

HOUSE BILL 849

E4

8lr1626
CF SB 586

By: **Delegate Anderson (By Request – Baltimore City Administration) and Delegates Doory, Lee, Levi, Ramirez, Rosenberg, and Valderrama**
Introduced and read first time: February 6, 2008
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Public Safety – Restrictions on Possession of Firearms – Conviction of**
3 **Disqualifying Crime and Protective Order Respondent**

4 FOR the purpose of prohibiting a person from possessing a firearm if the person has
5 been convicted of a certain disqualifying crime or is a respondent against whom
6 a certain protective order has been entered; repealing prohibitions against
7 possession of a regulated firearm by a person who has been convicted of a
8 certain disqualifying crime or is a respondent against whom a certain protective
9 order has been entered; providing that certain penalties apply to a violation
10 under this Act; and generally relating to restrictions on possession of firearms.

11 BY repealing and reenacting, with amendments,
12 Article – Public Safety
13 Section 5–133
14 Annotated Code of Maryland
15 (2003 Volume and 2007 Supplement)

16 BY repealing and reenacting, without amendments,
17 Article – Public Safety
18 Section 5–143
19 Annotated Code of Maryland
20 (2003 Volume and 2007 Supplement)

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

23 **Article – Public Safety**

24 5–133.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



1 (a) This section supersedes any restriction that a local jurisdiction in the
2 State imposes on the possession by a private party of a regulated firearm, and the
3 State preempts the right of any local jurisdiction to regulate the possession of a
4 regulated firearm.

5 (B) **A PERSON MAY NOT POSSESS A FIREARM IF THE PERSON:**

6 (1) **HAS BEEN CONVICTED OF A DISQUALIFYING CRIME; OR**

7 (2) **IS A RESPONDENT AGAINST WHOM A CURRENT FINAL**
8 **PROTECTIVE ORDER HAS BEEN ENTERED UNDER § 4-506 OF THE FAMILY LAW**
9 **ARTICLE.**

10 [(b)](C) A person may not possess a regulated firearm if the person:

11 (1) [has been convicted of a disqualifying crime;

12 (2)] has been convicted of a violation classified as a common law crime
13 and received a term of imprisonment of more than 2 years;

14 [(3)](2) is a fugitive from justice;

15 [(4)](3) is a habitual drunkard;

16 [(5)](4) is addicted to a controlled dangerous substance or is a
17 habitual user;

18 [(6)](5) suffers from a mental disorder as defined in § 10-101(f)(2) of
19 the Health – General Article and has a history of violent behavior against the person
20 or another, unless the person has a physician’s certificate that the person is capable of
21 possessing a regulated firearm without undue danger to the person or to another;

22 [(7)](6) has been confined for more than 30 consecutive days to a
23 facility as defined in § 10-101 of the Health – General Article, unless the person has a
24 physician’s certificate that the person is capable of possessing a regulated firearm
25 without undue danger to the person or to another; **OR**

26 [(8) is a respondent against whom a current non ex parte civil
27 protective order has been entered under § 4-506 of the Family Law Article; or]

28 [(9)](7) if under the age of 30 years at the time of possession, has
29 been adjudicated delinquent by a juvenile court for an act that would be a
30 disqualifying crime if committed by an adult.

31 [(c)](D) (1) A person may not possess a regulated firearm if the person
32 was previously convicted of:

1 (i) a crime of violence; or

2 (ii) a violation of § 5–602, § 5–603, § 5–604, § 5–605, § 5–606, §
3 5–607, § 5–608, § 5–609, § 5–612, § 5–613, or § 5–614 of the Criminal Law Article.

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

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

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

10 [(d)](E) (1) Except as provided in paragraph (2) of this subsection, a
11 person who is under the age of 21 years may not possess a regulated firearm or
12 ammunition solely designed for a regulated firearm.

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

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

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

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

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

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

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

28 1. participating in marksmanship training of a
29 recognized organization; and

30 2. under the supervision of a qualified instructor;

31 (v) a person who is required to possess a regulated firearm for
32 employment and who holds a permit under Subtitle 3 of this title; or

1 (vi) the possession of a firearm or ammunition for self-defense
2 or the defense of others against a trespasser into the residence of the person in
3 possession or into a residence in which the person in possession is an invited guest.

4 5-143.

5 (a) Except as otherwise provided in this subtitle, a dealer or other person
6 may not knowingly participate in the illegal sale, rental, transfer, purchase,
7 possession, or receipt of a regulated firearm in violation of this subtitle.

8 (b) A person who violates this section is guilty of a misdemeanor and on
9 conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding
10 \$10,000 or both.

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

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2008.