

# SENATE BILL 1097

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4lr1894

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By: **Senator Smith**

Introduced and read first time: February 2, 2024

Assigned to: Judicial Proceedings

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 29, 2024

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Public Safety – ~~Gun Buyback Programs – Destruction of Firearms~~ Firearm**  
3 **Safety and Firearm Crimes**

4 FOR the purpose of exempting an employee of the Department of Natural Resources in the  
5 course of performing official duties from certain prohibitions against knowingly  
6 wearing, carrying, or transporting a firearm in certain locations; classifying the theft  
7 of a firearm as a felony; establishing certain penalties for theft of a firearm; requiring  
8 a person or entity operating a gun buyback program to destroy a firearm, including  
9 all components and parts attached to the firearm, that is traded in at a certain gun  
10 buyback program; authorizing a certain person or entity to contract with a law  
11 enforcement agency, an organization, or a business to destroy certain firearms;  
12 requiring the Secretary of State Police to revoke a certain person's dealer's license if  
13 the person violates the provisions of this Act; classifying the trafficking of a regulated  
14 firearm as a felony; and generally relating to ~~gun buyback programs~~ firearm safety  
15 and firearm crimes.

16 BY repealing and reenacting, with amendments,  
17 Article – Criminal Law  
18 Section 4–111(b)(10) and (11) and 7–104  
19 Annotated Code of Maryland  
20 (2021 Replacement Volume and 2023 Supplement)

21 BY adding to  
22 Article – Criminal Law  
23 Section 4–111(b)(12)

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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 Annotated Code of Maryland  
 2 (2021 Replacement Volume and 2023 Supplement)

3 BY repealing and reenacting, without amendments,  
 4 Article – Criminal Law  
 5 Section 4–111(c) through (e)  
 6 Annotated Code of Maryland  
 7 (2021 Replacement Volume and 2023 Supplement)

8 BY repealing and reenacting, with amendments,  
 9 Article – Public Safety  
 10 Section 5–114(b) and 5–140  
 11 Annotated Code of Maryland  
 12 (2022 Replacement Volume and 2023 Supplement)

13 BY adding to  
 14 Article – Public Safety  
 15 Section 5–901 and 5–902 to be under the new subtitle “Subtitle 9. Gun Buyback  
 16 Programs”  
 17 Annotated Code of Maryland  
 18 (2022 Replacement Volume and 2023 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**

22 4–111.

23 (b) This section does not apply to:

24 (10) a location being used with the permission of the person or governmental  
 25 unit that owns, leases, or controls the location for:

26 (i) an organized shooting activity for educational purposes;

27 (ii) a historical demonstration using a firearm; or

28 (iii) hunting or target shooting; [or]

29 (11) a firearm that is carried or transported in a motor vehicle if the firearm  
 30 is:

31 (i) locked in a container; or

32 (ii) a handgun worn, carried, or transported in compliance with any  
 33 limitations imposed under § 5–307 of the Public Safety Article, by a person to whom a

1 permit to wear, carry, or transport the handgun has been issued under Title 5, Subtitle 3  
2 of the Public Safety Article; OR

3 **(12) AN EMPLOYEE OF THE DEPARTMENT OF NATURAL RESOURCES IN**  
4 **THE COURSE OF PERFORMING OFFICIAL DUTIES.**

5 (c) A person may not wear, carry, or transport a firearm in an area for children  
6 or vulnerable individuals.

7 (d) (1) A person may not wear, carry, or transport a firearm in a government  
8 or public infrastructure area.

9 (2) A government or public infrastructure area specified under subsection  
10 (a)(4)(i) of this section must display a clear and conspicuous sign at the main entrance of  
11 the building or the part of a building that is owned or leased by the unit of State or local  
12 government indicating that it is not permissible to wear, carry, or transport a firearm in  
13 the building or that part of the building.

14 (e) A person may not wear, carry, or transport a firearm in a special purpose area.  
15 7-104.

16 (a) A person may not willfully or knowingly obtain or exert unauthorized control  
17 over property, if the person:

18 (1) intends to deprive the owner of the property;

19 (2) willfully or knowingly uses, conceals, or abandons the property in a  
20 manner that deprives the owner of the property; or

21 (3) uses, conceals, or abandons the property knowing the use, concealment,  
22 or abandonment probably will deprive the owner of the property.

23 (b) A person may not obtain control over property by willfully or knowingly using  
24 deception, if the person:

25 (1) intends to deprive the owner of the property;

26 (2) willfully or knowingly uses, conceals, or abandons the property in a  
27 manner that deprives the owner of the property; or

28 (3) uses, conceals, or abandons the property knowing the use, concealment,  
29 or abandonment probably will deprive the owner of the property.

30 (c) (1) A person may not possess stolen personal property knowing that it has  
31 been stolen, or believing that it probably has been stolen, if the person:

1           (i)    intends to deprive the owner of the property;

2           (ii)   willfully or knowingly uses, conceals, or abandons the property  
3 in a manner that deprives the owner of the property; or

4           (iii)   uses, conceals, or abandons the property knowing that the use,  
5 concealment, or abandonment probably will deprive the owner of the property.

6           (2)    In the case of a person in the business of buying or selling goods, the  
7 knowledge required under this subsection may be inferred if:

8           (i)    the person possesses or exerts control over property stolen from  
9 more than one person on separate occasions;

10           (ii)   during the year preceding the criminal possession charged, the  
11 person has acquired stolen property in a separate transaction; or

12           (iii)   being in the business of buying or selling property of the sort  
13 possessed, the person acquired it for a consideration that the person knew was far below a  
14 reasonable value.

15           (3)    In a prosecution for theft by possession of stolen property under this  
16 subsection, it is not a defense that:

17           (i)    the person who stole the property has not been convicted,  
18 apprehended, or identified;

19           (ii)   the defendant stole or participated in the stealing of the property;

20           (iii)   the property was provided by law enforcement as part of an  
21 investigation, if the property was described to the defendant as being obtained through the  
22 commission of theft; or

23           (iv)   the stealing of the property did not occur in the State.

24           (4)    Unless the person who criminally possesses stolen property  
25 participated in the stealing, the person who criminally possesses stolen property and a  
26 person who has stolen the property are not accomplices in theft for the purpose of any rule  
27 of evidence requiring corroboration of the testimony of an accomplice.

28           (d)    A person may not obtain control over property knowing that the property was  
29 lost, mislaid, or was delivered under a mistake as to the identity of the recipient or nature  
30 or amount of the property, if the person:

31           (1)    knows or learns the identity of the owner or knows, is aware of, or  
32 learns of a reasonable method of identifying the owner;

1           (2)   fails to take reasonable measures to restore the property to the owner;  
2 and

3           (3)   intends to deprive the owner permanently of the use or benefit of the  
4 property when the person obtains the property or at a later time.

5           (e)   A person may not obtain the services of another that are available only for  
6 compensation:

7           (1)   by deception; or

8           (2)   with knowledge that the services are provided without the consent of  
9 the person providing them.

10          (f)   Under this section, an offender's intention or knowledge that a promise would  
11 not be performed may not be established by or inferred solely from the fact that the promise  
12 was not performed.

13          (g)   (1)   **THIS SUBSECTION DOES NOT APPLY TO THEFT OF A FIREARM, AS**  
14 **DEFINED IN § 5-101 OF THE PUBLIC SAFETY ARTICLE.**

15           (2)   A person convicted of theft of property or services with a value of:

16           (i)   at least \$1,500 but less than \$25,000 is guilty of a felony and:

17                   1.   is subject to imprisonment not exceeding 5 years or a fine  
18 not exceeding \$10,000 or both; and

19                   2.   shall restore the property taken to the owner or pay the  
20 owner the value of the property or services;

21           (ii)   at least \$25,000 but less than \$100,000 is guilty of a felony and:

22                   1.   is subject to imprisonment not exceeding 10 years or a fine  
23 not exceeding \$15,000 or both; and

24                   2.   shall restore the property taken to the owner or pay the  
25 owner the value of the property or services; or

26           (iii)   \$100,000 or more is guilty of a felony and:

27                   1.   is subject to imprisonment not exceeding 20 years or a fine  
28 not exceeding \$25,000 or both; and

29                   2.   shall restore the property taken to the owner or pay the  
30 owner the value of the property or services.

1 [(2)] (3) Except as provided in paragraph [(3)] (4) of this subsection, a  
2 person convicted of theft of property or services with a value of at least \$100 but less than  
3 \$1,500, is guilty of a misdemeanor and:

4 (i) is subject to:

5 1. for a first conviction, imprisonment not exceeding 6  
6 months or a fine not exceeding \$500 or both; and

7 2. for a second or subsequent conviction, imprisonment not  
8 exceeding 1 year or a fine not exceeding \$500 or both; and

9 (ii) shall restore the property taken to the owner or pay the owner  
10 the value of the property or services.

11 [(3)] (4) A person convicted of theft of property or services with a value of  
12 less than \$100 is guilty of a misdemeanor and:

13 (i) is subject to imprisonment not exceeding 90 days or a fine not  
14 exceeding \$500 or both; and

15 (ii) shall restore the property taken to the owner or pay the owner  
16 the value of the property or services.

17 [(4)] (5) Subject to paragraph [(5)] (6) of this subsection, a person who  
18 has four or more prior convictions under this subtitle and who is convicted of theft of  
19 property or services with a value of less than \$1,500 under paragraph [(2)] (3) of this  
20 subsection is guilty of a misdemeanor and:

21 (i) is subject to imprisonment not exceeding 5 years or a fine not  
22 exceeding \$5,000 or both; and

23 (ii) shall restore the property taken to the owner or pay the owner  
24 the value of the property or services.

25 [(5)] (6) The court may not impose the penalties under paragraph [(4)]  
26 (5) of this subsection unless the State's Attorney serves notice on the defendant or the  
27 defendant's counsel before the acceptance of a plea of guilty or nolo contendere or at least  
28 15 days before trial that:

29 (i) the State will seek the penalties under paragraph [(4)] (5) of this  
30 subsection; and

31 (ii) lists the alleged prior convictions.

1 (H) A PERSON CONVICTED OF THEFT OF A FIREARM, AS DEFINED IN § 5-101  
 2 OF THE PUBLIC SAFETY ARTICLE, IS GUILTY OF A FELONY AND IS SUBJECT TO  
 3 IMPRISONMENT NOT EXCEEDING 5 YEARS OR A FINE NOT EXCEEDING \$1,000 OR  
 4 BOTH.

5 [(h)] (I) (1) If a person is convicted of a violation under this section for failure  
 6 to pay for motor fuel after the motor fuel was dispensed into a vehicle, the court shall:

7 (i) notify the person that the person's driver's license may be  
 8 suspended under § 16-206.1 of the Transportation Article; and

9 (ii) notify the Motor Vehicle Administration of the violation.

10 (2) The Chief Judge of the District Court and the Administrative Office of  
 11 the Courts, in conjunction with the Motor Vehicle Administration, shall establish uniform  
 12 procedures for reporting a violation under this subsection.

13 [(i)] (J) An action or prosecution for a violation of subsection [(g)(2) or (3)]  
 14 (G)(3) OR (4) of this section shall be commenced within 2 years after the commission of  
 15 the crime.

16 [(j)] (K) A person who violates this section by use of an interactive computer  
 17 service may be prosecuted, indicted, tried, and convicted in any county in which the victim  
 18 resides or the electronic communication originated or terminated.

## 19 Article – Public Safety

20 5-114.

21 (b) The Secretary shall revoke a dealer's license if:

22 (1) it is discovered that false information has been supplied or false  
 23 statements have been made in an application required by this subtitle; or

24 (2) the licensee:

25 (i) is convicted of a disqualifying crime;

26 (ii) is convicted of a violation classified as a common law crime and  
 27 receives a term of imprisonment of more than 2 years;

28 (iii) is a fugitive from justice;

29 (iv) is a habitual drunkard;

1 (v) is addicted to a controlled dangerous substance or is a habitual  
2 user;

3 (vi) has spent more than 30 consecutive days in a medical institution  
4 for treatment of a mental disorder, unless the licensee produces a physician's certificate,  
5 issued after the last institutionalization and certifying that the licensee is capable of  
6 possessing a regulated firearm without undue danger to the licensee or to another;

7 (vii) has knowingly or willfully manufactured, offered to sell, or sold  
8 a handgun not on the handgun roster in violation of § 5-406 of this title;

9 (viii) has knowingly or willfully participated in a straw purchase of a  
10 regulated firearm;

11 (ix) is convicted of a crime under Subtitle 7 of this title; [or]

12 (x) is found in violation of a third or subsequent offense under §  
13 5-145.1 of this subtitle; **OR**

14 **(XI) VIOLATES SUBTITLE 9 OF THIS TITLE.**

15 5-140.

16 (a) A dealer or other person may not transport a regulated firearm into the State  
17 for the purpose of unlawfully selling or trafficking of the regulated firearm.

18 (b) A person who violates this section is guilty of a [misdemeanor] FELONY and  
19 on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding  
20 \$25,000 or both.

21 (c) Each violation of this section is a separate crime.

22 **SUBTITLE 9. GUN BUYBACK PROGRAMS.**

23 **5-901.**

24 (A) **IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**  
25 **INDICATED.**

26 (B) **“FIREARM” HAS THE MEANING STATED IN § 5-101 OF THIS TITLE.**

27 (C) **“GUN BUYBACK PROGRAM” MEANS A PROGRAM THAT IS OPERATED BY**  
28 **A PUBLIC OR PRIVATE PERSON OR ENTITY THAT FEDERAL FIREARMS LICENSEE OR**  
29 **A LAW ENFORCEMENT AGENCY AND THAT:**



1           **(1) ALLOWS FIREARM OWNERS TO VOLUNTARILY ~~TRADE IN THEIR~~**  
 2 **FIREARMS FOR COMPENSATION SURRENDER FIREARMS;**

3           **(2) IS OPERATED, EITHER EXPLICITLY OR IMPLIEDLY, FOR THE**  
 4 **PURPOSE OF REDUCING THE NUMBER OF FIREARMS IN A COMMUNITY; AND**

5           **(3) ADVERTISES THAT FIREARMS THAT ARE SURRENDERED TO THE**  
 6 **PROGRAM WILL BE DESTROYED OR MADE PERMANENTLY INOPERABLE.**

7           **(D) “SECRETARY” HAS THE MEANING STATED IN § 5-101 OF THIS TITLE.**

8 **5-902.**

9           **(A) THIS SECTION DOES NOT APPLY TO A FIREARM IF A LAW ENFORCEMENT**  
 10 **AGENCY DETERMINES THAT THE FIREARM IS STOLEN OR IS EVIDENCE OF A CRIME.**

11           **(B) (1) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, A**  
 12 **~~PERSON OR ENTITY~~ FEDERAL FIREARMS LICENSEE OR LAW ENFORCEMENT AGENCY**  
 13 **OPERATING A GUN BUYBACK PROGRAM SHALL DESTROY ~~A~~ EACH FIREARM,**  
 14 **INCLUDING EVERY COMPONENT AND PART ATTACHED TO THE FIREARM, THAT IS**  
 15 **~~TRADED IN~~ SURRENDERED TO THE FEDERAL FIREARMS LICENSEE OR LAW**  
 16 **ENFORCEMENT AGENCY AT A GUN BUYBACK PROGRAM.**

17           **(II) THE DESTRUCTION REQUIRED UNDER SUBPARAGRAPH (I)**  
 18 **OF THIS PARAGRAPH SHALL:**

19                           **1. BE COMPLETED WITHIN 6 MONTHS AFTER THE**  
 20 **FIREARM WAS SURRENDERED IN THE GUN BUYBACK PROGRAM; AND**

21                           **2. MAKE THE FIREARM AND EVERY COMPONENT AND**  
 22 **PART ATTACHED TO THE FIREARM PERMANENTLY INOPERABLE AND**  
 23 **UNREPAIRABLE.**

24           **(2) A ~~PERSON OR ENTITY~~ FEDERAL FIREARMS LICENSEE OR LAW**  
 25 **ENFORCEMENT AGENCY MAY CONTRACT WITH A LAW ENFORCEMENT ~~AGENCY, AN~~**  
 26 **~~ORGANIZATION,~~ AGENCY OR A BUSINESS TO SATISFY THE REQUIREMENT UNDER**  
 27 **PARAGRAPH (1) OF THIS SUBSECTION.**

28           **~~(B)~~ (C) A ~~PERSON OR ENTITY~~ FEDERAL FIREARMS LICENSEE OR LAW**  
 29 **ENFORCEMENT AGENCY THAT VIOLATES THIS SECTION IS SUBJECT TO A FINE NOT**  
 30 **EXCEEDING \$10,000 PER VIOLATION.**

31           **~~(C)~~ (D) IF A PERSON VIOLATES THIS SECTION AND THE PERSON HOLDS A**  
 32 **DEALER’S LICENSE UNDER § 5-106 OF THIS TITLE:**

1           **(1) THE PERSON SHALL BE SUBJECT TO THE PENALTY PROVIDED IN**  
2 **SUBSECTION (B) OF THIS SECTION; AND**

3           **(2) THE SECRETARY SHALL REVOKE THE PERSON’S DEALER’S**  
4 **LICENSE IN ACCORDANCE WITH § 5-114 OF THIS TITLE.**

5           **(E) NOTHING IN THIS SECTION MAY BE INTERPRETED AS AN EXCEPTION TO**  
6 **ANY OTHER REQUIREMENT OR RESTRICTION UNDER STATE OR FEDERAL LAW**  
7 **RELATING TO THE PURCHASE, RENTAL, LOAN, OR TRANSFER OF A FIREARM.**

8           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
9 October 1, 2024.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.