined for more than 30 consecutive days to a facility as
155 defined in § 10–101 of the Health – General Article, unless the purchaser, lessee, or
156 transferee possesses a physician’s certificate that the recipient is capable of possessing
157 a regulated firearm without undue danger to the purchaser, lessee, or transferee or to
158 another;

159 (10) is a respondent against whom a current non ex parte civil
160 protective order has been entered under § 4–506 of the Family Law Article;

161 (11) if under the age of 30 years at the time of the transaction, has been
162 adjudicated delinquent by a juvenile court for an act that would be a disqualifying
163 crime if committed by an adult;

164 (12) is visibly under the influence of alcohol or drugs;

165 (13) is a participant in a straw purchase; or

166 (14) subject to subsection (c) of this section for a transaction under this
167 subsection that is made on or after January 1, 2002, has not completed a certified
168 firearms safety training course conducted free of charge by the Police Training
169 Commission or that meets standards established by the Police Training Commission
170 under § 3–207 of this article.

171 (c) A person is not required to complete a certified firearms safety training
172 course under subsection (b)(14) of this section and § 5–118(b)(3)(x) of this subtitle if
173 the person:

174 (1) has already completed a certified firearms safety training course
175 required under subsection (b)(14) of this section and § 5–118(b)(3)(x) of this subtitle;

176 (2) is a law enforcement officer of the State or any local law
177 enforcement agency in the State;

178 (3) is a member, retired member, or honorably discharged member of
179 the armed forces of the United States or the National Guard;

180 (4) is a member of an organization that is required by federal law
181 governing its specific business or activity to maintain handguns and applicable
182 ammunition; or

183 (5) has been issued a permit to carry a handgun under Subtitle 3 of
184 this title.

185 (d) (1) A person may not sell, rent, or transfer:

186 (i) ammunition solely designed for a regulated firearm to a
187 person who is under the age of 21 years; or

188 (ii) 1. a firearm other than a regulated firearm to a minor;

189 2. ammunition for a firearm to a minor;

190 3. pepper mace, which is an aerosol propelled
191 combination of highly disabling irritant based products and is also known as
192 oleo-resin capsicum (O.C.) spray, to a minor; or

193 4. another deadly weapon to a minor.

194 (2) A person who violates this subsection is guilty of a misdemeanor
195 and on conviction is subject to imprisonment not exceeding 1 year or a fine not
196 exceeding \$1,000 or both.

197 **(E) MONTGOMERY COUNTY MAY ENACT ORDINANCES THAT IMPOSE**
198 **GREATER RESTRICTIONS OR LIMITATIONS THAN THOSE IMPOSED BY THIS**
199 **SECTION.**

7lr0816

200 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
201 October 1, 2007.