

SENATE BILL 208

E4
SB 737/19 – JPR

0lr1864
CF HB 4

By: **Senators Lee, Beidle, Benson, Carter, Elfreth, Feldman, Griffith, Guzzone, Kagan, Kelley, King, Kramer, Lam, Patterson, Pinsky, Rosapepe, Smith, Sydnor, Waldstreicher, Washington, Young, and Zucker**

Introduced and read first time: January 16, 2020

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: March 2, 2020

CHAPTER _____

1 AN ACT concerning

2 **Public Safety – Rifles and Shotguns – ~~Secondary Transactions~~ Sales, Rentals,**
3 **and Transfers**

4 FOR the purpose of providing that a person who is not a certain licensee may not complete
5 the sale, rental, or transfer of a certain rifle or shotgun in a certain role, except under
6 certain circumstances; requiring, before a certain sale, rental, or transfer is
7 conducted, the seller, lessor, or transferor and purchaser, lessee, or transferee to
8 ~~meet jointly with a certain licensee and request that the~~ a certain licensee facilitate
9 the sale, rental, or transfer; requiring a certain licensee to take certain actions when
10 facilitating a certain sale, rental, or transfer; authorizing a seller, lessor, or
11 transferor to deliver a rifle or shotgun to a licensee in a certain manner; prohibiting
12 a certain licensee and transferor from completing a certain sale, rental, or transfer
13 if a certain background check has a certain result; authorizing a certain seller, lessor,
14 or transferor to remove a certain rifle or shotgun from certain premises if a certain
15 background check has a certain result; authorizing a certain licensee to charge a
16 reasonable fee, ~~not exceeding a certain amount,~~ for facilitating a certain sale, rental,
17 or transfer; establishing certain penalties for violating this Act and for providing
18 false information while conducting a sale, rental, or transfer under this Act;
19 providing for certain civil immunity for a licensee under certain circumstances;
20 providing that a certain licensee or other person may not sell, rent, transfer, or loan
21 a rifle or shotgun to a certain person under certain circumstances; establishing a
22 certain penalty; excluding certain transfers from the scope of this Act; establishing
23 that a certain provision of law supersedes certain local provisions; establishing the

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 intent of the General Assembly that a certain term be construed in a certain manner;
2 defining certain terms; and generally relating to rifles and shotguns.

3 BY repealing and reenacting, with amendments,
4 Article – Public Safety
5 Section 5–201
6 Annotated Code of Maryland
7 (2018 Replacement Volume and 2019 Supplement)

8 BY adding to
9 Article – Public Safety
10 Section 5–204.1 and 5–207
11 Annotated Code of Maryland
12 (2018 Replacement Volume and 2019 Supplement)

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

15 **Article – Public Safety**

16 5–201.

17 (a) In this subtitle the following words have the meanings indicated.

18 **(B) “DEALER’S LICENSE” MEANS A FEDERAL FIREARMS LICENSE.**

19 **(C) “IMMEDIATE FAMILY MEMBER” MEANS A SPOUSE, A PARENT, A**
20 **STEPPARENT, A GRANDPARENT, A STEPGRANDPARENT, AN AUNT, AN UNCLE, A**
21 **SIBLING, A STEPSIBLING, A CHILD, A STEPCHILD, A GRANDCHILD, A**
22 **STEPGRANDCHILD, A NIECE, OR A NEPHEW, AS RELATED BY BLOOD OR MARRIAGE.**

23 **(D) “LICENSEE” MEANS A PERSON WHO HOLDS A DEALER’S LICENSE.**

24 **(E) “NICS INDEX” HAS THE MEANING STATED IN § 5–133.2 OF THIS TITLE.**

25 **[(b)] (F) “Rifle” has the meaning stated in § 4–201 of the Criminal Law Article.**

26 **[(c)] (G) “Short–barreled rifle” has the meaning stated in § 4–201 of the**
27 **Criminal Law Article.**

28 **[(d)] (H) “Short–barreled shotgun” has the meaning stated in § 4–201 of the**
29 **Criminal Law Article.**

30 **[(e)] (I) “Shotgun” has the meaning stated in § 4–201 of the Criminal Law**
31 **Article.**

1 ~~(J) "SPORT SHOOTING RANGE" HAS THE MEANING STATED IN § 5-403.1 OF~~
2 ~~THE COURTS ARTICLE.~~

3 ~~(K) "TRANSFER" MEANS A SALE, A RENTAL, A FURNISHING, A GIFT, A LOAN,~~
4 ~~OR ANY OTHER DELIVERY, WITH OR WITHOUT CONSIDERATION.~~

5 ~~(L) "TRANSFeree" MEANS A PERSON WHO RECEIVES OR INTENDS TO~~
6 ~~RECEIVE A FIREARM IN A TRANSFER.~~

7 ~~(M) "TRANSFEROR" MEANS A PERSON WHO DELIVERS OR INTENDS TO~~
8 ~~DELIVER A FIREARM IN A TRANSFER.~~

9 5-204.1.

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

11 (1) A SALE, RENTAL, OR TRANSFER:

12 ~~(1)~~ (I) INVOLVING A LICENSEE OR A FEDERALLY LICENSED GUN
13 MANUFACTURER, DEALER, OR IMPORTER;

14 ~~(2)~~ (II) BETWEEN IMMEDIATE FAMILY MEMBERS;

15 ~~(3)~~ (III) INVOLVING LAW ENFORCEMENT PERSONNEL OF ANY UNIT
16 OF THE FEDERAL GOVERNMENT, A MEMBER OF THE ARMED FORCES OF THE UNITED
17 STATES, A MEMBER OF THE NATIONAL GUARD, OR LAW ENFORCEMENT PERSONNEL
18 OF THE STATE OR ANY LOCAL AGENCY IN THE STATE, WHILE ACTING IN THE SCOPE
19 OF OFFICIAL DUTY;

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

24 ~~(5) THAT IS TEMPORARY AND NECESSARY TO PREVENT IMMINENT~~
25 ~~DEATH OR SERIOUS BODILY HARM IF THE TRANSFER LASTS ONLY AS LONG AS~~
26 ~~NECESSARY TO PREVENT IMMINENT DEATH OR SERIOUS BODILY HARM;~~

27 ~~(6) THAT OCCURS BY OPERATION OF LAW ON THE DEATH OF A PERSON~~
28 ~~FOR WHOM THE TRANSFeree IS AN EXECUTOR, AN ADMINISTRATOR, A TRUSTEE, OR~~
29 ~~A PERSONAL REPRESENTATIVE OF AN ESTATE OR A TRUST CREATED IN A WILL;~~

30 ~~(7)~~ (V) OF AN UNSERVICEABLE RIFLE OR SHOTGUN SOLD, RENTED,
31 OR TRANSFERRED AS A CURIO OR MUSEUM PIECE; OR

1 ~~(8)~~ (VI) OF A RIFLE OR SHOTGUN MODIFIED TO RENDER IT
2 PERMANENTLY INOPERATIVE; OR

3 (VII) IN WHICH THE PURCHASER, LESSEE, OR TRANSFEREE:

4 1. HAS A DEMONSTRABLE RELIGIOUS BELIEF AGAINST
5 TAKING A PORTRAIT PHOTOGRAPH; AND

6 2. DOES NOT POSSESS A LICENSE OR AN
7 IDENTIFICATION CARD OF ANY KIND WITH PHOTOGRAPHIC IDENTIFICATION; OR

8 ~~(9) THAT IS TEMPORARY, OCCURS UNDER CIRCUMSTANCES IN WHICH~~
9 ~~THE TRANSFEROR HAS NO REASON TO BELIEVE THAT THE TRANSFEREE INTENDS TO~~
10 ~~USE THE RIFLE OR SHOTGUN IN THE COMMISSION OF A CRIME OR TO ALLOW~~
11 ~~ANOTHER PERSON TO USE THE RIFLE OR SHOTGUN, AND TAKES PLACE~~
12 ~~EXCLUSIVELY;~~

13 ~~(I) AT AN ESTABLISHED SPORT SHOOTING RANGE OR GUN CLUB~~
14 ~~OPERATED IN ACCORDANCE WITH THE LOCAL LAW OF THE JURISDICTION IN WHICH~~
15 ~~THE RANGE OR CLUB IS LOCATED;~~

16 ~~(II) DURING A LAWFULLY ORGANIZED COMPETITION~~
17 ~~INVOLVING THE USE OF A RIFLE OR SHOTGUN;~~

18 ~~(III) DURING A PERFORMANCE OR A PRACTICE FOR A~~
19 ~~PERFORMANCE BY AN ORGANIZED GROUP THAT USES RIFLES OR SHOTGUNS AS PART~~
20 ~~OF THE PERFORMANCE;~~

21 ~~(IV) WHILE THE TRANSFEREE IS HUNTING OR TRAPPING IF THE~~
22 ~~HUNTING OR TRAPPING IS LEGAL IN ALL PLACES AND AT ALL TIMES WHEN THE~~
23 ~~HUNTING OR TRAPPING IS CONDUCTED AND THE TRANSFEREE HOLDS ANY LICENSE~~
24 ~~OR PERMIT REQUIRED FOR THE HUNTING OR TRAPPING; OR~~

25 ~~(V) IN THE ACTUAL PRESENCE OF THE TRANSFEROR.~~

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

30 (B) A PERSON WHO IS NOT A LICENSEE MAY NOT COMPLETE THE A SALE,
31 RENTAL, OR TRANSFER OF A RIFLE OR SHOTGUN OTHER THAN A REGULATED

1 FIREARM, AS A PURCHASER, LESSEE, OR TRANSFEREE OR SELLER, LESSOR, OR
2 TRANSFEROR, UNLESS THE PERSON IS IN COMPLIANCE WITH THIS SECTION.

3 (C) (1) BEFORE A SALE, RENTAL, OR TRANSFER IS CONDUCTED, THE
4 SELLER, LESSOR, OR TRANSFEROR AND PURCHASER, LESSEE, OR TRANSFEREE
5 ~~SHALL MEET JOINTLY WITH A LICENSEE AND BOTH~~ REQUEST THAT ~~THE~~ A LICENSEE
6 FACILITATE THE SALE, RENTAL, OR TRANSFER.

7 (2) (I) A LICENSEE WHO AGREES TO FACILITATE A SALE, RENTAL,
8 OR TRANSFER UNDER THIS SECTION SHALL PROCESS THE SALE, RENTAL, OR
9 TRANSFER AS THOUGH TRANSFERRING THE RIFLE OR SHOTGUN FROM THE
10 LICENSEE'S OWN INVENTORY TO THE PURCHASER, LESSEE, OR TRANSFEREE.

11 (II) THE LICENSEE SHALL CONDUCT A BACKGROUND CHECK ON
12 THE PURCHASER, LESSEE, OR TRANSFEREE THROUGH THE NICS INDEX AND
13 COMPLY WITH ALL FEDERAL AND STATE LAW THAT WOULD APPLY TO THE SALE,
14 RENTAL, OR TRANSFER, INCLUDING ALL INVENTORY AND RECORD-KEEPING
15 REQUIREMENTS.

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

17 (I) DELIVER THE RIFLE OR SHOTGUN TO A LICENSEE; OR

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

20 (D) (1) THE LICENSEE OR THE SELLER, LESSOR, OR TRANSFEROR MAY
21 NOT COMPLETE THE SALE, RENTAL, OR TRANSFER TO THE PURCHASER, LESSEE, OR
22 TRANSFEREE IF THE RESULTS OF THE BACKGROUND CHECK INDICATE THAT THE
23 PURCHASER, LESSEE, OR TRANSFEREE MAY NOT POSSESS THE RIFLE OR SHOTGUN.

24 (2) ~~IF~~ UNLESS THE SELLER, LESSOR, OR TRANSFEROR DELIVERED
25 THE RIFLE OR SHOTGUN IN ACCORDANCE WITH SUBSECTION (C)(3)(II) OF THIS
26 SECTION OR OTHERWISE LEFT THE RIFLE OR SHOTGUN IN THE EXCLUSIVE
27 POSSESSION OF THE LICENSEE, IF THE RESULTS OF THE BACKGROUND CHECK
28 INDICATE THAT THE PURCHASER, LESSEE, OR TRANSFEREE MAY NOT POSSESS THE
29 RIFLE OR SHOTGUN, THE SELLER, LESSOR, OR TRANSFEROR MAY REMOVE THE
30 RIFLE OR SHOTGUN FROM THE PREMISES OF THE LICENSEE OR A GUN SHOW.

31 (E) A LICENSEE MAY CHARGE A REASONABLE FEE FOR FACILITATING A
32 SALE, RENTAL, OR TRANSFER UNDER THIS SECTION.

33 (F) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A
34 PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON

1 CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING ~~5 YEARS~~ 6 MONTHS OR
2 A FINE NOT EXCEEDING \$10,000 OR BOTH.

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

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

11 5-207.

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

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

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

22 (1) HAS BEEN CONVICTED OF A DISQUALIFYING CRIME, AS DEFINED
23 IN § 5-101 OF THIS TITLE;

24 (2) HAS BEEN CONVICTED OF A VIOLATION CLASSIFIED AS A COMMON
25 LAW CRIME AND RECEIVED A TERM OF IMPRISONMENT OF MORE THAN 2 YEARS;

26 (3) IS A FUGITIVE FROM JUSTICE;

27 (4) IS A HABITUAL DRUNKARD AS DEFINED IN § 5-101 OF THIS TITLE;

28 (5) IS ADDICTED TO A CONTROLLED DANGEROUS SUBSTANCE OR IS A
29 HABITUAL USER AS DEFINED IN § 5-101 OF THIS TITLE;

30 (6) SUFFERS FROM A MENTAL DISORDER AS DEFINED IN §
31 10-101(I)(2) OF THE HEALTH - GENERAL ARTICLE, AND HAS A HISTORY OF VIOLENT
32 BEHAVIOR AGAINST THE PURCHASER, LESSEE, TRANSFEREE, RECIPIENT, OR

1 ANOTHER, UNLESS THE PURCHASER, LESSEE, TRANSFEREE, OR RECIPIENT HAS
2 RECEIVED A CERTIFICATE FROM THE MARYLAND DEPARTMENT OF HEALTH
3 RELIEVING THE PURCHASER, LESSEE, TRANSFEREE, OR RECIPIENT OF THE
4 DISQUALIFICATION;

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

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

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

21 (10) HAS BEEN INVOLUNTARILY COMMITTED FOR MORE THAN 30
22 CONSECUTIVE DAYS TO A FACILITY AS DEFINED IN § 10-101 OF THE HEALTH –
23 GENERAL ARTICLE, UNLESS THE PURCHASER, LESSEE, TRANSFEREE, OR
24 RECIPIENT HAS RECEIVED A CERTIFICATE FROM THE MARYLAND DEPARTMENT OF
25 HEALTH RELIEVING THE PURCHASER, LESSEE, TRANSFEREE, OR RECIPIENT OF THE
26 DISQUALIFICATION;

27 (11) IS UNDER THE PROTECTION OF A GUARDIAN APPOINTED BY A
28 COURT UNDER § 13-201(C) OR § 13-705 OF THE ESTATES AND TRUSTS ARTICLE,
29 EXCEPT FOR CASES IN WHICH THE APPOINTMENT OF A GUARDIAN IS SOLELY A
30 RESULT OF A PHYSICAL DISABILITY, UNLESS THE PURCHASER, LESSEE,
31 TRANSFEREE, OR RECIPIENT HAS RECEIVED A CERTIFICATE FROM THE MARYLAND
32 DEPARTMENT OF HEALTH RELIEVING THE PURCHASER, LESSEE, TRANSFEREE, OR
33 RECIPIENT OF THE DISQUALIFICATION;

34 (12) IS A RESPONDENT AGAINST WHOM:

35 (I) A CURRENT NON EX PARTE CIVIL PROTECTIVE ORDER HAS
36 BEEN ENTERED UNDER § 4-506 OF THE FAMILY LAW ARTICLE; OR

1 **(II) AN ORDER FOR PROTECTION, AS DEFINED IN § 4-508.1 OF**
2 **THE FAMILY LAW ARTICLE, HAS BEEN ISSUED BY A COURT OF ANOTHER STATE OR**
3 **NATIVE AMERICAN TRIBE AND IS IN EFFECT;**

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

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

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

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

10 **(I) COMMIT A CRIME; OR**

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

13 **(D) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR**
14 **AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 5 YEARS OR A**
15 **FINE NOT EXCEEDING \$10,000 OR BOTH.**

16 SECTION 2. AND BE IT FURTHER ENACTED, That ~~this Act shall take effect~~
17 ~~October 1, 2020~~ it is the intent of the General Assembly that the term “transfer” in §§
18 5-204.1 and 5-207 of the Public Safety Article, as enacted by Section 1 of this Act:

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

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

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