

**SB0858/723327/1**

BY: Judicial Proceedings Committee

AMENDMENTS TO SENATE BILL 858  
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 4, after “altering” insert “the prohibition on reckless endangerment; altering”; in line 10, after “committee;” insert “authorizing a credit against the State income tax for the purchase of certain firearm safety devices during the taxable year; making the credit refundable;”; in line 14, after “Section” insert “3–204 and”; and after line 22, insert:

“BY repealing and reenacting, with amendments,  
Article – Public Safety  
Section 5–133  
Annotated Code of Maryland  
(2022 Replacement Volume)

BY adding to  
Article – Tax – General  
Section 10–757  
Annotated Code of Maryland  
(2022 Replacement Volume)”.

AMENDMENT NO. 2

On pages 1 through 4, strike in their entirety the lines beginning with line 26 on page 1 through line 17 on page 4, inclusive, and substitute:

“3–204.

(a) A person may not recklessly:

(1) engage in conduct that creates a substantial risk of death or serious physical injury to another; [or]

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(2) discharge a firearm from a motor vehicle in a manner that creates a substantial risk of death or serious physical injury to another; OR

**(3) LEAVE OR STORE A FIREARM IN A LOCATION WHERE THE PERSON KNOWS OR REASONABLY SHOULD KNOW THAT AN UNSUPERVISED MINOR OR A PERSON PROHIBITED FROM POSSESSING A FIREARM UNDER STATE OR FEDERAL LAW HAS ACCESS TO THE FIREARM.**

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

(c) (1) Subsection (a)(1) of this section does not apply to conduct involving:

(i) the use of a motor vehicle, as defined in § 11–135 of the Transportation Article; or

(ii) the manufacture, production, or sale of a product or commodity.

(2) Subsection (a)(2) of this section does not apply to:

(i) a law enforcement officer or security guard in the performance of an official duty; or

(ii) an individual acting in defense of a crime of violence as defined in § 5–101 of the Public Safety Article.

**(3) SUBSECTION (A)(3) OF THIS SECTION DOES NOT APPLY IF:**

**(I) THE MINOR ACCESSES A FIREARM FOR SELF-DEFENSE OR THE DEFENSE OF OTHERS AGAINST A TRESPASSER INTO THE RESIDENCE OF THE MINOR OR INTO A RESIDENCE IN WHICH THE MINOR IS AN INVITED GUEST; OR**

**(II) 1. THE FIREARM IS A SHOTGUN OR A RIFLE;**

2. THE MINOR HAS A CERTIFICATE OF FIREARM AND HUNTER SAFETY ISSUED UNDER § 10-301.1 OF THE NATURAL RESOURCES ARTICLE;

3. THE MINOR HAS PERMISSION FROM THE MINOR'S PARENT OR GUARDIAN WHO IS AT LEAST 18 YEARS OLD TO ACCESS THE FIREARM; AND

4. THE MINOR IS NOT OTHERWISE PROHIBITED FROM POSSESSING A FIREARM UNDER STATE OR FEDERAL LAW.

4-104.

(a) (1) In this section the following words have the meanings indicated.

(2) "Ammunition" means a cartridge, shell, or other device containing explosive or incendiary material designed and intended for use in a firearm.

(3) ["Child" means an individual under the age of 16 years.

(4) (i) "Firearm" means a handgun, rifle, shotgun, short-barreled rifle, or short-barreled shotgun, as those terms are defined in § 4-201 of this title, or any other firearm.

(ii) "Firearm" does not include an antique firearm as defined in § 4-201 of this title.

(b) This section does not apply if:

(1) the [child's] MINOR'S access to a firearm is supervised by an individual at least 18 years old;

(2) the [child's] MINOR'S access to a firearm was obtained as a result of an unlawful entry;

(3) the firearm is in the possession or control of a law enforcement officer while the officer is engaged in official duties; or

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(4) (I) THE FIREARM IS A SHOTGUN OR A RIFLE;

(II) the [child] MINOR has a certificate of firearm and hunter safety issued under § 10-301.1 of the Natural Resources Article;

(III) THE MINOR HAS PERMISSION FROM THE MINOR'S PARENT OR GUARDIAN WHO IS AT LEAST 18 YEARS OLD TO ACCESS THE FIREARM;  
AND

(IV) THE MINOR IS NOT OTHERWISE PROHIBITED FROM POSSESSING THE FIREARM UNDER STATE OR FEDERAL LAW; OR

(5) A MINOR ACCESSES A FIREARM FOR SELF-DEFENSE OR THE DEFENSE OF OTHERS AGAINST A TRESPASSER INTO THE RESIDENCE OF THE MINOR OR INTO A RESIDENCE IN WHICH THE MINOR IS AN INVITED GUEST.

(c) A person may not store or leave a [loaded] firearm in a location where the person knew or should have known that an unsupervised [child] MINOR OR A PERSON PROHIBITED FROM POSSESSING A FIREARM UNDER STATE OR FEDERAL LAW would gain access to the firearm.

(d) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000.

[(e) (1) A violation of this section may not:

(i) be considered evidence of negligence;

(ii) be considered evidence of contributory negligence;

(iii) limit liability of a party or an insurer; or

(iv) diminish recovery for damages arising out of the ownership, maintenance, or operation of a firearm or ammunition.

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(2) A party, witness, or lawyer may not refer to a violation of this section during a trial of a civil action that involves property damage, personal injury, or death.]

**(E) (1) A CONVICTION UNDER THIS SECTION MAY NOT MERGE WITH A CONVICTION FOR ANY OTHER CRIME BASED ON THE ACT ESTABLISHING THE VIOLATION OF THIS SECTION.**

**(2) A SENTENCE IMPOSED UNDER THIS SECTION MAY BE IMPOSED SEPARATE FROM AND CONSECUTIVE TO OR CONCURRENT WITH A SENTENCE FOR ANY CRIME BASED ON THE ACT ESTABLISHING THE VIOLATION OF THIS SECTION.”.**

On page 6, after line 4, insert:

**“Article – Public Safety**

5–133.

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

(b) Subject to § 5–133.3 of this subtitle, a person may not possess a regulated firearm if the person:

(1) has been convicted of a disqualifying crime;

(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) (I) HAS BEEN CONVICTED OF A SECOND OR SUBSEQUENT VIOLATION OF § 4–104 OF THE CRIMINAL LAW ARTICLE; OR**

**(II) HAS BEEN CONVICTED OF A VIOLATION OF § 4–104 OF THE CRIMINAL LAW ARTICLE IF THE VIOLATION RESULTED IN THE USE OF A**

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**LOADED FIREARM BY A MINOR CAUSING DEATH OR SERIOUS BODILY INJURY TO THE MINOR OR ANOTHER PERSON;**

[(3)] (4) is a fugitive from justice;

[(4)] (5) is a habitual drunkard;

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

[(6)] (7) 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 person or another;

[(7)] (8) has been found incompetent to stand trial under § 3–106 of the Criminal Procedure Article;

[(8)] (9) has been found not criminally responsible under § 3–110 of the Criminal Procedure Article;

[(9)] (10) has been voluntarily admitted for more than 30 consecutive days to a facility as defined in § 10–101 of the Health – General Article;

[(10)] (11) has been involuntarily committed to a facility as defined in § 10–101 of the Health – General Article;

[(11)] (12) 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;

[(12)] (13) except as provided in subsection (e) of this section, 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

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(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 a Native American tribe and is in effect; or

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

(c) (1) A person may not possess a regulated firearm if the person was previously convicted of:

(i) a crime of violence;

(ii) a violation of § 5–602, § 5–603, § 5–604, § 5–605, § 5–612, § 5–613, § 5–614, § 5–621, or § 5–622 of the Criminal Law Article; or

(iii) an offense under the laws of another state or the United States that would constitute one of the crimes listed in item (i) or (ii) of this paragraph if committed in this State.

(2) (i) Subject to paragraph (3) of this subsection, a person who violates this subsection is guilty of a felony and on conviction is subject to imprisonment for not less than 5 years and not exceeding 15 years.

(ii) The court may not suspend any part of the mandatory minimum sentence of 5 years.

(iii) Except as otherwise provided in § 4–305 of the Correctional Services Article, the person is not eligible for parole during the mandatory minimum sentence.

(3) At the time of the commission of the offense, if a period of more than 5 years has elapsed since the person completed serving the sentence for the most recent conviction under paragraph (1)(i) or (ii) of this subsection, including all imprisonment, mandatory supervision, probation, and parole:

(i) the imposition of the mandatory minimum sentence is within the discretion of the court; and

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(ii) the mandatory minimum sentence may not be imposed unless the State's Attorney notifies the person in writing at least 30 days before trial of the State's intention to seek the mandatory minimum sentence.

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

(5) A person convicted under this subsection is not prohibited from participating in a drug treatment program under § 8-507 of the Health – General Article because of the length of the sentence.

(d) (1) Except as provided in paragraph (2) of this subsection, a person who is under the age of 21 years may not possess a regulated firearm.

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

(i) the temporary transfer or possession of a regulated firearm if the person is:

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

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

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

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

(iv) the temporary transfer or possession of a regulated firearm if the person is:

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



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2. under the supervision of a qualified instructor;

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

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

(e) This section does not apply to a respondent transporting a regulated firearm if the respondent is carrying a civil protective order requiring the surrender of the regulated firearm and:

(1) the regulated firearm is unloaded;

(2) the respondent has notified the law enforcement unit, barracks, or station that the regulated firearm is being transported in accordance with the civil protective order; and

(3) the respondent transports the regulated firearm directly to the law enforcement unit, barracks, or station.

(f) This section does not apply to the carrying or transporting of a regulated firearm by a person who is carrying a court order requiring the surrender of the regulated firearm, if:

(1) the firearm is unloaded;

(2) the person has notified a law enforcement unit, barracks, or station that the firearm is being transported in accordance with the order; and

(3) the person transports the firearm directly to a State or local law enforcement agency or a federally licensed firearms dealer.

**(G) SUBJECT TO SUBSECTION (B)(3) OF THIS SECTION, A PERSON WHO HAS BEEN CONVICTED OF A VIOLATION OF § 4-104 OF THE CRIMINAL LAW**

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ARTICLE MAY NOT POSSESS A REGULATED FIREARM FOR 5 YEARS FOLLOWING THE DATE OF THE CONVICTION.”.

AMENDMENT NO. 3

On page 5, strike beginning with “ESTABLISHED” in line 1 down through “ARTICLE” in line 2 and substitute “FOR SAFELY STORING FIREARMS UNDER STATE LAW”; and in line 27, strike the second “AND”.

On page 6, after line 1, insert:

“(X) INSTRUCTORS WHO HAVE BEEN LICENSED OR CERTIFIED BY THE DEPARTMENT OF STATE POLICE TO TEACH FIREARM SAFETY TRAINING COURSES; AND”.

AMENDMENT NO. 4

On page 6, strike in their entirety lines 5 through 11, inclusive.

AMENDMENT NO. 5

On page 6, before line 12, insert:

“SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Tax – General

10-757.

(A) IN THIS SECTION, “FIREARM SAFETY DEVICE” MEANS ANY DEVICE THAT:

(1) (I) WHEN INSTALLED ON A FIREARM, IS DESIGNED TO PREVENT THE FIREARM FROM BEING OPERATED WITHOUT FIRST DEACTIVATING THE DEVICE; AND

(II) IS DESIGNED TO PREVENT THE OPERATION OF THE FIREARM BY ANYONE NOT HAVING ACCESS TO THE DEVICE; OR

(2) IS A SAFE, GUN SAFE, GUN CASE, LOCK BOX, OR OTHER DEVICE THAT IS DESIGNED TO BE OR CAN BE USED TO STORE A FIREARM AND THAT IS DESIGNED TO BE UNLOCKED ONLY BY MEANS OF A KEY, A COMBINATION, OR OTHER SIMILAR MEANS.

(B) (1) AN INDIVIDUAL MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX FOR THE AMOUNT PAID BY THE INDIVIDUAL TO PURCHASE A FIREARM SAFETY DEVICE DURING THE TAXABLE YEAR IN AN AMOUNT EQUAL TO THE LESSER OF:

(I) 100% OF THE PURCHASE PRICE FOR THE FIREARM SAFETY DEVICE; OR

(II) \$250.

(2) THE TAX CREDIT UNDER THIS SECTION MAY BE CLAIMED ONLY ONCE BY AN INDIVIDUAL.

(C) IF THE CREDIT ALLOWED UNDER THIS SECTION IN ANY TAXABLE YEAR EXCEEDS THE STATE INCOME TAX FOR THAT TAXABLE YEAR, THE INDIVIDUAL MAY CLAIM A REFUND IN THE AMOUNT OF THE EXCESS.

(D) TO CLAIM THE CREDIT ALLOWED UNDER THIS SECTION, THE INDIVIDUAL SHALL ATTACH TO THE INDIVIDUAL'S INCOME TAX RETURN OR OTHERWISE FILE WITH THE COMPTROLLER PROOF OF PAYMENT BY THE INDIVIDUAL OF THE PURCHASE PRICE FOR WHICH THE INDIVIDUAL MAY CLAIM THE CREDIT UNDER THIS SECTION.”;

in line 12, strike “2.”and substitute “3.”; after line 23, insert:

“SECTION 4. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall be applicable to all taxable years beginning after December 31, 2022”;

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and in lines 24 and 31, strike “3.” and “4.”, respectively, and substitute “5.” and “6.”, respectively.