

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

MARYLAND SHALL ISSUE, INC., *et al.*,

Plaintiffs

v.

MONTGOMERY COUNTY, MARYLAND

Defendant

*
*
*
*
*
*
*
*

Case No. 485899V

**DEFENDANT’S MOTION AND FOR SUMMARY JUDGMENT ON SECOND
AMENDED COMPLAINT AND REQUEST FOR HEARING**

Montgomery County, Maryland, by and through its undersigned counsel, respectfully requests that this Court dismiss Plaintiff Maryland Shall Issue for lack of standing and enter summary judgment in its favor as to all three counts of the Second Amended Complaint (pending before this Court on remand from federal court) and further declare that:

Count I: The County Firearms Law, as amended by Bills 4-21 and 21-22E, is a valid local law under Md. Const. Art. XI-A (the Home Rule Amendment);

Count II: The County Firearms Law, as amended by Bills 4-21 and 21-22E, is authorized by, and not preempted by or in conflict with, State law; and

Count III: The County Firearms Law, as amended by Bills 4-21 and 21-22E, 21 is not a taking and was properly enacted pursuant to the County’s police powers.

JOHN P. MARKOV
COUNTY ATTORNEY

/s/ Edward B. Lattner
Edward B. Lattner, Chief
Division of Government Operations
edward.lattner@montgomerycountymd.gov
CPF ID No. 8612300002

/s/ Erin B. Ashbarry
Erin B. Ashbarry
Associate County Attorney
erin.ashbarry@montgomerycountymd.gov
CPF ID No. 9912160001

/s/Matthew H. Johnson
Matthew H. Johnson
Associate County Attorney
CPF ID# 0606130153
matthew.johnson3@montgomerycountymd.gov
Attorneys for Defendant
101 Monroe Street, Third Floor
Rockville, Maryland 20850-2540
240-777-6700

REQUEST FOR HEARING

Pursuant to Rule 2-311(f), Defendant requests a hearing on this Motion.

/s/ Edward B. Lattner
Edward B. Lattner, Chief
Division of Government Operations

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 5th day of June 2023, a copy of the foregoing was electronically served through the MDEC to:

Mark W. Pennak
Maryland Shall Issue, Inc.
9613 Harford Rd., Ste. C #1015
Baltimore, MD 21234-21502
mpennak@marylandshallissue.org

/s/ Edward B. Lattner
Edward B. Lattner, Chief
Division of Government Operations

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

MARYLAND SHALL ISSUE, INC., <i>et al.</i> ,	*	
	*	
Plaintiffs	*	
	*	
v.	*	Case No.: 485899V
	*	
MONTGOMERY COUNTY, MARYLAND	*	
	*	
Defendant	*	

**MEMORANDUM IN SUPPORT OF DEFENDANT’S MOTION FOR SUMMARY
JUDGMENT ON SECOND AMENDED COMPLAINT**

STATEMENT OF THE CASE

This case challenges County laws enacted to address an alarming increase in gun violence in the County, and the proliferation of untraceable, undetectable, home-made “ghost guns” in the County. The specific laws, Bill 4-21 and 21-22E, amend several provisions of Montgomery County Code Chapter 57, “Weapons” (both bills and the changes they effectuate are collectively referred to as “the County Firearms Law” (*see Ex. A*)). Plaintiffs challenge specifically whether the County had authority to enact the County Firearms Law under State law, whether the County Firearms law is preempted by, or in conflict with, State firearms law, and whether the County Firearms Law is a taking in violation of the Maryland Constitution.

This Court must dismiss the Complaint as to Plaintiff Maryland Shall Issue, Inc. (MSI), as it lacks organizational standing: it has not alleged any cognizable harm beyond speculative potential future harm to its members.

The County is entitled to summary judgment and a declaration in its favor on each count in the Complaint. As to Count I, the County Firearms Law is a valid local law under Md. Const. Art. XI-A (the Home Rule Amendment). As to Count II, the Firearms is authorized by, and not preempted by or in conflict with, State law. Finally, with respect to Count III, the restrictions of

the County Firearms Law are *per se* not a taking and the Bill was properly enacted pursuant to the County's police powers.

STATEMENT OF UNDISPUTED MATERIAL FACTS AND PROCEDURAL HISTORY

The County Council Enacted Bill 4-21 to Prohibit Ghost Guns Around Minors and in Places of Public Assembly.

Bill 4-21, enacted in April 2021 and effective July 2021, addressed so-called “ghost guns.” They earned that name because their parts can be ordered online, or created with 3D printers, and assembled at home. In so doing, an assembler avoids the existing, legal prerequisites to gun ownership under State and federal law, such as a criminal background check. Further, ghost guns have no serial number assigned to them. This skirted the federal requirement for serialization of firearms. Absent serial number, ghost guns’ point of origin is untraceable by law enforcement, hindering criminal investigations. And when made of plastic, ghost guns may be undetectable at security checkpoints that use metal detectors. County Police recovered 73 ghost guns in 2020.¹

To address these concerns, Bill 4-21 augmented an existing County Code restriction on firearms around minors to include ghost guns. Specifically, the amendment prohibited possession around minors of ghost guns, undetectable guns, their major components, and computer code to create them with 3D printing.² Bill 4-21 added ghost guns to the list of firearms prohibited “within

¹ For all statements in this paragraph, see **Ex. B**, Report of Montgomery County Council Staff for Bill 4-21, “Weapons - Protection of Minors and Public Places - Restrictions Against Ghost Guns and Undetectable Guns” (April 6, 2021) at 3-4.

Since 2020, the number of ghost guns seized by County Police increased annually by double digit percentages: in 2021, the number of ghost guns confiscated by Police increased by 51% from the prior year; in 2022, Police confiscated 22% more ghost guns than in 2021. See Montgomery County Office of Legislative Oversight Memorandum Reports No. 2022-13, “Firearms Availability, Data, and Legal Authority in Montgomery County, MD” (Nov. 1, 2022) at 13. https://www.montgomerycountymd.gov/OLO/Resources/Files/2022_reports/OLORReport2022-13.pdf.

As of January 24, 2022, Police seized 5 ghost guns in County public schools. See Pat Collins, ‘*Profound Consequences*’: Montgomery State’s Attorney Addresses Ghost Guns After School Shooting, NBCwashington.com, January 24, 2022 <https://www.nbcwashington.com/news/local/profound-consequences-montgomery-states-attorney-addresses-ghost-guns-after-school-shooting/2947055/>.

² See **Exhibit C**, Enacted Bill 4-21, at 2 Lines 5-8, 24-31; at 4 Lines 57-72 (adding definitions for “3D

100 yards of a place of public assembly,” and expanded the definition of “places of public assembly” to include more locations.³ In total, Bill 4-21 amended Montgomery County Code §§ 57-1, 57-7, and 57-11, and added § 57-16, which requires Police to report regularly on ghost gun statistics.

Plaintiffs Initiated Suit to Challenge Bill 4-21 in Circuit Court.

Plaintiffs initiated this action in Circuit Court on May 28, 2021, via a four-count Complaint that sought *inter alia* a declaratory judgment and an injunction against enforcing Bill 4-21. The Complaint’s first three counts brought State law challenges: Count I argued Bill 4-21 was not a “local” law and the County thereby exceeded its legislative authority as a Charter County under the Maryland Constitution; Count II asserted State law preempts Bill 4-21; and Count III alleged Bill 4-21 was an unconstitutional taking in violation of the Maryland Constitution. The last count, Count IV, challenged Bill 4-21 as unconstitutionally vague under both the Maryland Constitution and U.S. Constitution.

About two weeks after initiating suit, Plaintiffs filed on June 16, 2021, an “Emergency Motion for Partial Summary Judgment” and requested an expedited hearing.

Before the Circuit Court took any action on Plaintiffs’ Motion, on July 12, 2021, the County removed the Complaint to the United States District Court for the District of Maryland. On July 19, 2021, the federal court denied Plaintiffs’ Emergency Motion for Partial Summary Judgment, without prejudice, and without reaching its merits (the federal court’s case management order required a pre-motion conference with the court prior to filing a motion).

printing process,” “ghost guns,” “undetectable guns,” and “major components of a firearm”); *Id.* at 5 Lines 97-108 (prohibiting possession of ghost guns, undetectable guns or their major components, or computer code to make a gun through a 3D printing process near minors).

³ See **Exhibit C** at 4 Lines 75-81 (modifying definition of place of public assembly); *Id.* at 6 Lines 111-119 (prohibiting ghost guns, undetectable guns, or major components of those guns within 100 yards place of public assembly).

Plaintiffs moved to remand the case to Circuit Court, which, after County opposition, the federal court granted in part and denied in part on February 7, 2022. The federal court remanded Counts I, II, and III to this Court, but retained and stayed Count IV pending resolution of the remanded State claims. On remand, the parties in this Court briefed cross-motions summary judgment as to Counts I, II, and III.

The Supreme Court Issues the Bruen Decision, with New Second Amendment Analysis for Government Regulation of Firearms.

After briefing was complete, but before the scheduled motions hearing, the U.S. Supreme Court on June 23, 2022, issued its decision in *New York State Rifle & Pistol Association v. Bruen*, 142 S. Ct. 2111 (2022) (hereafter “*Bruen*”). *Bruen* enunciated significant new analyses of governmental gun regulations under the U.S Constitution’s Second Amendment. As noted above, none of the pending counts in the Complaint alleged any Second Amendment violations.

On July 19, 2022, this Court (Cummins, J.) heard argument on the parties’ cross-motions for summary judgment on Counts I - III.

Plaintiffs Filed an Amended Complaint in Circuit Court to Include a Second Amendment Challenge Based Upon Bruen.

Three days after oral argument, and before the Circuit Court could rule on the fully briefed State law issues, Plaintiffs filed a First Amended Complaint. The First Amended Complaint added a fifth count, alleging Bill 4-21 violated the Second Amendment under *Bruen*’s new analysis for governmental gun regulation. Shortly thereafter, on July 27, 2022, this Court (Cummins, J.) denied as moot the fully briefed and argued cross-motions for summary judgment.

Once again, the County removed the Amended Complaint to federal court, and Plaintiffs moved the federal court to remand the State law claims (Counts I - III) to Circuit Court. Briefing on the issue of remand ensued in late 2022.

The County Enacted Bill 21-22E to Address Bruen's New Second Amendment Analysis for Government Firearms Regulation and New State Ghost Gun Laws.

As the parties briefed the issue of remand in federal court (for the second time), the County Council modified the County Firearms Law to comport with *Bruen*, to remove the ability of State wear-and-carry handgun permit holders to carry firearms in places of public assembly, and to reflect State ghost gun law changes.

Bill 21-22E addressed *Bruen* by modifying the definition of “place of public assembly” where the County prohibits firearms to include all five locations or “sensitive places” identified by the *Bruen* court.⁴ Additionally, *Bruen* held that places where weapons were banned historically—or modern counterparts analogous to those locations—could also qualify as “sensitive places.”⁵ As a result, the County modified⁶—and narrowed⁷—its definition of “place of public assembly” to comport with *Bruen*'s analysis.

Bill 21-22E also removed a provision that allowed a State wear-and-carry handgun permit holder to carry a firearm in a place of public assembly.⁸ Prior to *Bruen*, Maryland required a person demonstrate “good and substantial reason” to receive a wear-and-carry gun permit. Immediately after and considering *Bruen*, Maryland Governor Larry Hogan instructed the Maryland State

⁴ See **Exhibit D**, Report of Montgomery County Council Staff for Expedited Bill 21-22 “Weapons - Firearms In or Near Places of Public Assembly” (November 10, 2022) at 6 (listing 5 *Bruen* locations where firearms may be prohibited); Bill 21-22E, Exhibit E, at 3-4 Lines 51-55.

⁵ See **Ex. D** at 6 (discussing *Bruen*'s historical analogue analysis).

⁶ See **Ex. E** Enacted Bill 21-22E at 3 Line 43 - 4 Line 59.

⁷ Bill 21-22E removed the statement that a place of public assembly was a place where the public “may” assemble and definitively described all places of public assembly. See **Ex. E** at 3, Line 35-36.

⁸ See **Ex. E** at 5 Lines 85-86; **Ex. D** at 4 (stating “[e]xpedited Bill 21-22 would prevent an individual from possessing a firearm within 100 yards of a place of public assembly even when the individual has a wear-and-carry permit from the State of Maryland”).

Police to no longer enforce this requirement.⁹ In the weeks after Governor Hogan’s instruction, the number of applications for concealed wear-and-carry permits received by the State increased eleven fold.¹⁰ As concealed carry permit holders no longer had to demonstrate any justification for a concealed carry permit, Bill 21-22E prevented a person from carrying a firearm within 100 yards of a place of public assembly, even if they have a valid State wear-and-carry handgun permit.

Finally, to align the County’s ghost gun provisions with the new State ghost gun law, Md. Code Ann., Public Safety § 5-703, Bill 21-22E modified the definition of ghost gun and “unfinished frame or receiver.”¹¹ Bill 21-22E took effect November 28, 2022.

Two Days After Bill 21-22E Took Effect, Plaintiffs Filed a Second Amended Complaint in Federal Court; Its State Law Claims Again Get Remanded Again.

On November 30, 2022, Plaintiffs filed in federal court their Second Amended Complaint, which is the operative complaint before this Court. Plaintiffs purport to allege to eight counts, including several that challenge the County Firearms Law on Second Amendment grounds. The Second Amended Complaint’s first three counts allege essentially the same State law challenges to the County Firearms Law.

After supplemental briefing on the remand issue, on May 5, 2023, the federal court remanded Counts I, II, and III of the Second Amended Complaint to this Court for resolution. This time, however, the federal court did not stay the Second Amended Complaint’s federal law counts over which it retained jurisdiction. Pending now before the federal court and ripe for decision¹² is

⁹ The Appellate Court of Maryland struck down the “good and substantial reason” requirement in light of *Bruen*. See *In re Rounds*, 255 Md. App. 205 (2022).

¹⁰ See **Ex. D** at 20; Fredrick Kunkle, *Supreme Court ruling sets off rush for concealed gun permits in Maryland*, The Washington Post (July 25, 2022) <https://www.washingtonpost.com/dc-md-va/2022/07/15/concealed-carry-maryland-guns-hogan/>.

¹¹ See **Ex. E** at 2 Lines 16-19; *Id.* at 3 Lines 27-31.

¹² The federal court heard oral argument on the fully briefed motion on February 6, 2023.

Plaintiffs' emergency motion for a temporary restraining order and preliminary injunction as to Count VII only. Count VII purports to allege that the County Firearms Law's removal of the ability of State wear-and-carry permit holders to carry in places of public assembly violates the Second Amendment. The motion asks the federal court to enjoin enforcement of the County Firearms Law as to state wear-and-carry permit holders.

STANDARDS OF REVIEW

Dismissal

Maryland Rule 2-322 provides that a party may make a motion to dismiss for failure to state a claim upon which relief can be granted. When moving to dismiss, the defendant asserts that, even if the allegations of the complaint are true, the plaintiff is not entitled to relief as a matter of law. *Lubore v. RPM Associates*, 109 Md. App. 312, 322 (1996). In reviewing a motion to dismiss, the Court must assume the truth of all relevant and material facts that are well pleaded and all inferences that can reasonably be drawn from those pleadings. *Bennett Heating and Air Conditioning, Inc. v. NationsBank*, 103 Md. App. 749, 757 (1995), *rev'd in part on other grounds*, 342 Md. 169 (1996). On the other hand, "[a]ny ambiguity or uncertainty in the allegations bearing on whether the complaint states a cause of action must be construed against the pleader." *Shenker v. Laureate Educ., Inc.*, 411 Md. 317 (2009). Moreover, "the well-pleaded facts setting forth the cause of action must be pleaded with sufficient specificity; bald assertions and conclusory statements by the pleader will not suffice." *Parks v. Alpharma, Inc.*, 421 Md. 59, 72 (2011) (internal quotation and citation omitted).

As to declaratory judgment, dismissal is appropriate only in those cases where the plaintiff is not entitled to a declaration. *Hunt v. Montgomery County*, 248 Md. 403 (1968). For example, a complaint for declaratory judgment is properly dismissed where there is no justiciable controversy

between the parties, *120 W. Fayette St., LLLP v. Mayor and City Council of Baltimore City*, 413 Md. 309 (2010), or where the plaintiff has failed to exhaust his administrative remedies, *Abington Ctr. Assoc. Ltd. P'ship v. Baltimore County*, 115 Md. App. 580 (1997). *See also* Md. Code Ann., Cts. & Jud. Proc. § 3-409(b) (“If a statute provides a special form of remedy for a specific type of case, that statutory remedy shall be followed in lieu of a proceeding under this subtitle”).

Summary Judgment

Summary judgment should be entered where there is no genuine dispute as to any material fact and the moving party is entitled to judgment as a matter of law. Rule 2-501; *Syme v. Marks Rentals, Inc.*, 70 Md. App. 235, 248 (1987); *King v. Bankerd*, 303 Md. 98, 111 (1985). A material fact is one which will somehow affect the outcome of the case. *Friedman & Fuller, P.C. v. Funkhouser*, 107 Md. App. 91, 99 (1995).

Declaratory Judgment

Where a declaratory judgment action is properly brought and considered for summary judgment, the trial court must issue a written declaration of the parties' rights, even if it is not the declaration sought by the plaintiff. *Herlson v. RTS Residential Block 5, LLC*, 191 Md. App. 719, 730 (2010); *Md. Cas. Co. v. Hanson*, 169 Md. App. 484, 524 (2006); *East v. Gilchrist*, 293 Md. 453, 461 n.3 (1982) (“where a plaintiff seeks a declaratory judgment . . . , and the court's conclusion . . . is exactly opposite from the plaintiff's contention, nevertheless the court must, under the plaintiff's prayer for relief, issue a declaratory judgment”). Where the court's declaration is in line with the defendant's argument, it is also proper for the court to issue that declaration upon a motion for summary judgment by the defendant. *Griffin v. Anne Arundel County*, 25 Md. App. 115, 137 (1975).

The trial court must issue a separate written declaration. Although the judgment may recite

that it is based on reasoning set forth in an accompanying memorandum, it cannot simply incorporate by reference an earlier oral ruling. *Salamon v. Progressive Classic Ins. Co.*, 379 Md. 301, 308 n.7 (2004).

ARGUMENT: DISMISSAL

Plaintiff Maryland Shall Issue, Inc. Lacks Organizational Standing.

In Maryland, an organization has standing to bring a judicial action if it has a “property interest of its own—separate and distinct from that of its individual members.” *Med. Waste Assocs. v. Md. Waste Coal.*, 327 Md. 596, 612 (1992). This is shown if that organization “has also suffered some kind of special damage from such wrong differing in character and kind from that suffered by the general public.” *Id.* at 613. *See also Sugarloaf v. Dep’t of Environment*, 344 Md. 271, 288 (1996), and cases there cited.

Here, MSI alleges that it “is dedicated to the preservation and advancement of gun owners’ rights in Maryland [and] seeks to educate the community about the right of self-protection, the safe handling of firearms, and the responsibility that goes with carrying a firearm in public.” Sec. Am. Compl. ¶ 48. MSI seeks to establish standing solely through its members because the County Firearms Law allegedly “burdens the ability of MSI members to keep and bear arms within Montgomery County...”. *Id.* ¶ 54. Therefore, MSI’s claims should be dismissed for lack of standing because it fails to allege any facts establishing a “property interest of its own—separate and distinct from that of its individual members.” *Med. Waste Assocs.*, 327 Md. at 612.¹³

¹³ In support of MSI’s claim for standing, the Second Amended Complaint cites to only two cases, both of which are federal. Sec. Am. Compl. ¶ 54 (citing to *Hunt v. Washington State Apple Advert. Com’n.*, 432 U.S. 333, 342, 432 U.S. 333, 342 (1977) and *Retail Industry Leaders Ass’n v. Fielder*, 475 F.3d 180, 186 475 F.3d 180, 186 (4th Cir. 2007)). Not only are these two federal decisions not binding upon this court, but they are also neither instructive nor helpful to the court’s analysis of whether MSI has organization standing under Maryland state law. For example, the *Hunt* case is an appeal from the United States Court for the Eastern District of North Carolina stemming from a challenge of a North Carolina statute related to whether North Carolina’s law regarding grading of apples was an unconstitutional burden on interstate commerce. *Hunt*, 432 U.S. at 335.

“The mere fact that an individual or group is opposed to a particular public policy does not confer standing to challenge that policy in court.” *Evans v. State*, 396 Md. 256, 329 (2006). “[E]nsuring that State officials operate legally...is no different than the interest of all Maryland citizens.” *Id.*

Here, Plaintiff MSI has not plead facts to support that its interest in the case is separate and distinct from its members. Neither has MSI plead potential damage differing from the general public. MSI’s particular public policy priority—the “preservation and advancement of gun owners’ rights in Maryland”—is insufficient to establish standing. Sec. Am. Compl. ¶ 48.

ARGUMENTS: SUMMARY JUDGMENT (DECLARATORY JUDGMENT IN THE COUNTY’S FAVOR)

It is important to note at the outset that the wisdom of the legislative findings supporting the Bill is not on trial. Plaintiffs cannot challenge whether the County Council “was correct” in its legislative findings. *Md. Aggregates Ass’n, Inc. v. State*, 337 Md. 658, 668 (1995) (“the wisdom or expediency of a law adopted by a legislative body is not subject to judicial review”). Rather, the question is whether the Bill violates the specific constitutional and statutory provisions alleged in the Complaint.

I. COUNT I: THE COUNTY FIREARMS LAW IS A VALID LOCAL LAW.

Plaintiffs’ claim in Count I—that the County Firearms Law is not a valid local law under Md. Const. Art. XI-A (also known as the “Home Rule Amendment”) because it intrudes on state interests—proceeds from the false assumption that the County enacted its Firearms Law pursuant to a grant of authority under the Home Rule Amendment. It did not. Rather, the County enacted the Firearms Law under a direct grant of authority from Md. Code Ann., Crim. Law § 4-209(b). But even if the County Firearms Law is viewed as an exercise of power under the Home Rule Amendment, it is still a valid local law.

A. The Home Rule Amendment and the Express Powers Act.

Article XI-A of the Maryland Constitution provides counties electing a charter form of government with a certain measure of independence from the State legislature by providing for the transfer, within well-defined limits, of certain legislative powers formerly reserved to the General Assembly. Ratified by the voters of this State in November 1915, Md. Const. Art. XI-A, also known as the “Home Rule Amendment,” was intended to secure to Maryland citizens “the fullest measure of local self-government” with respect to their local affairs. *State v. Stewart*, 152 Md. 419, 422 (1927). The Home Rule Amendment “freed[]” counties from the General Assembly’s “interference,” *City of Balt. v. Sitnick*, 254 Md. 303, 311 (1969), and bridged the gap between the policy decisions of detached state legislators and the actual preferences of local constituents, *Ritchmount P’ship v. Bd. of Supervisors of Elections*, 283 Md. 48, 56 (1978).

Section 2 of the Home Rule Amendment mandates that the General Assembly expressly enumerate and delegate those powers exercisable by counties electing a charter form of government and, in 1918, the legislature enacted the Express Powers Act, presently codified at Md. Code Ann., Local Gov’t § 10-101 *et seq.* The Express Powers Act endowed charter counties with a wide array of legislative and administrative powers over local affairs. Montgomery County voters elected to become the first county to adopt a charter form of government in the November 1948 general election. *McCarthy v. Board of Education*, 280 Md. 634, 638 (1977).

Under Section 3 of the Home Rule Amendment, a charter county has full power to enact “local laws” on any subject covered by the Express Powers Act. As will be discussed in more detail below, a “local law” enacted by the County under the Express Powers Act must only apply within the jurisdictional confines of the County. A charter county also has the power to appeal or amend public local laws enacted by the General Assembly upon all matters covered by the Express

Powers Act. A “public local law” is a law enacted by the General Assembly that applies to a named, specific jurisdiction only, rather than the entire State.

B. The County Enacted its Firearms Law Exercising Authority Outside of the Home Rule Amendment and the Express Powers Act.

Although, as discussed below, the County enacts much legislation pursuant to the Home Rule Amendment and the Express Powers Act, they are not always the exclusive source of the County’s authority to make law. For example, although the Express Powers Act provides charter counties with authority to enact zoning regulations, the County’s zoning authority arises from the Regional District Act, Md. Code Ann., Land Use Div. II, not the Home Rule Amendment or the Express Powers Act. *Mayor & Council of Rockville v. Rylyns Enters.*, 372 Md. 514, 528 n.3 (2002). *See also Remes v. Montgomery Cnty.*, 387 Md. 52, 70 (2005). Likewise, although the Express Powers Act imbues charter counties with certain taxing authority, Montgomery County’s authority to impose excise taxes derives from a public local law. 1963 Laws of Md. Ch. 808 (codified in the Montgomery County. Code at § 52-17). *Montgomery Cnty. v. Md. Soft Drink Assoc.*, 281 Md. 116, 129-31 (1977).

The County has express authority to enact its Firearms Law from Crim. Law § 4-209(b). Crim. Law 4-209(b) states that a county may regulate the purchase, sale, transfer, ownership, possession, and transportation of a handgun, rifle, or shotgun, their components and ammunition, (1) with respect to minors and (2) within 100 yards of or in a park, church, school, public building, and other place of public assembly. The County Firearms Law does both those things.

Because the County Firearms Law springs directly from Crim. Law § 4-209(b), Plaintiffs’ argument that the Firearms Law is not a local law under the Home Rule Amendment fails. In *Edward Sys. Tech. v. Corbin*, 379 Md. 278 (2004) the Maryland Supreme Court upheld ~~the~~ a Montgomery County law that was not a “local law” under the Home Rule Amendment because it

was supported by a state grant of authority outside the Home Rule Amendment. The Maryland Supreme Court first analyzed the County law in *McCrorry Corp. v. Fowler*, 319 Md. 12 (1990). There, the Maryland Supreme Court struck down a Montgomery County law creating a private cause of action for violations of the County’s employment discrimination law because it was not a “local law” under the Home Rule Amendment. “In Maryland, the creation of new causes of action in the courts has traditionally been done either by the General Assembly or by this Court under its authority to modify the common law of this State.” *McCrorry*, 319 Md. at 20.¹⁴ The State remedied the situation by acting outside the Home Rule Amendment and the Express Powers Act and directly authorizing a civil action for a violation of the Montgomery County employment discrimination law. 1992 Md. Laws ch. 555 (presently codified at Md. Code Ann., State Gov’t § 20-1202).¹⁵ By this action, the General Assembly empowered the County to do that which it could not under the Home Rule Amendment—created of a cause of action based upon a violation of local law. In *Edward Sys. Tech. v. Corbin*, 379 Md. 278 (2004), the Maryland Supreme Court upheld this statutory mechanism of power sharing against an attack based upon the Home Rule Amendment.

Therefore, even if Plaintiffs are correct that the County Firearms Law County is not a valid local law under the Home Rule Amendment because it intrudes on state interests (an argument refuted in the next section), that argument fails because the County enacted the Firearms Law under a direct grant of authority from Crim. Law § 4-209(b). But even if the County Firearms Law is viewed as an exercise of power under the Home Rule Amendment, it is still a valid local law.

¹⁴ Anti-discrimination laws in Prince George’s and Harford Counties suffered from the same constitutional infirmity and were likewise struck down by the Supreme Court in *Sweeney v. Hartz Mountain Corp.*, 319 Md. 440 (1990) and *H.P. White v. Blackburn*, 372 Md. 160 (2002), respectively.

¹⁵ The State Legislature later enacted provisions to permit similar civil actions for violations of local anti-discrimination laws in Howard and Prince Georges counties, 1993 Md. Laws Ch. 152 (State Gov’t § 20-1202), and Baltimore County. 1997 Md. Laws Ch. 348 (State Gov’t 20-1203).

C. Even if the County enacted its Firearms Law under the Home Rule Amendment and the Express Powers Act, it is still a valid local law.

The Express Powers Act is “broadly construed” to enable charter counties such as the County to “legislate **beyond the powers expressly enumerated**,” thereby fostering “peace, good government, health, and welfare of the County.” *Snowden v. Ann Arundel Cty.*, 295 Md. 429, 432 (1983) (emphasis added). Together, the Home Rule Amendment and the Express Powers Act vest charter counties with significant power on the theory that “the closer those who make and execute the laws are to the citizens they represent, the better ... those citizens [are] represented and governed in accordance with democratic ideals.” *Ritchmount P’ship v. Bd. of Supervisors of Elections*, 283 Md. 48, 56 (1978).

The broadest authority for local legislation exists in Local Gov’t § 10-206 of the Express Powers Act, which is often referred to as the “general welfare clause,” because it grants charter counties the power to legislate on matters not specifically enumerated elsewhere. *Montgomery Citizens League v. Greenhalgh*, 253 Md. 151, 161 (1969) (referring to the predecessor statute Md. Code Ann., Art. 25A, § 5(S)). Thus, in *Greenhalgh*, the Maryland Supreme Court relied upon the general welfare clause to uphold Montgomery County’s authority to enact a fair housing law even though the Express Powers Act did not specify that power. The Court explained that “[t]he broadest grant of powers customarily is to home rule Counties . . . and cases holding that a delegation was restricted or narrow are concerned almost always with delegations to municipalities that do not enjoy home rule.” *Greenhalgh*, 253 Md. at 162.¹⁶

¹⁶ Maryland courts have sustained a wide variety of local legislation under the Home Rule Amendment and Local Gov’t § 10-206 of the Express Powers Act. See *FOP v. Montgomery Cty.*, 446 Md. 490, 518-19 (2016) (upholding County spending to support a proposed charter amendment on the ballot); *Tyma v. Montgomery Cty.*, Md., 369 Md. 497 (2002) (sustaining the County’s domestic partnership benefits law); *Cade v. Montgomery Cty.*, 83 Md. App. 419, cert. denied, 320 Md. 350 (1990) (sustaining the County’s towing law); *Holiday Universal Club of Rockville, Inc. v. Montgomery Cty.*, 67 Md. App. 568, cert. denied, 307 Md. 260 (1986) (sustaining the County’s public accommodation law); *Montgomery Citizens League v. Greenhalgh*, 253 Md. 151, 161 (1969) (sustaining the County’s fair housing law).

As noted above, Section 3 of the Home Rule Amendment provides a charter county with full power to enact “local laws” on any subject covered by the Express Powers Act. Although Section 3 does not define the term “local law,” Section 4 of the Home Rule Amendment states that “[a]ny law so drawn so as to apply to two or more of the geographical subdivisions of this State shall not be deemed a Local Law within the meaning of this Act.” See *Steimel v. Board of Election Supervisors*, 278 Md. 1, 5 (1976); *State’s Attorney v. City of Baltimore*, 274 Md. 597, 607 (1975). The Home Rule Amendment otherwise “attempts no definition of the distinction between a local law and a general law but leaves that question to be determined by the application of settled legal principles to the facts of particular cases in which the distinction may be involved.” *McCrorry Corp. v. Fowler*, 319 Md. 12, 17 (1990).

A charter county law is not a local law if its application extends beyond the jurisdiction of the county. For example, the Maryland Supreme Court struck down the County’s “future service contract” law because of its extra territorial application. *Holiday Universal, Inc. v. Montgomery Cnty.*, 377 Md. 305, 316 (2003) (“the ordinance makes clear that it would apply to a contract signed outside of Montgomery County, by parties residing outside of Montgomery County, where as much as forty-nine percent of the performance of the contract takes place outside of Montgomery County”).

But where the application of a county law is limited to the enacting county, as is the case with the County Firearms Law, Maryland courts will invalidate that law only if it clearly intrudes on some well-defined state interest. *Tyma v. Montgomery Cnty.*, 369 Md. 497, 513 (2002). Thus, in *McCrorry Corp. v. Fowler*, *Sweeney v. Hartz Mountain Corp.*, and *H.P. White v. Blackburn*, the Maryland Supreme Court struck down local county laws that purported to create a private cause of action for violations of local county employment discrimination laws. In *Edward Sys. Tech. v.*

Corbin, 379 Md. 278, 298-99 (2004), the Maryland Supreme Court made clear that those laws violated the Home Rule Amendment not because they addressed a statewide problem—abusive employment practices—but because one of the alternative remedies created by those laws was the creation of a new cause of action, something not authorized by the Home Rule Amendment.

Even if the Home Rule Amendment is the source of the County’s authority to enact the County Firearms Law, it is still a valid local law. First, its application is limited to Montgomery County. Unlike the local law in *Holiday Universal*, the Firearms Law does not apply outside of the County or have extra territorial effect. Second, unlike the local laws struck down in *McCrorry*, *Sweeney*, and *H.P. White*, the County Firearms Law does not purport to create a private cause of action. Finally, the County Firearms Law is specifically authorized by State law. Crim. Law § 4-209(b) empowers the County to enact this law (and, as discussed below, the Bill is within the confines of that authorization).

None of the cases cited in Second Amended Complaint (¶¶ 87-88) involved a local county law that was struck down because it was not a local law under Section 3 of the Home Rule Amendment. Two of the cases examined the validity of **state** laws under Section 4 of the Home Rule Amendment. That section provides that where a county’s residents decide to take advantage of the Home Rule Amendment and establish a charter form of local government, **the General Assembly** cannot enact a public **local** law applicable to only that county on any subject covered by the Express Powers Act. But the General Assembly may enact a public **general** law (applicable to two or more counties) even if that state law applies to a charter county and is on a subject covered by the express powers of a chartered county. *State’s Attorney of Baltimore City v. City of Baltimore*, 274 Md. 597, 606 (1975). These cases note that a **State** law (on a subject covered by the Express Powers Act) is not an impermissible public local law “merely because its operation is

confined to Baltimore City or to a single county, if it affects the interests of the people of the whole state.” *Gaither v. Jackson*, 147 Md. 655, 667 (1925).

In the first case Plaintiffs cite, *Dasch v. Jackson*, 170 Md. 251, 261 (1936), the Maryland Supreme Court concluded that State public local law concerning the licensing of paper hangers in Baltimore City affected the interests of the whole state and was not an impermissible public local law under Section 4 of the Home Rule Amendment. Although the State law’s operation was confined to Baltimore City, it imposed taxes or fees designed to produce a surplus payable into the general funds of the State, and it affected the right of non-City residents to engage in the business of paper hanging. In the second case, *Steimel v. Bd. of Elec. Sup. of Prince George’s Cnty.*, 278 Md. 1 (1976), the Maryland Supreme Court concluded that a State public local law that repealed Sunday closing restrictions in Prince George’s County was not an impermissible local law because, while its operation was confined to Prince George’s County, it was not on any subject covered by the Express Powers Act. Finally, the third case, *Cole v. Sec’y of State*, 249 Md. 425 (1968), did not involve the validity of a state law under the Home Rule Amendment. The Maryland Supreme Court in *Cole* concluded that state law that established a people’s court system for Cecil County was a public local law and therefore subject to referendum under Md. Const. Art. XVI, § 3(a).

Contrary to Plaintiffs’ argument, a county law does not cease to be a local law under Section 3 of the Home Rule Amendment merely because it regulates a matter that is also of interest to the State. If that were the test, few local regulations would pass muster. For example, although abusive employment practices constitute a statewide problem which have been addressed by the General Assembly, the Maryland Supreme Court recognized that the County could still create administrative remedies to address the matter. *McCrorry Corp. v. Fowler*, 319 Md. 12, 20 (1990). What the County could not do was create a new judicial cause of action. Likewise, discrimination

in housing and places of public accommodation may also be a statewide matter of concern (that has also been addressed by the General Assembly), but the County could still enact valid local laws under Section 3 of the Home Rule Amendment to address those evils as well. *Holiday Universal Club of Rockville, Inc. v. Montgomery County*, 67 Md. App. 568, cert. denied, 307 Md. 260 (1986) (sustaining the County's public accommodation law); *Montgomery Citizens League v. Greenhalgh*, 253 Md. 151, 161 (1969) (sustaining the County's fair housing law).

The County Firearms Law is a valid local law within the Home Rule Amendment and the County requests that this Court enter a declaratory judgment to that effect.

II. THE COUNTY FIREARMS LAW IS NOT PREEMPTED BY, OR IN CONFLICT WITH, STATE LAW.

There is no question that the State has broadly regulated firearms through numerous laws. Plaintiffs invite this Court to apply preemption and conflict analysis by weighing the County Firearms Law against those State firearms laws, while all but ignoring the authority provided by the State to localities in Crim. Law § 4-209(b). The preemption and conflict analysis might be different if the County was seeking to regulate firearms in the absence of Crim. Law § 4-209(b). But because the County is proceeding from a specific grant of local authority in Crim. Law § 4-209(b), this Court must examine the State firearms laws that Plaintiffs rely upon in light of that State grant of local authority. All enacted by the same General Assembly, these various State firearms laws must be read harmoniously to give purpose and effect to the legislative compromise that Crim. Law § 4-209(b) represents. When that is done, it is apparent that the authority granted to localities in Crim. Law § 4-209(b) remains valid and the County Firearms Law is supported, and not preempted by, or in conflict with, State firearms laws.

A state law may preempt local law in one of three ways: express preemption, implied preemption, and conflict preemption. *Montgomery Cnty. v. Complete Lawn Care, Inc.*, 240 Md.

App. 664, 685 (2019). Regardless of the mode of preemption analysis, Maryland courts recognize a presumption against preemption, with ambiguities resolved in favor of local regulation. Thus, when a local law is enacted under competent authority, it “should be upheld by every reasonable intendment, and reasonable doubts as to the validity of an ordinance should be resolved in its favor.” *Mayor & Alderman of City of Annapolis v. Annapolis Waterfront Co.*, 284 Md. 383, 391 (1979). *See also Mayor and Council of Forest Heights v. Frank*, 291 Md. 331, 337 (1981) (“We have also recognized that a local government unit may be justified in going further than the policy in effect throughout the broader governmental unit.”)

The County Firearms Law is not preempted by, or in conflict with, State law because it is specifically authorized by Crim. Law § 4-209(b). The State has neither silently repealed nor impliedly preempted the authority it granted to localities in Crim. Law § 4-209 to regulate the purchase, sale, transfer, ownership, possession, and transportation of firearms (including their ammunition and components) with respect to minors and within 100 yards of or in a park, church, school, public building, and other place of public assembly. The County Firearms Law fits comfortably within this authority.

A. The Narrow Scope of Express Preemption in Crim Law § 4-209(a) and the Exception/Authority Reserved to Local Governments in Crim. Law § 4-209(b).

Express preemption occurs when the General Assembly prohibits local legislation in a field by specific language in a statute. *Complete Lawn Care, Inc.*, 240 Md. App. at 686. While the State has expressly preempted some local regulation of firearms, it has also expressly created an exception in Criminal Law § 4-209(b), authorizing local firearm regulation with respect to minors and near places of public assembly. Although the County Firearms Law is ultimately sustained because it falls within that express authorization, it is important to note at the outset that the scope

of the express preemption in Crim. Law § 4-209(a) is quite narrow and specific.

1. The narrow scope of the express preemption under Crim. Law § 4-209(a).

As the Attorney General has noted, “while State preemption of local firearms regulation is undeniably broad, the preemption statutes are also specific—they preempt regulation of specific activities such as the transport of handguns, the sale or manufacture of firearms, or the ownership or possession of firearms.” 93 Md. Op. Att’y Gen. 126, 134 (2008) (contrasting the relatively limited preemption of firearm regulation with Md. Code Ann., Transp. § 25-101, broadly preempting “**any** local law . . . on **any** subject covered by the Maryland Vehicle Law, subject to specific exceptions” (emphasis in original)).

For example, in 2008, the Attorney General opined that a proposed Baltimore City law, which would require a gun owner to report the theft or loss of a firearm within two days of discovery that the weapon had been lost or stolen, did not fall within the express preemption of Crim. Law § 4-209(a). 93 Md. Op. Att’y Gen. 126 (2008). Apart from the duty to report the loss of the firearm, the local law did not otherwise restrict, control, or affect the ownership, possession, or use of firearms. “Its effect, if any, on gun ownership is too remote to be deemed a regulation of ownership, such that it would be expressly preempted by State statute.” *Id.* at 126.

Similarly, in *State v. Phillips*, 210 Md. App. 239 (2013), the court concluded that State law, including Crim. Law § 4-209(a), did not preempt a Baltimore City law requiring persons convicted of certain gun offenses in Baltimore City to register with the Police Commissioner. The court concluded that, although the State has heavily regulated the field of use, ownership, and possession, of firearms, it has not so extensively regulated the field that all local laws relating to firearms are preempted. *State v. Phillips*, 210 Md. App. 239, 280-281 (2013) (citing with approval 93 Md. op. Att’y Gen. 126 (2008)).

2. The County Firearms Law Is Supported by The Plain Language, Legislative History, and Prior Interpretations of Crim. Law § 4-209(b), Which Authorizes Local Governments to Regulate Firearms with Respect to Minors and Near Places of Public Assembly.

The County Firearms Law fits comfortably within the authority granted to counties by Crim. Law § 4-209(b) to regulate firearms with respect to minors and within 100 yards of places of public assembly.

a. The plain language of Crim. Law § 4-209(b) supports the County Firearms Law.

Local ordinances, such as the Montgomery County Code, are interpreted “under the same canons of construction that apply to the interpretation of [state] statutes.” *Kane v. Bd. of Appeals of Prince George’s Cnty.*, 390 Md. 145, 161 (2005) (quoting *O’Connor v. Balt. Cnty.*, 382 Md. 102, 113 (2004)). The Appellate Court of Maryland recently reiterated the by-now familiar principles of statutory construction.

The cardinal rule of statutory construction is to ascertain and effectuate the intent of the General Assembly. Our analysis begins with the plain language of the statute, and ordinary, popular understanding of the English language dictates interpretation of its terminology. We do so on the tacit theory that the General Assembly is presumed to have meant what it said and said what it meant. We must read the statute as a whole to ensure that no word, clause, sentence or phrase is rendered surplusage, superfluous, meaningless or nugatory. Our analysis is not limited to a specific statutory provision at issue; instead, the plain language must be viewed within the context of the statutory scheme to which it belongs, considering the purpose, aim or policy of the Legislature in enacting the statute.

If we conclude that the language is unambiguous and clearly consistent with the statute’s apparent purpose, we usually stop there and our analysis ends. Even if the language is unambiguous, while not necessary in every instance, we often find it prudent to scrutinize the legislative history to confirm that our interpretation of the statute’s plain language accords with the legislature’s intent. The modern tendency is to continue the analysis of the statute beyond the plain meaning to examine extrinsic sources of legislative intent in order to check our reading of a statute’s plain language through examining the context of a statute, the overall statutory scheme, and archival legislative history of relevant enactments.

If the language is ambiguous, we look to the statute’s structure, relationship

to other laws, general purpose, and legislative history. We seek to construe and reconcile related statutory provisions harmoniously, to the extent possible consistent with the statute's object and scope. In ascertaining legislative intent, we may consider the consequences resulting from one meaning rather than another and adopt that construction which avoids an illogical or unreasonable result, or one which is inconsistent with common sense. The real legislative intention prevails over the intention indicated by the literal meaning. Lastly, there is a canon of statutory construction that remedial statutes are liberally construed to suppress the evil and advance the remedy.

Sullivan v. Caruso Building Belle Oak, LLC, 251 Md. App. 304, 318 (2021) (cleaned up).

The plain language of Crim. Law § 4-209 reveals an express grant of authority to counties, municipal corporations, and special taxing districts to regulate firearms with respect to minors and within 100 yards of a place of public assembly, such as a “park, church, school, or public building.” The legislative history of Crim. Law § 4-209 confirms this interpretation.

b. The legislative history of Crim. Law § 4-209(b) supports the County Firearms Law.

The legislative history of Criminal Law § 4-209 was recounted in detail in 76 Md. Op. Att’y Gen. 240, 243-46 (1991). In 1982, the State considered legislation that would have allowed local governments to impose additional restrictions on the sale of handgun ammunition. Senate Bill 323 (1982) would have amended Md. Code Ann., Art. 27 §§ 442(a) and 445(a) to permit counties, municipalities, and special taxing districts to impose restrictions more stringent than those imposed under State law. But the bill died in committee. Despite the failure of the State bill, the County went forward with a local bill (Bill 17-82) to regulate the sale of ammunition. Although both the County Attorney and the Attorney General¹⁷ opined that the County bill was preempted, the Council enacted the bill.

The County bill was challenged, and the Circuit Court for Montgomery County found that it was preempted by State law. *Atlantic Guns, Inc. v. Montgomery Cnty.*, Equity No. 85854

¹⁷ 67 Md. Op. Att’y Gen. 316 (1982).

(Cir. Ct. for Montgomery Cnty., Oct. 27, 1983). The decision was appealed to the Appellate Court of Maryland, but the Maryland Supreme Court granted a writ of certiorari before the intermediate appellate court took any action on the matter.

While the appeal was pending in the Maryland Supreme Court, legislation was introduced in the 1984 session of the General Assembly that would have removed any local authority to regulate weapons and ammunition (SB 66 and HB 315). The bills expressly preempted local governments from regulating the purchase, sale, taxation, transfer, manufacture, repair, ownership, possession, and transportation of a broad range of firearms, explosives, and ammunition. The only possible remaining local authority would have been over the discharge of firearms.

Both bills passed, but Governor Hughes vetoed them both because they would “invalidate beneficial existing local legislation without any corresponding statewide substitute and, contrary to the sponsor’s intent, . . . undermine public safety.” 1984 Md. Laws 3866-68. He noted his concern that the repealer clause in Section 2 of the bills would be interpreted to invalidate local ordinances adopted by home rule jurisdictions that were deemed inconsistent with State law. The Governor’s veto message gave examples of these **beneficial existing local laws** that would be invalidated by passage of the bill, including laws regulating the **possession of a firearm by a minor** and laws prohibiting the possession of a firearm **within 1,000 feet of a place of public assembly**. *Id.* at 3867. Gov. Hughes concluded, “I am unwilling to sign into law a bill that would invalidate the judgment of local elected officials when they determine that local legislation of the type described above . . . is required within a particular jurisdiction.” *Id.* at 3868. An attempt to override the vetoes at the start of the 1985 session failed by a wide margin.

After the veto, the Governor’s Office worked with the sponsors of the vetoed bills on a compromise that would except from preemption local laws with respect to minors and in close

proximity to places of public assembly. SB 88 and HB 176 were introduced in the 1985 Session as a result. A bill analysis prepared by the Senate Judicial Proceedings Committee stated that the bill would change current law as follows:

The General Assembly **partially** preempts the rights of counties, municipalities, and special taxing districts to regulate the purchase, sale, taxation, transfer, manufacture, repair, ownership, possession, transportation, and discharge of handguns, rifles, shotguns, and their ammunition.

Some exceptions are made in this preemption. **Localities still may regulate some weapons and their ammunition with respect to minors, various places of public assembly**, and law enforcement and security personnel. Also, localities may continue to regulate the discharge of handguns, rifles, and shotguns.

76 Md. Op. Att’y Gen. 240, 246 (1991) (emphasis in original). The Committee report also noted that “[t]he bill’s intent is to reserve within the General Assembly the **primary** power to regulate **some forms** of weaponry and ammunition” (*quoted in* 93 Md. op. Att’y Gen 126, 134 n.8 (emphasis in original)). The legislation passed.¹⁸ The Attorney General’s May 23, 1985, bill review letter to the Governor noted that the effect of the bill might be in some respects to reduce State preemption of local laws that would otherwise be invalid under older law. *Id.* (“the new authority to regulate in specific ways would control over the older broad preemption”). Governor Hughes signed SB 88 on May 28, 1985, 1985 Md. Laws ch. 724, which added § 36H to Art. 27.

The Attorney General concluded that Art. 27, § 36H

is a perfect example of a statute reflecting a political compromise. Its predecessor legislation, Senate Bill 66 and House Bill 315 of 1984, would have preempted virtually all local regulation of firearms, ammunition, and explosives. Governor Hughes’ veto prompted several compromises from the legislative sponsors of the 1984 legislation. **Among those compromises was the creation of a specific exception to the general preemption rule, to allow local governments to regulate weapons and ammunition with respect to minors [and within 100 yards of or in a park, church, school, public building, and other place of public assembly].** Indeed, that exception can be traced to Governor Hughes’ veto message

¹⁸ The day after the house of Delegates passed HB 176, the Maryland Supreme Court concluded that the County’s regulation of ammunition sales was preempted by State law. *Montgomery Cnty. v. Atlantic Guns, Inc.*, 302 Md. 540 (1985).

itself, in which he asserted the need for “comprehensive” regulatory authority, either at the State or the local level, and identified examples of local legislation that he believed should not be preempted. **The effect of the compromise is that local governments may regulate to whatever extent they consider appropriate for the protection of the public, so long as they do so only in the areas identified in § 36H(b).**

76 Md. Op. Att’y Gen. 240, 247 (1991) (emphasis added). In 2002, Art. 27, § 36H was recodified to the then-newly created Criminal Law Article as Crim. Law § 4-209, without substantive change according to the revisor’s note. 2002 Md. Laws ch. 26. Subsection (b)(3) was added in 2010, forbidding a county, municipal corporation, or special taxing district from prohibiting, under certain circumstances, the transportation of a firearm by a person who is carrying a court order requiring the surrender of the item. 2010 Md. laws ch. 712.

c. The Attorney General has repeatedly interpreted Crim. Law § 4-209(b) to support the local firearms regulations.

The Maryland Attorney General has twice construed the scope of the exceptions to preemption under Crim. Law § 4-209(b) and each time found them sufficient to sustain local County firearm regulations. In 1991, after examining both the statutory language and confirmatory legislative history of Crim. Law § 4-209, the Attorney General concluded that it did not preempt (and specifically authorized) the County’s authority to enact a proposed local law that would prohibit leaving a loaded—or an unloaded firearm near ammunition—in the proximity of a child, with an exception for guns secured in a locked gun cabinet or by a trigger lock. 76 Md. Op. Att’y Gen. 240 (1991).¹⁹ The Attorney General noted that the State law’s grant of local authority to regulate firearms “with respect to” minor was quite broad. “Therefore, any regulation that bears a reasonable relation to minors’ access to, or use of, firearms is a firearms regulation ‘with respect to minors.’” *Id.* at 242. “[The proposed County bill] unquestionably is one ‘with respect to minors.’

¹⁹ The Attorney General construed Crim. Law § 4-209’s predecessor—Art. 27, § 36H.

It seeks to protect them against death and injury caused by improperly stored firearms. . . . To be sure, the bill regulates the behavior of adults, not children. But since children gain access to firearms because adults are careless, no other manner of regulation would serve the goal of protecting children.” *Id.*

A few years later, the Attorney General similarly concluded that Crim. Law § 4-209(b) authorized proposed Montgomery and Prince George’s County laws that would (1) prohibit gun dealers from selling, leasing, or otherwise transferring a handgun without also selling or otherwise providing with each handgun a trigger lock or similar device that is designed to prevent the unintentional discharge of the handgun; and (2) require gun dealers to post a conspicuous notice describing the trigger lock sale requirement and the requirement in State law that gun owners keep their guns out of the reach of children. 82 Md. op. Att’y Gen. 84 (1997). The County enacted the proposed bill (County Bill 11-97) shortly thereafter. 1997 Laws Montgomery Cnty. (LMC) ch. 16 (presently codified at Montgomery County Code § 57-8). The State did not have any such limitation and did not enact its trigger lock law until three years later, in 2000. Art. 27 § 442C(c) & (d) [2000 Md. Laws ch. 2] (now codified in Md. Code Ann., Pub. Safety § 5-132).

d. The County Firearms Law falls within the exceptions in Crim. Law § 4-209.

Comparison of Crim. Law § 4-209 and the County Firearms Law reveals the following: Crim. Law § 4-209(b) expressly **permits** a county, municipal corporation, or special taxing district to do the following:

- “regulate the purchase, sale, transfer, ownership, possession, and transportation of”;
- a handgun, rifle, or shotgun, their ammunition and their components;
 - “with respect to **minors**” and
 - “**within 100 yards of or in a park, church, school, public building, and other**

place of public assembly.”

The County Firearms Law implements this grant of authority by prohibiting a person from committing the following acts:

- selling, renting, lending, or otherwise transferring **to a minor** an untraceable ghost or undetectable gun (or a major component thereof) or a computer code or program to make a gun through a 3D printing process [Montgomery County Code (“MCC”) § 57-7(c)];
- purchasing, selling, transferring, possessing, or transporting an untraceable ghost gun, including a gun created through a 3D printing process, **in the presence of a minor** [Montgomery County Code § 57-7(d)];
- storing a leaving an untraceable ghost or undetectable gun (or a major component thereof) in a location that the person knows or should know is **accessible to a minor** [Montgomery County Code § 57-7(e)]; and
- selling, transferring, possessing, or transporting an untraceable ghost or undetectable gun or a firearm²⁰ **in or within 100 yards of a place of public assembly.** [Montgomery County Code § 57-11.] This prohibition does not apply to:
 - The teaching of firearms safety or other educational or sporting use;
 - a law enforcement office, or a security guard licensed to carry the firearm;
 - the possession of a firearm or ammunition, other than an untraceable ghost or undetectable gun, in the person’s own home;
 - the possession of one firearm and ammunition at a business by either (1) the owner who has a permit to carry the firearm, or (2) one authorized employee of the

²⁰ Montgomery Cnty. Code § 57-11(a) already prohibited selling, transferring, possession, or transporting a handgun, rifle, or shotgun or their ammunition, in or within 100 yards of a place of public assembly. That provision was enacted in 1997. 1997 Laws Montgomery Cnty. ch. 14 (Bill 4-97). *See Ex. F.*

business who has a permit to carry the firearm; or

- separate ammunition or an unloaded firearm (1) transported in an enclosed case or a locked firearms rack on a motor vehicle, unless the firearm is an untraceable ghost or undetectable gun or (2) being surrendered in connection with a gun turn-in or similar program approved by a law enforcement agency.

By regulating firearms with respect to minors and within or in 100 yards of a place of public assembly, the County Firearms Law is consistent and comports with Crim. Law § 4-209(b). The County Firearm’s definition of a place of public assembly is co-extensive with the definition in Crim. Law § 4-209(b)(1)(iii). “When general words in a statute follow the designation of particular things or classes of subjects or persons, the general words will usually be construed to include only those things or persons of the same class or general nature as those specifically mentioned.” *In re Wallace W.*, 333 Md. 186, 190 (1993). *See also United States v. Andrews*, 441 F3d 220, 224 (4th Cir. 2006). This list of places in the County Firearms Law is consistent with the list in Crim. Law § 4-209(b). The places of public assembly identified in the County Firearms Law, Montgomery County Code § 57-1, are as much places of public assembly as those identified in Crim. Law § 4-209(b).

3. The General Assembly did not silently repeal the specific authority granted to local governments in Crim. Law § 4-209(b).

Plaintiffs contend that the General Assembly has repealed, *sub silentio*, the authority granted in Crim. Law § 4-209(b) through a series of State statutes that were either enacted before Crim. Law § 4-209 or are more general than Crim. Law § 4-209. This strained argument is contrary to well accepted canons of statutory construction. All the State firearms statutes can be read in harmony, avoiding a strained reading that, contrary to accepted canons of statutory interpretation, would render nugatory the grant of authority in Crim. Law 4-209(b).

As an initial matter, this Court should construe the various statutory provisions regarding firearms so that they do not conflict with one another.

When the language of a section of a statute is part of a larger statutory scheme, it is axiomatic that the language of a provision is not interpreted in isolation; rather, we analyze the statutory scheme as a whole considering the purpose, aim, or policy of the enacting body, and attempt to harmonize provisions dealing with the same subject so that each may be given effect. In addition to harmonizing the provisions within a single statutory scheme, where statutes relate to the same subject matter, and are not inconsistent with each other, they should be construed together and harmonized where consistent with their general object and scope.

Proctor v. Wash. Metro. Area Transit Auth., 412 Md. 691, 714-15 (2010) (internal citations and quotations omitted). Therefore, “when two statutes appear to apply to the same situation, this Court will attempt to give effect to both statutes to the extent that they are reconcilable.” *Md.-Nat’l Capital Park & Planning Comm’n v. Anderson*, 395 Md. 172, 183 (2006). Courts will not find an implied repeal unless demanded by irreconcilability or repugnancy. *Harden v. Mass Transit Admin.*, 277 Md. 399, 406-07 (1976).

Two other canons are helpful when seeking to reconcile multiple statutes that related to the same subject matter. First, “[i]t is an often repeated principle that a specific statutory provision governs over a general one. Thus where one statutory provision specifically addresses a matter, and another more general statutory provision also may arguably cover the same matter, the specific statutory provision is held to be applicable and the general provision is deemed inapplicable.” *Schreyer v. Chaplain*, 416 Md. 94, 118 n.12 (2010) (internal quotations and citations omitted). Second, when the General Assembly enacts a specific provision subsequent to a general provision, the later-enacted provision controls. *Prince George’s Cnty. v. Fitzhugh*, 308 Md. 384, 390 n.4 (1987) (citing earlier authority).

Plaintiffs allege that the authority granted to counties in Crim. Law § 4-209(b) to regulate firearms with respect to minors and near a place of public assembly is preempted by four earlier

enacted statutes that more generally address the authority of a county to regulate the possession, transfer, and sale of a regulated firearm. Specifically, Plaintiffs rely upon Pub. Safety §§ 5-104 (preempting a local jurisdiction from regulating the sale of a regulated firearm); 5-133(a) (preempting a local jurisdiction from regulating the possession of a regulated firearm); 5-134(a) (preempting a local jurisdiction from regulating the transfer of a regulated firearm) and 1972 Md. Laws ch. 13 § 6 (an uncodified provision preempting a political subdivision from regulating the wearing, carrying, or transporting of handguns). 2d Am. Compl. ¶¶ 44(a), 93(b), 93(d), and 93(j).

It is readily apparent that these four provisions, generally preempting local regulation of the sale, possession, transfer, and wearing, carrying, or transporting of a firearm, are broader than Crim. Law § 4-209(b)'s narrower grant of authority to local jurisdictions to regulate those same aspects of firearms **with respect to minors and within 100 yards of a place of public assembly**. In other words, Crim. Law § 4-209(b) can (and must) be read exactly as intended and written: an exception to the otherwise general preemption in these other statutes and, of course, a specific exception to the preemption in Crim. Law § 4-209(a).

In addition, Crim. Law § 4-209 was enacted in 1985, after these other statutes were enacted in 1966 and 1972. The Attorney General addressed this very issue—the relationship between the authorization afforded local governments in Art. 27, § 36H (now codified in Crim. Law § 4-209) and the four general firearm preemption statutes Plaintiffs rely upon—when reviewing the County's authority to enact a proposed local law regulating a minor's access to firearms. 76 Md. Op. Att'y Gen. 240 (1991).

Other preemption provisions relating to handguns do not affect the issue, in our opinion. Under Article 27, §§ 442(a) [recodified as **Pub. Safety § 5-104** in 2003 Md. Laws ch. 5] and 445(a) [recodified as **Pub. Safety §§ 5-133, 5-134** in 2003 Md. Laws ch. 5], the State has preempted local regulation of the sale, possession, and transfer of pistols and revolvers. **These provisions were enacted in Chapter 502 of the Laws of Maryland 1966**. Furthermore, Chapter 13 of the Laws of

Maryland **1972** contains an uncodified section preempting local laws regulating the wearing, carrying, or transporting of handguns. *See Montgomery County v. Atlantic Guns, Inc.*, 302 Md. 540, 542, 489 A.2d 1114 (1985).

Customary principles of statutory construction, however, lead us to give effect to the specific and later-enacted authorization for local regulation in § 36H(b), notwithstanding these other preemption provisions. First, where the General Assembly has enacted both a specific and a general statute, and the general statute includes the same subject matter as the more specific, the general statute governs only those cases that do not fall within the provisions of the specific statute. *See Lumberman's Mut. Casualty v. Ins. Comm'r*, 302 Md. 248, 268-69, 487 A.2d 271 (1985) (citing earlier authority). Moreover, when the General Assembly enacts a specific provision subsequent to a general provision, the later-enacted provision controls. *Prince George's County v. Fitzhugh*, 308 Md. 384, 390 n.4, 519 A.2d 1285 (1987) (citing earlier authority).

Under either canon of construction, the specific regulatory authority given local governments under § 36H(b) prevails over more general preemption provisions found elsewhere. Hence, we turn to the task of construing § 36H(b)(1).

76 Md. Op. Att'y Gen. 240, 241 (1991) (emphasis added).

Plaintiffs' reliance upon Pub. Safety § 5-207(a) fares no better. 2d Am. Compl. ¶ 93(c). Pub. Safety § 5-207(a)'s general preemption of the right of a local jurisdiction to regulate the transfer of a rifle or shotgun can easily be reconciled with Crim. Law § 4-209(b)'s more narrow exception permitting local regulation of a handgun, rifle, or shotgun, their ammunition and component parts, with respect to minors and within 100 yards of or in a park, church, school, public building, and other place of public assembly. Although Pub. Safety § 5-207 was enacted in 2021, it is unreasonable to assume, as Plaintiffs do, that the General Assembly intended to repeal, *sub silentio*, the express authority granted to localities in this back handed manner. The General Assembly is presumed to have had, and acted with respect to, full knowledge and information as to prior and existing law and legislation on the subject of the statute and the policy of the prior law. For this reason, another cardinal rule of statutory construction is that courts will not find an implied repeal unless demanded by irreconcilability or repugnancy. *Harden v. Mass Transit*

Admin., 277 Md. 399, 406-07 (1976). Pub. Safety § 5-207(a) and Crim. Law § 4-209(b) are hardly irreconcilable.

Moreover, the County has prohibited the transfer of a rifle or shotgun to a minor, except where the transferor is the minor's parent or instructor, since 1966. Montgomery Cnty. Code § 103-6 (1966). **Ex. G.**²¹ Because "the General Assembly is presumed to be aware of existing local law when it legislates," the legislature's failure to "address the interaction of its statutes with pre-existing local ... laws suggests that it intended no change in the applicability of the local laws." *Ad + Soil, Inc. v. Cty. Comm'rs of Queen Anne's Cty.*, 307 Md. 307, 333 (1986); see also *City of Balt. v. Sitnick*, 254 Md. 303, 322 (1969) ("There is a presumption of statutory construction that the Legislature acts with the knowledge of existing laws on the subject matter under consideration."). As in *Sitnick*, the state law "included no repealer of the [local] law[s] nor, as a matter of fact, the standard clause repealing all inconsistent laws." 254 Md. at 322. This failure to grapple with preexisting local law "is an important factor indicating that there was no intent by the General Assembly to preempt the field." *Nat'l Asphalt Pavement Ass'n, Inc. v. Prince George's Cty.*, 292 Md. 75, 79 (1981). See also *Mayor and Aldermen of City of Annapolis v. Annapolis Waterfront Co.*, 284 Md. 383, 393 (1979). This failure to "mention[]" preexisting local ... ordinances [is] a clear indication that the General Assembly did not intend to preempt these local laws." *Bd. of Child Care of Balt. Annual Conference of the Methodist Church, Inc. v. Harker*, 316 Md. 683, 698 (1989)

B. The State Has Not Impliedly Preempted the Field of Firearms Regulation or the Specific Authority it Granted to Localities in Crim. Law § 4-209(b).

Given that implied preemption is the search for legislative intent to preempt in the absence

²¹ The County more generally prohibited the transfer of a firearm to a minor under the age of 16, except where the transferor is the minor's parent or instructor, since 1955. Montgomery Cnty. Code § 95-6 (1955). **Ex. H.**

of express legislative guidance, application of that doctrine is singularly inappropriate where, as here, State law expressly **authorizes** local regulation of firearms. In other words, this Court should not seek to divine whether the General Assembly intended to preempt the County from regulating firearms, their ammunition, and their component parts with respect to minors and within 100 yards of a place of public assembly when the General Assembly has expressly authorized the County to do just that in Crim. Law § 4-209(b).

Preemption may be implied only if there is “unequivocal conduct of the General Assembly” that “manifest[s] a purpose to occupy exclusively a particular field.” *Bd. of Child Care of Balt. Annual Conference of the Methodist Church, Inc. v. Harker*, 316 Md. 683, 697 (1989). The General Assembly must “act[] with such force that an intent by the State to occupy the entire field must be implied.” *Talbot Cty. v. Skipper*, 329 Md. 481, 488 (1993) (citation omitted); *see also City of Balt. v. Sitnick*, 254 Md. 303, 323 (1969).

The “primary indicia of a legislative purpose to pre-empt an entire field of law is the comprehensiveness with which the General Assembly has legislated the field.” *Allied Vending, Inc. v. City of Bowie*, 332 Md. 279, 299 (1993) (quoting *Skipper*, 329 Md. at 488). In making this assessment, courts may also consider various “secondary factors” in determining whether a local law is impliedly preempted. *See id.* at 299-300.²²

The Appellate Court of Maryland has held that the State’s firearms laws do not impliedly preempt the field of firearm regulation. In *State v. Phillips*, 210 Md. App. 239 (2013), the court concluded that State law did not expressly or impliedly preempt a Baltimore City law requiring

²² These factors include “whether the state laws provide for pervasive administrative regulation”; “whether the state law expressly provides concurrent legislative authority to local jurisdictions or requires compliance with local ordinances”; “whether a state agency ... has recognized local authority to act in the field”; “whether the particular aspect of the field sought to be regulated ... has been addressed by the state legislation”; “whether a two-tiered regulatory process ... would engender chaos and confusion”; whether “some local control has traditionally been allowed”; and “whether local laws existed prior to the enactment of the state laws.” *Allied Vending*, 332 Md. at 299-300.

persons convicted of certain gun offenses in Baltimore City to register with the Police Commissioner. With regard to implied preemption, the court concluded that, although the State has heavily regulated the field of use, ownership, and possession, of firearms, it has not so extensively regulated the field that all local laws relating to firearms are preempted. *Id.* at 280-281. The court quoted 93 Md. Op. Att’y Gen. 126 (2008) (opining that the Baltimore City law was not preempted), where the Attorney General noted that although the State has broadly preempted much local regulation, it has also “enacted specific exceptions to that preemption,” where local regulation is authorized.

The legislature is presumed to know of the Attorney General’s interpretation of its statutes, which can place a gloss on subsequent legislation. *Montgomery Cnty. v. Complete Lawn Care, Inc.*, 240 Md. App. 664, 695 n.29 (2019). As noted above, the Attorney General has twice interpreted the exceptions in Crim. Law § 4-209(b) as permitting local regulation of firearms, notwithstanding other broader express preemption provisions in State firearms laws. Legislative acquiescence in the Attorney General’s interpretation of one of its statutes is a factor in determining legislative will. *Demory Bros. v. Bd. of Public Works of Md.*, 20 Md. Appl. 467, 473 (1974).

This Court cannot conclude that the State has impliedly preempted all local regulation of firearms in light of the express authorization in Crim. Law § 4-209(b) and subsequent confirmatory Attorney General opinions.

C. The Specific Authority the State Granted to Localities to Regulate Firearms in Crim. Law § 4-209(b) Does Not Conflict with Other State Firearms Laws.

Like their preemption argument, Plaintiffs’ conflict argument asks this Court to weigh the

County's Firearms Law against various State firearms laws²³ without accounting for the specific grant of state authority to localities in Crim. Law § 4-209(b). Again, the preemption and conflict analysis might be different if the County was seeking to regulate firearms based solely on its authority under the Home Rule Amendment and the Express Powers Act. But because the County is proceeding from a specific grant of local authority in Crim. Law § 4-209(b), this Court must consider Plaintiffs' argument as alleging a conflict between that specific State grant of local authority and the State firearms laws that Plaintiffs rely upon. All enacted by the same General Assembly, these various State firearms law must be read harmoniously to give purpose and effect to the legislative compromise that Crim. Law § 4-209(b) represents. *Md.-Nat'l Capital Park & Planning Comm'n v. Anderson*, 395 Md. 172, 183 (2006). Courts will not find an implied repeal unless demanded by irreconcilability or repugnancy. *Harden v. Mass Transit Admin.*, 277 Md. 399, 406-07 (1976).

1. Reading the State's firearms laws in harmony, the authority granted to localities in Crim. Law § 4-209 does not conflict with the State firearms laws cited by Plaintiffs.

Starting with Crim. Law § 4-209, there is nothing in its or its legislative history to support the Plaintiff's argument that the State intended the authority it granted to localities should be limited by other State firearms laws. Indeed, the text of § 4-209(b) would indicate the exact opposition. It explicitly invites localities to regulate the purchase, sale, transfer, ownership, possession, and transportation of a handgun, rifle, or shotgun (their ammunition and their components) with respect to minors and within 100 yards of or in a park, church, school, public building, and other place of public assembly. And although the General Assembly took care in

²³ Plaintiffs allege that the County Firearms Law, and by extension its undergirding authority in Crim. Law § 4-209(b), conflicts with the following provisions of State law: Pub. Safety §§ 5-133(d), 5-702, and 5-703; and Crim. Law §§ 4-104 and 4-203(b)(3), (5), (6), & (7). See 2d Am. Compl. ¶¶ 93(e), (f), (g), (h), (i), (k), (l), (m), (n), and (o).

§ 4-209 to list several exceptions to this grant of local authority²⁴ that list does **not** include exceptions for any of the State firearms laws cited by the Plaintiffs. The State Legislature could have easily accomplished this if it wanted (*e.g.*, “except where otherwise prohibited” or “subject to the limitations elsewhere in this subtitle”).

That omission is consistent with the legislative history of Crim. Law § 4-209 discussed above, which reveals that the General Assembly § 4-209 enacted to permit localities to pursue further and additional regulation of firearms with respect to minors and within 100 yards of or in a park, church, school, public building, and other place of public assembly. section 4-209 was the result of a political compromise intended to preserve beneficial local laws that might be deemed inconsistent with State firearms laws. Thus, as the Attorney General concluded: “The effect of the compromise is that local governments may regulate to whatever extent they consider appropriate for the protection of the public, so long as they do so only in the areas identified in § 36H(b) [Crim. Law § 4-209(b)].” 76 Md. Op. Att’y Gen. 240, 247 (1991).

All the State firearms statutes can be read in harmony, avoiding a strained reading that, contrary to accepted canons of statutory interpretation, would render nugatory the grant of authority in Crim. Law 4-209(b). This authority granted to localities can and must be read as an exception to the other state firearms laws, permitting local regulation within the areas described in Crim. law § 4-209. The County Firearms Law cannot conflict with the State firearms laws cited by Plaintiffs because it was enacted pursuant to an explicit exception allowing for local regulation.

2. There is no conflict even under traditional conflict analysis.

“The crux of conflict preemption is that a political subdivision may not prohibit what the

²⁴ A locality may not prohibit (1) the teaching or training in firearms safety, or other educational or sporting use of firearms; (2) the transportation of a firearm by a person who is carry a court order to surrender the item under certain conditions; (3) the discharge of firearms at established ranges).

State by general public law has permitted, but it may prohibit what the State has not **expressly** permitted. Conflict preemption occurs when a local law prohibits an activity which is intended to be permitted by state law, or permits an activity which is intended to be prohibited by state law.” *Montgomery Cty. v. Complete Lawn Care, Inc.*, 240 Md. App. 664, 688 (2019) (emphasis in original) (internal quotations and citations omitted). Maryland courts have thus long followed the concurrent powers doctrine, committed to the principle that “[a]dditional regulation by [a local] ordinance does not render [the local ordinance] void” even though the state may have enacted statutes regulating a field. *Rosberg v. State*, 111 Md. 394 (1909) (citation omitted); accord *E. Tar Prods. Corp. v. State Tax Comm’n of Maryland*, 176 Md. 290, 296-97 (1939) (observing that a local law requiring “more than the [state] statute requires creates no conflict”).

Historically, Maryland has employed two tests to determine whether state law conflict preempts local law: the functional test and the verbal test. Under the functional test, a local law is not conflict preempted if it advances, or is consistent with, the state law’s purposes.²⁵ See *Mayor & City Council of Balt. v. Hart*, 395 Md. 394, 409 (2006); *Caffrey v. Dep’t of Liquor Control for Montgomery Cty.*, 370 Md. 272, 306-07 (2002) (citing *Mayor & Aldermen of City of Annapolis v. Annapolis Waterfront Co.*, 284 Md. 383, 393 (1979) (“Municipalities are free to provide for additional standards and safeguards in harmony with concurrent state legislation.”)). Under the verbal test, a local law is conflict preempted if it prohibits conduct that the state law expressly permits. *City of Balt. v. Sitnick*, 254 Md. 303, 317 (1969).

In 2006, the Court of Appeals indicated in *Hart* that the functional test has “tak[en] priority over the verbal test under the conflict rule.” 395 Md. at 409 (quoting J. Scott Smith, *State and Local Legislative Powers: An Analysis of the Conflict and Preemption Doctrines in Maryland*, 8

²⁵ But a local law is not in conflict with state law merely because it would frustrate some underlying state purpose. *Complete Lawn Care, Inc.*, 240 Md. App. at 688.

U. Balt. L. Rev. 300, 308-09 (1979)). Regardless of which test is employed, Bill 4-21 does not conflict with state law.

A decision upholding the County Firearms Law is in keeping with a century-long line of Court of Appeals' decisions upholding local laws that advanced, or were consistent with, the purposes of Maryland law. In a 1909 case, the Court of Appeals upheld a local law prohibiting the sale of cocaine and imposing harsher penalties than Maryland law because "further and additional penalties may be imposed by [local law], without creating inconsistency." *Rossberg v. State*, 111 Md. 394 (1909). And in 1922, the Court of Appeals upheld a local law exempting emergency vehicles from yielding, even though a state law required them to do so, because "it was not the purpose of the municipality to derogate in any respect from the general rule laid down by the [General Assembly], but only to grant certain priorities when human life might be at stake." *State v. Brown*, 142 Md. 27 (1922).

In 1969, the Court of Appeals upheld a local law setting a higher minimum wage within the locality than did state law because the locality sought to achieve the same goal as the state—prohibiting the payment of substandard wages. *Sitnick*, 254 Md. at 307, 321 (citation omitted). In 1979, the Court upheld a city charter provision permitting port wardens to consider environmental factors when approving wharf construction as consistent with state law, even though state law did not list those factors as considerations, because the purpose of both laws was to allow port wardens to regulate construction on the waterways. *Annapolis Waterfront Co.*, 284 Md. at 392. Finally, in 2006, the Court of Appeals upheld a local law requiring emergency vehicles to stop at red traffic signals, even though state law permitted them to proceed after slowing down, because the local law advanced the state law's underlying safety purposes. *Hart*, 395 Md. at 409-10.

The plain text of Crim. law § 4-209, confirmed by its legislative history, reveals that,

notwithstanding other State firearms laws, localities can regulate firearms so long as they do so with respect to minors and within 100 yards of a place of public assembly. Plaintiffs' reliance upon these alleged conflicting State firearms laws is misplaced for additional reasons.

Crim. Law § 4-203(a) sets out the general prohibition against wearing, carrying, or transporting a handgun on or about the person or in a vehicle. Subsection (b) sets out a variety of exceptions (including having a permit to carry, wear, or transport) and Plaintiffs assert that the authority for the County Firearms Law in Crim. Law § 4-209 conflicts some of those exceptions.²⁶

First, Plaintiffs' argument is based upon their overbroad reading of the Bill's definition of a "place of public assembly" as encompassing the totality of Montgomery County. As already discussed above, the County Firearms Law's definition of a place of public assembly is coextensive with the definition in Crim. Law § 4-209(b). The County has exercised this grant of state authority, prohibiting the selling, transferring, possession, or transporting of a handgun, rifle, or shotgun, their ammunition and component parts, in or within 100 yards of a place of public assembly since 1997. *See* 1997 Laws Montgomery Cnty. ch. 14 (Bill 4-97). **Ex. F.**

Second, as with most of the preemption provisions cited by Plaintiffs, the specific and later-enacted authorization for local authority in Crim. Law § 4-209 governs over the earlier enacted Crim. Law § 4-203. The General Assembly enacted Crim. Law § 4-203 in 1972, as Art. 27, § 36B. *See* 1972 Md. Laws ch. 13 (which, as noted above, included the uncodified preemption language regarding local regulation of the wearing, carrying, or transporting of handguns). Crim. Law § 4-

²⁶ § 4-203(b)(3) (carrying a handgun on the person or in a vehicle when traveling between certain destinations if the handgun is unloaded and carried in an enclosed case or enclosed holster); § 4-203(b)(5) (a bona fide gun collector's movement of a handgun when travelling between certain destinations if the handgun is unloaded and carried in an enclosed case or enclosed holster); § 4-203(b)(6) (wearing, carrying, or transporting a handgun on real estate that a person owns or leases where the person resides or within the confines of a business establishment that the person owns or leases); and § 4-203(b)(7) (wearing, carrying, or transporting a handgun by a supervisory employee in the course of employment, within the confines of the business establishment in which the supervisory employee is employed, and when so authorized by the owner or manager).

209 was enacted later, in 1985.

Crim. Law § 4-104(c) provides that a person may not store or leave a loaded firearm in a location where the person knew or should have known that an unsupervised minor has access to the firearm.²⁷ Subsection (b) sets forth a number of exceptions, including when the minor’s access is supervised by an adult. Similarly, **Pub. Safety § 5-133(d)** prohibits a person who is under the age of 21 year from possessing a regulated firearm²⁸ except when under the supervision of an adult with a parent’s permission. The County Firearms Law has a similar provision and exception, Montgomery County Code § 57-7(a), but Plaintiffs complaint that that exception does not include a ghost or undetectable gun. *See* Montgomery County Code § 57-7(c) through (e). Again, the County Firearms Law cannot conflict with these State law provisions because it does exactly what Crim. Law § 4-209(b) permits it to do—regulate firearms with respect to minors.

Relying upon the authority granted in Crim. Law § 4-209(b), the Maryland Attorney General has (twice) approved County firearms legislation that, using Plaintiffs’ analysis, conflicted with State firearms laws. In 1991 (Bill 42-91) and again in 1997 (Bill 11-97), the County proposed trigger lock laws. Bill 42-91 would have prohibited any person from leaving a loaded firearm, or an unloaded firearm near ammunition, in any location where the person knows or reasonably should know that an unsupervised person under the age of 18 may gain access to the firearm. This prohibition did not apply if (among other exceptions) the firearm is in a locked gun cabinet or secured with a trigger lock. The bill also required firearms dealer to offer to sell or give a trigger lock to any buyer.²⁹ Bill 11-97 (1) prohibited gun dealers from selling, leasing, or transferring a

²⁷ To further prevent youth firearms suicides the General Assembly enacted SB 858 (“Jaelynn’s Law”), 2023 Md. Laws ch. 622, amending Crim. Law § 4-104. This occurred after Plaintiffs filed their Second Amended Complaint. This Motion describes Crim. Law § 4-104 as amended, effective October 1, 2023.

²⁸ A regulated firearm includes a handgun. Pub. Safety § 5-101(r).

²⁹ The bill was never enacted.

handgun without selling or providing a trigger lock and (2) required gun dealers to post conspicuous notice describing the trigger lock sale requirement and other information.³⁰ In two separate published opinions, the Maryland Attorney General concluded that each of these then proposed bills was a permissible local regulation of firearms with respect to minors and therefore supported by Crim. Law 4-209(b). 76 Md. Op. Att’y Gen. 240, 247 (1991) (“local legislation like Bill No. 42-91, dealing with minors’ access to firearms is squarely within the exception cared out in § 36H(b)(1) [Crim. Law § 4-209(b)(1)]”; 82 Md. Op. Att’y Gen. 84, 84 (“this local regulation [Bill 11-97] is authorized under State law [because it] is related to minors’ access to firearms”). The Attorney General reached this conclusion even though **State firearms laws did not impose a similar requirement**. Indeed, the State did not enact a trigger lock law until three years later, in 2000. Art 27 § 442C(c) & (d) [2000 Md. Laws ch. 2], presently codified in Pub. Safety § 5-132. Thus, even if viewed as in conflict with existing State firearms laws, the County’s trigger lock laws were valid legislative enactments under Crim. Law § 4-209(b).

Pub. Safety §§ 5-701 through 5-706 (“the State ghost gun law”). In response to the increasing number of ghost guns recovered by law enforcement, last year the General Assembly enacted Senate Bill 387 (2022 Md. Laws ch. 19) and House Bill 425 (2022 Md. Laws ch. 18). The bills are identical. Consistent with new federal firearms regulations, 87 Fed. Reg. 24652-24749 (eff. Aug. 24, 2022), this new state law expands the definition of “firearm” to include an unfinished frame or receiver and thereby closes the loophole that allowed unlicensed individuals to sell “do-it-yourself” unserialized (ghost) guns without a background check. These unfinished frames or receivers will be subject to the same rules applicable to other firearms.

Effective June 1, 2022, the State ghost gun law prohibits a person from purchasing,

³⁰ Bill 11-97 is now codified as Montgomery County Code § 57-8.

receiving, selling, offering to sell, or transferring an “unfinished frame or receiver” or a firearm unless it is serialized by a federal firearms licensee. Pub. Safety § 5-703(a). The term “firearm” is broadened to include an “unfinished frame or receiver,” Pub. Safety § 5-101(h)(iii), which in turn is defined as an article that “has reached a stage in manufacture where it may readily be completed, assembled, or converted to be used as the frame or receiver of a functional firearm.” Pub. Safety § 5-701(h). This definition is consistent with the new federal firearms regulations.

Effective March 1, 2023, a person must not possess a firearm (now including an unfinished frame or receiver) unless it is either serialized in accordance with federal law or imprinted with the owner’s zip code, initials, and another unique number, and then registered with the State Police. Pub. Safety § 5-703(b)(2). A person who either receives an unserialized firearm through inheritance or manufactures an unserialized firearm without the use of any prefabricated parts, has 30 days to have that firearm serialized.

Putting aside that the County Firearms Law Crim. Law § 4-209(b) (which should end the argument altogether), the County Firearms Law advances the goal of the State ghost gun law—eliminating the dangers posed by unserialized ghost guns. State ghost gun law attacks the problem directly by requiring those guns to be serialized and treated like other firearms. The County Firearms Law does this by regulating those remaining unserialized guns with respect to minors and within 100 yards of or in a place of public assembly. As discussed below, the General Assembly identified the County Firearms Law as complementary local legislation when it was considering State ghost gun law.

Neither does County Firearms Law conflict with State ghost gun law under the verbal test. Even explicit state statutory exemptions permitting specific conduct have not been interpreted by Maryland courts as express permission—demonstrating the high degree of verbal conflict

necessary to preempt local law. For example, the Court of Appeals has held that Maryland employment laws, which exempt some employers from state non-discrimination laws, do not prevent local governments from imposing their own non-discrimination requirements on the very employers the state exempts. *Nat'l Asphalt Pavement Ass'n, Inc. v. Prince George's Cty.*, 292 Md. 75, 79 (1981) (upholding local blanket non-discrimination prohibition despite a state exemption for employers with fewer than 15 employees); *Montrose Christian School Corp. v. Walsh*, 363 Md. 565, 581 (2001) (likewise for religious entities). The Court reasoned that the exempted employers were “not permitted by the statute to discriminate in their employment practices; they simply [were] not covered.” *Nat'l Asphalt Pavement Ass'n, Inc.*, 292 Md. at 79.

There is no verbal conflict here. The County Firearms Law does not address the licensing of firearms dealers, the serialization of firearms, or the necessity of a background check. The County Firearms Law regulates ghost and undetectable guns with respect to **minors** and within 100 yards of or in a **place of public assembly**, precisely as authorized by the General Assembly.

In addition, the General Assembly explicitly acknowledged preexisting County Firearms Law regulating ghost and undetectable guns and chose not to revisit the grant of local authority in Crim. Law § 4-209(b)(1). As discussed earlier, because “the General Assembly is presumed to be aware of existing local law when it legislates,” the legislature’s failure to “address the interaction of its statutes with pre-existing local ... laws suggests that it intended no change in the applicability of the local laws.” *Ad + Soil, Inc. v. Cty. Comm'rs of Queen Anne's Cty.*, 307 Md. 307, 333 (1986). As in *City of Balt. v. Sitnick*, 254 Md. 303 (1969), the State ghost gun law “included no repealer of the [local] law[s] nor, as a matter of fact, the standard clause repealing all inconsistent laws.” 254 Md. at 322.

In his oral testimony supporting HB 425 before the House Judiciary Committee, the County

Executive made explicit reference to the County’s recent enactment of County Bill 4-21³¹ and noted that, although the law was under challenge (*i.e.*, this lawsuit), the County was “energized” by momentum in Annapolis on ghost guns.³²

The County submitted written testimony in support of both SB 387 (**Ex. I**) and HB 425 (**Ex. J**), noting the increasing number of ghost guns being recovered by law enforcement officials in the County and the use of ghost guns in some recent County shootings.³³ The Senate Judicial Proceedings Committee Floor Report (**Ex. N**), as well as the Department of Legislative Services Fiscal Notes that accompanied SB 387 (**Ex. O**) and HB 425 (**Ex. P**) reveal that, like the County Firearms Law, the state bills were intended to address the increasing number of unserialized ghost guns recovered by law enforcement. And they also noted complementary local legislation that has been enacted to address the problem, including the County Firearms Law (“In Maryland, Montgomery County passed legislation in April 2021 to restrict the access of privately made firearms to minors and in places of public assembly within the county.”).³⁴

³¹ The County Executive’s testimony, available on the General Assembly website, begins around 1:06:53. https://mgaleg.maryland.gov/mgawebsite/Committees/Media/false?cmte=jud&ys=2022RS&clip=JUD_2_9_2022_meeting_1&url=https%3A%2F%2Fmgahouse.maryland.gov%2Fmga%2Fplay%2F9205a485-2ac3-4674-bfe0-a1a38317bad2%2F%3Fcatalog%2F03e481c7-8a42-4438-a7da-93ff74bdaa4c%26playfrom%3D3215343.

³² The County Executive also testified in support of SB 387 before Senate Judicial Proceedings Committee. https://mgaleg.maryland.gov/mgawebsite/Committees/Media/false?cmte=jpr&ys=2022RS&clip=JPR_2_16_2022_meeting_1&url=https%3A%2F%2Fmgahouse.maryland.gov%2Fmga%2Fplay%2F8abc56e-c69e-41ba-ba75-3485182db38f%2F%3Fcatalog%2F03e481c7-8a42-4438-a7da-93ff74bdaa4c%26playfrom%3D9760051.

³³ The County’s Victim Services Advisory Board also supported SB 387. **Ex. K**. The attached witness sign-up sheets, printed from the General Assembly’s website, also evidence the receipt of this written and oral testimony for SB 387 (**Ex. L**) and HB 425 (**Ex. M**) (highlighting added to identify County speakers).

³⁴ Finally, in response to the Supreme Court’s decision in *N.Y. St. Rifle & Pistol Assoc., Inc. v. Bruen*, 142 S. Ct. 2111 (2022), the General Assembly enacted two bills after Plaintiffs filed their Second Amended Complaint. While the County will not refute arguments that have not, and may not, be made by the Plaintiffs, it will briefly describe that legislation here. The first, HB 824, 2023 Md. laws ch. 651, repeals the requirement that an applicant for a permit to wear, carry, or transport a handgun have a “good and substantial reason” to be issued a permit, and instead expands the list of offenses and other circumstances that would disqualify an applicant from obtaining a permit and increases the required firearms training to obtain a permit. The second, SB 1, 2023 Md. Laws ch. 680, clarifies that a permit to wear, carry, or transport a handgun is, with certain exceptions, limited to “concealed” carry; prohibits a person from carrying a firearm on to another’s property without the property owner’s express permission; and prohibits a person

The County Firearms Law is not in conflict with, State law. The County asks that this Court issue a declaration to that effect.

III. COUNT III: MARYLAND TAKINGS CLAUSE - THE COUNTY FIREARMS LAW IS A LAWFUL EXERCISE OF MONTGOMERY COUNTY’S POLICE POWERS

In Count III of the Second Amended Complaint, the Plaintiffs claim that the County Firearms Law is a taking without just compensation under Article III, § 40 of the Maryland Constitution and the Due Process Clause, Article 24 of the Maryland Declaration of Rights.

A. The Restrictions of the County Firearms Law Do Not Amount to a Taking.

The County Firearms Law does not amount to a taking without just compensation under Article III, § 40 of the Maryland Constitution and the Due Process Clause, Article 24 of the Maryland Declaration of Rights.

Article III, § 40 of the Maryland Constitution states:

The General Assembly shall enact no Law authorizing private property, to be taken for public use, without just compensation, as agreed upon between the parties, or awarded by a Jury, being first paid or tendered to the party entitled to such compensation.

Article 24 of the Maryland Declaration of Rights states:

That no man ought to be ... disseized of his freehold, liberties or privileges ... or deprived of his life, liberty or property, but by the judgment of his peers, or by the Law of the land.

The federal analog, contained within the Fifth Amendment,³⁵ states:

from carrying a firearm in certain sensitive locations, such as an area for children or vulnerable individuals, a government or public infrastructure area, or a “special purpose area.” Neither of these bills limits, or makes any reference, to the authority the State granted to localities in Crim. Law § 4-209(b). Plaintiff MSI and others are challenging SB 1 in two separate lawsuits pending in the United State District Court for the District of Maryland. *Novotny, et al. v. Moore, et. al.*, 1:23-cv-01295-RDB (D. Md. filed May 16, 2023) (includes Plaintiff MSI); *Kipke, et al. v. Moore, et al.*, 1:23-cv-01293-GLR (D. Md. filed May 16, 2023).

³⁵ “The decisions of the Supreme Court are practically direct authorities for the Fifth and Fourteenth Amendments to the United States Constitution and Article III, § 40, of the Maryland Constitution” *Niefert v. Dep’t of the Envir.*, 395 Md. 486, 518 (2006) (internal quotations omitted); see also *Dep’t of Trans. v. Armacost*, 299

No person shall be ... deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Plaintiffs argue that under Maryland's Taking Clause and Due Process Clause, "[n]o matter how 'rational' under particular circumstances, the State is constitutionally precluded from abolishing a vested property right or taking one person's property **and giving it to someone else.**" Sec. Am. Compl. ¶ 98 (quoting *Dua v. Comcast Cable of Maryland, Inc.*, 370 Md. 604, 623 (2002))(emphasis added). This argument misapprehends the holding of *Dua*³⁶ and ignores the police powers granted to the State and charter counties like the Defendant.³⁷

B. Montgomery County May Exercise Its Police Powers to Restrict Possession and Use of Firearms and Related Equipment.

As noted above, Montgomery County is a charter county and as such enjoys broad authority to legislate. *Tyma v. Montgomery Cnty.*, 369 Md. 497, 511 (2002) (Express Powers Act is broadly construed to permit charter counties to legislate beyond the powers expressly enumerated in the Express Powers Act). This grant of powers provides charter counties with a general police power to enact ordinances for the public good as long as the ordinances are not preempted by and do not conflict with other laws of the State. *Snowden v. Anne Arundel County*, 295 Md. 429, 432-33 (1983); *Prince Geo's Co. v. Chillum-Adelphi*, 275 Md. 374, 382 (1975); *Montgomery League v. Greenhalgh*, 253 Md. 151, 160-61 (1969).

Md. 392, 420 (1984).

³⁶ The quoted portion of *Dua* is inapposite because the County Firearms Law does not empower the County to confiscate any firearm and give them to someone else and also because Plaintiffs do not have a vested property interest in the continuous ownership and possession of a highly regulated piece of personal property. Furthermore, the County Firearms Law is not retroactive because the proscribed conduct at issue takes place in the future. Only potential future conduct of related to possession of firearms in the presence of minors and in certain places of public assembly will amount to a violation of the County Code. Plaintiffs' prior purchase and possession of firearms remains legal and beyond the scope of the County Firearms Law, as does continued possession of those items outside of the presence of minors and outside of places of public assembly.

³⁷ As a threshold issue, the holding in *Dua* pertained to excessive late fees charged by a cable television provider to its subscribers and is not analogous to the dispute in the present case. *Dua* at 610 -611.

In *Montgomery Citizens League v. Greenhalgh*, the Court of Appeals recognized that the purpose of Article XI-A of the Maryland Constitution was to transfer local lawmaking powers from the state legislature to county governments thereby giving the county council full legislative power to enact local laws on all matters covered by the express grant of powers granted by the Express Powers Act pursuant to Art. XI-A, § 2. *Greenhalgh*, 253 Md. 159-60. Thus, where the County’s regulations passed pursuant to its police powers do not contravene state or federal law, the County has properly exercised the police powers delegated to it by the State.

C. The County Firearms Law is *Per Se* Not a Taking because the County is Authorized to Impose a Regulatory Burden on Personal Property.

The state’s interest in “the protection of its citizenry and the public safety is not only substantial, but compelling.” *Kolbe v. Hogan*, 849 F.3d 114, 139 (4th Cir. 2017) (*en banc*). The Supreme Court has routinely upheld property regulations, even those that “destroy[.]” a recognized property interest, where a state “reasonably concluded that the health, safety, morals, or general welfare” would be advanced. *Penn Cent. Transp. Co. v. New York City*, 438 U.S. 104, 125 (1978); see also *Mugler v. Kansas*, 123 U.S. 623, 668 (1887) (“A prohibition . . . upon the use of property for purposes that are declared, by valid legislation, to be injurious to the health, morals, or safety of the community, cannot, in any just sense, be deemed a taking . . .”). As the Supreme Court has stated, “[G]overnment regulation -- by definition -- involves the adjustment of rights for the public good. Often this adjustment curtails some potential for the use or economic exploitation of private property. To require compensation in all such circumstances would effectively compel the government to regulate by purchase.” *Andrus v. Allard*, 444 U.S. 51, 65 (1979)

The Supreme Court’s takings cases distinguish between two types of takings: (1) physical appropriation of private property and (2) regulatory burdens on private property. See *Murr v. Wisconsin*, 137 S. Ct. 1933, 1942-43 (2017) (discussing the distinct types of takings cases).

Plaintiffs herein allege a regulatory burden on their property, and not a physical appropriation, because the County Firearms Law does not confiscate any type of firearm. Instead, the County Firearms Law merely regulates the possession and use of firearms, including certain defined ghost guns, in the presence of a minor and within 100 yards of a place of public assembly. While the County Firearms Law places certain regulations firearms, it does not ban them.

Unlike physical takings cases, regulatory takings cases distinguish between real property³⁸ and personal property when determining whether compensation is owed. With regard to personal property, the Supreme Court has explained that “by reason of the State’s traditionally high degree of control over commercial dealings, [the owner of personal property] ought to be aware of the possibility that new regulation might even render his property economically worthless” *Lucas v. South Carolina Coastal Council*, 505 U.S. 1003, 1027-28 (1992); *see also Horne v. Department of Agric.*, 135 S. Ct. 2419, 2427 (2015) (reiterating the “different treatment of real and personal property in a regulatory case” as articulated in *Lucas*).

The Fourth Circuit has held that even outright bans of personal property, much less the targeted restrictions of the County Firearms Law, do not amount to a taking where the state exercises its police power for the benefit of the health, safety, and welfare of its citizens. In *Holliday Amusement Co. of Charleston, Inc. v. South Carolina*, 493 F.3d 404 (4th Cir. 2007), the Fourth Circuit held that South Carolina’s complete ban on the possession or sale of certain gambling machines, which had previously been legal to possess and sell, was not a taking, even

³⁸ With regard to real property, “a property owner necessarily expects the uses of his property to be restricted, from time to time, by various measures newly enacted by the State in legitimate exercise of its police powers,” but this “‘implied limitation’” does not permit the state to “subsequently eliminate all economically valuable use” of land. *Lucas*, 505 U.S. at 1027 (quoting *Pennsylvania Coal Co. v. Mahon*, 260 U.S. 393, 413 (1922)). “A ‘taking’ may more readily be found when the interference with property can be characterized as a physical invasion by government, than when interference arises from some public program adjusting the benefits and burdens of economic life to promote the common good.” *Penn Central Transp. Co. v. City of New York*, 438 U.S. at 124. “Government hardly could go on if to some extent values incident to property could not be diminished without paying for every such change in the general law” *Id.*

though as a result of the newly-enacted law, the machines “lost all market value” and the owner’s “business [selling the machines] became worthless.” *Id.* at 406. Relying on *Lucas*, the Fourth Circuit reiterated that “the owner of any form of personal property must anticipate the possibility that new regulation might significantly affect the value of his business,” particularly “in the case of a heavily regulated and highly contentious activity” *Id.* at 411 (citing *Lucas*, 505 U.S. at 1027-28). Critically here, the *Holliday* Court held that regulations for the public good in heavily regulated fields like video gambling and production of alcohol “*per se* do not constitute takings, **and thus analysis under existing takings frameworks is unnecessary.**” *Id.* n. 2 (emphasis added)³⁹ Similar to the Fourth Circuit’s ruling in the *Holliday* case, Plaintiffs takings claims here are “tenuous at best.” *Id.* at 405.

It is incontrovertible that firearms are some of the most highly regulated items of personal property. Much like the owners and sellers of gambling machines in *Holliday*, the owners and sellers of firearms have no reasonable expectation that states or counties will not place restrictions on the possession and other use of those firearms—particularly with respect to minors and places of public assembly. Therefore, according to the holding of *Holliday*, the County Firearms Law is *per se* not a taking and no further analysis is required.

Relying extensively on *Holliday*, the Fourth Circuit recently rejected lead Plaintiff Maryland Shall Issue, Inc.’s (MSI) challenge to Senate Bill 707 (2018), now codified at CL §§ 4-301, 4-305.1, 4-306, prohibiting possession of “rapid fire trigger devices.” See *Md. Shall Issue v.*

³⁹ In the context of regulatory takings, as opposed to physical appropriation, the Court often makes factual inquiries “designed to allow careful examination and weighing of all the relevant circumstances.” *Murr*, 137 S. Ct. at 1942 (quoting *Tahoe-Sierra Pres. Council, Inc. v. Tahoe Reg’l Planning Agency*, 535 U.S. 302, 322 (2002)). The Court has articulated “a complex of factors” to guide courts, including “(1) the economic impact of the regulation on the claimant; (2) the extent to which the regulation has interfered with distinct investment-backed expectations; and (3) the character of the governmental action.” *Murr*, 137 S. Ct. at 1943 (citing *Palazzolo v. Rhode Island*, 533 U.S. 606, 617 (2001)). “A central dynamic of the Court’s regulatory takings jurisprudence . . . is its flexibility.” *Murr*, 137 S. Ct. at 1943. Because Plaintiffs’ allegations here are *per se* not a taking, the analysis described in *Murr* is not necessary.

Hogan, 963 F.3d 356 (4th Cir. 2020). In *Md. Shall Issue v. Hogan*, MSI filed suit against the governor of Maryland challenging the constitutionality of Senate Bill 707 ("SB-707"). *Id.* at 359. SB-707 made it unlawful for any person to "manufacture, possess, sell, offer to sell, transfer, purchase, or receive a rapid-fire trigger activator," or to "transport" such a device into Maryland. *Id.* The Fourth Circuit affirmed the district court's holding that MSI did not have organizational standing to pursue these claims on its own behalf and otherwise failed to state a claim. *Id.* at 359. Relying upon near-identical arguments that it has offered in the present case, MSI argued that SB 707 ran afoul of the Takings Clause because the law was "tantamount to a direct appropriation of . . . personal property." *Id.* at 365. The Fourth Circuit disagreed, finding that although the ban "may make the personal property economically worthless," it did not constitute a direct appropriation because it did "not require owners of rapid-fire trigger activators to turn them over to the Government or to a third party." *Id.* at 366. As in *Md. Shall Issue v. Hogan*, the County Firearms Law does not require Plaintiffs to turn over firearms to the Government or to a third party. On this basis alone, Count III should be dismissed.

Furthermore, Plaintiffs flawed reliance on *Serio v. Balt. Cty.*, undermines their own arguments and highlights the critical distinction between physical appropriation of firearms (as in *Serio*) and regulatory burdens on firearms (in the present case). Sec. Am. Compl. ¶ 98, *Serio v. Balt. Cty.*, 384 Md. 373, 377 (2004). In *Serio v. Balt. Cty.*, Baltimore County seized firearms of a suspected felon-in-possession and failed to return them even though the criminal suspect was never charged as a felon-in-possession. *Id.* at 377. Baltimore County agreed it had no basis to institute forfeiture proceedings of the firearms and the Supreme Court of Maryland held that Baltimore County had no basis to retain the firearms. *Id.* Here, the County Firearms Law does not physically appropriate firearms.

The County Firearms Law is even further removed from a taking because it does not even ban possession of firearms, much less require them to be turned over to the government or a third party as required by the Fourth Circuit in *Md. Shall Issue v. Hogan*. Instead, the County Firearms Law merely places restrictions upon the use and transport of firearms in certain locations and with respect to minors. The County Firearms Law does not amount to a taking without just compensation under Article III, § 40 of the Maryland Constitution and the Due Process Clause, Article 24 of the Maryland Declaration of Rights. The County requests that this Court enter a declaration to that effect.

CONCLUSION

For all of the foregoing reasons, Defendant Montgomery County respectfully requests that this Honorable Court dismiss Plaintiff Maryland Shall Issue, grant its Motion for Summary Judgment, enter summary judgment in its favor, and declare that:

Count I: Bill 4-21 is a valid local law under Md. Const. Art. XI-A (the Home Rule Amendment);

Count II: Bill 4-21 is authorized by, and not preempted by or in conflict with, State law; and

Count III: The restrictions of Bill 4-21 are *per se* not a taking and Bill 4-21 was properly enacted pursuant to the County's police powers.

Respectfully submitted,

JOHN P. MARKOV'S
COUNTY ATTORNEY

/s/ Edward B. Lattner
Edward B. Lattner, Chief
Division of Government Operations
edward.lattner@montgomerycountymd.gov
CPF ID No. 8612300002

/s/ Erin B. Ashbarry
Erin B. Ashbarry
Associate County Attorney
erin.ashbarry@montgomerycountymd.gov
CPF ID No. 9912160001

/s/Matthew H. Johnson
Matthew H. Johnson
Associate County Attorney
CPF ID# 0606130153
matthew.johnson3@montgomerycountymd.gov
Attorneys for Defendant
101 Monroe Street, Third Floor
Rockville, Maryland 20850-2540
240-777-6700

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 5th day of June 2023, a copy of the foregoing was electronically served through the MDEC to:

Mark W. Pennak
Maryland Shall Issue, Inc.
9613 Harford Rd., Ste. C #1015
Baltimore, MD 21234-21502
mpennak@marylandshallissue.org

/s/ Edward B. Lattner
Edward B. Lattner, Chief

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

MARYLAND SHALL ISSUE, INC., <i>et al.</i> ,	*	
	*	
Plaintiffs	*	
	*	
v.	*	Case No.: 485899V
	*	
MONTGOMERY COUNTY, MARYLAND	*	
	*	
Defendant	*	

ORDER

Upon consideration of the Defendant’s Motion for Summary Judgment on the Second Amended Complaint, any opposition or replies thereto, and any oral argument thereon, it is this _____ day of _____, 2023, by the Circuit Court for Montgomery County, Maryland,

ORDERED that Defendant’s Motion for Summary Judgment on the Second Amended Complaint be and hereby is GRANTED; and it is further,

ORDERED that judgment be and hereby is ENTERED in favor of Defendant Montgomery County, Maryland as to Count I, Count II, and Count III of the Second Amended Complaint; and it is further,

DECLARED, ADJUDICATED, and DECREED, that:

Count I: The County Firearms Law, as amended by Bills 4-21 and 21-22E, is a valid local law under Md. Const. Art. XI-A (the Home Rule Amendment);

Count II: The County Firearms Law, as amended by Bills 4-21 and 21-22E, is authorized by, and not preempted by or in conflict with, State law; and

Count III: The County Firearms Law, as amended by Bills 4-21 and 21-22E, 21 is not a taking and was properly enacted pursuant to the County’s police powers.

Judge, Circuit Court for
Montgomery County, Maryland

cc: all parties of record

Chapter 57. Weapons.

*Editor's note—2022 L.M.C., ch. 36, §§3 and 4, state: Sec. 3. Severability. If any provision of this Act, or any provision of Chapter 57, is found to be invalid by the final judgment of a court of competent jurisdiction, the remaining provisions must be deemed severable and must continue in full force and effect.

Sec. 4. This Act and Chapter 57 must be construed in a manner that is consistent with regulations of the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives, including 87 FR 24652 (effective August 24, 2022), as amended.

Cross references-Furnishing weapons to citizens during emergencies, § 2-15; special zoning requirements for rifle, pistol or skeet shooting ranges, §§ 59-G-2.51, 59-G-2.52.

State law references-Carrying weapons, Ann. Code of Md., art. 27, § 36 et seq.; sale, etc., of switchblade knives, Ann. Code of Md., art. 27, § 339; machine guns, Ann. Code of Md., art. 27, §§ 372-383; pistols, Ann. Code of Md., art. 27, §§ 441-448.

§ 57-1. Definitions.

§ 57-2. Firearm Safety Committee.

§ 57-3. Change in urban area boundary.

§ 57-4. Discharge of guns in the urban area.

§ 57-5. Discharge of guns outside the urban area.

§ 57-6. Discharge of bows.

§ 57-7. Access to guns by minors.

§ 57-8. Child safety handgun devices and handguns

§ 57-9. Unlawful ownership or possession of firearms.

§ 57-10. Keeping guns on person or in vehicles.

§ 57-11. Firearms in or near places of public assembly.

§ 57-12. Sale of fixed ammunition.

§ 57-13. Use of public funds.

§ 57-14. Exemptions from Chapter.

§ 57-15. Penalty.

§ 57-16. Reporting requirement.



Sec. 57-1. Definitions.

In this Chapter, the following words and phrases have the following meanings:

3D printing process: a process of making a three-dimensional, solid object using a computer code or program, including any process in which material is joined or solidified under computer control to create a three-dimensional object.

Child safety handgun box: A secure, lockable box designed to hold the handgun being transferred that:

- (1) requires a key or combination to remove;
- (2) renders the handgun inoperable when locked; and
- (3) is approved by Executive regulation under method (2).

Child safety handgun device: A child safety handgun lock or child safety handgun box.

Child safety handgun lock: A device that when locked in place prevents movement of the trigger of the handgun being transferred without first removing the lock by use of a key or combination. "Child safety handgun lock" also includes any other device that can be attached to a handgun and:

- (1) requires a key or combination to remove;
- (2) renders the handgun inoperable when locked in place; and
- (3) is approved by Executive regulation under method (2).

Crime of violence: Murder, voluntary manslaughter, rape, mayhem, kidnapping, robbery, burglary, housebreaking, arson, assault with intent to murder, ravish or rob, assault with deadly weapon or assault with intent to commit any offense punishable by imprisonment for more than one (1) year.

Firearm dealer: A person required by State or federal law to obtain a:

- (1) regulated firearms dealer's license; or
- (2) temporary transfer permit to display a regulated firearm at a gun show.

Fixed ammunition: Any ammunition composed of a projectile or projectiles, a casing, an explosive charge and a primer, all of which shall be contained as one (1) unit. Cartridges designed, made and intended to be used exclusively (i) in a device for signaling and safety purposes required or recommended by the United States Coast Guard or (ii) for industrial purposes, shall not be considered fixed ammunition. Curios or relics, as defined in regulations promulgated by the United States Secretary of the Treasury pursuant to 18 United States Code, section 921(A)(13), shall not be considered fixed ammunition.

Fugitive from justice: Any person for whom criminal proceedings have been instituted, warrant issued or indictment presented to the grand jury, who has fled from a sheriff or other peace officer within this state, or who has fled from any state, territory, District of

Columbia or possession of the United States, to avoid prosecution for crime of violence or to avoid giving testimony in any criminal proceeding involving a felony or treason.

Gun or firearm: Any rifle, shotgun, revolver, pistol, ghost gun, undetectable gun, air gun, air rifle or any similar mechanism by whatever name known which is designed to expel a projectile through a gun barrel by the action of any explosive, gas, compressed air, spring or elastic.

(1) The term “antique firearm” means (a) any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898; and (b) any replica of any firearm described in subparagraph (a) if such replica (i) is not designed or redesigned or using rimfire or conventional centerfire fixed ammunition, or (ii) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.

(2) “Ghost gun” means a firearm, including an unfinished frame or receiver, that:

(A) lacks a unique serial number engraved or cased in metal alloy on the frame or receiver by a licensed manufacturer, maker or importer in accordance with federal law; and

(B) lacks markings and is not registered with the Secretary of the State Police in accordance with Section 5-703(b)(2)(ii) of the Public Safety Article of the Maryland Code.

“Ghost gun” does not include a firearm that has been rendered permanently inoperable, or a firearm that is not required to have a serial number in accordance with the Federal Gun Control Act of 1968.

(3) “Handgun” means any pistol, revolver or other firearm capable of being concealed on the person, including a short-barreled shotgun and a short-barreled rifle as these terms are defined below. “Handgun” does not include a shotgun, rifle, or antique firearm.

(4) “Rifle” means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

(5) The term “short-barreled rifle” means a rifle having one (1) or more barrels less than sixteen (16) inches in length and any weapon made from a rifle (whether by alternation, modification or otherwise) if such weapon, as modified, has an overall length of less than twenty-six (26) inches.

(6) The term “short-barreled shotgun” means a shotgun having one (1) or more barrels less than eighteen (18) inches in length and any weapon made from a shotgun (whether by alteration, modification or otherwise) if such weapon as modified has an overall length of less than twenty-six (26) inches.

(7) “Shotgun” means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the

energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

(8) "Undetectable gun" means:

(A) a firearm that, after the removal of all its parts other than a major component, is not detectable by walk-through metal detectors commonly used at airports or other public buildings;

(B) a major component that, if subjected to inspection by the types of detection devices commonly used at airports or other public buildings for security screening, would not generate an image that accurately depicts the shape of the component; or

(C) a firearm manufactured wholly of plastic, fiberglass, or through a 3D printing process.

(9) "Unfinished frame or receiver" means a forged, cast, printed, extruded, or machined body or similar article that has reached a stage in manufacture where it may readily be completed, assembled, or converted to be used as the frame or receiver of a functional firearm.

Gun shop: An establishment where a handgun, rifle, or shotgun, or ammunition or major component of these guns is sold or transferred. "Gun shop" does not include an area of an establishment that is separated by a secure, physical barrier from all areas where any of these items is located.

Gun show: Any organized gathering where a gun is displayed for sale.

Major component means, with respect to a firearm:

(1) the slide or cylinder or the frame or receiver; and

(2) in the case of a rifle or shotgun, the barrel.

Minor: An individual younger than 18 years old.

Pistol or revolver: Any gun with a barrel less than twelve (12) inches in length that uses fixed ammunition.

Place of public assembly: A "place of public assembly" is:

(1) a publicly or privately owned:

(A) park;

(B) place of worship;

(C) school;

(D) library;

(E) recreational facility;

(F) hospital;

(G) community health center, including any health care facility or community-based program licensed by the Maryland Department of Health;;

(H) long-term facility, including any licensed nursing home, group home, or care home;

(I) multipurpose exhibition facility, such as a fairgrounds or conference center; or

(J) childcare facility;

(2) government building, including any place owned by or under the control of the County;

(3) polling place;

(4) courthouse;

(5) legislative assembly; or

(6) a gathering of individuals to collectively express their constitutional right to protest or assemble.

A "place of public assembly" includes all property associated with the place, such as a parking lot or grounds of a building.

Record plat means a subdivision plat recorded in the County's land records.

Sell or purchase: Such terms and the various derivatives of such words shall be construed to include letting on hire, giving, lending, borrowing or otherwise transferring.

Sporting use: "Sporting use" of a firearm and ammunition means hunting or target shooting in compliance with all federal, State, and local laws. Sporting use includes:

(a) participation in a managed hunt sponsored by a government agency; and

(b) the sale or other transfer of ammunition by a sporting club for immediate, on-site use at the club.

Tax assessment record means the information maintained by the State Department of Assessments and Taxation in its Real Property Database on each parcel of real property located in the County, including the tax map for each parcel.

Urban area: That part of the County within the following boundaries: Beginning at a point where the Maryland/District of Columbia boundary line in the County intersects with the Maryland/Virginia boundary line on the southwest side of the Potomac River; running then northwest along the Maryland/Virginia boundary line to the emptying of Watts Branch into the Potomac River; then northwest along the northeast side of the Potomac River to the emptying of Seneca Creek into the Potomac River; then north along Seneca Creek to Route 112 (Seneca Road); then east along Route 112 to Route 28 (Darnestown Road); then northwest along Route 28 to Route 118 (Darnestown-Germantown Road); then north along Route 118 to Route 117 (Clopper Road); then northwest along Route 117 to Little Seneca

Creek; then northeast along Little Seneca Creek to Black Hill Regional Park; then along the eastern boundary of Black Hill Regional Park to the Park's southernmost intersection with I-270; then northwest along I-270 to Little Seneca Creek; then north along Little Seneca Creek to West Old Baltimore Road; then east along West Old Baltimore Road to Route 355 (Frederick Road); then south along Route 355 to Brink Road; then southeast on Brink Road to the Town of Laytonsville; then along the northern boundary of the Town of Laytonsville to Route 420 (Sundown Road); then east along Route 420 to Route 650 (Damascus Road); then southeast along Route 650 to Route 97 (Georgia Avenue); then south along Route 97 to Brighton Dam Road; then northeast along Brighton Dam Road to Route 650 (New Hampshire Avenue); then south along Route 650 to Route 108; then east along Route 108 to the Potomac Electric Power Company transmission line property; then southeast along the east side of the Potomac Electric Power Company right-of-way to Batson Road; then following along the southern boundary of the Washington Suburban Sanitary Commission property to Kruhm Road; then southeast along Kruhm Road to the Potomac Electric Power Company right-of-way; then southeast along the east side of the Potomac Electric Power Company right-of-way to Route 198; then east along Route 198 to the Prince George's County/Montgomery County boundary line; then southwest along the Montgomery County/Prince George's County boundary line to the Montgomery County/District of Columbia boundary line; then along the Montgomery County/District of Columbia boundary line to the beginning point.

Vehicle: Any motor vehicle, as defined in the Transportation Article of the Annotated Code of Maryland, trains, aircraft and vessels. (1981 L.M.C., ch. 42, § 1; 1983 L.M.C., ch. 50, § 1; CY 1991 L.M.C., ch. 21, § 1; 1993 L.M.C., ch. 50, § 1; 1997 L.M.C., ch. 3, § 1; 1997 L.M.C., ch. 14, §1; 1997 L.M.C., ch. 16; 2001 L.M.C., ch. 11, § 1; 2007 L.M.C., ch. 21, § 1; 2018 L.M.C., ch. 34, § 1; 2021 L.M.C., ch. 7, §1; 2022 L.M.C.,0 ch. 36, §1.)

Sec. 57-2. Firearm Safety Committee.

(a) There is a Firearm Safety Committee with 7 voting members appointed by the County Executive and confirmed by the County Council. The voting members should be trained and experienced in the safe and sportsmanlike use of weapons. The Executive must designate one voting member to serve as Chair. The Police Range Officer must serve as a non-voting member of the Committee.

(b) The Committee issues indoor and outdoor target, trap, skeet, and shooting range approval certificates. The Committee may specify the type of gun and ammunition that may be used on the range. An approval certificate is valid for 3 years. Before issuing a certificate, the Committee must find that:

- (1) the discharge of guns on the range will not jeopardize life or property; and
- (2) the applicant for the certificate is the owner, lessee, or person lawfully in possession of the land where the range is located.

(c) The Committee must inspect any firing range operated by the Police Department every 3 years.

(d) The Committee must create a standard safety checklist to assure that all firing ranges are evaluated using the same criteria.

(e) The Committee must keep a copy of each certificate.(1981 L.M.C., ch. 42, § 1; FY 1991 L.M.C., ch. 9, § 1; CY 1991 L.M.C., ch. 21, § 1; 2005 L.M.C., ch. 24, § 1.)

Cross reference-Boards and commissions generally, § 2-141 et seq.

Sec. 57-3. Change in urban area boundary.

On February 1 each year, the County Executive, after consulting with the Firearm Safety Committee, may recommend to the County Council any appropriate change in the boundary of the urban area based on new development or reported incidents of weapons discharged near developed areas. In addition, the County Executive, without consultation, may recommend any amendment to the boundary of the urban area at any other time. (CY 1991 L.M.C., ch. 21, § 1; 2001 L.M.C., ch. 11, § 1; 2005 L.M.C., ch. 24, § 1; 2018 L.M.C., ch. 34, § 1.)

Editor's note—Section 57-3, formerly § 57-2A, was renumbered pursuant to 2001 L.M.C., ch. 11, § 1.

Sec. 57-4. Discharge of guns in the urban area.

(a) Prohibition. Except as provided in subsection (b), a person, other than a peace officer or employee of the Maryland Department of Natural Resources performing official duties, must not discharge a gun within the urban area.

(b) Exceptions. Except as provided in Sections 57-7 and 57-11, a person may discharge a gun:

(1) on any indoor or outdoor target, trap, skeet, or shooting range that the Firearms Safety Committee has inspected and approved in writing;

(2) in a private basement or cellar target range;

(3) when necessary to protect life or property;

(4) to kill a dangerous animal;

(5) for discharge of blank cartridges in musical and theatrical performances, parades, or sporting events;

(6) for salutes by firing squads at military funerals;

(7) if approved by the Chief of Police, under a deer damage control permit issued by the Maryland Department of Natural Resources;

(8) for the purpose of deer hunting on private property that is at least 50 acres in size if:

(A) the person discharges the gun from an elevated position;

(B) the person does not load the gun until the person is located in the elevated position;

(C) the person unloads the gun before descending from the elevated position;

(D) the projectile has a downward trajectory;

(E) the property owner complies with any public notice requirements in applicable regulations; and

(F) the property owner gives written notice to the Chief of Police at least 15 days before any gun is discharged on the property which:

1. identifies the day or days on which deer hunting will occur;
2. identifies the time that deer hunting will begin and end each day;
3. lists the name of each individual who will participate in deer hunting; and
4. includes a copy of the record plat or tax assessment record for the property; or

(9) on property owned by the Maryland-National Capital Park and Planning Commission as a part of a deer management program conducted or sanctioned by the Commission that complies with safety requirements approved by the Chief of Police.

(c) 50-acre threshold.

(1) Subject to the requirements of paragraph (2), up to 5 owners of contiguous parcels of property may aggregate their property to meet the 50-acre threshold in subsection (b)(8).

(2) If property owners aggregate their parcels to achieve the 50-acre threshold in subsection (b)(8), a person may discharge a gun for the purpose of deer hunting on the aggregated property if the person obtains written permission from each property owner, which must include a copy of the record plat or tax assessment record for each parcel in the aggregated property.

(d) A person who discharges a gun under the authority granted in subsection (b)(7), (b)(8), or (b)(9) is subject to the restrictions imposed by Section 57-5(a) on the discharge of a gun outside the urban area.

(e) Regulations. The County Executive must adopt regulations under method (2) which:

(1) establish procedures and criteria that the Chief of Police must use to decide whether it is safe to discharge a gun under the circumstances specified in subsection (b)(7); and

(2) to implement subsection (b)(8):

(A) require signs to be posted along the perimeter of each applicable property at least 15 days before any gun is discharged on the property;

(B) specify the size, wording, and location of each sign; and

(C) identify a method to determine the number of signs that must be posted. (1981 L.M.C., ch. 42, § 1; CY 1991 L.M.C., ch. 21, § 1; 1997 L.M.C., ch. 14, §1; [2001 L.M.C., ch. 11, § 1](#); [2005 L.M.C., ch. 24, § 1](#); [2007 L.M.C., ch. 21, § 1.](#))

Editor's note—Section 57-4, formerly § 57-3, was renumbered and amended pursuant to [2001 L.M.C., ch. 11, § 1](#).

Sec. 57-5. Discharge of guns outside the urban area.

(a) Prohibition. Except as provided in subsection (c)(1) through (c)(6), outside the urban area, a person, other than a peace officer or employee of the Maryland Department of Natural Resources performing official duties, must not:

(1) discharge a gun:

(A) onto, across, or within 50 yards of a public road;

(B) onto or across property located within 50 yards of a public road;

(C) into or within the safety zone (150 yards of a building or camp designed for human occupancy) without the owner or occupant's written consent; or

(C) from, onto, or across public or private property without the owner or occupant's written consent;

(2) discharge a full metal jacketed bullet of any caliber from a gun; or

(3) except as provided in subsection (b), discharge any fixed ammunition of a caliber higher than .25 caliber from a rifle or pistol.

(b) Exception - High Caliber Ammunition. A person may discharge fixed ammunition of a caliber higher than .25 from a rifle or pistol at:

(A) legal game or varmints on the ground; or

(B) a target on or near the ground that will not deflect a bullet.

(c) Other Exceptions. Except as provided in Sections 57-7 and 57-11, a person may discharge a gun:

(1) on any indoor or outdoor target, trap, skeet, or shooting range that the Firearm Safety Committee has inspected and approved in writing;

(2) in a private basement or cellar target range;

(3) when necessary to protect life or property;

(4) to kill a dangerous animal;

(5) for discharge of blank cartridges in musical and theatrical performances, parades, or sporting events;

(6) for salutes by firing squads at military funerals; or

(7) under a deer damage control permit issued by the Maryland Department of Natural Resources. (1981 L.M.C., ch. 42, § 1; CY 1991 L.M.C., ch. 21, § 1; 1997 L.M.C., ch. 14, §1; 2001 L.M.C., ch. 11, § 1; 2005 L.M.C., ch. 24, § 1; 2007 L.M.C., ch. 21, § 1.)

Editor's note—Section 57-5, formerly § 57-4, was renumbered and amended pursuant to 2001 L.M.C., ch. 11, § 1.

Sec. 57-6. Discharge of bows.

(a) Prohibition. A person must not discharge a bow in the County:

(1) from, onto, or across a public road;

(2) in violation of the archery hunting safety zone established in Md. Code, Natural Resources, §10-410, as amended, surrounding a building or camp designed for human occupancy without the owner or occupant's written consent; or

(3) from, onto, or across public or private property without the owner or occupant's written consent;

(b) Exception. Subsection (a) does not apply to target archery practiced in compliance with safety guidelines established in regulations adopted under method (2).

(c) A bow hunter must report the failure to recover a wounded deer to the County Police at the end of an unsuccessful search for the animal. (CY 1991 L.M.C., ch. 21, § 1; 2001 L.M.C., ch. 11, § 1; 2007 L.M.C., ch. 21, § 1; 2014 L.M.C., ch. 27, § 1; 2017 L.M.C., ch. 26, §1.)

Editor's note—Section 57-6, formerly § 57-4A, was renumbered pursuant to 2001 L.M.C., ch. 11, § 1.

Sec. 57-7. Access to guns by minors.

(a) A person must not give, sell, rent, lend, or otherwise transfer any rifle or shotgun or any ammunition or major component for these guns in the County to a minor. This

subsection does not apply when the transferor is at least 18 years old and is the parent, guardian, or instructor of the minor, or in connection with a regularly conducted or supervised program of marksmanship or marksmanship training.

(b) An owner, employee, or agent of a gun shop must not allow a minor to, and a minor must not, enter the gun shop unless the minor is accompanied by a parent or other legal guardian at all times when the minor is in the gun shop.

(c) A person must not give, sell, rent, lend, or otherwise transfer to a minor:

- (1) a ghost gun or major component of a ghost gun;
- (2) an undetectable gun or major component of an undetectable gun; or
- (3) a computer code or program to make a gun through a 3D printing process.

(d) A person must not purchase, sell, transfer, possess, or transport a ghost gun, including a gun created through a 3D printing process, in the presence of a minor.

(e) A person must not store or leave a ghost gun, an undetectable gun, or a major component of a ghost gun or an undetectable gun, in a location that the person knows or should know is accessible to a minor.

(f) This section must be construed as broadly as possible within the limits of State law to protect minors. (1981 L.M.C., ch. 42, § 1; 1997 L.M.C., ch. 14, § 1; 2001 L.M.C., ch. 11, § 1; 2021 L.M.C., ch. 7, §1; 2022 L.M.C., ch. 36, §1.)

Editor's note—Section 57-7, formerly § 57-5, was renumbered pursuant to 2001 L.M.C., ch. 11, § 1.

Sec. 57-8. Child safety handgun devices and handguns.

(a) Findings. The unintentional discharge of handguns often causes accidental death or injury to children. Additional safeguards are needed to protect children from injury or death from the unintentional discharge of loaded and unlocked handguns. Requiring a firearm dealer who transfers a handgun to provide a child safety handgun device when a handgun is transferred can prevent unintentional injuries and fatalities to children.

(b) Child safety handgun device.

(1) A firearm dealer who sells, leases, or otherwise transfers a handgun in the County must provide to the recipient of the handgun a child safety handgun device for the handgun at the time of the transfer. The dealer may charge for the child safety handgun device.

(2) A person who purchases or otherwise receives a handgun from a firearm dealer (or any transferor who would be a firearm dealer if the transfer occurred in the State) after October 8, 1997 must obtain a child safety handgun device for the handgun:

- (A) at the time of a transfer in the County; or

(B) before entering the County with the handgun if the transfer occurred outside the County and the transferee resides in the County.

(c) Notices.

(1) A firearm dealer who sells, leases, or otherwise transfers a handgun must post conspicuously in the dealer's place of business a notice of:

(A) the requirement in subsection (b) for a child safety handgun device; and

(B) the prohibition in State law of storing or leaving a loaded firearm in a location where an unsupervised child can gain access to the firearm.

(2) If the firearm dealer transferring a handgun does not maintain a place of business in a commercial establishment, the dealer must provide the notices required by paragraph (1) in writing when transferring the handgun.

(d) Enforcement. The Department of Health and Human Services and any other department designated by the County Executive enforces this section.

(f) Regulations. The Executive may adopt regulations under method (2) to implement this Section. (1997 L.M.C., ch. 16; [2001 L.M.C., ch. 11, § 1.](#))

Editor's note—Section 57-8, formerly § 57-5A, was renumbered pursuant to [2001 L.M.C., ch. 11, § 1.](#)

Sec. 57-9. Unlawful ownership or possession of firearms.

A person must not possess, exercise control over, use, carry, transport, or keep a rifle, shotgun, or pistol, if the person:

(a) is an unlawful user of, addicted to, or is under treatment for an addiction to, marijuana or any depressant or stimulant drug or narcotic drug (as defined in Maryland Criminal Law Code Annotated, sections 1-101, 5-101, 5-401, 5-404, and 5-604); or

(b) has been convicted in any court of a crime of violence, trafficking in narcotics, a criminal violation of any of the provisions of Maryland Public Safety Code Annotated, sections 5-101 to 5-138, 5-142, or any federal firearms control law; or

(c) is a fugitive from justice; or

(d) has been confined to any hospital or institution for treatment of a mental disorder or for mental illness unless a licensed physician has by affidavit stated that the physician is familiar with the person's history of mental illness and that in the physician's opinion the person is not disabled by such illness in a manner which should prevent the person from possessing a rifle or a shotgun; or

(e) has been confined to any hospital or institution for treatment of alcoholism unless a licensed physician has by affidavit stated that the physician is familiar with the person's

history of alcoholism and that, in the physician's opinion, the person is no longer suffering from a disability in such a manner which should prevent the person from possessing a rifle or shotgun. (1981 L.M.C., ch. 42, § 1; 2001 L.M.C., ch. 11, § 1; 2004 L.M.C., ch. 22, §1.)

Editor's note—Section 57-9 is cited and quoted at *Furda v. State*, 421 Md. 332, 26 A.3d 918 (2011) where the Court of Appeals reversed the decision of the Court of Special Appeals; see also companion case at 194 Md. App. 1, 1 A.3d 528 (2010), also citing Section 57-9.

Section 57-9, formerly § 57-6, was renumbered pursuant to 2001 L.M.C., ch. 11, § 1.

Sec. 57-10. Keeping guns on person or in vehicles.

It shall be unlawful for any person to have upon his person, concealed or exposed, or in a motor vehicle where it is readily available for use, any gun designed to use explosive ammunition unless:

(a) Lawful mission. Such person is then engaged upon a lawful mission for which it is necessary to carry a gun upon his person; or

(b) Special guard, special police, etc. Such person is employed as a special guard, special police officer or special detective and has been lawfully deputized by the sheriff for the county, or has been appointed a constable in the county, or has been licensed under the laws of the state, should such a law be enacted, to carry such gun and then is on or in the immediate vicinity of the premises of any employer whose occupation lawfully requires the employment of a person carrying a gun while in the discharge of the duties of such employment; or

(c) Military service. Such person is then lawfully engaged in military service or as a duly authorized peace officer; or

(d) Hunting, target practice, etc. Such person is engaged in lawful hunting, drill, training or target practice on property of which he is the owner or lessee or on property with the prior permission of the owner or lessee thereof; or

(e) Going to or returning from hunting, target practice, etc. Such person is engaged in going to or from lawful hunting, drill training or target practice, or in delivering such gun to or carrying it from a gunsmith or repairman, or is engaged in any other lawful transfer of possession; provided, that such person shall be on or traveling upon a public highway or property of which he is the owner or lessee or on property with the prior permission of the owner or lessee thereof; provided further, that such gun shall not be loaded with explosive ammunition. (1981 L.M.C., ch. 42, § 1; 2001 L.M.C., ch. 11, § 1.)

Editor's note—Section 57-10, formerly § 57-7, was renumbered pursuant to 2001 L.M.C., ch. 11, § 1.

Sec. 57-11. Firearms in or near places of public assembly.

(a) In or within 100 yards of a place of public assembly, a person must not:

(1) sell, transfer, possess, or transport a ghost gun, undetectable gun, handgun, rifle, or shotgun, or ammunition or major component for these firearms; or

(2) sell, transfer, possess, or transport a firearm created through a 3D printing process..

(b) This section does not:

(1) prohibit the teaching of firearms safety or other educational or sporting use in the areas described in subsection (a);

(2) apply to a law enforcement officer, or a security guard licensed to carry the firearm;

(3) apply to the possession of a firearm or ammunition, other than a ghost gun or an undetectable gun, in the person's own home;

(4) apply to the possession of one firearm, and ammunition for the firearm, at a business by either the owner who has a permit to carry the firearm, or one authorized employee of the business who has a permit to carry the firearm; or

(5) apply to separate ammunition or an unloaded firearm:

(A) transported in an enclosed case or in a locked firearms rack on a motor vehicle, unless the firearm is a ghost gun or an undetectable gun; or

(B) being surrendered in connection with a gun turn-in or similar program approved by a law enforcement agency.

(c) This section does not prohibit a gun show at a multipurpose exhibition facility if:

(1) the facility's intended and actual primary use is firearms sports (hunting or target, trap, or skeet shooting) or education (firearms training); or

(2) no person who owns or operates the facility or promotes or sponsors the gun show received financial or in-kind support from the County (as defined in Section 57-13(a)) during the preceding 5 years, or after December 1, 2001, whichever is shorter; and

(A) no other public activity is allowed at the place of public assembly during the gun show; and

(B) if a minor may attend the gun show:

(i) the promoter or sponsor of the gun show provides to the Chief of Police, at least 30 days before the show:

(a) photographic identification, fingerprints, and any other information the Police Chief requires to conduct a background check of each individual who is or works for any promoter or sponsor of the show and will attend the show; and

(b) evidence that the applicant will provide adequate professional security personnel and any other safety measure required by the Police Chief, and will comply with this Chapter; and

(ii) the Police Chief does not prohibit the gun show before the gun show is scheduled to begin because:

(a) the promoter or sponsor has not met the requirements of clause (i); or

(b) the Police Chief has determined that an individual described in clause (i)(a) is not a responsible individual.

(d) Notwithstanding subsection (a), a gun shop owned and operated by a firearms dealer licensed under Maryland or federal law on January 1, 1997, may conduct regular, continuous operations after that date in the same permanent location under the same ownership if the gun shop:

(1) does not expand its inventory (the number of guns or rounds of ammunition displayed or stored at the gun shop at one time) or square footage by more than 10 percent, or expand the type of guns (handgun, rifle, or shotgun) or ammunition offered for sale since January 1, 1997;

(2) has secure locks on all doors and windows;

(3) physically secures all ammunition and each firearm in the gun shop (such as in a locked box or case, in a locked rack, or with a trigger lock);

(4) has adequate security lighting;

(5) has a functioning alarm system connected to a central station that notifies the police; and

(6) has liability insurance coverage of at least \$1,000,000. (1997 L.M.C., ch. 14, §§1, 2; 1998 L.M.C., ch. 2, §§1, 2; 2001 L.M.C., ch. 11, § 1; 2021 L.M.C., ch. 7, §1; 2022 L.M.C., ch. 36, §1.)

Editor's note—Section 57-11, formerly § 57-7A, was renumbered and amended pursuant to [2001 L.M.C., ch. 11, § 1](#).

Sec. 57-12. Sale of fixed ammunition.

(a) Legislative intent. The purpose of this section is to provide support to state and local law enforcement officials in their efforts against crime and violence by placing controls on the flow of dangerous ammunition, in addition to those provided by federal law, and to encourage compliance with the state police department's program of voluntary firearm registration. It is not the purpose of this section to place any undue or unnecessary restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, or use of firearms appropriate to the purpose of hunting, trapshooting, target shooting, personal protection, or any other lawful activity, or to discourage or eliminate the private

ownership or use of firearms by law-abiding citizens for lawful purposes. It is not the purpose of this section to create, nor does it permit the creation of, any separate system of county registration of firearms or ammunition, or the levying of any county fee in connection with any registration of firearms or ammunition. It is specifically not the intent of this section to serve as a revenue generating measure.

(b) Registration of ammunition dealers. Any ammunition dealer (as defined in 18 United States Code, section 921 et seq.) who conducts business in Montgomery County is required to register with the Montgomery County department of police by maintaining on file with that department, at all times, a valid, current copy of his federal ammunition dealer's license.

(c) Conditions for sale. No ammunition dealer may sell fixed ammunition to any other person, unless:

(1) The sale is made in person;

(2) The purchaser exhibits, at the time of sale, a valid registration certificate or, in the case of a nonresident, proof that the firearm is lawfully possessed in the jurisdiction where the purchaser resides;

(3) The fixed ammunition to be sold is of the same caliber or gauge as the firearm described in the registration certificate, or other proof in the case of a nonresident; and

(4) The purchaser signs a receipt for the ammunition which shall be maintained by the licensed dealer for a period of one (1) year from the date of sale.

(d) Exceptions. The provisions of this section shall not apply to the sale of fixed ammunition:

(1) Which is suitable for use only in rifles or shotguns generally available in commerce, or to the sale of component parts of these types of ammunition;

(2) To any person licensed to possess fixed ammunition under an act of Congress and the law of the jurisdiction where the person resides or conducts business; or

(3) To any law enforcement officer of federal, state, local or any other governmental entity, if the officer has in his possession a statement from the head of his agency stating that the fixed ammunition is to be used in the officer's official duties.

(e) Penalties. Any ammunition dealer who sells fixed ammunition in violation of the provisions of this section shall be guilty of a class C violation, pursuant to section 1-19 of the Montgomery County Code, punishable only by a civil penalty in the amount of fifteen dollars (\$15.00).

(f) Exception for incorporated municipalities. This section shall not be effective in any incorporated municipality which by law has authority to enact a law on the same subject. If any such incorporated municipality adopts this section and requests the county to enforce the adopted provisions thereof within its corporate limits, the county may thereafter administer and enforce the same within the incorporated municipality. The county

executive is authorized to enter into agreements with incorporated municipalities to enforce and administer the provisions so adopted and to collect the administrative costs of implementation from such municipalities. (1983 L.M.C., ch. 50, § 2.)

Editor's note--The above section was held to be invalid by the Court of Appeals in *Montgomery County, Maryland, et al. v. Atlantic Gunds, Inc., et al.*, 302 Md. 540, 489 A.2d 1114 (1985).

Sec. 57-13. Use of public funds.

(a) The County must not give financial or in-kind support to any organization that allows the display and sale of guns at a facility owned or controlled by the organization. Financial or in-kind support means any thing of value that is not generally available to similar organizations in the County, such as a grant, special tax treatment, bond authority, free or discounted services, or a capital improvement constructed by the County.

(b) An organization referred to in subsection (a) that receives direct financial support from the County must repay the support if the organization allows the display and sale of guns at the organization's facility after receiving the County support. The repayment must include the actual, original value of the support, plus reasonable interest calculated by a method specified by the Director of Finance. (2001 L.M.C., ch. 11, § 1.)

Editor's note—2001 L.M.C., ch. 11, § 2, states:

(a) Section 57-13 of the County Code, as amended by Section 1 of this Act, applies to:

- (1) support that an organization receives from the County after December 1, 2001; and
- (2) the display of a gun for sale at the facility after December 1, 2001.

(b) Section 57-13 expires on December 1, 2011.

Section 57-13 is cited but not interpreted in *Frank Krasner Enterprises, Ltd. v. Montgomery County*, 401 F.3d 230 (4th Cir. 2005) because appellants lacked standing.

Sec. 57-14. Exemptions from Chapter.

Nothing in this Chapter applies to the purchase, ownership, or possession of a bona fide antique gun that is incapable of use as a gun. Except as provided in Sections 57-7 and 57-11, nothing in this Chapter prohibits the owner or tenant of any land from carrying or discharging a gun on that land for the purpose of killing predatory animals which prey on livestock. (1981 L.M.C., ch. 42, § 1; 1997 L.M.C., ch. 14, §1; 2001 L.M.C., ch. 11, § 1; 2007 L.M.C., ch. 21, § 1.)

Editor's note—Section 57-14, formerly § 57-8, was renumbered, amended, and retitled pursuant to 2001 L.M.C., ch. 11, § 1.

Sec. 57-15. Penalty.

Any violation of this Chapter or a condition of an approval certificate issued under this Chapter is a Class A violation to which the maximum penalties for a Class A violation apply. Any violation of Section 57-8 is a Class A civil violation. (Mont. Co. Code 1965, § 109-9; 1983 L.M.C., ch. 22, § 1; CY 1991 L.M.C., ch. 21, § 1; 1997 L.M.C., ch. 16; [2001 L.M.C., ch. 11, § 1.](#))

Editor's note—Section 57-15, formerly § 57-9, was renumbered and amended pursuant to [2001 L.M.C., ch. 11, § 1.](#)

Sec. 57-16. Reporting requirement.

(a) The County Police Department must submit a report annually to the County Executive and the County Council regarding the availability and use of ghost guns and undetectable guns in the County.

(b) The report must include the number of ghost guns and undetectable guns recovered by the Department during the prior year.

(c) Each report must be available to the public on the Police Department's website. ([2021 L.M.C., ch. 7, §1.](#))



Committee: PS
Committee Review: Completed
Staff: Christine Wellons, Legislative Attorney
Purpose: Final action – vote expected
Keywords: #NoGhostGunsMoCo, #SafetyMattersInMoCo

AGENDA ITEM #18A
 April 6, 2021
Action

SUBJECT

Bill 4-21, Weapons – Protection of Minors and Public Places - Restrictions Against Ghost Guns and Undetectable Guns

Lead Sponsor: Council Vice President Alborno

Co-Sponsors: Council President Hucker, Councilmembers Katz, Jawando, Navarro, Friedson, Rice, Riemer and Glass

EXPECTED ATTENDEES

Marcus C. Jones, Chief, Montgomery County Police Department

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- Council Action; Vote Required
- The Public Safety Committee recommends enactment of Bill 4-21 with amendments.

DESCRIPTION/ISSUE

Bill 4-21, Weapons – Protection of Minors and Public Places - Restrictions Against Ghost Guns and Undetectable Guns, would:

- define terms related to firearm laws;
- restrict the manufacture, possession, use, sale, and transfer of ghost guns, undetectable guns, and certain other firearms with respect to minors;
- restrict the manufacture, possession, use, sale, and transfer of ghost guns, undetectable guns, and certain other firearms within 100 yards of places of public assembly; and
- generally amend the law regarding firearms and other weapons.

SUMMARY OF KEY DISCUSSION POINTS

- The Public Safety Committee recommends enactment of Bill 4-21 with amendments to:
 - consistent with the scope of state preemption, delete from the bill references to gun manufacturing.

This report contains:

Staff Report
 Bill 4-21
 Legislative Request Report
 RESJ Statement
 Economic Impact Statement

Pages 1
 ©1
 ©8
 ©9
 ©13



Alternative format requests for people with disabilities. If you need assistance accessing this report you may [submit alternative format requests](#) to the ADA Compliance Manager. The ADA Compliance Manager can also be reached at 240-777-6197 (TTY 240-777-6196) or at adacompliance@montgomerycountymd.gov

F:\LAW\BILLS\2104 Ghost Guns\Action Cover Sheet.Docx

MEMORANDUM

April 1, 2021

TO: County Council

FROM: Christine Wellons, Legislative Attorney

SUBJECT: Bill 4-21, Weapons – Protection of Minors and Public Places - Restrictions Against Ghost Guns and Undetectable Guns

PURPOSE: Action – Council vote required

Bill 4-21, Weapons – Protection of Minors and Public Places - Restrictions Against Ghost Guns and Undetectable Guns, sponsored by Lead Sponsor Council Vice President Alborno and Co-Sponsors, Council President Huckler and Councilmembers Katz, Jawando, Navarro, Friedson, Rice, Riemer and Glass, was introduced on January 19, 2021.¹ A public hearing was held on February 9, 2021 and a Public Safety Committee worksession was held on March 11.

Bill 4-21 would:

- define terms related to firearm laws;
- restrict the manufacture, possession, use, sale, and transfer of ghost guns, undetectable guns, and certain other firearms with respect to minors;
- restrict the manufacture, possession, use, sale, and transfer of ghost guns, undetectable guns, and certain other firearms within 100 yards of places of public assembly; and
- generally amend the law regarding firearms and other weapons.

BACKGROUND

“Ghost guns,” or “do-it-yourself guns,” are unserialized firearms built by unlicensed individuals. These guns evade many firearms regulations. Kits to build ghost guns are readily sold on the internet, without the requirement of federal background checks. Other ghost guns are built at home using blueprints and 3D printers.

When ghost guns are used in crimes, they are untraceable due to lack of serial numbers. During 2020, Montgomery County Police Department (MCPD) officers recovered 73 ghost guns.

Several states, including New Jersey, Rhode Island, and Washington State, as well as the District of Columbia, have passed laws to regulate ghost guns. The Maryland General Assembly

¹#NoGhostGunsMoCo, #SafetyMattersInMoCo

has introduced, but not yet passed, legislation to regulated unfinished frames and receivers. At the federal level, Congressional bills to regulate ghost guns have not yet been successful.

SPECIFICS OF THE BILL

The purpose of Bill 4-21 is to begin to address the issue of ghost guns at the County level, consistent with limitations placed upon localities by Maryland state preemption of local firearms regulations. Under Maryland law, the County generally is preempted to regulate in the area of firearms. However, state law carves out certain specific areas in which the County may regulate. In particular, the County may regulate the sale, use, or transfer of firearms: (1) with respect to minors; or (2) within 100 yards of a place of public assembly.

In this vein, the bill first would maximize the impact of the County’s firearms regulations by expanding the definition of “place of public assembly”. The definition of “place of public assembly would be expanded to include any “place where the public may assemble, whether the place is publicly or privately owned, including a [government owned] park [identified by the Maryland-National Capital Park and Planning Commission]; place of worship; [elementary or secondary] school; [public] library; [government-owned or -operated] recreational facility; or multipurpose exhibition facility, such as a fairgrounds or conference center.”

With respect to ghost guns or DIY guns, the bill would define ghost guns to include firearms, including unfinished frames or receivers, that are unserialized in accordance with federal regulations. The bill would define undetectable guns to include those that cannot be detected through metal detectors, or that are made with 3D printers. These ghost guns, including unfinished frames or receivers, and undetectable guns would be restricted with regard to minors and places of public assembly.

Specifically, the bill would prohibit a person from transferring a ghost gun or undetectable gun to a minor. Further, it would prohibit a person from possessing or manufacturing a gun, including through a 3D printing process, in the presence of a minor. Persons also would be prohibited from storing ghost guns, undetectable guns, or gun components in places that the person should know are accessible to minors.

Concerning places of public assembly, the bill would prohibit the sale, transfer, manufacture, or possession of ghost guns or undetectable guns within 100 yards of a place of public assembly. The bill also would prohibit – within 100 yards of a place of public assembly – the sale, transfer, possession, or use of a computer code to create a firearm through a 3D printing process.

SUMMARY OF PUBLIC HEARING

At the public hearing on February 9, five speakers provided testimony regarding Bill 4-21. Chief Marcus Jones testified that the Montgomery County Police Department (MCPD) and the County Executive “fully support the bill.” Chief Jones stated that ghost guns are easy to acquire through 3D printing. Ghost guns also are easy to build from parts that can be bought on the internet. Ghost guns make the investigation of crime more difficult and tracing the origins of the ghost guns is nearly impossible. In 2020, MCPD recovered 73 ghost guns.

Brady United, Marylanders to Prevent Gun Violence, and Critical Issues Forum of Montgomery County also testified in support of the bill.

One individual spoke in opposition to the bill. He explained that he has built ghost guns for personal recreation and sports and he should not be prevented from doing so. He also pointed out that ghost guns are the subject of pending state legislation.

SUMMARY OF PUBLIC SAFETY COMMITTEE WORKSESSION

The Public Safety Committee voted (3-0) to recommend the enactment of Bill 4-21 with amendments.

1. Amendment Related to State Preemption

The Committee adopted (3-0) several amendments, described below, to make the bill consistent with the scope of state preemption.

Under the Criminal Law Article of the Maryland Code, § 4-209:

State preemption

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

- (1) a handgun, rifle, or shotgun; and
- (2) ammunition for and components of a handgun, rifle, or shotgun.

Exceptions

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

- (i) with respect to minors;
- (ii) with respect to law enforcement officials of the subdivision; and
- (iii) except as provided in paragraph (2) of this subsection, within 100 yards of or in a park, church, school, public building, and other place of public assembly.

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

(Emphasis added).

As originally drafted, the bill would regulate the manufacture, possession, use, sale, and transfer of ghost guns or undetectable guns with respect to minors, and with respect to 100 yards from a place of public assembly. While the preemption provisions of the Criminal Law article allow for local regulation of the possession, use, sale, and transfer of these guns, they do not allow for the regulation of the *manufacture* of guns. To make the bill consistent with state preemption provisions, the PS Committee has recommended the following amendments.

Delete lines 103-104:

- (d) A person must not ~~[[manufacture or assemble]] purchase, sell, transfer, possess, or transfer a ghost gun, including [[making]] a gun created through a 3D printing process, in the presence of a minor.~~

Amend lines 111-118 as follows.

- (a) [A] In or within 100 yards of a place of public assembly, a person must not:
- (1) sell, transfer, ~~[[manufacture, assemble,]]~~ possess, or transport a ghost gun, undetectable gun, handgun, rifle, or shotgun, or ammunition or major component for these firearms[, in or within 100 yards of a place of public assembly]; or
- (2) sell, transfer, possess, or transport~~[[, or use a computer code to create,]]~~ a firearm created through a 3D printing process.

2. Pending State Legislation

The PS Committee discussed that in the Maryland General Assembly, Delegate Lopez and Senator Lee have sponsored legislation ([Legislation - HB0638 \(maryland.gov\)](#)) that would generally require an unfinished frame or receiver to be marked by a federally licensed firearms manufacturer or federally licensed firearms importer before being: (1) sold, offered for sale, or transferred in the State; (2) imported or otherwise brought into the State; or (3) possessed in the State.

In addition, the state bill would prohibit a dealer or any other person from selling, renting, or transferring an unfinished frame or receiver to a purchaser, lessee, or transferee unless the purchaser, lessee, or transferee presents to the dealer or other person a handgun qualification license (HQL) issued to the purchaser, lessee, or transferee by the Secretary of State Police.

3. Survey of Ghost Gun Legislation in Other Jurisdictions

The PS Committee discussed that many jurisdictions – including the District of Columbia, Virginia, California, Connecticut, Hawaii, New Jersey, New York, Rhode Island, and Washington State – have laws regulating the sale or possession of “ghost guns” (*i.e.*, unserialized firearms, including unfinished frames or receivers) and undetectable guns.

According to the Giffords Law Center to Prevent Gun Violence, these state laws vary in their features and their strength, but many include regulations to:

- require frames and receivers, and guns created through 3D printing, to have serial numbers;
- permit the distribution of unfinished frames or receivers only through licensed dealers;
- require that all operable firearms be detectable by standard screening systems;
- require a background check before transferring an unfinished frame or receiver; and
- require a license to manufacture or assemble a firearm using unfinished materials or a 3D printer.

(See [Ghost Guns | Giffords](#)).

In terms of nearby jurisdictions, the District of Columbia has generally prohibited the possession, sale, or transfer of unfinished frames or receivers and untraceable firearms. (D.C. B. 681, Act No. 23-245; D.C. B. 746, Act No. 23-324; and D.C. Act 23-125). Virginia has banned the manufacture, importation, sale, transfer or possession of certain “plastic guns” that are undetectable by x-rays, but has not addressed the issue of unfinished frames or receivers. (Va. Code Ann. § 18.2-308.5). In New Jersey, it is a crime to knowingly possess, or to transfer, ship, sell or dispose of, a firearm manufactured or otherwise assembled using a firearm frame or firearm that is not imprinted with a serial number registered with a federally licensed manufacturer. (N.J. Stat. Ann. §§ 2C:39-3(n); 2C:39-9(n)).

NEXT STEP: Roll call vote on whether to enact Bill 4-21 with amendments, as recommended by the Public Safety Committee.

<u>This packet contains:</u>	<u>Circle #</u>
Bill 4-21	1
Legislative Request Report	8
RESJ Statement	9
Economic Impact Statement	13
Fiscal Impact Statement	16
Testimony	18

F:\LAW\BILLS\2104 Ghost Guns\Action Memo.Docx

Bill No. 4-21
Concerning: Weapons – Protection of
Minors and Public Places -
Restrictions Against Ghost Guns and
Undetectable Guns
Revised: 1/14/2021 Draft No. 4
Introduced: January 19, 2021
Expires: July 19, 2022
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Council Vice-President Alborno
Co-Sponsors: Council President Hucker, Councilmembers Katz, Jawando, Navarro, Friedson, Rice,
Riemer and Glass

AN ACT to:

- (1) define terms related to firearm laws;
- (2) restrict the manufacture, possession, use, sale, and transfer of ghost guns, undetectable guns, and certain other firearms with respect to minors;
- (3) restrict the manufacture, possession, use, sale, and transfer of ghost guns, undetectable guns, and certain other firearms within 100 yards of places of public assembly; and
- (4) generally amend the law regarding firearms and other weapons.

By amending

Montgomery County Code
Chapter 57, Weapons
Sections 57-1, 57-7, and 57-11

By adding

Montgomery County Code
Chapter 57, Weapons
Section 57-16

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

28 with 27 C.F.R. § 479.102. It does not include a firearm that has
 29 been rendered permanently inoperable, or a firearm that is not
 30 required to have a serial number in accordance with the Federal
 31 Gun Control Act of 1968.

32 (3) “Handgun” means any pistol, revolver or other firearm capable of
 33 being concealed on the person, including a short-barreled shotgun
 34 and a short-barreled rifle as these terms are defined below.
 35 “Handgun” does not include a shotgun, rifle, or antique firearm.

36 [(3)] (4) “Rifle” means a weapon designed or redesigned, made or
 37 remade, and intended to be fired from the shoulder and designed
 38 or redesigned and made or remade to use the energy of the
 39 explosive in a fixed metallic cartridge to fire only a single
 40 projectile through a rifled bore for each single pull of the trigger.

41 [(4)] (5) The term “short-barreled rifle” means a rifle having one
 42 (1) or more barrels less than sixteen (16) inches in length and any
 43 weapon made from a rifle (whether by alternation, modification
 44 or otherwise) if such weapon, as modified, has an overall length
 45 of less than twenty-six (26) inches.

46 [(5)] (6) The term “short-barreled shotgun” means a shotgun having
 47 one (1) or more barrels less than eighteen (18) inches in length
 48 and any weapon made from a shotgun (whether by alteration,
 49 modification or otherwise) if such weapon as modified has an
 50 overall length of less than twenty-six (26) inches.

51 [(6)] (7) “Shotgun” means a weapon designed or redesigned, made
 52 or remade, and intended to be fired from the shoulder and
 53 designed or redesigned and made or remade to use the energy of
 54 the explosive in a fixed shotgun shell to fire through a smooth

55 bore either a number of ball shot or a single projectile for each
56 single pull of the trigger.

57 (8) “Undetectable gun” means:

58 (A) a firearm that, after the removal of all its parts other than a
59 major component, is not detectable by walk-through metal
60 detectors commonly used at airports or other public
61 buildings;

62 (B) a major component that, if subjected to inspection by the
63 types of detection devices commonly used at airports or
64 other public buildings for security screening, would not
65 generate an image that accurately depicts the shape of the
66 component; or

67 (C) a firearm manufactured wholly of plastic, fiberglass, or
68 through a 3D printing process.

69 * * *

70 Major component means, with respect to a firearm:

71 (1) the slide or cylinder or the frame or receiver; and

72 (2) in the case of a rifle or shotgun, the barrel.

73 *Minor:* An individual younger than 18 years old.

74 * * *

75 *Place of public assembly:* A “place of public assembly” is a place where
76 the public may assemble, whether the place is publicly or privately
77 owned, including a [government owned] park [identified by the
78 Maryland-National Capital Park and Planning Commission]; place of
79 worship; [elementary or secondary] school; [public] library;
80 [government-owned or -operated] recreational facility; hospital;
81 community health center; long-term facility; or multipurpose exhibition

82 facility, such as a fairgrounds or conference center. A place of public
 83 assembly includes all property associated with the place, such as a
 84 parking lot or grounds of a building.

85 * * *

86 **57-7. Access to guns by minors.**

87 (a) A person must not give, sell, rent, lend, or otherwise transfer any rifle or
 88 shotgun or any ammunition or major component for these guns in the
 89 County to a minor. This subsection does not apply when the transferor
 90 is at least 18 years old and is the parent, guardian, or instructor of the
 91 minor, or in connection with a regularly conducted or supervised
 92 program of marksmanship or marksmanship training.

93 (b) An owner, employee, or agent of a gun shop must not allow a minor to,
 94 and a minor must not, enter the gun shop unless the minor is
 95 accompanied by a parent or other legal guardian at all times when the
 96 minor is in the gun shop.

97 (c) A person must not give, sell, rent, lend, or otherwise transfer to a minor:
 98 (1) a ghost gun or major component of a ghost gun;
 99 (2) an undetectable gun or major component of an undetectable gun;
 100 or
 101 (3) a computer code or program to make a gun through a 3D printing
 102 process.

103 (d) A person must not manufacture or assemble a gun, including making a
 104 gun through a 3D printing process, in the presence of a minor.

105 (e) A person must not store or leave a ghost gun, an undetectable gun, or a
 106 major component of a ghost gun or an undetectable gun, in a location
 107 that the person knows or should know is accessible to a minor.

108 [(c)] (f) This section must be construed as broadly as possible within the
109 limits of State law to protect minors.

110 **57-11. Firearms in or near places of public assembly.**

111 (a) [A] In or within 100 yards of a place of public assembly, a person must
112 not:

113 (1) sell, transfer, manufacture, assemble, possess, or transport a ghost
114 gun, undetectable gun, handgun, rifle, or shotgun, or ammunition
115 or major component for these firearms[, in or within 100 yards of
116 a place of public assembly]; or

117 (2) sell, transfer, possess, transport, or use a computer code to create,
118 a firearm through a 3D printing process.

119 (b) This section does not:

120 (1) prohibit the teaching of firearms safety or other educational or
121 sporting use in the areas described in subsection (a);

122 (2) apply to a law enforcement officer, or a security guard licensed to
123 carry the firearm;

124 (3) apply to the possession of a firearm or ammunition, other than a
125 ghost gun or an undetectable gun, in the person's own home;

126 (4) apply to the possession of one firearm, and ammunition for the
127 firearm, at a business by either the owner who has a permit to
128 carry the firearm, or one authorized employee of the business
129 who has a permit to carry the firearm;

130 (5) apply to the possession of a handgun by a person who has
131 received a permit to carry the handgun under State law; or

132 (6) apply to separate ammunition or an unloaded firearm:

- 133 (A) transported in an enclosed case or in a locked firearms rack
134 on a motor vehicle, unless the firearm is a ghost gun or an
135 undetectable gun; or
136 (B) being surrendered in connection with a gun turn-in or
137 similar program approved by a law enforcement agency.

138 * * *

139 **57-15. Penalty.**

140 Any violation of this Chapter or a condition of an approval certificate issued
141 under this Chapter is a Class A violation to which the maximum penalties for a Class
142 A violation apply. Any violation of Section 57-8 is a Class A civil violation.

143 **57-16. Reporting requirement.**

- 144 (a) The County Police Department must submit a report annually to the
145 County Executive and the County Council regarding the availability and
146 use of ghost guns and undetectable guns in the County.
147 (b) The report must include the number of ghost guns and undetectable
148 guns recovered by the Department during the prior year.
149 (c) Each report must be available to the public on the Police Department's
150 website.

LEGISLATIVE REQUEST REPORT

Bill 4-21

Weapons – Protection of Minors and Public Places - Restrictions Against Ghost Guns and Undetectable Guns

DESCRIPTION: Bill 4-21 would:

- define terms related to firearm laws;
- restrict the manufacture, possession, use, sale, and transfer of ghost guns, undetectable guns, and certain other firearms with respect to minors;
- restrict the manufacture, possession, use, sale, and transfer of ghost guns, undetectable guns, and certain other firearms within 100 yards of places of public assembly; and
- generally amend the law regarding firearms and other weapons.

PROBLEM: accessibility and use of ghost guns, including unfinished frames and receivers, and undetectable guns in the County

GOALS AND OBJECTIVES: prohibit the use and sale of ghost guns to the greatest extent possible consistent with state law

COORDINATION: MCPD

FISCAL IMPACT: OMB

ECONOMIC IMPACT: OLO

RACIAL EQUITY AND SOCIAL JUSTICE IMPACT: OLO

EVALUATION: To be done.

EXPERIENCE ELSEWHERE: Rhode Island, Washington State, District of Columbia

SOURCE OF INFORMATION: Christine Wellons, Legislative Attorney

APPLICATION WITHIN MUNICIPALITIES: N/A

PENALTIES: Class A Violation: fines of up to \$1,000 and up to 6 months in prison

F:\LAW\BILLS\2104 Ghost Guns\LRR.Docx

Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

BILL 4-21: WEAPONS-PROTECTION OF MINORS AND PUBLIC PLACES-RESTRICTIONS AGAINST GHOST GUNS AND UNDETECTABLE GUNS

SUMMARY

The Office of Legislative Oversight (OLO) expects Bill 4-21 to favorably impact racial equity and social justice by narrowing public health and safety disparities among County residents by race and ethnicity.

BACKGROUND

On January 19, 2021, the Council introduced Bill 4-21; it aims to reduce crime and violence in the County involving ghost guns and other untraceable firearms, especially involving minors and heavily populated areas.¹

The phrase "ghost gun" refers to do-it-yourself firearms that are untraceable and/or undetectable.² Ghost guns include firearms that:

- Are constructed to avoid detection, lack serial numbers (usually provided by traditional manufacturers);
- Can be built using 3-D printers or similar technology, and/or using kits where 80% of the firearm is preconstructed; and
- Can be fully assembled using readily available tools (instruction can be found online).³

What makes ghost guns more dangerous than typical firearms is that they lack serial numbers and a background check requirement for purchase.⁴ As such, people who would usually be prohibited from purchasing firearms, like youth and certain convicted felons, can acquire these types of firearms.⁵

Of note, Bill 4-21 responds to the consistently increasing number of undetectable firearms recovered by law enforcement in the Metropolitan Washington region over the past few years. For example:

- In 2020, Washington D.C. police recovered 282 ghost guns compared to three in 2017; nine of these firearms were reportedly involved in homicides.⁶
- In 2020, the Montgomery County Police Department recovered 43 ghost guns in the County; the majority were retrieved from District 3, which serves Silver Spring.⁷

Bill 4-21 aims to reduce firearm violence in the County, focusing on increasing public safety.⁸ It seeks to strengthen law regarding firearms and other weapons by broadening key definitions and increasing restrictions related to weapon compliance in the County.⁹ If implemented, it would make the following modifications to County law:¹⁰

- Define terms related to firearm laws;
- Restrict the manufacture, possession, use, sale, and transfer of ghost guns, undetectable guns, and certain other firearms with respect to minors;
- Restrict the manufacture, possession, use, sale, and transfer of ghost guns, undetectable guns, and certain other firearms within 100 yards of places of public assembly; and
- Generally amend the law regarding firearms and other weapons.

RESJ Impact Statement

Bill 4-21

DEMOGRAPHIC DATA

Understanding the impact of Bill 4-21 on racial equity and social justice in the County requires a review and analysis of local data describing incidents of firearm violations and violence.

As noted in Table 1, a review of the Montgomery County Police Department data finds a 31% increase in firearm recoveries over the past five years.¹¹ A review of data compiled by Healthy Montgomery, the County's community health improvement initiative, further finds that disparities in firearm hospitalization rates by race and ethnicity.¹² Black residents experienced an age-adjusted firearm hospitalization rate of 8.6 per 100,000 persons from 2016-2018 compared to 2.4 for Latinx residents, 1.2 for White residents, and 0.3 for Asian residents.¹³ These findings suggests that the increase in firearm recoveries may disparately impact Black and to a lesser extent Latinx residents.

Table 1: Montgomery County Firearm Incidents

Race and Ethnicity	2015	2016	2017	2018	2019	Change
Homicides	30	16	23	20	15	-15
Non-Fatal Shootings	**	90	79	93	99	**
Firearm Recoveries	767	877	912	941	1,047	+280

Sources: Montgomery County Police Department Crime Reports 2015-2019

Disproportionality by race in local firearm hospitalizations is consistent with state and national data describing disproportionality by race in firearm deaths. For example, data compiled by the Center for Disease Control shows that Black residents represented 29% of Maryland's population but represented 57% of the victims killed by firearms in 2018.¹⁴ Nationally, Black people represented 19% of the Country's population but represented 25% (9,959 a total of 39,740 people) of the victims killed by firearms in 2018.¹⁵

ANTICIPATED RESJ IMPACTS

Assuming the number of firearms and firearms recoveries drive firearm injuries, reducing the number of firearms in the County should reduce the number of firearm hospitalizations. Given that Black and Latinx residents face the highest rates of firearm hospitalizations, a decline in available firearms should disproportionately benefit Black and Latinx residents. Consequently, OLO anticipates that Bill 4-21 would favorably impact racial equity and social justice in the County by reducing firearm hospitalizations and potentially narrowing the gap in local firearm hospitalization rates by race and ethnicity.

METHODOLOGIES, ASSUMPTIONS, AND UNCERTAINTIES

This RESJ impact statement and OLO's analysis rely on several information sources, including Census data, MCPD Reports, and unpublished ghost gun data, and County Council packets. OLO also reviewed several sources to understand trends and disparities in firearm incidents by race and ethnicity locally and nationally. These include:

RESJ Impact Statement

Bill 4-21

- Causes of Injury-Related Death, 2018, Center for Disease Control and Prevention¹⁶
- Racial Equity Profile, Montgomery County, Office of Legislative Oversight¹⁷
- Healthy Montgomery Core Measures Data Summary

OLO also visited the websites of Marylanders to Prevent Gun Violence,¹⁸ Everytown Research,¹⁹ and the Educational Fund to Stop Gun Violence²⁰ for information.

RECOMMENDED AMENDMENTS

The County's Racial Equity and Social Justice Act requires OLO to consider whether recommended amendments to bills aimed at narrowing racial and social inequalities are warranted in developing RESJ impact statements.²¹ OLO has determined that the key provisions included in Bill 4-21 align with the best practices for reducing disproportionality in firearm injuries. Consequently, this RESJ impact statement does not offer recommendations.

CAVEATS

Two caveats to this racial equity and social justice impact statement should be noted. First, predicting the impact of legislation on racial equity and social justice is a challenging, analytical endeavor due to data limitations, uncertainty, and other factors. Second, this RESJ statement is intended to inform the legislative process rather than determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

CONTRIBUTIONS

OLO staffer Dr. Theo Holt, RESJ Performance Management and Data Analyst, drafted this RESJ statement with assistance from Dr. Elaine Bonner-Tompkins, OLO Senior Legislative Analyst.

¹ Montgomery County Council, Bill 4-21, Weapons-Protection of Minors and Public Places-Restrictions Against Ghost Guns and Undetectable Guns, December/January 2020/21, Montgomery County, Maryland.

² Ibid.

³ Ibid.

⁴ Katherine E. Beyer, Busting the Ghost Guns: A Technical, Statutory, and Practical Approach to the 3-D Printed Weapon Problem, Volume 103, Issue 3, 2014, Kentucky Law Journal, University of Kentucky. [Busting the Ghost Guns: A Technical, Statutory, and Practical Approach to the 3-D Printed Weapon Problem \(uky.edu\)](#)

⁵ Ibid.

⁶ Tom Jackman, Attorneys general in D.C., Md. And Va. Support lawsuit demanding AFT regulate 'ghost guns,' December 24, 2020, The Washington post.

⁷ Unpublished Ghost Gun Data compiled and shared with OLO on December 11, 2020 by the County Council.

⁸ Ibid

⁹ Bill 4-21

¹⁰ Ibid

¹¹ MCPD policy, Planning & Quality Assurance Division, 2019 Annual Report on Crime & Safety, Montgomery County Department of Police, Montgomery County Maryland. [2019 MCPD Annual Report on Crime and Safety FINAL \(1\).pdf \(montgomerycountymd.gov\)](#)

RESJ Impact Statement

Bill 4-21

¹² Healthy Montgomery Core Measures Data Summary

[https://www.montgomerycountymd.gov/healthymontgomery/Resources/Files/Reports/Healthy Montgomery Core Measures 2010-18.pdf](https://www.montgomerycountymd.gov/healthymontgomery/Resources/Files/Reports/Healthy_Montgomery_Core_Measures_2010-18.pdf)

¹³ Ibid

¹⁴ WISQARS, Explore Fatal Injury Data Visualization Tool, Causes of Injury-Related Death, 2018, Center for Disease Control and Prevention. <https://wisqars-viz.cdc.gov:8006/explore-data/explore/selected-years?ex=eyJ0YmkiOlsiMCJdLCJpbmRlbnRzIjpbbljAixSwibWVjaHMiOlsiMjA4OTAixSwic3RhdGUiOlsiMjQixSwicmFjZSI6WylxliwiMiIsIjMiLCI0Ii0sImV0aG5pY3R5IjpbbljEiLClyliwiMyJdLCJzZXgiOlsiMSIsIjIiXSwiYWdlR3JvdXBzTWluljpbbljAwLTA0Ii0sImFnZUdyb3Vwc01heCI6WylxOTkiXSwiY3VzdG9tQWdlc01pbil6WylwIi0sImN1c3RvbUFnZXNNYXgiOlsiMTk5Ii0sImZyb21ZZWFyIjpbbljwMTgiXSwidG9ZZWFyIjpbbljwMTgiXSwieXBsbEFnZXMiOlsiNjUiXSwibWV0cm8iOlsiMSIsIjIiXSwiYWdlYnV0dG4iOiI1WXliLCJncm91cGJ5MSI6IkFHRUdQIn0%3D>

¹⁵

¹⁶ CDC Firearm Data.

¹⁷ Jupiter Independent Research Group, Racial Equity Profile Montgomery County, July 2019, Office of Legislative Oversight, Montgomery County, Maryland.

¹⁸ Marylanders to Prevent Gun Violence. <https://mdpgv.org/>

¹⁹ Everytown Research <https://everytownresearch.org/>

²⁰ The Educational Fund to Stop Gun Violence <https://efsgv.org/state/maryland/>

²¹ Montgomery County Council, Bill No. 27-19 Racial Equity and Social Justice, Montgomery County, MD.

Economic Impact Statement

Office of Legislative Oversight

BILL 4-21 Weapons – Protection of Minors and Public Places – Restrictions Against Ghost Guns and Undetectable Guns

SUMMARY

The Office of Legislative Oversight (OLO) anticipates that enacting Bill 4-21 would have minimal impacts on economic conditions in the County.

BACKGROUND

The goal of Bill 4-21, introduced on January 19, 2021, is to prohibit the use and sale of “ghost guns.”¹ The bill would define “ghost gun” and “undetectable gun” in County law. According to the bill, it would also make the following changes to the laws regarding firearms and other weapons:

- “restrict the manufacture, possession, use, sale, and transfer of ghost guns, undetectable guns, and certain other firearms with respect to minors;” and
- “restrict the manufacture, possession, use, sale, and transfer of ghost guns, undetectable guns, and certain other firearms within 100 yards of places of public assembly.”

Moreover, any violation of these restrictions would be a “Class A violation to which the maximum penalties for a Class A violation apply.”

METHODOLOGIES, ASSUMPTIONS, AND UNCERTAINTIES

OLO does not anticipate that Bill 4-21 would have direct economic impacts on private organizations or residents in the County. However, OLO notes that gun violence has direct and indirect economic costs for victims, perpetrators, and other stakeholders.² Any indirect economic impacts from enacting Bill 4-21 would depend primarily on the effectiveness of the restrictions on “ghost” and “undetectable” guns in preventing gun violence in the future. For perspective on the scale of the problem, the Montgomery County Police Department recovered 43 ghost guns in the County in 2020.³

¹ Montgomery County Council, Bill 4-21, Weapons – Protection of Minors and Public Places – Restrictions Against Ghost Guns and Undetectable Guns, Introduced on January 19, 2021, Montgomery County, Maryland.

² Mark Follman, Julia Lurie, Jaeah Lee, and James West, “The True Cost of Gun Violence in America,” Mother Jones, April 15, 2015, <https://www.motherjones.com/politics/2015/04/true-cost-of-gun-violence-in-america/>; Jaeah Lee and Julia Lurie, “The True Cost of Gun Violence: Our Methodology,” Mother Jones, May/June 2015, <https://www.motherjones.com/politics/2015/04/methodology-gun-violence-data-ted-miller/>; and A State-by-State Examination of the Economic Costs of Gun Violence, U.S. Congress Joint Economic Committee, Democratic Staff, September 18, 2019, https://www.jec.senate.gov/public/_cache/files/9872b4d4-4151-4d3e-8df9-bc565743d990/economic-costs-of-gun-violence---jec-report.pdf.

³ Unpublished Ghost Gun Data compiled and shared with OLO on December 11, 2020 by the County Council.

Economic Impact Statement

Office of Legislative Oversight

VARIABLES

The variables that could affect the economic impacts of enacting Bill 4-21 are the following:

- Effectiveness of “ghost” and “undisclosed” gun restrictions in preventing gun violence; and
- Amount of criminal and civil penalties incurred by residents who violate the restrictions.

IMPACTS

WORKFORCE ▪ TAXATION POLICY ▪ PROPERTY VALUES ▪ INCOMES ▪ OPERATING COSTS ▪ PRIVATE SECTOR CAPITAL INVESTMENT ▪ ECONOMIC DEVELOPMENT ▪ COMPETITIVENESS

Businesses, Non-Profits, Other Private Organizations

OLO believes that Bill 4-21 would not have significant economic impacts on private organizations in the County in terms of the Council’s priority indicators, namely business income, workforce, operating costs, capital investments, property values, taxation policy, economic development, and competitiveness.⁴

Residents

OLO believes that Bill 4-21 would not have significant economic impacts on County residents in terms of the Council’s priority indicators. However, households with residents who would have otherwise been killed or injured in gun-related incidents without the “ghost” and “undisclosed” gun restrictions would not experience the net loss of income from medical expenses and permanent or temporary absences from work. Moreover, the enforcement of the restrictions would result in income loss for violators. The maximum penalties would be \$1,000 and 6 months in jail for criminal violations and \$500 for initial offenses and \$750 for repeat offenses for civil violations.

WORKS CITED

A State-by-State Examination of the Economic Costs of Gun Violence. U.S. Congress Joint Economic Committee. Democratic Staff. September 18, 2019. https://www.jec.senate.gov/public/_cache/files/9872b4d4-4151-4d3e-8df9-bc565743d990/economic-costs-of-gun-violence---jec-report.pdf.

Follman, Mark, Julia Lurie, Jaeah Lee, and James West. “The True Cost of Gun Violence in America.” *Mother Jones*. April 15, 2015. <https://www.motherjones.com/politics/2015/04/true-cost-of-gun-violence-in-america/>.

Montgomery County Code. Section 1-19, Fines and Penalties. https://codelibrary.amlegal.com/codes/montgomerycounty/latest/montgomeryco_md/0-0-0-488.

Montgomery County Council. Bill 10-19, Legislative Branch – Economic Impact Statements – Amendments. Enacted on July 30, 2019. Montgomery County, Maryland.

⁴ For the Council’s priority indicators, see Montgomery County Council, Bill 10-19 Legislative Branch – Economic Impact Statements – Amendments, Enacted on July 30, 2019, Montgomery County, Maryland, 3.

Economic Impact Statement

Office of Legislative Oversight

Montgomery County Council. Bill 4-21, Weapons – Protection of Minors and Public Places – Restrictions Against Ghost Guns and Undetectable Guns. Introduced on January 19, 2021. Montgomery County, Maryland.

CAVEATS

Two caveats to the economic analysis performed here should be noted. First, predicting the economic impacts of legislation is a challenging analytical endeavor due to data limitations, the multitude of causes of economic outcomes, economic shocks, uncertainty, and other factors. Second, the analysis performed here is intended to *inform* the legislative process, not determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

CONTRIBUTIONS

Stephen Roblin (OLO) drafted this economic impact statement.

Fiscal Impact Statement
Bill 4-21, Weapons – Protection of Minors and Public Places - Restrictions Against Ghost Guns and Undetectable Guns

1. Legislative Summary

Bill 4-21 defines key terms contained in existing firearm laws, and regulates the use, sale, and manufacturing of undetectable weapons with respect to minors and in proximity to public space. Regarding key terms, the Bill defines an undetectable weapon, and expands the definition of public space to include privately owned properties where the public may assemble.

Bill 4-21 also requires the Montgomery County Police Department (MCPD) to provide annual reports to the public, the County Executive and the County Council detailing the number and availability of undetectable guns in the County.

2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.

This bill is not expected to impact County revenues or expenditures.

3. Revenue and expenditure estimates covering at least the next 6 fiscal years.

There is no anticipated change in revenues and expenditures over the next 6 fiscal years.

4. An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.

Not applicable.

5. An estimate of expenditures related to County's information technology (IT) systems, including Enterprise Resource Planning (ERP) systems.

Not applicable.

6. Later actions that may affect future revenue and expenditures if the bill authorizes future spending.

The Bill does not authorize future spending.

7. An estimate of the staff time needed to implement the bill.

Implementation of the Bill would not have an impact on staff time.

8. An explanation of how the addition of new staff responsibilities would affect other duties.

Not applicable.

9. An estimate of costs when an additional appropriation is needed.

There is no additional appropriation needed to implement this bill.

10. A description of any variable that could affect revenue and cost estimates.

Not applicable.

11. Ranges of revenue or expenditures that are uncertain or difficult to project.

Not applicable.

12. If a bill is likely to have no fiscal impact, why that is the case.

The bill updates key terms of existing firearm laws which would not impact existing service delivery with the Montgomery County Police Department, nor would it impact staffing.

The reporting requirements of the Bill would be included among the existing reports provided to the public.

13. Other fiscal impacts or comments.

Not applicable.

14. The following contributed to and concurred with this analysis:

Neil Shorb, Department of Police

Taman Morris, Office of Management and Budget



Jennifer Bryant, Director
Office of Management and Budget

02/09/21

Date

Testimony on Montgomery County Council Bill 4-21
Lead Sponsor: Council Vice President Alborno

Lauren Kline
Brady Maryland
5334 Merriam St
Bethesda, MD 20814
lauren@laurenklinehomes.com
(301) 518-9005

As both a longtime resident of Montgomery County (since 1988) who cares deeply about the safety, well-being and quality of life of our community and as the Co-Lead of the Brady Maryland Executive Committee, I am pleased to support this much needed legislation (Council Bill 4-21) to regulate ghost guns and 3-D printed firearms in the County.

Wikipedia defines a ghost gun as ***“a term for a (typically) homemade or improvised firearm that lacks commercial serial numbers making these firearms harder to trace”***. Ghost **guns** are also commonly made from parts known as ***“... a "80% receiver," "80% finished," "80% complete," or an "unfinished receiver". These are all terms referring to an item that has not yet reached a stage of manufacture that meets the definition of a firearm as defined by the Gun Control Act of 1968 (GCA)”***. (Times Union, 9/13/19).

3-D printed guns are firearms that are mostly produced with a 3-D printer. They can be made of plastic or metal. The plastic ones are usually used as improvised guns that evade regulation.

Brady Maryland supports the 2nd Amendment and the right to possess and legally carry firearms. As with all rights, however, the right to carry firearms is not unlimited. The privilege must be exercised responsibly, legally and with regard to the rights and safety of others.

In general, ghost guns and 3-D printed guns pose a unique danger for the following reasons:

- Ghost guns undermine all gun laws. They are untraceable, unserialized and the parts used to assemble ghost guns are available to purchase and construct without any background check. Why are they treated differently than other guns? Are they any less lethal or dangerous?
- Ghost gun kits and parts do not require background checks. As a result, they can be purchased by those who otherwise would be prohibited from purchasing a gun including domestic abusers, minors, gun traffickers and those who want to do harm to others. Why are ghost guns able to evade existing regulations that were created to provide certain safeguards?
- Ghost gun kits and parts are *intentionally* marketed as unregulated and untraceable to appeal to people who want to avoid background checks.
- Ghost guns are constructed using an unfinished frame or receiver, the piece of the firearm that contains the “operating parts” of the firearms mechanism and the very part that is regulated under federal law.
 - When a frame or receiver is unfinished by a small fraction, it is unregulated under both state and federal law.
 - Ghost guns frequently come in kits that include all the parts necessary to turn the unfinished frame into a fully functioning gun

- 3-D printed guns pose their own separate danger. They are usually created out of polymer plastics which are not picked up by metal detectors.
- Council Bill 4-21 is consistent with the positive steps the Maryland legislature and the Montgomery County Council have already taken to keep our neighborhoods safe from gun violence. Ghost guns and 3-D printed firearms directly undermine the hard work that has already been undertaken at both the state and county level to pass strong but reasonable gun laws that ensure the right to legally possess firearms while also maintaining background checks, tracing ability and other regulations to ensure public safety.

Maryland has already been impacted by ghost guns. The threat will continue to grow as availability to and awareness of these guns increases.

- In December of 2019 a Silver Spring man pled guilty for selling ghost guns to prohibited purchasers.
- In 2019, 117 ghost guns were recovered by Maryland police; in 2020 over 60 guns were recovered in just a 3-month period.
- Between 2016 and 2019, more than 12,000 ghost gun kits were shipped to Maryland with sales increasing by almost a factor of four during these years.

As ghost guns circumvent the regulations that prevent access to guns by minors, Council Bill 4-21 provides important safeguards that help keep firearms out of the hands of underage users. This is not just a theoretical point. In February of 2018, a Montgomery County high schooler brought a homemade handgun to his school. The same 17-year old was also in the process of making an assault style rifle at home.

Bill 4-21 also provides important safeguards by keeping ghost guns away from public spaces including places of worship, schools, libraries, recreational facilities, etc. The public has a right to the same protection from ghost guns as they do from any other regulated firearm.

Thank you to Sponsor Vice President Albornoz and the entire Council for considering this important legislation. Brady Maryland supports taking action to regulate ghost guns and 3-D printed firearms. As a proud Montgomery County resident who chose to settle and raise my 3 daughters here, I also personally applaud taking action to ensure Montgomery County remains safe and a place people where want to live.

Hello Montgomery County Council,

My name is Nathan, and I am a resident of Montgomery County. I grew up on the eastern shore, and then moved into the county about 5 years ago for work. I love this county, most of my family lives here now, and that is why I feel it is imperative to speak out against bill 4-21. I believe this bill will make the county a more dangerous place.

The main issue that I have with this bill is 57-11 "Firearms in or near places of public assembly". This would ban the right of business owners to possess a firearm at their business without a carry permit. As I am sure you know, carry permits are almost impossible to get in MD. This would force business owners to go unprotected at their place of business or would bare minimum make it much more expensive and time consuming to exercise their 2nd amendment right to protect themselves and their assets.

As far as the new regulations for "ghost guns", while I do understand the concern, I am not sure there is a precedent to enact legislation such as this. There have been no major crimes that I am aware of that have been linked to ghost guns. Most crimes that are committed with firearms are done with stolen or illegal guns. Making ghost guns illegal seems like it would be a redundant step to stop crime.

I appreciate your attempts to make this county a safer place, I just believe there are better and more effective ways to go about it, without restricting the second amendment rights of law-abiding citizens.

Thank you for your time!



**TESTIMONY OF THE CRITICAL ISSUES FORUM: ADVOCACY
FOR SOCIAL JUSTICE OF MONTGOMERY COUNTY, MARYLAND
ON FEBRUARY 9, 2021
BEFORE THE MONTGOMERY COUNTY COUNCIL
IN SUPPORT OF BILL 4-21**

**Protection of Minors and Public Places - Restrictions Against Ghost Guns and Undetectable
Guns**

The Critical Issues Forum: Advocacy for Social Justice (CIF) provides this testimony in support of Bill 4-21, which would prohibit:

- transferring a ghost gun or undetectable gun to a minor,
- manufacturing a gun, including through a 3D printing process, in the presence of a minor,
- storing ghost guns, undetectable guns, or gun components in places that the person should know are accessible to minors,
- the sale, transfer, manufacture, or possession of ghost guns or undetectable guns within 100 yards of a place of public assembly, and
- the sale, transfer, possession, or use of a computer code to create a firearm through a 3D printing process within 100 yards of a place of public assembly.

CIF is a coalition of three Montgomery County synagogues - Temple Beth Ami, Kol Shalom, and Adat Shalom - that include over 1,750 households and three denominations of Judaism: Reform, Conservative, and Reconstructionist. CIF advocates in favor of policy proposals that advance our core values, including the sanctity of human life. There can be no question that protecting our children from the danger of untraceable ghost guns can save lives. These weapons circumvent the laws that restrict access to firearms by our children, putting their lives at risk.

Ghost guns are firearms without serial numbers, which are most often assembled from a kit purchased over the internet, without any of the safeguards contained in federal or state law. When used in a crime, they are untraceable. These weapons are favored by individuals who are prohibited from purchasing firearms. As Maryland Attorney General Brian Frosh recently stated in a press release announcing that Maryland had joined 19 other states supporting a lawsuit seeking federal regulation of these firearms: "ghost guns endanger residents of [Maryland] and

impede law enforcement's ability to investigate and prosecute criminal activity."¹

The risk that access to ghost guns has for our young people is real. A 2017 study found that firearms were the second leading cause of death for children aged 1 to 17, surpassed only by motor vehicle injury deaths.² The same study reported that from 2012 to 2014 nearly 1300 children died and 5790 were treated for gunshot wounds each year. According to the authors, 53% of those deaths were homicides, 38% were suicides, and 6% were unintentional. The ability to easily bypass our laws that restrict their purchase of, and access to, firearms by procuring ghost guns through the internet can only increase this toll to us all - adults and children of all ages.

This is a problem that can be solved. The restrictions proposed in Bill 4-21 are a welcome first step. By using the county's discretion to regulate firearms access for children and use in public places, the bill strikes at important dangers posed by ghost guns. Further, action by Montgomery County may encourage our state legislators to enact the ghost gun legislation that has been proposed in the General Assembly this session by Senator Susan Lee and Delegate Leslie Lopez, who have been championing legislation that would close this loophole entirely in our state.

For these reasons, the Critical Issues Forum urges the Council to adopt Bill 4-21

¹ AG press release

² Fowler KA, Dahlberg LL, Haileuesus T, et al. Childhood Firearm Injuries in the United States. *Pediatrics*. 2017;140(1): e20163486.

Bill No. 4-21
Concerning: Weapons - Protection of
Minors and Public Places -
Restrictions Against Ghost Guns and
Undetectable Guns
Revised: 04/06/2021 Draft No. 5
Introduced: January 19, 2021
Enacted: April 6, 2021
Executive: April 16, 2021
Effective: July 16, 2021
Sunset Date: None
Ch. 7, Laws of Mont. Co. 2021

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Council Vice-President Alborno
Co-Sponsors: Council President Hucker, Councilmembers Katz, Jawando, Navarro, Friedson, Rice,
Riemer and Glass

AN ACT to:

- (1) define terms related to firearm laws;
- (2) restrict the ~~[[manufacture,]]~~ possession, use, sale, and transfer of ghost guns, undetectable guns, and certain other firearms with respect to minors;
- (3) restrict the ~~[[manufacture,]]~~ possession, use, sale, and transfer of ghost guns, undetectable guns, and certain other firearms within 100 yards of places of public assembly; and
- (4) generally amend the law regarding firearms and other weapons.

By amending

Montgomery County Code
Chapter 57, Weapons
Sections 57-1, 57-7, and 57-11

By adding

Montgomery County Code
Chapter 57, Weapons
Section 57-16

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:



28 with 27 C.F.R. § 479.102. It does not include a firearm that has
29 been rendered permanently inoperable, or a firearm that is not
30 required to have a serial number in accordance with the Federal
31 Gun Control Act of 1968.

32 (3) “Handgun” means any pistol, revolver or other firearm capable of
33 being concealed on the person, including a short-barreled shotgun
34 and a short-barreled rifle as these terms are defined below.
35 “Handgun” does not include a shotgun, rifle, or antique firearm.

36 [(3)] (4) “Rifle” means a weapon designed or redesigned, made or
37 remade, and intended to be fired from the shoulder and designed
38 or redesigned and made or remade to use the energy of the
39 explosive in a fixed metallic cartridge to fire only a single
40 projectile through a rifled bore for each single pull of the trigger.

41 [(4)] (5) The term “short-barreled rifle” means a rifle having one
42 (1) or more barrels less than sixteen (16) inches in length and any
43 weapon made from a rifle (whether by alternation, modification
44 or otherwise) if such weapon, as modified, has an overall length
45 of less than twenty-six (26) inches.

46 [(5)] (6) The term “short-barreled shotgun” means a shotgun having
47 one (1) or more barrels less than eighteen (18) inches in length
48 and any weapon made from a shotgun (whether by alteration,
49 modification or otherwise) if such weapon as modified has an
50 overall length of less than twenty-six (26) inches.

51 [(6)] (7) “Shotgun” means a weapon designed or redesigned, made
52 or remade, and intended to be fired from the shoulder and
53 designed or redesigned and made or remade to use the energy of
54 the explosive in a fixed shotgun shell to fire through a smooth

55 bore either a number of ball shot or a single projectile for each
 56 single pull of the trigger.

57 (8) “Undetectable gun” means:

58 (A) a firearm that, after the removal of all its parts other than a
 59 major component, is not detectable by walk-through metal
 60 detectors commonly used at airports or other public
 61 buildings;

62 (B) a major component that, if subjected to inspection by the
 63 types of detection devices commonly used at airports or
 64 other public buildings for security screening, would not
 65 generate an image that accurately depicts the shape of the
 66 component; or

67 (C) a firearm manufactured wholly of plastic, fiberglass, or
 68 through a 3D printing process.

69 * * *

70 Major component means, with respect to a firearm:

71 (1) the slide or cylinder or the frame or receiver; and

72 (2) in the case of a rifle or shotgun, the barrel.

73 *Minor:* An individual younger than 18 years old.

74 * * *

75 *Place of public assembly:* A “place of public assembly” is a place where
 76 the public may assemble, whether the place is publicly or privately
 77 owned, including a [government owned] park [identified by the
 78 Maryland-National Capital Park and Planning Commission]; place of
 79 worship; [elementary or secondary] school; [public] library;
 80 [government-owned or -operated] recreational facility; hospital;
 81 community health center; long-term facility; or multipurpose exhibition

82 facility, such as fairgrounds or a conference center. A place of public
 83 assembly includes all property associated with the place, such as a
 84 parking lot or grounds of a building.

85 * * *

86 **57-7. Access to guns by minors.**

87 (a) A person must not give, sell, rent, lend, or otherwise transfer any rifle or
 88 shotgun or any ammunition or major component for these guns in the
 89 County to a minor. This subsection does not apply when the transferor
 90 is at least 18 years old and is the parent, guardian, or instructor of the
 91 minor, or in connection with a regularly conducted or supervised
 92 program of marksmanship or marksmanship training.

93 (b) An owner, employee, or agent of a gun shop must not allow a minor to,
 94 and a minor must not, enter the gun shop unless the minor is
 95 accompanied by a parent or other legal guardian at all times when the
 96 minor is in the gun shop.

97 (c) A person must not give, sell, rent, lend, or otherwise transfer to a minor:

98 (1) a ghost gun or major component of a ghost gun;

99 (2) an undetectable gun or major component of an undetectable gun;

100 or

101 (3) a computer code or program to make a gun through a 3D printing
 102 process.

103 (d) A person must not ~~[[manufacture or assemble]] purchase, sell, transfer,~~
 104 possess, or transfer a ghost gun, including ~~[[making]] a gun created~~
 105 through a 3D printing process, in the presence of a minor.

106 (e) A person must not store or leave a ghost gun, an undetectable gun, or a
 107 major component of a ghost gun or an undetectable gun, in a location
 108 that the person knows or should know is accessible to a minor.

109 [(c)] (f) This section must be construed as broadly as possible within the
 110 limits of State law to protect minors.

111 **57-11. -Firearms in or near places of public assembly.**

112 (a) [A] In or within 100 yards of a place of public assembly, a person must
 113 not:

114 (1) sell, transfer, [[manufacture, assemble,]] possess, or transport a
 115 ghost gun, undetectable gun, handgun, rifle, or shotgun, or
 116 ammunition or major component for these firearms[, in or within
 117 100 yards of a place of public assembly]; or

118 (2) sell, transfer, possess, or transport[[, or use a computer code to
 119 create,]] a firearm created through a 3D printing process.

120 -(b) This section does not:

121 (1) prohibit the teaching of firearms safety or other educational or
 122 sporting use in the areas described in subsection (a);

123 (2) apply to a law enforcement officer, or a security guard licensed to
 124 carry the firearm;

125 (3) apply to the possession of a firearm or ammunition, other than a
 126 ghost gun or an undetectable gun, in the person's own home;

127 (4) apply to the possession of one firearm, and ammunition for the
 128 firearm, at a business by either the owner who has a permit to
 129 carry the firearm, or one authorized employee of the business
 130 who has a permit to carry the firearm;

131 (5) apply to the possession of a handgun by a person who has
 132 received a permit to carry the handgun under State law; or

133 (6) apply to separate ammunition or an unloaded firearm:

- 134 (A) transported in an enclosed case or in a locked firearms rack
135 on a motor vehicle, unless the firearm is a ghost gun or an
136 undetectable gun; or
137 (B) being surrendered in connection with a gun turn-in or
138 similar program approved by a law enforcement agency.

139 * * *

140 **57-15. Penalty.**

141 Any violation of this Chapter or a condition of an approval certificate issued
142 under this Chapter is a Class A violation to which the maximum penalties for a Class
143 A violation apply. Any violation of Section 57-8 is a Class A civil violation.

144 **57-16. Reporting requirement.**

- 145 (a) The County Police Department must submit a report annually to the
146 County Executive and the County Council regarding the availability and
147 use of ghost guns and undetectable guns in the County.
148 (b) The report must include the number of ghost guns and undetectable
149 guns recovered by the Department during the prior year.
150 (c) Each report must be available to the public on the Police Department's
151 website.

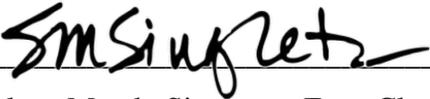
Approved:


 _____ 4/7/2021
 Tom Hucker, President, County Council Date

Approved:


 _____ 4/16/2021
 Marc Elrich, County Executive Date

This is a correct copy of Council action.


 _____ 4/16/2021
 Selena Mendy Singleton, Esq., Clerk of the Council Date



Committee: PS
Committee Review: Completed
Staff: Christine Wellons, Senior Legislative Attorney
Purpose: Final action – vote expected
Keywords: #FirearmsInPublicPlaces

AGENDA ITEM #4B
 November 15, 2022
Action

SUBJECT

Expedited Bill 21-22, Weapons – Firearms In or Near Places of Public Assembly

Lead Sponsors: Council President Albornoz

Co-Sponsors: Councilmembers Hucker, Friedson, Navarro, Jawando, Riemer, and Katz; Council Vice-President Glass; and Councilmember Rice

EXPECTED ATTENDEES

N/A

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- Action – Council vote expected
- The Public Safety Committee (3-0) recommends enactment of Bill 21-22 as amended.

DESCRIPTION/ISSUE

Expedited Bill 21-22 would:

- (1) prohibit the possession of firearms in or near places of public assembly, with certain exemptions;
- (2) remove an exemption that allows individuals with certain handgun permits to possess handguns within 100 yards of a place of public assembly; and
- (3) generally amend the law regarding restrictions against firearms in the County.

SUMMARY OF KEY DISCUSSION POINTS

The PS Committee recommends the enactment of Expedited Bill 21-22 with amendments to:

- clarify the definition of “place of public assembly” in light of recent Supreme Court jurisprudence;
- update provisions regarding ghost guns due to changes in Maryland law; and
- expressly add a severability clause to Chapter 57 of the County Code.

This report contains:

Staff Report	Pages 1-8
Expedited Bill 21-22	© 1
Legislative Request Report	© 7
Fiscal Impact Statement	© 8
Racial Equity and Social Justice Impact Statement	© 10
Economic Impact Statement	© 16
Public Testimony	© 18



Alternative format requests for people with disabilities. If you need assistance accessing this report you may [submit alternative format requests](#) to the ADA Compliance Manager. The ADA Compliance Manager can also be reached at 240-777-6197 (TTY 240-777-6196) or at adacompliance@montgomerycountymd.gov

MEMORANDUM

November 10, 2022

TO: County Council

FROM: Christine Wellons, Senior Legislative Attorney

SUBJECT: Expedited Bill 21-22, Weapons – Firearms In or Near Places of Public Assembly

PURPOSE: Final action – roll call vote expected

Committee recommendation (3-0): approval of Bill 21-22 with amendments

Bill 21-22, Weapons – Firearms In or Near Places of Public Assembly, sponsored by Lead Sponsor Council President Albornoz and Co-Sponsored by Councilmembers Huckler, Friedson, Navarro, Jawando, Riemer, Katz, Council Vice-President Glass and Councilmember Rice, was introduced on July 12, 2022. A Public Hearing occurred on July 26, 2022 and a Public Safety Committee worksession was held on October 31, 2022. Final action is scheduled for November 15, 2022.

Expedited Bill 21-22 would:

- (1) prohibit the possession of firearms in or near places of public assembly, with certain exemptions;
- (2) remove an exemption that allows individuals with certain handgun permits to possess handguns within 100 yards of a place of public assembly: and
- (3) generally amend the law regarding restrictions against firearms in the County.

BACKGROUND

In the Supreme Court decision of *New York State Rifle & Pistol Assn. v. Bruen, Superintendent of New York State Police*, Slip Opinion No. 20-843 (June 23, 2022), available at https://www.supremecourt.gov/opinions/21pdf/20-843_7j80.pdf, the Supreme Court overturned a requirement of New York’s handgun carry law. The New York law had required an applicant for a handgun carry license to show “proper cause” for the license, and the Supreme Court held that the requirement violated the Second Amendment’s right to bear arms. The Court explained, however, that “longstanding” “laws forbidding the carrying of firearms in sensitive places such as schools and government buildings” are constitutionally permissible.

Like New York, Maryland has a proper-cause requirement for wear-and-carry handgun licenses. *See* Md. Code Ann., Public Safety Section 5-306. Governor Hogan, in response to *Bruen*, instructed the Maryland State Police not to enforce the proper-cause element of the Maryland law. <https://governor.maryland.gov/2022/07/05/governor-hogan-directs-maryland-state-police-to-suspend-good-and-substantial-reason-standard-for-wear-and-carry-permits/>. Subsequently, the Court of Special Appeals struck down Maryland’s proper cause requirement in late July. *In re Rounds*, 255 Md. App. 205 (2022).

As a result of the Supreme Court eliminating “just cause” requirements, more individuals in Maryland likely will carry firearms, regardless of whether the individuals have any good or substantial reason to carry them.

BILL SPECIFICS

Expedited Bill 21-22 would **prevent an individual from possessing a firearm within 100 yards of a place of public assembly even when the individual has a wear-and-carry permit from the State of Maryland**. This restriction would strengthen current County law, which exempts individuals with permits from the restriction against carrying weapons within 100 yards of places of public assembly.

LEGAL FRAMEWORK

Maryland law specifically allows counties to regulate the possession of certain firearms within 100 yards of a place of public assembly. Under the Criminal Law Article of the Maryland Code, § 4-209:

State preemption

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

- (1) a handgun, rifle, or shotgun; and
- (2) ammunition for and components of a handgun, rifle, or shotgun.

Exceptions

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

- (i) with respect to minors;
- (ii) with respect to law enforcement officials of the subdivision; and
- (iii) except as provided in paragraph (2) of this subsection, **within 100 yards of or in a park, church, school, public building, and other place of public assembly**.

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

(Emphasis added).

There are many instances in which the State limits a person’s ability to carry a weapon, regardless of whether the person has a permit. *See* the Maryland State Police website, <https://mdsp.maryland.gov/Organization/Pages/CriminalInvestigationBureau/LicensingDivision/Firearms/WearandCarryPermit.aspx>, which lists numerous state areas, such as State parks and State buildings, where a concealed carry permit does not apply. Currently, the State law prevents permit carriers from possessing firearms at specific locations including school property, state buildings (not County buildings), state parks, the General Assembly, aircraft, Maryland Rest Areas, and certain daycares. *See id.*

Notably, these restricted areas identified by the State Police do not include certain areas within the County’s broader definition of “place of public assembly” – which was amended under Bill 4-21 bill to mean “a place where the public may assemble, whether the place is publicly or privately owned, including a park; place of worship; school; library; recreational facility; hospital; community health center; long-term facility; or multipurpose exhibition facility, such as a fairgrounds or conference center. A place of public assembly includes all property associated with the place, such as a parking lot or grounds of a building.”

SUMMARY OF PUBLIC HEARING

On July 26, 2022, the Council heard extensive testimony regarding Expedited Bill 21-22. (©15). Many speakers supported the bill as necessary for public safety. Many speakers opposed the bill based upon Second Amendment and safety concerns.

SUMMARY OF PUBLIC SAFETY WORKSESSION

The Committee discussed the following issues, and adopted the following amendments.

1. **Supreme Court Approach to Identifying “Sensitive Places” – i.e., places where Guns may be Banned**

Prior to *Bruen*, the judicial test to review firearms regulations consisted of two parts: (1) whether a gun regulation was consistent with Constitutional text and history; and (2) whether the regulation satisfied a means-ends balancing test (consisting of strict or intermediate scrutiny). Under *Bruen*, the Court has shifted so that only the first part of the test now matters; if the court concludes that a regulation is not consistent with the Constitutional text and history, it is invalid. It can no longer be resuscitated by a balancing test.

In *Bruen*, the Supreme Court explicitly rejected New York’s identification of “sensitive places” where firearms may be banned, even for individuals who have wear-and-carry permits:

Although we have no occasion to comprehensively define “sensitive places” in this case, *we do think respondents err in their attempt to characterize New York’s proper-cause requirement as a “sensitive-place” law. In their view, “sensitive*

places” where the government may lawfully disarm law-abiding citizens include all “places where people typically congregate and where law-enforcement and other public-safety professionals are presumptively available.” Brief for Respondents 34. It is true that people sometimes congregate in “sensitive places,” and it is likewise true that law enforcement professionals are usually presumptively available in those locations. ***But expanding the category of “sensitive places” simply to all places of public congregation that are not isolated from law enforcement defines the category of “sensitive places” far too broadly.*** Respondents’ argument would in effect exempt cities from the Second Amendment and would eviscerate ***the general right to publicly carry arms for self-defense....***

Slip opinion at 21 (emphasis added).

The Court went on to identify five locations – schools, legislative assemblies, government buildings, polling places, and courthouses – it considers to be “sensitive places” where weapons may be totally prohibited. The Court left open the possibility that other locations where weapons were historically banned – or the modern counterparts of those locations – might qualify as “sensitive places.”

...[A]nalogical reasoning requires only that the government identify a well-established and representative historical analogue, not a historical twin. So even if a modern-day regulation is not a dead ringer for historical precursors, it still may be analogous enough to pass constitutional muster.

Consider, for example, Heller’s discussion of “longstanding” “laws forbidding the carrying of firearms in sensitive places such as schools and government buildings.” 554 U. S., at 626. Although the historical record yields relatively few 18th- and 19th-century “sensitive places” where weapons were altogether prohibited—*e.g., legislative assemblies, polling places, and courthouses*—we are also aware of no disputes regarding the lawfulness of such prohibitions. See D. Kopel & J. Greenlee, The “Sensitive Places” Doctrine, 13 Charleston L. Rev. 205, 229–236, 244–247 (2018); see also Brief for Independent Institute as Amicus Curiae 11–17. We therefore can assume it settled that these locations were “sensitive places” where arms carrying could be prohibited consistent with the Second Amendment. ***And courts can use analogies to those historical regulations of “sensitive places” to determine that modern regulations prohibiting the carry of firearms in new and analogous sensitive places are constitutionally permissible.***

Slip opinion at 21 (emphasis added).

2. Amendments to the Definition of “Place of Public Assembly”

The County currently defines a “place of public assembly” as follows:

Place of public assembly: A “place of public assembly” is a place where the public may assemble, whether the place is publicly or privately owned, including a park; place of worship; school; library; recreational facility; hospital; community health

center; long-term facility; or multipurpose exhibition facility, such as a fairgrounds or conference center. A place of public assembly includes all property associated with the place, such as a parking lot or grounds of a building. (Sec. 57-1).

In order to make this definition more closely aligned with *Bruen*'s approach to "sensitive places" (as discussed above) – and in order to include places that *Bruen* has specifically said do qualify as "sensitive places" – the Committee voted to adopt the following amendment.

After line 1, add the following.

57-1. Definitions

* * *

Place of public assembly: A "place of public assembly" is:

- (1) a [place where the public may assemble, whether the place is] publicly or privately owned;], including a)
 - (A) park;
 - (B) place of worship;
 - (C) school;
 - (D) library;
 - (E) recreational facility;
 - (F) hospital;
 - (G) community health center, including any health care facility or community-based program licensed by the Maryland Department of Health;
 - (H) long-term facility, including any licensed nursing home, group home, or care home; [or]
 - (I) multipurpose exhibition facility, such as a fairgrounds or conference center; or
 - (J) childcare facility;
- (2) government building, including any place owned by or under the control of the County;
- (3) polling place;
- (4) courthouse;
- (5) legislative assembly; or

- (6) a gathering of individuals to collectively express their constitutional right to protest or assemble.

A “place of public assembly” includes all property associated with the place, such as a parking lot or grounds of a building.

* * *

3. Severability Clause

Given the fluctuating jurisprudence regarding the Second Amendment, the Committee voted to add a “severability clause” to the bill. The purpose of the severability clause is to explicitly reflect the Council’s intent that if any portion of the bill is found to be invalid, the remainder of the bill must remain in effect. This is important so that if a court were to strike down portions of the County’s law against carrying firearms in “places of public assembly”, the remainder of the law would be enforceable.

After line 31, insert the following.

Sec. 3. Severability. If any provision of this Act, or any provision of Chapter 57, is found to be invalid by the final judgment of a court of competent jurisdiction, the remaining provisions must be deemed severable and must continue in full force and effect.

4. Alignment with Maryland Law

After the adoption of Council Bill 4-21 (Ghost Guns), the General Assembly adopted ghost gun legislation requested by Attorney General Frosh (Chapter 1 of the 2022 Laws of Maryland).

In order to align County ghost gun definitions with those of the new state law – and in order to acknowledge that the ghost gun laws must be interpreted in accordance with regulations of the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives – the Committee adopted the following amendments.

After line 1, add the following.

57-1. Definitions

* * *

Gun or firearm: Any rifle, shotgun, revolver, pistol, ghost gun, undetectable gun, air gun, air rifle or any similar mechanism by whatever name known which is designed to expel a projectile through a gun barrel by the action of any explosive, gas, compressed air, spring or elastic.

* * *

- (2) “Ghost gun” means a firearm, including an unfinished frame or receiver, that;

- (A) lacks a unique serial number engraved or cased in metal alloy on the frame or receiver by a licensed manufacturer, maker or importer [under] in accordance with federal law; and
- (B) lacks markings and is not registered with the Secretary of the State Police in accordance with [27 C.F.R. § 479.102] Section 5-703(b)(2)(ii) of the Public Safety Article of the Maryland Code.

[It] “Ghost gun” does not include a firearm that has been rendered permanently inoperable, or a firearm that is not required to have a serial number in accordance with the Federal Gun Control Act of 1968.

* * *

- (8) “Undetectable gun” means:

* * *

- (9) “Unfinished frame or receiver” means a forged, cast, printed, extruded, or machined body or similar article that has reached a stage in manufacture where it may readily be completed, assembled, or converted to be used as the frame or receiver of a functional firearm.

Add the following uncodified section to Bill 21-22.

Sec. 4. This Act and Chapter 57 must be construed in a manner that is consistent with regulations of the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives, including 87 FR 24652 (effective August 24, 2022), as amended.

5. Technical Correction

The Committee voted to adopt the following technical amendment to correct a typographical error in Section 57-7(d).

57-7. Access to guns by minors.

* * *

- (d) A person must not purchase, sell, transfer, possess, or [transfer] transport a ghost gun, including a gun created through a 3D printing process, in the presence of a minor.

* * *

NEXT STEP: Roll call vote on whether to enact Expedited Bill 21-22 with amendments, as recommended by the Public Safety Committee.

<u>This packet contains:</u>	<u>Circle #</u>
Expedited Bill 21-22	1
Legislative Request Report	7
Fiscal Impact Statement	8

Racial Equity and Social Justice Impact Statement	10
Economic Impact Statement	16
Public Testimony	18
<i>Bruen</i> Decision	84

Expedited Bill No. 21-22
Concerning: Weapons – Firearms In or
Near Places of Public Assembly
Revised: 11/10/2022 Draft No. 2
Introduced: July 12, 2022
Expires: January 12, 2024
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Council President Alborno
Co-Sponsors: Councilmembers Hucker, Friedson, Jawando, Riemer, and Katz; Council Vice-President Glass; and Councilmember Rice

AN EXPEDITED ACT to:

- (1) prohibit the possession of firearms in or near places of public assembly, with certain exemptions;
- (2) remove an exemption that allows individuals with certain handgun permits to possess handguns within 100 yards of a place of public assembly; and
- (3) generally amend the law regarding restrictions against firearms in the County.

By amending

Montgomery County Code
Chapter 57, Weapons
[[Section]] Sections 57-1, 57-7, and 57-11

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

* * *

(9) “Unfinished frame or receiver” means a forged, cast, printed, extruded, or machined body or similar article that has reached a stage in manufacture where it may readily be completed, assembled, or converted to be used as the frame or receiver of a functional firearm.

* * *

Place of public assembly: A “place of public assembly” is:

- (1) a [[place where the public may assemble, whether the place is] publicly or privately owned:]], including a]]
 - (A) park;
 - (B) place of worship;
 - (C) school;
 - (D) library;
 - (E) recreational facility;
 - (F) hospital;
 - (G) community health center, including any health care facility or community-based program licensed by the Maryland Department of Health;
 - (H) long-term facility, including any licensed nursing home, group home, or care home; [[or]]
 - (I) multipurpose exhibition facility, such as a fairgrounds or conference center; or
 - (J) childcare facility;

102 Sec. 4. This Act and Chapter 57 must be construed in a manner that is
103 consistent with regulations of the federal Bureau of Alcohol, Tobacco, Firearms, and
104 Explosives, including 87 FR 24652 (effective August 24, 2022), as amended.

LEGISLATIVE REQUEST REPORT

Bill 21-22

Weapons – Firearms in or Near Places of Public Assembly

DESCRIPTION:	The bill would prohibit the possession of firearms in or near areas of public assembly and remove an exemption that currently allows individuals with certain handgun permits to possess weapons within 100 yards of a place of public assembly.
PROBLEM:	Gun violence.
GOALS AND OBJECTIVES:	Protect the possession of certain areas within sensitive areas, e.g., in or near places of public assembly.
COORDINATION:	Montgomery County Police Department
FISCAL IMPACT:	Office of Management and Budget
ECONOMIC IMPACT:	Office of Legislative Oversight
RACIAL EQUITY AND SOCIAL JUSTICE IMPACT:	Office of Legislative Oversight
EVALUATION:	To be done.
EXPERIENCE ELSEWHERE:	State of Maryland
SOURCE OF INFORMATION:	Christine Wellons, Senior Legislative Attorney
APPLICATION WITHIN MUNICIPALITIES:	Yes
PENALTIES:	N/A

Fiscal Impact Statement
Bill 21-22 – Weapons – Firearms In or Near Places of Public Assembly

1. Legislative Summary

Bill 21-22 would prohibit the possession of firearms in or near places of public assembly, remove an exemption that allows individuals with certain handgun permits to possess handguns within 100 yards of a place of public assembly, and amend the law regarding restrictions against firearms in the County.

2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.

The Bill's impact on County expenditures is expected to be nominal. Changes in the number of calls for service are expected to be small and can be absorbed within the Montgomery County Police Department's current staff complement. There is no anticipated impact on County revenues.

3. Revenue and expenditure estimates covering at least the next 6 fiscal years.

As stated in the response to question #2, the Bill's impact on County expenditures is expected to be nominal, and there is no anticipated impact on County revenues.

4. An Actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.

Not applicable.

5. An estimate of expenditures related to County's information technology (IT) systems, including Enterprise Resource Planning (ERP) systems.

There is no anticipated impact on County information technology systems.

6. Later actions that may affect future revenue and expenditures if the bill authorizes future spending.

Bill 21-22 does not authorize future spending.

7. An estimate of the staff time needed to implement the bill.

Staff time required to administer the Bill is expected to be minimal. Officer training will be accomplished through an informational bulletin.

8. An explanation of how the addition of new staff responsibilities would affect other duties.

No new staff would be required.

9. An estimate of costs when an additional appropriation is needed.

Not applicable.

10. A description of any variable that could affect revenue and cost estimates.

Not applicable.

11. Ranges of revenue or expenditures that are uncertain or difficult to project.

The number of additional calls that the Emergency Communications Center (ECC) may receive in a calendar year due to this Bill is difficult to quantify, but is expected to be minimal. The Department will reevaluate after one year.

12. If a bill is likely to have no fiscal impact, why that is the case.

See response to question #2.

13. Other fiscal impacts or comments.

Not applicable.

14. The following contributed to and concurred with this analysis:

Darren Francke, Assistant Chief of Police, Management Services Bureau
Dale Phillips, Director, Management and Budget Division
Karla Thomas, Manager, Management and Budget Division
Derrick Harrigan, Office of Management and Budget



Jennifer R. Bryant, Director
Office of Management and Budget

8/22/22

Date

Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

**EXPEDITED WEAPONS – FIREARMS IN OR NEAR PLACES OF PUBLIC
BILL 21-22: ASSEMBLY**

SUMMARY

The Office of Legislative Oversight (OLO) finds the racial equity and social justice (RESJ) impact of Expedited Bill 21-22 is indeterminant due to insufficient information on the demographics of the Bill's beneficiaries, as well as on the potential effects on gun violence and police interactions in the County.

PURPOSE OF RESJ IMPACT STATEMENT

The purpose of RESJ impact statements is to evaluate the anticipated impact of legislation on racial equity and social justice in the County. Racial equity and social justice refer to a **process** that focuses on centering the needs, leadership, and power of communities of color and low-income communities with a **goal** of eliminating racial and social inequities.¹ Achieving racial equity and social justice usually requires seeing, thinking, and working differently to address the racial and social harms that have caused racial and social inequities.²

PURPOSE OF EXPEDITED BILL 21-22

Gun violence is a significant public health problem in the United States. In 2020, there were 45,222 gun-related deaths, 54 percent of which were suicides and 43 percent of which were homicides.³ Gun homicides have recently been highlighted as a rapidly growing concern, potentially a result of distress during the pandemic.⁴ In 2020, 79 percent of homicides involved a firearm, the highest percentage recorded in over 50 years.⁵ Further, the firearm homicide rate jumped 35 percent in 2020, an increase deemed as historic by the Centers for Disease Control and Prevention (CDC).⁶ The U.S. also stands out internationally when it comes to gun homicides. Among high-income countries with populations of 10 million or more, the U.S. ranks first in gun homicides, having a rate more than double the next country on the list, Chile, and 22 times greater than in the European Union as a whole.⁷

Following the Supreme Court decision on *New York State Rifle & Pistol Assn. v. Bruen, Superintendent of New York State Police*, Governor Larry Hogan ordered Maryland State Police to suspend the 'good and substantial reason' standard in reviewing applications for wear-and-carry permits.⁸ Recent reports have noted a sharp increase in new permit applications in Maryland following the governor's orders.⁹

The goal of Expedited Bill 21-22 is to "prevent an individual from possessing a firearm within 100 yards of a place of public assembly even when the individual has a wear-and-carry permit from the State of Maryland."¹⁰ The Bill achieves this goal through removing an exemption in County law that currently allows individuals with certain handgun permits to possess handguns within 100 yards of a place of public assembly.

RESJ Impact Statement

Expedited Bill 21-22

State law currently prohibits permit carriers from possessing firearms at specific locations, including school property, state buildings, and state parks, among other locations. Bill 21-22 broadens the restricted areas established by the state to include places of public assembly as defined by County law, which includes parks, places of worship, schools, libraries, recreational facilities, hospitals, community health centers, long-term facilities, or multipurpose exhibition facilities, such as fairgrounds or conference centers. A place of public assembly can be publicly or privately owned, and includes all property associated with the place, such as a parking lot or grounds of a building.¹¹

Expedited Bill 21-22 was introduced to the Council on July 12, 2022.

In February 2021, OLO published a RESJ impact statement (RESJIS) for Bill 4-21, Weapons – Protection of Minors and Public Places – Restrictions Against Ghost Guns and Undetectable Guns.¹² OLO builds on Bill 4-21’s analysis for this RESJIS.

GUN VIOLENCE AND RACIAL EQUITY

Black, Indigenous, and Other People of Color (BIPOC), have long experienced significant disparities in gun violence. Regarding the recent sharp increase in gun homicides, researchers at the CDC stated:

“The firearm homicide rate in 2020 was the highest recorded since 1994 (1). However, the increase in firearm homicides was not equally distributed. Young persons, males, and Black persons consistently have the highest firearm homicide rates, and these groups experienced the largest increases in 2020. These increases represent the widening of long-standing disparities in firearm homicide rates. For example, the firearm homicide rate among Black males aged 10–24 years was 20.6 times as high as the rate among White males of the same age in 2019, and this ratio increased to 21.6 in 2020.”¹³

While some attribute violence in BIPOC communities to individual behaviors and choices, these explanations often ignore the central role government has played in driving segregation and concentrated poverty, common conditions in communities stricken with violence. The following section provides an overview of studies that explore the relationship between violence, segregation, and concentrated poverty, with the intent of demonstrating that racial and ethnic disparities in gun violence are neither natural nor random. Please see the RESJIS for Expedited Bill 30-21 , Landlord-Tenant Relations – Restrictions During Emergencies – Extended Limitations Against Rent Increases and Late Fees, for detailed background on the government’s role in fostering segregation and the racial wealth divide.¹⁴

Drivers of Gun Violence. Multiple studies have pointed to residential segregation and concentrated poverty as strong predictors of violence, and more specifically gun violence, in communities, for instance:

- A study of 103 metropolitan areas over five decades found that “(1) racial segregation substantially increases the risk of homicide victimization for blacks while (2) simultaneously decreasing the risk of white homicide victimization. The result...is that (3) segregation plays a central role in driving black-white differences in homicide mortality.”¹⁵
- A study of over 65,000 firearm-related deaths among U.S. youth ages 5 to 24 between 2007 and 2016 found that “higher concentration of county-level poverty was associated with increased rates of total firearm-related deaths.” Moreover, “two-thirds of firearm-related homicides could be associated with living in a county with a high concentration of poverty.”¹⁶

RESJ Impact Statement

Expedited Bill 21-22

- A study of U.S. gun violence data between 2014 and 2017 found that “gun violence is higher in counties with both high median incomes and higher levels of poverty.” The researchers went on to state that the “findings may well be due to racial segregation and concentrated disadvantage, due to institutional racism, police-community relations, and related factors.”¹⁷
- A study of shootings in Syracuse, New York between 2009 and 2015 found that “higher rates of segregation, poverty and the summer months were all associated with increased risk of gun violence.”¹⁸
- A study of gunshot victims (GSVs) in Louisville, KY between 2012 and 2018 found that “[r]elative to green-graded neighborhoods, red-graded [redlined] neighborhoods had five times as many GSVs. This difference remained statistically significant after accounting for differences in demographic, racial, and housing characteristics of neighborhoods.”¹⁹
- A study of 13 U.S. cities between 2018 and 2020 found that in 2020, “violence was higher in less-privileged neighborhoods than in the most privileged,” where less-privileged neighborhoods demonstrated a higher degree of racial, economic, and racialized economic segregation.²⁰

Consequences of Gun Violence. Gun violence has harmful effects that reverberate deeply in families and communities. As Dr. Thomas R. Simon, CDC Associate Director for Science, Division of Violence Prevention, stated to Vox “[p]art of the reason why violence is a public health problem is because of the significant and lasting health consequences for victims.” The 2022 Vox article provides an overview of research on the toll of gun violence, including the following findings:²¹

- Survivors of gun violence are at an increased risk of chronic pain, psychiatric disorders, and substance abuse and are more likely to experience mental health challenges.
- More than 15,000 American children lose a parent to gun violence each year. Children who lose a parent (for any reason, including gun violence) are more likely to have lower educational attainment, which could lead to poorer health given the strong link between education and health outcomes.
- Even if a person has not directly lost a loved one to a gun incident, being exposed to gun violence in a community leads to mental health issues, including problems with social function, anxiety, and depression.
- A 2018 study of six American cities found that individual shootings cost between \$583,000 and \$2.5 million, depending on the city and whether the firearm injury was fatal or nonfatal.

Data on Gun Violence. National data in Table 1 demonstrates racial and ethnic disparities in gun homicides, whereby Black Americans had a firearm homicide rate eleven times that of White Americans in 2020. Latinx and Native Americans respectively had firearm homicide rates two and three times greater than Whites, while Asian/Pacific Islanders had a lower firearm homicide rate than Whites.

RESJ Impact Statement

Expedited Bill 21-22

Table 1: 2020 Firearm Homicide Incidence by Race and Ethnicity, United States

Race and Ethnicity ²²	Number of Firearm Homicides	Rate of Firearm Homicides per 100,000 persons
Asian or Pacific Islander	227	1.0
American Indian or Alaska Native	221	8.1
Black	11,904	26.6
Latinx	2,946	4.5
White	4,052	2.2

Note: Rates are age-adjusted

Source: Changes in Firearm Homicide and Suicide Rates Report, CDC

Local data also confirms racial and ethnic disparities in gun violence. A review of 2016-2018 data by Healthy Montgomery, the County's community health improvement initiative, found that Black residents had an age-adjusted firearm hospitalization rate of 8.6 per 100,000 persons, compared to 2.4 for Latinx residents, 1.2 for White residents, and 0.3 for Asian residents.²³

ANTICIPATED RESJ IMPACTS

To consider the anticipated impact of Expedited Bill 21-22 on RESJ in the County, OLO recommends the consideration of two related questions:

- Who are the primary beneficiaries of this bill?
- What racial and social inequities could passage of this bill weaken or strengthen?

For the first question, the primary beneficiaries of the Bill are presumably residents who frequent places of public assembly, as they could experience increased safety from more gun restrictions in these areas. However, there is no definitive data on the demographics of people who frequent places of public assembly in the County. As such, OLO cannot conclude whether there are racial or ethnic disparities among the primary beneficiaries of this Bill.

For the second question, OLO considers the effect this Bill could have on reducing gun violence in the County given its disproportionate impact on BIPOC residents. While there is strong evidence to suggest that restricting gun access can reduce gun violence,²⁴ there is little research on the effect of place-based restrictions such as those proposed in this Bill. Further, it is unclear how the enforcement of this law would potentially change police contact with residents, and whether that could worsen existing disparities in police interactions with BIPOC residents.²⁵

Taken together, OLO finds that the RESJ impact of this Bill is indeterminant.

RECOMMENDED AMENDMENTS

The Racial Equity and Social Justice Act requires OLO to consider whether recommended amendments to bills aimed at narrowing racial and social inequities are warranted in developing RESJ impact statements.²⁶ OLO finds that the RESJ impact of Expedited Bill 21-22 is indeterminant due to insufficient information on the demographics of the Bill's beneficiaries, as well as on the potential effects on gun violence and police interactions in the County. OLO does not offer recommended amendments since the Bill was not found to be inequitable.

RESJ Impact Statement

Expedited Bill 21-22

In their recently released study on increased gun violence, researchers at the CDC note, “[t]he findings of this study underscore the importance of comprehensive strategies that can stop violence now and in the future by addressing factors that contribute to homicide and suicide, including the underlying economic, physical, and social inequities that drive racial and ethnic disparities in multiple health outcomes.”²⁷ Should the Council seek to improve the RESJ impact of this Bill through incorporating recommended amendments or introducing companion legislation, the policy solutions highlighted by the CDC researchers in the study can be considered.

CAVEATS

Two caveats to this racial equity and social justice impact statement should be noted. First, predicting the impact of legislation on racial equity and social justice is a challenging analytical endeavor due to data limitations, uncertainty, and other factors. Second, this RESJ impact statement is intended to inform the legislative process rather than determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

CONTRIBUTIONS

OLO staffer Janmarie Peña drafted this RESJ impact statement.

¹ Definition of racial equity and social justice adopted from “Applying a Racial Equity Lens into Federal Nutrition Programs” by Marlysa Gamblin, et.al. Bread for the World, and from Racial Equity Tools. <https://www.racialequitytools.org/glossary>

² Ibid

³ John Gramlich, “What the Data Says about Gun Deaths in the U.S.,” Pew Research Center, February 3, 2022.

<https://www.pewresearch.org/fact-tank/2022/02/03/what-the-data-says-about-gun-deaths-in-the-u-s/>

⁴ Becky Sullivan and Nell Greenfieldboyce “Firearm-Related Homicide Rate Skyrockets Amid Stresses of the Pandemic, the CDC Says,” Research News, NPR, May 10, 2022. <https://www.npr.org/2022/05/10/1097916487/firearm-homicide-rates-soar-pandemic-cdc-says>

⁵ John Gramlich

⁶ “Firearm Deaths Grow, Disparities Widen,” CDC Newsroom, CDC, May 10, 2022. <https://www.cdc.gov/media/releases/2022/s0510-vs-firearm-deathrates.html>

⁷ “On Gun Violence, the United States is an Outlier,” Institute for Health Metrics and Evaluation,” May 31, 2022.

<https://www.healthdata.org/acting-data/gun-violence-united-states-outlier>

⁸ “Governor Hogan Directs Maryland State Police to Suspend ‘Good and Substantial Reason’ Standard For Wear and Carry Permits,” The Office of Governor Larry Hogan, July 5, 2022. <https://governor.maryland.gov/2022/07/05/governor-hogan-directs-maryland-state-police-to-suspend-good-and-substantial-reason-standard-for-wear-and-carry-permits/>

⁹ Frederick Kunkle, “Supreme Court Ruling Sets Off Rush for Concealed Gun Permits in Maryland,” Washington Post, July 18, 2022.

<https://www.washingtonpost.com/dc-md-va/2022/07/15/concealed-carry-maryland-guns-hogan/>

¹⁰ “Expedited Bill 21-22, Weapons – Firearms In or Near Places of Public Assembly,” Montgomery County, Maryland, July 12, 2022.

https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2022/20220712/20220712_10A.pdf

¹¹ Ibid

¹² Racial Equity and Social Justice Impact Statement for Bill 4-21, Office of Legislative Oversight, Montgomery County, Maryland, February 8, 2021. <https://montgomerycountymd.gov/OLO/Resources/Files/resjis/2021/RESJIS-Bill4-21.pdf>

¹³ Scott R. Kessler, Thomas R. Simon, et. al., “Vital Signs: Changes in Firearm Homicide and Suicide Rates – United States, 2019-2020,” Morbidity and Mortality Weekly Report (MMWR), CDC, May 13, 2022.

https://www.cdc.gov/mmwr/volumes/71/wr/mm7119e1.htm?s_cid=mm7119e1_w

RESJ Impact Statement

Expedited Bill 21-22

-
- ¹⁴ Racial Equity and Social Justice Impact Statement for Expedited Bill 30-21, Office of Legislative Oversight, Montgomery County, Maryland, September 9, 2021. <https://montgomerycountymd.gov/OLO/Resources/Files/resjis/2021/Bill30-21RESJ.pdf>
- ¹⁵ Michael T. Light and Julia T. Thomas, "Segregation and Violence Reconsidered: Do Whites Benefit from Residential Segregation," American Sociological Review, July 9, 2019. <https://journals.sagepub.com/doi/abs/10.1177/0003122419858731>
- ¹⁶ Jefferson T. Bennet, Lois K. Lee, et. al., "Association of County-Level Poverty and Inequities with Firearm-Related Mortality in US Youth," JAMA Pediatrics, November 22, 2021. <https://jamanetwork.com/journals/jamapediatrics/article-abstract/2786452>
- ¹⁷ Blair T. Johnson, Anthony Sisti, et. al., "Community-Level Factors and Incidence of Gun Violence in the United States, 2014-2017," Social Science & Medicine, July 2021. <https://www.sciencedirect.com/science/article/abs/pii/S0277953621003014>
- ¹⁸ David A. Larsen, Sandra Lane, et. al., "Spatio-Temporal Patterns of Gun Violence in Syracuse, New York 2009-2015," PLOS ONE, March 20, 2017. <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0173001>
- ¹⁹ Matthew Bennis, Matthew Ruther, et. al., "The Impact of Historical Racism on Modern Gun Violence: Redlining in the City of Louisville, KY," Injury, October 2020. <https://www.sciencedirect.com/science/article/abs/pii/S0020138320305490>
- ²⁰ Julia P. Schleimer, Shani A. Buggs, et. al., "Neighborhood Racial and Economic Segregation and Disparities in Violence During the COVID-19 Pandemic," American Journal of Public Health, January 2022. <https://pubmed.ncbi.nlm.nih.gov/34882429/>
- ²¹ Keren Landman, "Guns Do More than Kill," Vox, June 6, 2022. <https://www.vox.com/science-and-health/23151542/gun-deaths-firearm-injuries-violence-health-grief-mental-physical>
- ²² Latinx people are not included in other racial groups throughout this impact statement, unless where otherwise noted.
- ²³ "Healthy Montgomery Core Measures: Firearm Hospitalization," Healthy Montgomery, Montgomery County, Maryland, Accessed August 2, 2022. <https://www.montgomerycountymd.gov/healthymontgomery/chart.html>
- ²⁴ "Gauging the Effectiveness of Gun Control Laws," News from Columbia Law, Columbia Law School, March 10, 2016. <https://www.law.columbia.edu/news/archive/gauging-effectiveness-gun-control-laws>
- ²⁵ Elaine Bonner-Tompkins and Nataliza Carrizosa, OLO Report 2020-9: Local Policing Data and Best Practices, Office of Legislative Oversight, July 12, 2020. <https://montgomerycountymd.gov/OLO/Resources/Files/2020%20Reports/OLOREport2020-9.pdf>
- ²⁶ Bill 27-19, Administration – Human Rights – Office of Racial Equity and Social Justice – Racial Equity and Social Justice Advisory Committee – Established, Montgomery County Council
- ²⁷ Kegler, Simon, et. al.

Economic Impact Statement

Office of Legislative Oversight

Expedited Bill 21-22

Weapons – Firearms In or Near Places of Public Assembly

SUMMARY

The Office of Legislative Oversight (OLO) anticipates that enacting Bill 21-22 would have an insignificant impact on economic conditions in the County in terms of the Council’s priority indicators.

BACKGROUND

The goal of Bill 21-22 is to protect places in or near places of public assembly from gun violence.¹ The Bill would attempt to achieve this goal by amending the law regarding restrictions against firearms in the County in two ways. First, it would “prohibit the possession of firearms in or near areas of public assembly.” Second, it would “remove an exemption that currently allows individuals with certain handgun permits to possess weapons within 100 yards of a place of public assembly.”² If enacted, the change in law would take effect on the date it becomes law.³

INFORMATION SOURCES, METHODOLOGIES, AND ASSUMPTIONS

Per Section 2-81B of the Montgomery County Code, the purpose of this Economic Impact Statement is to assess the impacts of Bill 21-22 on County-based private organizations and residents in terms of the Council’s priority economic indicators and assess whether the Bill would likely result in a net positive or negative impact on overall economic conditions in the County.⁴ It is doubtful that enacting Bill 21-22 would impact firearm sales from County-based gun shops. Moreover, while gun violence has direct and indirect economic costs for victims, perpetrators, and other stakeholders,⁵ it is beyond the scope of this analysis to assess the effectiveness of the restrictions in preventing gun violence in the future. Thus, OLO does not anticipate the changes to the law regarding restrictions against firearms in the County to have significant economic impacts on private organizations, residents, or overall conditions in the County.

VARIABLES

Not applicable

¹ [Legislative Request Report](#).

² [Bill 21-22](#).

³ Ibid.

⁴ Montgomery County Code, [Sec. 2-81B](#).

⁵ [A State-by-State Examination of the Economic Costs of Gun Violence](#); Follman et al, “[The True Cost of Gun Violence in America](#).”

Economic Impact Statement

Office of Legislative Oversight

IMPACTS

WORKFORCE ▪ TAXATION POLICY ▪ PROPERTY VALUES ▪ INCOMES ▪ OPERATING COSTS ▪ PRIVATE SECTOR CAPITAL INVESTMENT ▪ ECONOMIC DEVELOPMENT ▪ COMPETITIVENESS

Businesses, Non-Profits, Other Private Organizations

Not applicable

Residents

Not applicable

DISCUSSION ITEMS

Not applicable

WORKS CITED

[A State-by-State Examination of the Economic Costs of Gun Violence](#). U.S. Congress Joint Economic Committee, Democratic Staff. September 18, 2019.

Mark Follman, Julia Lurie, Jaeah Lee, and James West. "[The True Cost of Gun Violence in America](#)." *Mother Jones*. April 15, 2015.

Montgomery County Code. [Sec. 2-81B, Economic Impact Statements](#).

Montgomery County Council. [Expedited Bill 21-22, Weapons – Firearms In or Near Places of Public Assembly](#). Introduced on July 12, 2022.

CAVEATS

Two caveats to the economic analysis performed here should be noted. First, predicting the economic impacts of legislation is a challenging analytical endeavor due to data limitations, the multitude of causes of economic outcomes, economic shocks, uncertainty, and other factors. Second, the analysis performed here is intended to *inform* the legislative process, not determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the Bill under consideration.

CONTRIBUTIONS

Stephen Roblin (OLO) prepared this report.

In Support of Expedited Bill 21-22, Weapons -Firearms In or Near Places of Public Assembly
On behalf of the Association of Independent Schools of Greater Washington

July 20, 2022

I am submitting this testimony as Executive Director of the Association of Independent Schools of Greater Washington (“AISGW”) in support of *Expedited Bill 21-22, Weapons-Firearms In or Near Places of Public Assembly*. AISGW represents 78 member schools in the greater D.C. area, and our schools educate over 10,000 students in Montgomery County alone. *Expedited Bill 21-22* would prevent an individual from possessing a firearm within 100 yards of a “place of public assembly” even when the individual has a wear-and-carry permit from the State of Maryland. The definition of public assembly includes schools. This restriction strengthens current County law, which currently exempts individuals with permits from the restriction against carrying weapons within 100 yards of places of public assembly.

We commend the Montgomery County Council for these efforts to stem acts of gun violence that have become shockingly all too common in our communities and on our school grounds. The recent mass shooting at the Robb Elementary School in Uvalde, Texas, along with the persistent and terrifying recurrence of mass shootings across our country, have left school leaders once again consoling and calming their communities while searching for solutions to keep their school communities safe. Indeed, one of our very own AISGW schools was subject to a harrowing act of gun violence in April of this year.

We understand that Maryland State law already prohibits the wear, carry and transport of handguns and firearms on public school grounds. *CR 4-102*. Extending that protection to *all* schools, as well as other community gathering places throughout the County, however, is an important and – unfortunately – very necessary next step as we see this wave of gun violence continue. Moreover, we urge the County to consider any other steps that would keep our children safe, whether those include broader prevention and education efforts, or prohibitions such as this proposed legislation, aimed at preventing this violence from reoccurring.

I appreciate the opportunity to comment on the proposed legislation on behalf of our AISGW member schools and would welcome any chance to support further the goals of keeping our children and our school campuses protected from this persistent threat.

On Monday, July 11th, County Council President Gabe Albornoz introduced Bill 21-22, to remove the exemption for W&C permit holders from the county's ban on possessing firearms "in or within 100 yards of a place of public assembly," which includes parks and churches, banning carry in those places. I oppose this bill as an infringement on our residents' recently affirmed constitutional rights as issued by the US Supreme Court(i.e., Bruen case).

The bill provides no requirement for the county to clearly mark which of these areas are to be "gun-free zones," which will result in confusion among law-abiding citizens who are permit holders.

The legislation also makes no mention of whether the county intends to guarantee the safety of disarmed citizens in those places with measures, such as metal detectors or police presence. Gun free zone declarations are soft targets for criminals and those intent on wrecking havoc. |

Also, this proposed bill like many of the Democratic Party and left wing gun control policies of extreme gun control over the years have and will not work given high crime and murder rates in many Maryland cities and towns – not be law abiding gun owners but by criminals and unstable persons.

This proposed bill will not improve safety of our citizens. Armed criminals, who already illegally carry without any permits and illegally possess firearms in violation of state and federal laws, will likely ignore the arbitrary boundaries created by this ordinance.

This bill would create more targets of opportunity for criminals and prevent responsible law abiding citizens from their right of self-defense. Recent mall shooter in Indiana was terminated by a law abiding citizen with a legal carry permit, saving untold additional lives. Good people carrying self-defense capabilities are far more effective at deterring crime and reducing crazed mayhem than any police presence can do. I urge the council to vote No on Bill 21-22 to keep Montgomery County safer than if it was passed into law. If the Council approves this measure then the Council needs to address the safety of unarmed citizens in these gun free zones and take measure to ensure access to these "gun free zones" provides control points to ensure the safety of us.

To the members of the council,

My name is Anthony Nelson, and I have been a resident of Montgomery county since roughly 2013. I previously lived in Prince George's County where I experienced more than my fair share of crime directly or indirectly including robbery, home break-ins, and car theft. That was precisely part of my desire to move out to an area that for most of my life, I considered to be relatively low in crime and safe.

As a lifelong resident of Maryland, it has been a long frustrating road for the issue of self-defense and Maryland's views to the methods in which one chooses to defend themselves. For my entire adult life, I have had to accept lawfully, that I am not able to defend myself or my family to the best of my ability due to what many politician's refer to as "common-sense gun legislation." Up until July 5, 2022, Maryland has remained a "may issue" state in regards to the issuance of any type of permit to carry citing "good and substantial" reasoning which to most, felt like an arbitrary term that applied to a very small population. The recent Supreme Court Ruling and subsequent statement from Gov. Hogan suspending the "good and substantial" clause was an exciting time for many Marylanders and a restoration of a long restricted constitutional right as well as the "unalienable right" to Life mentioned in the countries founding document. A right that governments were instituted to secure.

Despite the legislation that Maryland has upheld for all these years, touting some of the strictest gun laws on the books in the country, Maryland has remained competitive in the category of "most homicides by state" category. This can be partly contributed to Maryland's unwillingness to prosecute criminals who are in turn released and commit more heinous crimes; as well as enforce laws that are already on the books. As recent as June, Deputy First Class Glenn Hilliard was murdered by a man who should have been previously locked-up for being convicted of armed robbery. I would like to note that at the time of the armed robbery and at the time of the murder of Deputy Hilliard, the suspect was under the age of legal handgun ownership in the state of Maryland. At the time of this letter, just one week ago, a 15-year-old squeegee worker in Baltimore shot and killed a bat-wielding man in Baltimore. While all of the details of the case may never all be known, we know that a 15-year old boy was armed and it was stated that most of the boys who are on these corners providing this service are as well. This stands to show that no matter what laws are on the books, criminals will always willfully disobey them, and it is always the law-abiding citizen who is left at a disadvantage. This legislation is not aimed at keeping criminals from bringing guns into "public areas," because we all know that criminals will do it no matter what the law says. What we do know for sure is that criminals don't look for resistance or a fight, they look for victims and easy targets. This bill only creates more of the latter.

Driving into my home city of Olney now, there are road signs warning of car jackings. A January 2022 WTOP article titled "Homicides, carjackings up in Montgomery County" is a constant lingering thought in my head when I come to a stop light with my 3 small children who are under the age of 6 and wife all in the vehicle. The article denotes an 88% rise in homicides and 72% increase in carjackings. Average law-abiding citizens are tired of being a statistic. Having more trained citizens looking to protect themselves and their families suddenly becoming criminals because of a law based on no data is the exact reason why crime statistics in this county will continue to rise if this unconstitutional bill is passed.

Members of this council have stated that Marylanders want this bill passed; however I think it can be reasonably argued by the influx of applications for wear and carry permits, as well as the current backlog

of people trying to sign up for the class, is quite representative of the climate. This bill, while directly in opposition to the supreme court ruling and purpose for the ruling in the first place, stands to turn law-abiding citizens who took the time to get the training and spent upwards of \$1000 in total to exercise a constitutional right into criminals.

I strongly urge the council to rescind this bill as it is in opposition to the recent supreme court ruling, as well as the basic human rights we all have, to defend ourselves and our families.

Thank you for your time and attention.

Sincerely,

Anthony Nelson

21 July, 2022

Mr. Gabe Albornoz
President, Montgomery County Council

Regarding Bill 21-22 to remove the exemption from [Montgomery County Code § 57.11](#) for holders of Maryland Wear and Carry Permit from within 100 yards of "Place of Public Assembly.

Dear Mr. Albornoz,

I write to oppose Bill 21-22. This new bill would remove the existing exception for permit carry that has long existed in Montgomery County code, and is a clear violation of the Supreme Court's decision in *NYSRPA v. Bruen* as it would ban carry by a permit holder virtually everywhere including stores and businesses throughout Montgomery County. Carry permits will be useless in Montgomery County if this bill is enacted and allowed to stand.

I am a resident of Anne Arundel County; however, I frequent Montgomery County to access the wonderful care at a Johns Hopkins Wilmer Eye Institute in Bethesda. Unfortunately, I suffer from glaucoma, which has been difficult to control. While I am not allowed to carry within hospitals and medical clinics, Bill 21-22 would not allow me even to carry within the county in order to access quality health care. Why are you afraid of a law-abiding citizen, like me, who may find it necessary to find health care elsewhere should this law be passed?

Please do not vote for Bill 21-22.

Sincerely,
Cathy S. Wright

My name is Galen Muhammad and I am the State Director of Maryland and Washington, DC for the National African American Gun Association or NAAGA. I am also the chapter president for the NAAGA chapter in Prince George's County – Onyx Sharpshooters.

I am **vehemently** opposed to this bill as I often travel through Montgomery County as a law-abiding citizen who is a concealed carry licensee. While I don't live in Montgomery County, the members of my gun club, others who are also concealed carry licensees and those who seek said license will be barred from conducting business or just traveling from Point A to Point B within Montgomery County.

As a certified firearms instructor, I also plan to visit my Montgomery County chapter and their events within the county and train residents of Montgomery County at locations in Montgomery County and I do travel with my concealed carry firearms.

This bill gives absolutely no consideration, nor does it mention the fact that those with the Wear & Carry license are **already prohibited** from many areas, including sporting events, federal, state, county and city buildings, public transportation, public schools, colleges and universities, banks, retail establishment with clearly posted signage, post offices **AND** their parking lots, etc. These are the proverbial "**bricks**" around which we, law-abiding citizens, who **legally** concealed carry legally navigate. This *vague* bill being proposed seeks to be the "**mortar**" to fill in the gaps and add additional and unnecessary areas, creating and manufacturing a problem where there isn't one.

This bill also overlooks the mandatory firearms training that each licensee must attend to be qualified to receive the Wear & Carry license. During this training, we are taught that Maryland is **NOT** a Castle Doctrine state and that we have a duty to retreat, if possible.

I ask that this bill be given an unfavorable report.

To the Honorable Members of the County Council of Montgomery County, MD

Gabe Albornoz, Chairman
Andrew Friedson
Evan Glass
Tom Hucker
Will Jawando
Sidney Katz
Nancy Navarro
Craig Rice
Hans Riemer

From: Dr. Jack L. Rutner
Silver Spring MD

Re: Expedited Bill 21-22, Weapons – Firearms In or Near Places of Public Assembly

This purpose of this testimonial letter is to raise questions to the Montgomery County Council about the constitutionality of the proposed legislation embodied in Bill 21-22. This testimonial letter will cover three issues:

- I. The guidance provided by the Supreme Court to the Courts in the Bruen decision in how to adjudicate Second Amendment cases henceforth;
- II. The Supreme Court’s discussion on sensitive places;
- III. The Supreme Court’s reference to D. Kopel & J. Greenlee, The “Sensitive Places” Doctrine, 13 *Charleston L. Rev.* 205 (2018), and Brief for Independent Institute as *Amicus Curiae* and how they would affect the constitutionality of Expedited Bill 21-22.

I: The Supreme Court in the Bruen decision (8: II) reviewed the two-step procedure Courts of Appeal have used since the *Heller* and *McDonald* decisions. The Court held that, that was one step too many. Specifically, the Court wrote:

In keeping with *Heller*, we hold that when the Second Amendment’s plain text covers an individual’s conduct, the Constitution presumptively protects that conduct. **To justify its regulation, the government may not simply posit that the regulation promotes an important interest. Rather, the government must demonstrate that the regulation is consistent with this Nation’s historical tradition of firearm regulation.** Only if a firearm regulation is consistent with this Nation’s historical tradition may a court conclude that the individual’s conduct falls outside the Second Amendment’s “unqualified command.” (My emphasis.)

The Court emphasizes this further when it writes (10: IIB):

the government must affirmatively prove that its firearms regulation is part of the historical tradition that delimits the outer bounds of the right to keep and bear arms.

On examining Expedited Bill 21-22 I find nowhere does it show how the proposed regulation expanding sensitive places to many places of public assembly falls within the scope of being consistent with “this Nation’s historical tradition of firearm regulation.” Absent such analysis Expedited Bill 21-22 appears to on infirm constitutional grounds. On this basis alone a legal challenge to the constitutionality of 21-22 will prove successful in the federal courts.

II. With regard to sensitive places, the Court discussed the issue of sensitive places. It wrote that expanding sensitive places to a large variety of places of public assembly is inconsistent with the

Second Amendment. In particular, it writes (22) about New York State’s view on sensitive places:

In [New York State’s] view, “sensitive places” where the government may lawfully disarm law-abiding citizens include all “places where people typically congregate and where law-enforcement and other public-safety professionals are presumptively available.” Brief for Respondents 34. It is true that people sometimes congregate in “sensitive places,” and it is likewise true that law enforcement professionals are usually presumptively available in those locations. **But expanding the category of “sensitive places” simply to all places of public congregation that are not isolated from law enforcement defines the category of “sensitive places” far too broadly.** Respondents’ argument would in effect exempt cities from the Second Amendment and would eviscerate the general right to publicly carry arms for self-defense that we discuss in detail below. (My emphasis.)

Expedited Bill 21-22 does precisely what the Court counseled governments not to do, which is to expand the category of sensitive places to almost all places of public congregation. According to the Court, that categorizes sensitive places far too broadly. Indeed, based on the Court’s language in Bruen, should the Council pass Expedited Bill 21-22, legal challenges to it would be successful because of the overly broad categorization of sensitive places. When that is coupled with the absence of analysis demonstrating that 21-22 is consistent with this Nation’s historical tradition of firearm regulation, then it would seem 21-22 is on very legally infirm constitutional grounds and will not be upheld in federal court.

III. The definition of public places in Expedited Bill 21-22 is derived from Bill 4-21. They are:
[A] place where the public may assemble, whether the place is publicly or privately owned, including a park; place of worship; school; library; recreational facility; hospital; community health center; long-term facility; or multipurpose exhibition facility, such as a fairgrounds or conference center. A place of public assembly includes all property associated with the place, such as a parking lot or grounds of a building.”

Most of those places in 4-21 do not fall within the purview of public places based on the current references in its discussion in Bruen (21) regarding sensitive places. There, it pointed to an article in *Charleston Law Review* from 2018 title the “Sensitive Places Doctrine” by Kopel and Greenlee (hereinafter, KG), and to the *Amicus Curia* Brief of the Independent Institute (hereinafter BII). Both documents discuss sensitive places while the latter provides guidance on “longstanding” laws regarding such places/

In the KG article, there is a useful summary of the sensitive place doctrine (287*f.*), some of which I quote here (with my emphasis):

Extensions by analogy to schools and government buildings. It is difficult to create a rationale for extending the “sensitive places” doctrine to places that are not schools or government buildings. As discussed above, there are few “longstanding” restrictions on other locations.

Given the thin historical record, one can only guess about what factors make places “sensitive.” Some of the guesses are: **places where most persons therein are minors (K-12 schools), places that concentrate adversarial conflict and can generate passionately angry emotions (courthouses, legislatures, polling places), or buildings containing people at acute personal risk of being targets of assassination (many government buildings).**

The answer cannot be that the places are crowded. Sometimes they are, but no more so than a busy downtown sidewalk, and sidewalks are not sensitive places.

Rather than try to figure out analogies to “schools and government buildings,” the better judicial approach for other locations is simply to give the government the opportunity to prove its case under heightened scrutiny.

Buffer zones are not sensitive places. Heller allows for carry bans “in” sensitive places—not bans “around” or “near” sensitive places. Accordingly, buffer zones are not sensitive places.

...

Laws that broadly negate the right to arms are not legitimate precedents. Laws that widely prohibit bearing arms are contrary to the text of the Second Amendment. Accordingly, they are not a legitimate part of the history and tradition of the right to bear arms.

In my opinion the critical passages for 21-22 in this summary by KG are those bolded. It is clear that Bill 21-22 would widely prohibit carrying arms in a large variety of places within the County. As KG observe, “Laws that widely prohibit bearing arms are contrary to the text of the Second Amendment.” Moreover, as they suggest, an argument that such places are crowded will be insufficient to sustain the constitutionality of Bill 21-22 under heightened scrutiny.

Bill 21-22 defines places of public assembly to those listed in Bill 4-21. Most of those places though do not meet the criteria KG outline in their summary for sensitive places. The places I think that do not meet those criteria are places of worship, recreational facilities, hospital, community health centers, long-term facility, multipurpose exhibition facilities (e.g., fairgrounds or conference centers). Such places are not places where most persons are minors, they are not places which concentrate adversarial conduct and they are not places where passionate angry emotions are generated. Declaring them off limits to the legal carriage of guns therein again will prove to be on constitutionally infirm ground based the guidance in Bruen.

Another issue of Bill 21-22 is the creation 100-yard buffers zones around places of public assembly. Such buffer zones under Bruen are most likely not be justifiable for Second Amendment cases. KG reviewed several court cases regarding buffer zones around sensitive places of which I will summarize one. The case is an Illinois case termed, the *People v. Chairez*. The State of Illinois had made it illegal to carry a firearm within a 1,000-foot buffer zone around a state park. According to KG (269), the Illinois Supreme Court ruled: “that the law severely burdened the core of the right to bear arms, because it prohibited the carriage of weapons for self-defense and it affected the entire law-abiding population of Illinois.” Moreover the Court found that the ‘State was unable to support its “assertion that a 1000-foot firearm ban around a public park protects children, as well as other vulnerable persons, from firearm violence” ’ (KG, 269f.). Bill 21-22 appears to contain both defects found in *People v. Chairez*: it affects the entire law-abiding population of Montgomery County; and the County will be unable to support an assertion that buffer zones protect children and vulnerable persons. Consequently, the buffer zones themselves are not sensitive places and would be ruled unconstitutional. Moreover, based on the guidance in the Bruen decision, even if the County could show that such buffer zones might protect children and vulnerable persons that would be insufficient to meet the criterion of being within “the historical tradition of firearm regulation” and so would be declared unconstitutional based solely on that.

We turn next to *Amicus Curiae* brief filed by Independent Institute (BII) in the Bruen Case for further guidance on the issue of sensitive places and longstanding traditions of restricting Second Amendment rights. In BII, there is a short review of American laws regarding sensitive places, which it sometimes terms, “gun-free zones.” According to BII (11), in colonial America, “gun-free zones through the time of the Founding were limited ...”

A notable exception was Maryland's ban on bringing weapons into houses of Assembly (government buildings). According to BII (12) Virginia followed up on that a century later when it 'forbade most (but not all) people from "com[ing] before the Justices of any Court, or other of their Ministers of Justice, doing their office, with force and arms." ... Virginia's law also barred citizens from carrying arms "in other places," but only when such carrying was done "in terror of the country," *id.*, thus respecting a general right to peaceably carry but carving out a narrow exception for courts.' Thus, according to BII, government buildings would meet the criterion laid down in Bruen of being consistent with "this Nation's historic tradition of firearm regulation" insofar as such bans are longstanding traditions. On the other hand, a ban on firearms in a wide variety of places of public assembly, such as in 21-22, would not be consistent with that historic tradition because there is no longstanding tradition of banning firearms in such places. Hence, the constitutionality of a such a bill would no doubt not be upheld in federal court based on the guidance the Court provided in Bruen.

BII does indicate certain narrow conditions under which government can ban firearms consistent with the Second Amendment (see BII, 22). It writes:

The most obvious way is to limit modern gun-free zones to areas in which the government has demonstrated a serious commitment and a realistic ability to ensure public safety. This can be accomplished by ensuring that would-be criminals are prevented by more than the normative power of a legal prohibition to remain unarmed through, *e.g.*, the provision of law enforcement officers and armed security, along with metal detectors or other defensive instruments.

It writes further (BII 24):

If the government cannot (or chooses not to) provide protection similar to that at airports in other areas, then designating those areas as "gun free" necessarily eviscerates (*sic.*) the self-defense right and, accordingly, constitutes a Second Amendment violation.

It would appear from BII, that if the Council bans firearms in public places without its supplying adequate security and specifically by supplying adequate law enforcement personnel and metal detectors, it will have eviscerated the self-rights of the citizens of Montgomery County and anyone else who comes into the County. Hence, I think that under the current guidance found in Bruen, Expedited Bill 21-22 is on infirm constitutional grounds and will be found unconstitutional in federal court.



The Institute for Forensic Psychology

Jack Leeb, PsyD

Police & Public Safety Psychology

Associate Member, International Association of Chiefs of Police

Associate Member, Maryland Chiefs of Police Association

Certified Force Science Analyst

914 Brentwood Lane
Silver Spring, MD 20902

(301) 452-4900 voice

(301) 593-9191 fax

www.policetest.com
drleeb1@gmail.com

Date: 19 July 2022
To: Montgomery County Council
Re: Bill 21-22

As a police psychologist, firearms instructor, and MD Wear and Carry permit holder for over 20 years, I am very concerned about County Council bill 21-22, which would effectively negate the recent US Supreme Court decision affirming the right of law-abiding citizens to carry a firearm in public. As a police psychologist I have received threats over the years related to my work; I have also studied criminal behavior. As a firearms instructor I transport firearms to and from classes and the range and have witnessed firsthand over the past 25 years just how serious the average citizen who desires to possess a firearm is with regard to its use and safety in general. I have been comforted by the fact that I have the option to carry a firearm to protect myself and my family when out and about, and I have been proud of my fellow law-abiding citizens' clear desire to do the right thing with regard to the possession and use of a firearm.

I would remind Council members that, in general, concealed carry permit holders across the United States are far more law abiding than those who do not possess a permit. CCW permit holders do NOT commit crime; rather, law-abiding citizens who have the ability to defend themselves STOP crimes from occurring hundreds of times every day in the US, in most cases without firing a shot. Since criminals routinely ignore laws, these events would more frequently end in victimization of the law-abiding if we do not have the means to defend ourselves. If passed, not only would bill 21-22 deprive law-abiding citizens of the right to defend themselves and their families, but it would make anyone who is legally permitted to carry a firearm elsewhere in Maryland a criminal in Montgomery County. Expecting W&C permit holders to stop, unload their firearms before crossing the Montgomery County line, and store the firearm in a lock box is not only unrealistic, but also *unsafe*.

In addition, given Maryland's stringent background checks and training requirements, it is even less likely that a Marylander who legally carries a firearm would use it inappropriately or unlawfully. I respectfully ask that you re-consider bill 21-22 and not eliminate my right, and the right of other law-abiding citizens, to defend ourselves. I would be happy to discuss this matter with the Council as a whole, or with any members who might wish speak with me about this important topic.

Thank you.

Jack Leeb PsyD
Police and Public Safety Psychology
301 452-4900

I feel it is unconstitutional and unsafe for the general public to create unlimited gunfree zones to keep legally o
with little or no resistance or fear of being stopped or caught. Everyone that creates these laws are

Thank you

è surrounded by their own armed security and don't have to defend themselves or family on their own.

My name is James P. Tully. I am 55 years old and have been a Montgomery County Resident my Entire life. I have served in the Military, and for the past 22 years I have been a Uniformed Diplomatic Security Officer at the U.S. Department of State. I have been sworn in, as a Special Deputy U.S. Marshal, and have received training in Active Shooter Response. I am well acquainted with Gun Valence, and come to the conclusion that additional legislation does nothing to address criminal activity.

As a Maryland Ware and Carry Permit Holder, which I have had since 1995. I have strong Objections to Bill 21-22. By not allowing a permit holder to come within 100 yards of any place of public Assembly. This proposed bill will Make it impossible to travel any ware in Montgomery County with out being in violation of the law. An illegal weapons charge would result in criminal charges and having my Maryland Gun Permit revoked. These two actions would have an adverse effect on my current employment. Bill 21-20 will not allow me to travel in my car, or by foot, in my own neighborhood without passing within 100 yards of a school or state park. I would not even be able to stand in my own back yard because my property is within 100 yards of a Montgomery County Park.

In addition, I object to definition of public venues, to including privately own property. This is an example of extreme Government over reach. To Include Houses of worship is pure insanity. Multiple churches in this country have been the targets of active shooters. The reason being is that it is a soft target. The Active Shooters only has one mission, that is to kill as many people as they can. Not allowing people to defend themselves in their house of worship only would help facilitate another tragedy. It is foolish to believe our local police departments can do any thing to prevent this sort of gun violence. Police resources are extreamly limited. The school Resource Officer was Removed from McGruder High School a few weeks before that school shooting. If I am not Mistaken, I believe a budget cut was cited as the reason. It is a tragedy that Montgomery County government took absolutely no responsibility for their lack of insight. The School Resource Officer would not have been in the school in the first place if there was not a clear and present known danger.

As a current Maryland Gun Permit Holder, I can say there is absolutely nothing wrong with the current restrictions that have been in place for many years. Most of the civilian gun violence does not involve permitholders anyway. This proposed Bill dose noting to stop Gun Violence and would only help facilitate more violence by preventing law abiding citizens from defending themselves. There is so much to say on this topic more to say on this topic. Brevity is of the utmost importance and I believe I made my point. In conclusion there is no reason this bill 21-22 be made into law.

Commented [JT1]: It

Hello,

I'm writing regarding Bill 21-22. I understand this bill removes the exemption for holders of Maryland's Wear and Carry permit. This would make it illegal for permit holders to be within 100 yards of "Place of Public Assembly", which equates to everywhere in the county.

According to Data.montgomerycounty.md, from 6/1/2022 to 7/15/2022 there were over 4,800 founded crimes in Montgomery County. This equates to 106 crimes per day in the 45 day period. A quick internet search proves these are not legal permit holders committing these crimes. Bill 21-22 would leave me unable to protect myself from assault, burglary, theft, robbery and all such crimes were reported within the county. Why can a criminal have a weapon to commit these crimes but I, being a law abiding American citizen, cannot have one to protect myself from such crimes?

The Supreme Court upheld our right to defend ourselves outside our homes in the recent ruling of Bruen. Why are you attempting to subvert the Supreme Court and the constitution?

I have lived in WV, OH, PA and CO over my life. Maryland is the first place I have lived that I am afraid to be out of my home for an extended time. I am a law abiding citizen and I've completed all the necessary training and requirements in Maryland for a Wear and Carry permit. Carrying a weapon for protection is an overwhelming responsibility for the permit holder. Criminals have no requirements to meet and feel no such responsibility. It is reprehensible that a criminal is more protected than I am.

Bill 21-22 impacts my travel as I live in an adjoining county. I will no longer be able to see my physicians or patronize restaurants and shops in the county. I hope the officials of Montgomery County use statistics and facts and support their law abiding citizens.

Janice Hess Frederick County

July 15, 2022

Montgomery County Council
Legislative Branch
Bill 21-22

Gentlemen, I would respectfully vote against this bill. I have lived in Burtonsville, Maryland for 16 years. I have seen an alarming rise in crime in this area, especially over the last 4 years. This past week on July 10th, 2022 there was a shooting just down the street from my house at the Briggs Chaney Market place. Over 60 shots were fired and one innocent bystander was wounded by gunfire. This shooting happened within 2 hours of a STRING of robberies in down town Silver Spring. Bill 21-22 would prevent law abiding citizens from protecting themselves and their families and would do NOTHING to prevent criminals from obtaining firearms and committing violence. I understand law makers are desperate to solve gun violence but these laws don't affect criminals. There are so many guns in this country, barring the banning of ALL guns, we need to be smarter with possible solutions. Energy would be better spent on training and vetting of carry applicants. Examining credentials and references for carry applicants would go a long way to keeping us all safe.

Why do citizens need carry rights :

Unfortunately, there is a response time for police response. There are occasions when a citizen will not have time to call and wait for the police. If I'm walking and attacked by dogs I will not be able to call the police for help. If I'm walking and a robber threatens me with a knife, I will not have the luxury of calling the police. Last year I called the police to report a trespasser on my property. It took 40 minutes for the police to show up.

Respectfully,

John Murphy

July 21, 2022

I would respectfully vote against this bill. Here are two examples why I feel this way.

On July 17, 2022 a gunman walked in to the food court of Greenwood Park Mall in Indiana. Shot and killed 3 innocent bystanders and wounded another 3. Elishjah Dicken, a 22 year old legally carrying, killed the gunman and was declared by local police and the Mayor a Hero who saved countless lives. YOUR bill would have prevented this intervention. WHERE WERE THE POLICE ???
WHERE WERE THE POLICE IN UVALDE ???

Closer to home in MONTGOMERY COUNTY yesterday, Wednesday July 20th at 1pm an elderly man out for a walk was attacked by a pit bull in Silver Spring. The owners had trouble stopping the attack even hitting the dog with their car. The victim is in the hospital. How many times does this happen ?? Google how many people are attacked by dogs every year. More than 4.5 million people are bitten by dogs in the USA each year. Many victims are killed.

I am elderly and walk every day in Burtonsville. I have been chased by stray dogs twice. You want to make Montgomery County safer ? How about banning pit bulls ? A breed known for vicious unprovoked attacks.

My house is close to 2 schools, a church, and the Burtonsville Library. No matter which direction I choose to walk I will be walking past one of these "Places of Public Assembly".

Every time I walk I fear being attacked by dogs. I am completely defenseless thanks to your carry laws.

John Murphy

My name is Jonathan Wrieden and I am a resident of Montgomery County. Bill 21-22 is blatantly unconstitutional and directly infringes on my right to self-defense. I was in the United States Army Infantry for ten years and am a combat veteran. I have more training than most police officers, yet this bill would prevent me from carrying a firearm in public for protection. Because of my extensive military training, I am an asset to society. If any of you were in a mass shooting scenario, you would want me there with a gun to save you. I do not trust the police to protect me or my wife in one of these situations. In most cases, mass shootings are over and the damage is already done before police can arrive. And even if police do arrive in time, I do not want to have to hope and pray they possess the courage to act, unlike the police officers in Uvalde. Furthermore, this bill will not stop criminals from carrying guns. That's why they're called criminals, because they break the law. If a criminal wants to carry out a mass shooting, then they are going to do it anyway and this bill will not stop them. This bill will only affect the law-abiding citizens. It will strip them of their right to protect themselves and their families. All law-abiding citizens can be assets to society. The solution is to properly train and equip them, not to strip them of their right to carry a firearm so that they are left defenseless against criminals. On July 17, 2022, an armed bystander shot a mass shooter who opened fire in a mall in Indiana. If it wasn't for this responsible citizen, the criminal would have killed many others. There are countless other examples of armed law-abiding citizens taking down mass shooters and thereby saving many lives while waiting for police to arrive. Do not let the recent sensationalizing of shootings in the media make you feel like you have to pass laws to make it look like you care enough to do something. This bill is nothing more than an emotional reaction to NYSRPA v. Bruen and it will not stand up in court. This bill does not pass the history and traditions test for constitutionality established by the Supreme Court in NYSRPA v. Bruen. You're going about it the wrong way. Focus on keeping guns out of the hands of criminals and keeping them in the hands of law-abiding citizens, the assets of society. That's the solution. I urge you not to pass Bill 21-22. It will cost lives, not save them. Thank you for your consideration.

I rise in opposition to the language of the proposed Expedited Act to prohibit the possession of firearms in or near places of public assembly.

As written -

Section b) (2) *(does not) apply to a law enforcement officer, or a security guard licensed to carry the firearm...*

Please consider the extremely adverse consequences of your proposed bill. Thousands of retired law enforcement officers reside in Montgomery County, while thousands more routinely travel through the county daily from across the greater DC Metropolitan Area. You (the Council) and both the Montgomery County Police Department (MCPD), Montgomery County Sheriff's Office (MCSO) and the Maryland State Police (MSP) rely on these highly trained, well vetted, and experienced law enforcement veterans to assist them in maintaining the peace and responding to violent incidents (such as an active shooter). Those retired officers, who carry their handguns under Maryland State Police Handgun Permits (issued at no cost to all former/retired Maryland officers and deputies) and retired Federal Agents and Officers (ATF, FBI, Secret Service, US Marshals, Military Police, Military Intelligence, and other counter-terrorist agencies) are prepared today, and tomorrow, to step in and STOP violent crime as it develops. These men and women with decades of skills have been performing these public safety roles for decades. I'm one of them.

Your bill would order thousands of women and men to DISARM and cease to function as unpaid auxiliary forces to safeguard the citizens of the County, and prevent them from coming to the aid and assistance of MCPD, MCSO, and MSP for fear of being arrested, detained, and prosecuted for unlawful possession of their handguns. Is this what you truly desire?

Consider the cases of Deputy Chief State Fire Marshal Sander Cohen, and FBI Supervisory Special Agent Carlos Wolff. These men took the extreme risk, both "off duty," to come to the aid of a Montgomery County citizen in distress, on Friday, December 8, 2017. Both were killed that night. Sander Cohen also served as a volunteer firefighter with the Rockville Volunteer Fire Department. They died on I-270, near Great Falls Road, serving the citizens of Montgomery County, knowing the risks they faced by serving – you.

Consider the shooting at Magruder High School, in May 2022. Off duty and retired law enforcement officers residing in the area responded to the report of "active shooter" at the school, knowing that meant placing their lives at risk – to potentially save CHILDREN, while the local precinct was short-staffed. MCPD has 27 unfilled sworn positions, though brass and union leadership express concern for a "crisis" in the future. Between April 2020 and April 2021,

Michael Burke

police resignations rose 26 percent, from 19 to 24, over the preceding 12 months. Retirements increased 18 percent, from 28 to 33, department data show.

The Law Enforcement Officers Safety Act (LEOSA) is a United States federal law, enacted in 2004, that allows two classes of persons—the "qualified law enforcement officer" and the "qualified retired or separated law enforcement officer"—to carry a concealed firearm in any jurisdiction in the United States, regardless of state or local law. It is codified within the provisions of the Gun Control Act of 1968 as 18 USC § 926B and USC § 926C. LEOSA also covers state and public university and/or college campus law enforcement officers (such as University of Maryland Police, Montgomery Community College Police, and approximately 20 other colleges and universities that have armed law enforcement officers).

18 USC § 926B

(a) Notwithstanding any other provision of the law of any State or any political subdivision thereof, an individual who is a qualified law enforcement officer and who is carrying the identification required by subsection (d) may carry a concealed firearm that has been shipped or transported in interstate or foreign commerce, subject to subsection (b).

(b) This section shall not be construed to supersede or limit the laws of any State that—

(1) permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property; or

(2) prohibit or restrict the possession of firearms on any State or local government property, installation, building, base, or park.

(c), "qualified law enforcement officer" is defined as any individual employed by a governmental agency, who:

1. is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and has statutory powers of arrest, or apprehension under section 807(b) of title 10, United States Code (article 7(b) of the Uniform Code of Military Justice); This includes state and public college/university police officers.
2. is authorized by the agency to carry a firearm;
3. is not the subject of any disciplinary action by the agency which could result in suspension or loss of police powers;
4. meets standards, if any, established by the agency which require the employee to regularly qualify in the use of a firearm;
5. is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and
6. is not prohibited by Federal law from receiving a firearm.

(d) the individual must carry photographic identification issued by the governmental agency for which the individual is employed that identifies the employee as a police officer or law enforcement officer of the agency.

Michael Burke

In 2013, LEOSA was amended by the National Defense Authorization Act (NDAA) for Fiscal Year 2013, effective January 2, 2013, after **President Obama** signed Public Law 112-239 (H.R. 4310).

Senator Patrick Leahy, a key sponsor of the bill, remarked "The Senate has agreed to extend that trust to the law enforcement officers that serve within our military. They are no less deserving or worthy of this privilege and I am very pleased we have acted to equalize their treatment under the federal law". He further stated "The amendment we adopt today will place military police and civilian police officers within the Department of Defense on equal footing with their law enforcement counterparts across the country when it comes to coverage under LEOSA."

I cannot imagine that this Council wishes to oppose President Obama or Senator Leahy in recognizing the vast importance of recognizing these men and women as extremely valuable members of the community, people that you would disarm and render ineffective if you pass this bill as written. Your statute seeks to nullify unknown thousands of Handgun Permits issued lawfully by the Maryland State Police, following deep and detailed background investigations, extensive training in the Use of Force, Marksmanship, and other legal education required by the General Assembly and the Maryland Police and Correctional Training Commissions (MPTC).

These well trained, well-armed County residents and visitors, individuals possessing handgun permits from around the DC Metropolitan Region, are NOT a threat to public safety- they are an unnoticed, unappreciated asset to protecting and serving the communities under your care.

William Adams

Opposition to Bill 21-22

How any elected official may feel personally about guns is not what they are obliged to act on. As an elected official, trusted to honor the US Constitution, the Maryland Constitution, and the collective wants of their constituents, they must be true to their responsibilities and act according to the wishes of their constituents within the bounds of the US Constitution. Therefore, the only right thing to do is to reject this bill as it clearly violates the 1st, 2nd, and 14th Amendments and is simply a dangerous bill.

Setting aside for a moment the Constitutional violations this bill presents; the question is why? Why do you feel compelled to deny a properly permitted firearm holder freedom of travel simply because they are now permitted to carry a firearm when previously there was no prohibition from doing so? Is there evidence that anyone is now in greater danger, or is it simply speculation based on some misinformed notion that gun holders are dangerous? Handgun Permit (HGP) holders in this state have complied with the rigorous training and background checks requirements to obtain a permit, and as such, are shown to be safer, law-abiding, and even-tempered individuals.

This proposed law does NOTHING to improve the safety of Maryland citizens that may reside, work, or pass through your county. As we have seen most recently at the Greenwood Park Mall in Indiana, an armed citizen legally carrying a concealed firearm stopped a mass shooter on a shooting rampage in the mall. How many more lives would have been lost had a law like Bill 21-22 is proposing been in place in this Indiana town. Bill 21-22 will prevent a legally armed citizen from responding to such an event in Montgomery County.

Anyone saying that the freedom to carry a firearm outside the home for self-defense or the protection of others is unnecessary and claiming that firearms in the public space is unsafe, is simply misinformed or ignoring the facts. If you are truly concerned about the safety of the residents, workers, and visitors to Montgomery County, please direct your energies to stopping gang crime in your county and leave the law-abiding citizens of Maryland alone.

PLEASE, reject this bill!

Sincerely,
William Adams

Please allow law abiding citizens to exercise their constitutional rights in Montgomery county. Clearly, the statistics show that criminals are getting more and more brazen as we've felt the crime wave in our communities. We are already at a disadvantage against criminals. Please give us the opportunity to defend ourselves.

Testimony in support of Bill 21-22

Prohibiting firearms in or Near Places of Public Assembly

Good afternoon. My name is Mindy Landau, I am a resident of Potomac, MD in Montgomery County and I've lived and worked here as a federal employee, now retired, for 40 years. I am a co-lead of Brady United's Montgomery County Chapter and also represent Brady Maryland and our state executive committee. Thank you to the Montgomery County Council for giving me this opportunity to testify.

Bill 21-22 will protect Montgomery County residents from an armed threats to our citizens in places where they work, play and socialize. Our children should not have to fear that someone with a gun will invade their "safe" space for learning. Government workers and concertgoers should be able to go to work, concerts and parks without worrying whether the person next to them is carrying a gun. Our citizens don't want to feel anxious, intimidated, or afraid. We just want to be free and feel safe in the places we visit that give us joy. The presence of guns at or around these public places poses a danger to citizens' emotional and physical well-being. We must protect the citizens of this county and their ability to visit places of worship and parks freely and without fear of being shot.

Let's call it what it is - guns in public places represent armed threats, clear and simple. And intimidation is not what Montgomery County is about. This is why Brady United Against Gun Violence appreciates and strongly supports Council President Albornoz' bill.

By prohibiting firearms within 100 feet of a gathering place, this bill will help to ensure we are protecting the sacred right to assemble for our generation, and generations to come.

Although we respect the Second Amendment and rights of gun owners under the constitution and laws of Maryland, that right must be exercised so as not to infringe on constitutional rights of others, including the right to assemble peacefully. Gun laws are designed to do more than to protect physical safety alone. They can and do help preserve public order and the freedom of others to peaceably assemble, speak, and worship without fear and intimidation.

As a country, much work has been done over the last 100 years to ensure that freedoms, as represented by the right to assemble peacefully, is accessible by all - regardless of their race, socioeconomic class or disability. We must continue this work today. Thank you.

Good afternoon: I am writing to express my concern with Bill 21-22. The bill is problematic and worrisome in quite a few ways, but some more than others – and, of course, some more personally than others as well.

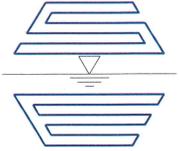
I expect to receive my Wear and Carry Permit later this year, as do many others now that the Supreme Court, in its *Bruen* ruling, has declared the “Good and Substantial Reason” portion of the permitting law to be unconstitutional. Currently, Montgomery County law forbids carrying a firearm within one hundred yards of any place of public assembly, specifying public parks as one such location, and makes an exception for those who have carry permits. Bill 21-22 would remove this exemption, making it unlawful even for permit holders to carry in such areas.

My apartment lies about twenty yards from the border of a park owned by Montgomery County. Although Bill 21-22 does make an exception for carrying within one’s home, it would seem to make it impossible for me to walk out of my own front door while carrying my firearm. For me to comply with this bill, I would apparently have to unload my firearm, walk or drive to a location deemed suitable for carry by Montgomery County, then reload my firearm and go about my day. (And, of course, I would need to perform the same procedure in reverse on my way home.) This would make it so inconvenient to use my carry permit that it would effectively make my permit useless – which would defeat the purpose of getting the permit in the first place.

I urge you not to pass this bill. If you do, someone in my circumstances will undoubtedly file a lawsuit against Montgomery County, and while I am not a lawyer, I find it difficult to see how the county could possibly win. You could, in fact, end up having other restrictions besides this one thrown out by the court, leaving you with fewer carry restrictions than you had in the first place.

Very truly yours,

{signed}
Parrish S. Knight



16005 Frederick Road, 2nd Floor
Woodbine, MD 21797
Website: www.sillengineering.com

Office: 443-325-5076
Fax: 410-696-2022
Email: info@sillengineering.com

Civil Engineering for Land Development

SILL ENGINEERING GROUP, LLC

July 13, 2022

Montgomery County Council
Montgomery County, Maryland 21043

Re: Council Bill 21-22
OPPOSE

To Whom It May Concern,

As I read this proposed bill I am very concerned for my right to self-protection. I have had a Maryland Wear and Carry Permit and other State's carry permits for many years now and routinely carry a firearm and travel into Montgomery County for business and personal reasons. I believe this bill as worded will effectively ban firearm possession in the entire county, stripping me of my Constitutional Right to self-protection. Please OPPOSE this bill.

Should you have any questions or comments regarding this matter, please do not hesitate to contact this office.

Sincerely,
SILL ENGINEERING GROUP, LLC

Paul M. Sill, PE, LEED AP

The United States is founded on laws. We as a people, follow the laws. When the government decided to not follow the laws, it is no longer a government.

To place the county under a gun free zone, will not serve law abiding citizens. No one will be safe, crime will continue to rise. There will be no reason to live in Montgomery County as it will be run by criminals and gangs.

Since you are infringing on my right afforded to me by the Constitution of the United States. I am requesting that this bill be removed or voted down. It serves no law abiding citizens in Montgomery County.

Robert Utley

Simeon Pollock

Dear Mr. President,

I am writing to you as President of the Montgomery County Council, to ask the council through you, to please reconsider passing the ill advised bill 21-22 - Expedited Bill 21-22, Weapons – Firearms In or Near Places of Public Assembly.

Not only is this bill illegal following the Supreme Court's ruling in Bruen, it will only make criminals of otherwise law abiding citizens. It tries to superseded Maryland State law as well as tell the Maryland State Police (MSP) that it does not know how to vett and process Concealed Carry Permits.

The State of Maryland, through the MSP, already has in place an age limit - 21, a thorough vetting process for anyone wanting a Concealed Carry Permit (CCW). There are classes required for an HQL, more class time & testing for a CCW. This state process allows concealed handguns to be in the hands of responsible adults.

The bill before the council will only serve to make vetted, trained, responsible adults into criminals in MoCo. Why do that? The criminals who will attack the public won't follow this law. So what purpose does it serve? It will only put a burden on law abiding citizens.

As a religious Jew who makes his home in the USA & in Montgomery County, I am becoming increasingly alarmed at the rise in anti-semitism, plain old Jew hatred that is on display in this country and recently in our county, in the heavily Jewish neighborhood of Kemp Mill. I want to be able to fight back should anyone come and try to kill Jews just for being Jews and congregating in a synagogue. *Never Again*, means that we won't be attacked & slaughtered without fighting back.

In Israel where guns of all kinds are common place, it's usually a private citizen that stops an attack before the police or army can respond. That can be here as well.

In many cases where synagogues were attacked in America, trained & armed congregants may have ended the attacks easily as most attackers are not trained in any way to use firearms if they are fired upon or face an armed citizen. Even in schools across the country, students & teachers are dying because no one is trained & armed to confront the attacker. They are forced to wait for the police who will hopefully come & stop the attack.

Concealed guns grant the element of surprise to any would be attacker & just the knowledge that citizens may be trained & armed may prevent a future attack.

Please don't pass this legislation & make life for law abiding citizens more difficult.

Sincerely,

Simeon Pollock

Please follow the recent Supreme Ruling on firearms carry permits. You all took an oath to uphold the Constituion.

Vincent C. McGinnis

July 18, 2022

Dear Montgomery County Council,

RE: Bill 21-22

Montgomery County Bill 21-22 as written could restrict law-abiding citizens with a Maryland issued "wear and carry" permit from exercising their right, if they live "within 100 yards of a place of public assembly". My issue with that is, I live between 1 to 2 blocks from Seneca Valley High School (SVHS) and cannot avoid the high school. This law could nullify my right to bring a firearm outside my house; let alone carry one for personal protection, because of living in such close proximity to SVHS.

Background: I moved into the 'Olde Seneca Woods' development 35 years ago. I am 62 year old and I enjoy the convenient location and walking as much as possible. I walk to the FNB ATM on the corner of Crystal Rock Drive/118. I walk to the grocery store, the Post Office, the dry cleaners, and really anywhere I can. All this helps me get exercise and reduces dependence on my car. Though I love this location for all its convenience, I try to walk during the day; and not too late at night. That's because my house is located in the Crystal Rock Drive area (near The Hampton Apartments) and is one of the worst crime areas in Germantown. Just ask any Montgomery County Police Officer who has worked in Germantown. For this and other reasons, I applied for a Maryland State issued wear and carry permit.

Bill 21-22 as currently written could nullify my right to bring a firearm outside my house; let alone carrying one for protection; because I live in such close proximity to SVHS. This would gut the intent of recent change in the law for me and others who live so close to designated gun-free zones.

Thanks for listening my concern. I hope you can address this issue in the bill before its voted on.

Please feel free to call me with any questions you have.

Sincerely,

A handwritten signature in cursive script that reads "Vincent C. McGinnis".

July 15, 2022

Reg: Bill 21-22

Dear Council Members:

I do not support Bill 21-22. I believe the bill is driven by the mistaken belief that “more guns on the street means more crime.”

The Bill is intended to outlaw concealed carry almost everywhere in Montgomery County.

One needs only to know what happened in the 44 states that have either “shall issue” or “constitutional” (no permit required) concealed carry. The law-abiding who do not carry guns today, do not become criminals tomorrow after personal defense is permitted by the government.

No State that has permissive concealed carry has seen an increase in gun crimes by the law-abiding (source AWR Hawkins, John Lott Jr., et. al.)

Self-defense is a natural right. A “belief” that concealed carry by the law abiding means more crime is unfounded and is subordinate to the natural right to survive.

I support Maryland law as it stands for concealed carry. That is enough for public safety. Bill 21-22 is not required.

Best Regards,

Cs//

Cary Secrest

Public Testimony In Response to Bill 21-22, Weapons-Firearms In or Near Places of Public Assembly- July 26, 2022

Good afternoon,

I am a resident of Montgomery County, MD (Gaithersburg/Damascus to be exact) and a law-abiding firearms owner. I am also an attorney and a staunch believer in civil rights. I am writing to express my grave concerns with the efforts of the county to curb exercise of civil rights by law-abiding firearms owners, as made plainly evident in the text of Bill 21-22.

As the Council is no doubt aware, the Bill of Rights to the US Constitution recognizes certain key and fundamental civil rights of US Citizens that the founders thought so profoundly important they bore being enumerated. The Second Amendment to the Constitution protects the right of individuals to keep and bear arms. The Supreme Court has continually held that this is a protected civil right. Citizens have a constitutional right to keep and bear arms; to keep and bear arms of those types in ordinary use; and to keep and bear arms *in public* for purposes of self-defense and other lawful ends. The Maryland Charter makes the US Constitution the supreme law of Maryland so, quite clearly, Marylanders have a constitutional right to wear and carry firearms in public. As recognized by Governor Hogan, Marylanders no longer need convince the government that they should be allowed to exercise a civil right. The proposed bill's definition of places of public assembly would act to essentially deprive those in or visiting Montgomery County of a right to defend themselves, even on private property. This is in direct contravention to the recent Supreme Court decision in *NYSRPA v. Bruen*, but you are aware of this fact as the bill is in direct response to the decision in *Bruen*.

The Council is, nonetheless, pursuing a bill that directly and intentionally flies in the face of constitutional rights. Section 4-209 of the Maryland Criminal Law Code also prohibits local governments from imposing certain restrictions on possession of firearms. Bill 21-22 goes well beyond the exceptions permitted under Section 4-209.

Given that the Council is fully aware of the Constitutional rights that it seeks to intentionally infringe through attempted imposition of Bill 21-22, I want to draw your attention to 42 US Code Section 1983. Section 1983 is a federal statute which provides a right for individuals to sue local government officials directly when those officials violate civil rights in the course of their duties. Given that the Council is aware that this bill would violate civil rights (it is clearly written with that express intent) Council members likely lose any defense of qualified immunity and become personally liable for their unconstitutional actions. I for one would consider seeking a 1983 action if the Council passes a bill directly aimed at infringing my civil rights.

Putting the above aside for the moment, what is it that frightens the Council so much about the lawful exercise of civil rights? Does the Council also intend to ban prayer within 100 yards of a place of public assembly? Does the fifth amendment not apply

within 100 yards of a place of public assembly? Does the Council believe that individuals should lose their fourth amendment rights if within 100 yards of a place of public assembly?

Will the Council ban armed security or law enforcement at Council meetings or is it ok for the Council to be protected by firearms as long as the rest of us are not? Given that gun control is really the last vestige of Jim Crow laws, maybe the Council is scared of minorities being able to defend themselves? Is that it?

Representative Jamie Raskin, of whom I am no fan, recently publicly pointed out the ridiculousness of Bill 21-22 and that it is just a waste of precious taxpayer resources and likely to be overturned in court. That said, he also called protection of constitutional civil rights draconian and foolish, so maybe he's not a great example.

I truly encourage you to listen to your better angels and recognize the foolishness of 21-22 and, instead, embrace an approach that protects civil liberties of all Montgomery County residents and guests.

Respectfully,

Matthew Hoffman

Members of the County Council

I am writing to express my opposition to Bill 21-22 as drafted.

As written, this proposed ordinance would effectively prohibit use of a Maryland wear and carry permit in any of the built up areas of Montgomery County as it would be nearly impossible to drive or walk up or down a major street (e.g., Georgia Avenue, Wisconsin Avenue, New Hampshire Avenue) without coming within 100 yards of any property attached to a place of public assembly. Moreover, any Montgomery County resident with a wear or carry permit who lived or owned a business within 100 yards of any property attached to a place of public assembly would be barred from using the Maryland wear and carry permit while entering or exiting his residence or business. Additionally, there are places in Montgomery County where the Beltway and U.S/ 29, for example, come within 100 yards of property attached to a place of public assembly. Thus, this ordinance would criminalize use of a wear and carry permit while traveling through Montgomery County on the Beltway or U.S. 29. It should not be difficult to see why the breath of this ban is inconsistent with the recent Supreme Court decision allowing legislatures to ban guns only in narrowly defined sensitive spaces.

There is also a problem with the vagueness of the definition of place of public assembly. By use of the term “including” the ordinance reads as if there are other unlisted places that may be considered a place of public assembly. With a criminal statute, the citizen is not supposed to have to guess what may or may not be included – particularly with a term that is broad enough to include, for example, any store.

There is a saying, “Bad cases make bad law.” Passing this ordinance as written will undoubtedly result in rejection by the courts and may very well result in a court decision that further restricts the right of a legislature to ban guns from sensitive spaces and thus winds up making gun control harder rather than easier. In addition, passage of this ordinance as written will unnecessarily run up County legal fees with money that could be spent on productive initiatives.

In my 31-year career (1966-1997) in criminal justice (including positions as a police officer, probation officer, and parole officer in New York State, Staff Director of the U.S. Parole Commission, and Principal Technical Advisor of the U.S. Sentencing Commission), I have seen quite a few pieces of criminal justice legislation that were not well thought out and/or not well drafted. In my opinion, this proposed ordinance, as written, falls in this category. Thus, I recommend strongly this proposed ordinance not be enacted as written. 1

Sincerely,

Peter B. Hoffman

Silver Spring, MD

1. If the “within 100 yards of” language were removed from this bill (so as to limit the prohibition to the actual property of the place of public assembly), and if the definition of place of public assembly was tightened to remove its vagueness, it might ameliorate the above noted issues. Whether the proposed legislation is needed to address a real problem is another issue on which I take no position other than to note that during my career in criminal justice, I reviewed more than 25,000 files of convicted offenders and I remember only one case involving a crime committed with a handgun carried by a person having a permit to carry a handgun (not including offenses committed by persons who were authorized to carry a handgun because they were law enforcement officers).

Dear Counsel Members and constituents,

I am writing in regards to Bill 21-22. Please allow me an opportunity to voice my concerns and kindly accept it for consideration. I will try to make this short and sweet.

I have lived in Montgomery County, Maryland for my whole life, except when I went to college. I am almost 42 years of age. Although I was a knucklehead growing up, I earned a Master's degree, volunteered for the fire department, am a member of a chamber of commerce, am Senior Home Safety Specialist, Client Liaison Manager and Marketing Coordinator and served on the community board of directors. Not to mention, my wife and I work hard, very hard. We have also been steadily employed our whole lives and we pay all our taxes on time.

As you make your decision, please take this into consideration, how is it fair that a criminal will be able to go to a mall with a gun, like it happened in 2016, but someone with my background has to be unarmed? Would that really make you feel safer? I live across the street from the mall. When I walk my dog, how do I know the proximity of when I am committing a crime by being 100ft of 100 people?

This approach will either force me to be unarmed, or deal with a subjective approach of a police officer. Why is it that the Supreme Court of the United States just made me, you and a lot of others like us more equal and you are voting to take that away? Please excuse me, but the laws you are considering will not make us safer.

Even if I don't carry arms, I feel a lot safer knowing that others who are responsible carry their arms. Montgomery County is a great county, but it's not in a secret bubble. Criminals are all over the place and they will not follow this law, nor will the criminals from neighboring counties who will flock here knowing how rich and unarmed our citizens are.

There have been many mass killings. The numbers are staggering. It's obvious some of you want to make guns go away. I honestly wish we could disarm all of America too, but we can't. It's ingrained in the constitution and the Supreme Court just clarified that. The law being considered will undoubtedly be challenged by many and it may end up being a very costly decision for our county. Please consider putting that time and money into schools, our infrastructure, and placing real criminals behind bars.

Please give me and other responsible citizens of Montgomery County the right and chance to defend ourselves if the unlikely, but life threatening, situation happens to arise. The elements of this law should be left up to private establishments on whether to allow or not allow arms.

It's great to require proper training and background checks. Maryland has good laws right now. Please, please, please do not create a law to punish the responsible citizens. This law can harm a responsible citizen with their lack of safety and/or having unfair legal repercussions.

Thank you for your open-mindedness and consideration. Please make that right decision and give the responsible citizens the equality that they deserve and that the rest of the country already has.

Respectfully,

Renan Augusto

Statement regarding Bill 21-22

Good afternoon, my name is Michele Walker. I am a native of Maryland. My husband and I have raised four children in Montgomery County since 1990. Like our parents, we taught our children to respect our country and every person in it no matter their financial or educational status. Sadly, there are those among us who do neither of those things.

Every American has the right and responsibility to defend not just themselves but their family, neighbors and other Americans whom they do not know personally. The 2nd Amendment of the United States Constitution does not restrict American Citizens from wearing and carrying their firearms. The Supreme Court has recently ruled against legislature that demands reason or need applications. The courts have ruled against many restrictions that would infringe upon our citizens rights. There's an extremely low percentage of people using firearms to commit crimes or harm to others in comparison to the number of people who own one or more firearms that do not use them for those purposes.

There are numerous cases where a law abiding gun owner saved the day as a crime was happening. Some were in convenience stores and saved the clerk or another customer from robbery and possible death. A judge in Ohio was able to save himself from a criminal who was attempting to kill the judge right outside of the courthouse. In a mall a gunman was stopped by a citizen who had a permit. None of us have the ability to know if we will be in one of those situations where a gun will be used with harmful intent but all of us would be grateful to be saved by someone who had our backs. To those who want to push gun control, close your eyes and imagine yourself in one of those situations where there is an angry or upset person with a gun. Now imagine if you have no one there to save your life because of these laws. How would you feel if your close family member were just an innocent bystander harmed or killed because of the gun control law that prevented the possibility of someone to stop it from happening? None of us are exempt from the potentiality of being harmed by people who just don't care about the law or who are out of their mind. None of us, that includes you too.

Please stop trying to unarm the law abiding citizens. We have been taught to respect the gun and use it properly. Gun control does NOT work. Look at the localities that have the strictest laws on the books and see that things have gotten progressively worse. Chicago, New York and Philadelphia are shining examples of those cities. Law abiding citizens do not have intent to go shoot up people or places. We intend to protect ourselves and those around us from others who either have criminal intent or have a mental illness. Address the real issues mentioned in the last sentence because it is not the gun, it's the person holding the gun.

To the Honorable Members of the County Council of Montgomery County, MD,

I urge you to vote against Expedited Bill 21-22, Weapons – Firearms in or Near Places of Public Assembly. I know you want to make me safer, but this bill does the exact opposite.

Antisemitic incidents are on the rise in the county, particularly by white supremacistsⁱ. White supremacists are the most likely of all extremists to use violenceⁱⁱ. They target synagogues because these facilities serve the Jewish community and assure the presence of a significant number of Montgomery County citizens at certain times of the week. Furthermore, In the orthodox community, Sabbath synagogue attendees do not carry their phones, so there would be a delay in alerting police to an active threat.

An additional factor impacting incident response is that Montgomery County police are understaffed and recruitment is down. Our sworn officers per capita is only half the national averageⁱⁱⁱ. It is unrealistic to expect police to be able to engage with an active threat fast enough to prevent mass casualties.

Furthermore, turning places of worship (and essentially the entirety of the county) into gun free zones would do the precise opposite of its intent. It would serve as a welcome sign for potential mass murderers as to which locations they can “safely” unleash their mayhem^{iv} — and there’ll be nobody there (with a gun) to stop them! This is because the only people who will comply are law-abiding, licensed gun owners. Do you really think someone intent on mass murder will leave their gun at home because of this law?

Lastly, the expedited basis of this bill is unjustified. The CCW permit application process takes 90 days from submission to approval^v plus a few days to mail the permit to the applicant. This provides the MDSP sufficient time to perform a background investigation and interview up to three character witnesses. Before you can do that, you have to schedule and attend a 16-hour training class. You also need to take a live fire test with your instructor at a range to prove your proficiency firing a handgun. You also need to schedule and have your fingerprints taken to submit along with your application and fee. Then your CCW permitted citizen would have to select and purchase an appropriate concealed carry weapon, which in Maryland involves a minimum 7 day waiting period. Therefore, you have 90 to 120 days before the impact of additional CCW permit holders will be seen in the county.

CCW permit holders should be allowed to carry their concealed weapon to their place of worship specifically because of the heightened threat against places of worship. This bill will make it illegal for them to protect themselves specifically at the place they need it most. Therefore, I strongly urge you to vote against Expedited Bill 21-22.

Larry Jaffe
Silver Spring, MD

ⁱ “Sharp rise in anti-Semitism in Maryland, Virginia and D.C., ADL reports” <https://www.washingtonjewishweek.com/sharp-rise-in-anti-semitism-in-maryland-virginia-and-d-c-adl-reports/> and “ADL H.E.A.T. Map™ (Hate, Extremism, Antisemitism, Terrorism)” <https://www.adl.org/resources/tools-to-track-hate/heat-map>

ii “Domestic Extremism in America: Examining White Supremacist Violence in the Wake of Recent Attacks”
<https://www.humanrightsfirst.org/resource/domestic-extremism-america-examining-white-supremacist-violence-wake-recent-attacks> Relevant excerpt below:

In Pittsburgh, Pennsylvania, the killer who attacked worshippers in a synagogue wrote that he believed Western Civilization was facing “extinction” and that refugees were “invaders”:[5]

The Christchurch, New Zealand killer titled his writings “The Great Replacement” and targeted Muslims in a country he was initially only visiting:[6]

The shooter in El Paso, Texas targeted Latinx people in the United States but wrote that he “supported” the racist screed from Christchurch:[7]

In Poway, California, the shooter first targeted a mosque and then a month later opened fire in a synagogue, claiming that Jews were orchestrating a “planned genocide of the European race”:[8]

And most recently, the killer in Buffalo, New York, spent weeks identifying a locale in which to murder Black Americans. His own screed was largely a plagiarism of the Christchurch shooter’s “Great Replacement” text, but was so sloppy that at times he merely swapped out terms for one victimized community for another.[9]

This heartbreaking trail of violence illustrates how fluidly the Great Replacement conspiracy theory travels across borders and populations.

Unfortunately, these mass casualty attacks are only one element in the larger phenomenon of violent white supremacy and domestic extremism.

Over the last decade in available data, white supremacist terrorism in the United States has increased many times over. Of the 100 white supremacist attacks between 2000 and 2019, 80 of them occurred after 2009, according to the Global Terrorism Database (GTD).[10] And while these terrorist attacks have increased, they have also become more lethal. Mass casualty attacks perpetrated by white supremacist terrorists like the horrific attack in Buffalo, used to be a rare occurrence. Now, they are frequent tragedies.

iii “[Departures, sagging recruitment plague Montgomery County police \(bethesdamagazine.com\)](https://bethesdamagazine.com/bethesda-beat/police-fire/departures-sagging-recruitment-plague-montgomery-county-police-even-as-crime-soars/)”

<https://bethesdamagazine.com/bethesda-beat/police-fire/departures-sagging-recruitment-plague-montgomery-county-police-even-as-crime-soars/>

iv “Mass Public Shootings keep occurring in Gun-Free Zones: 94% of attacks since 1950”

<https://crimeresearch.org/2018/06/more-misleading-information-from-bloombergs-everytown-for-gun-safety-on-guns-analysis-of-recent-mass-shootings/>

v “[Wear and Carry Permit \(maryland.gov\)](https://mdsp.maryland.gov/Organization/Pages/CriminalInvestigationBureau/LicensingDivision/Firearms/WearandCarryPermit.aspx)”

<https://mdsp.maryland.gov/Organization/Pages/CriminalInvestigationBureau/LicensingDivision/Firearms/WearandCarryPermit.aspx>

My name is Gary Simon. I am a lifelong resident of Montgomery County. I am a law-abiding MD Wear and Carry Permit holder as well as a MD Qualified Handgun Instructor (QHIC). While I think it fair to say that my viewpoints and philosophies are not very similar to the majority of the esteemed council, I do wish to thank you for the time that each of you dedicate to serving our county. I am here today to ask that you do so from a perspective of practicality and one that adheres to the laws that make our country what it is today.

You have proposed a law, 21-22, in response to a decision of the Supreme Court in the *NYSRPA v. Bruen* matter. In doing so, you present a code that directly defies the majority opinion written by the Honorable Judge Thomas. I offer a portion of that decision for the record here today. I offer only text, removing citation and reference in the essence of time and brevity.

“Consider, for example, *Heller’s* discussion of “longstanding” laws forbidding the carrying of firearms in sensitive places such as schools and government buildings. Although the historical record yields relatively few 18th- and 19th-century “sensitive places” where weapons are altogether prohibited-e.g., legislative assemblies, polling places, and courthouses- we are also aware of no disputes regarding the lawfulness of such prohibitions. We therefore can assume it settled that these locations were “sensitive places” where arms carrying could be prohibited consistent with the Second Amendment. And courts can use analogies to those historical regulations of “sensitive places” to determine that modern regulations prohibiting the carry of firearms in new and analogous sensitive places are constitutionally permissible. Although we have no occasion to comprehensively define “sensitive places” in this case, we do think respondents err in their attempt to characterize New York’s proper cause requirement as a “sensitive-place” law. In their view, “sensitive places” where the government may lawfully disarm law-abiding citizens include all “places where people typically congregate and where law enforcement and other public-safety professionals are presumptively available. It is true that people sometimes congregate in “sensitive places,” and it is likewise true that law enforcement professionals are usually presumptively available in those locations. But expanding the category of “sensitive places” simply to all places of public congregation that are not isolated from law enforcement defines the category of “sensitive places” too broadly. Respondent’s argument would in effect exempt cities from the Second Amendment and would eviscerate the general right to publicly carry arms for self-defense that we discuss in detail below. Put simply, there is no historical basis for New York to effectively declare the island of Manhattan a “sensitive place” simply because it is crowded and protected generally by the New York Police Department,”.

I am a permit holding, law-abiding citizen who will certainly be effected by this error-filled piece of legislation. What I believe gives me the greatest concern is that a body such as yourselves would propose such a piece of legislation that you know would be challenged and likely overturned. Rather than focusing on laws that focus on criminal conduct and are centered on the solving of an issue at hand, you propose something that is nothing more than window dressing to your constituency so that you are able to say we tried to do something. Perhaps if this type of energy was directed at criminals rather than law-abiding citizens exercising their constitutionally protected rights, you might garner the support of people like myself.

Thank you for your time and consideration.

Edward Walker

Why I Oppose Bill 21-22 (and you should too)

I oppose Bill 21-22 for many reasons. The being that it doesn't just turn a right into a privilege, it completely removes this constitutional right from the people. For example even with a Maryland wear and carry permit, I would be unable to leave my place of residence with a legally owned firearm, 100 yards from the ground of a place of public assembly would extend into the street. There is a library, a church and a bank a few blocks from my house on the main road. Which means I'd have to break the law to exercise my RIGHT to carry even if was not intending to carry in Montgomery county.

Another reason I oppose this bill, as we have seen time and time again the police fail to act and to defend civilians, the Uvalde shooting is a prime example of law enforcements inability, unwillingness and cowardice to act in the event of a mass shooting or violent encounter. There's also an old saying which comes to mind in these cases "when seconds count, cops are minutes away". Throughout the years and as recently July 17, 2022 we saw a law abiding citizen, good guy with a gun, stop a cold hearted criminal, bad guy with a gun, in 15 seconds. 15 seconds and the horrendous atrocity was ended. 15 seconds. The officers at Uvalde waited 1 hour and 15 minutes. 1 hour and 15 minutes compared to 15 seconds. This shouldn't even need to be discussed. The answer is clear the people deserve to maintain their RIGHT to carry in public.

This bill will turn law abiding citizens who would like to exercise their right to carry a firearm, legally with a permit, for defense into criminals, while criminals would still be criminals who don't care about our laws and will still carry because they are criminals. This bill is bad legislation that will only effect lawful gun owners.

Thank you for your time, even if you don't actually care what the people think and only give us this opportunity to make us feel as if our opinions actually matter to you. We'll see you in court if this passes. Have a nice day.

Good afternoon. I'm Deborah Miller, the Director of Maryland Government and Community Relations for the JCRC of Greater Washington. The JCRC represents over 100 social services agencies, synagogues, and Jewish schools throughout the region. We work to build strong relationships and coalitions with other communities in pursuit of justice, tolerance, and equity for all. I am here today in support of Expedited Bill 21-22, which aims to reduce the dramatic rise in gun violence we are witnessing every day not only across the country, but in our county.

At the JCRC, one of our highest priorities is the safety and security of all faith-based institutions, particularly Jewish houses of worship, given the unprecedented increase in antisemitism- up 34% across the nation and 17% in Maryland according to the ADL. Additionally, MCPD's latest report on religious bias incidents shows that more than 85% targeted Jews, although they only make up only 10% of the County population. The Jewish community knows all too well the devastating impact of gun violence. In addition to the horrific targeting of African Americans, Asian Americans, and the LGBT Community throughout the country, we remember the Tree of Life tragedy in where 11 members of the Jewish community were murdered.

The importance of this legislation at this time cannot be underestimated. The JCRC is deeply disappointed by the Supreme Court's ruling striking down NY's concealed weapon permit law. We believe it will pose increased risk to public safety. Houses of worship should be left to establish their own security plans. We do not want individuals who could walk in off the street with a weapon acting in their own individual capacity. It could lead to chaos and create an even more potentially deadly situation.

We will continue to advocate for common-sense gun safety measures throughout our region, because we know that the senseless violence, can only be stemmed by limiting easy access to such deadly weapons. While the Supreme Court taken a step backward to curb violence and ensure safety, we are grateful that in Montgomery County, our leaders are taking a step forward to counter this dangerous trend. Fewer guns near or inside our places of assembly will create a safer environment for all of our residents. We thank the lead sponsor, Council President Gabe Albornoz as well as the entire council for its co-sponsorship.



Testimony of Montgomery County Young Democrats in Support of Expedited Bill 21-22–Weapons–Firearms In or Near Places of Public Assembly

July 25, 2022

Members of the County Council:

The Montgomery County Young Democrats strongly support Councilmember Alborno’s [Bill 21-22](#), which would ban the possession of guns in or near places of public assembly, with a few exceptions. It would also remove an exemption that allows certain people with permits to have guns within one hundred yards of these places. Gun violence is a major problem in our county and country, resulting in tens of thousands of deaths every year, and residents should not live in fear when they are out in public. This proposal will tighten restrictions on guns and help ensure that people can participate in public life without being intimidated.

Currently Maryland law allows people with wear-and-carry permits to possess guns when they are within one hundred yards of or in parks, churches, schools, public buildings, and other places of public assembly. This bill bans people from selling, transferring, possessing, or transporting guns in those areas. It includes reasonable exemptions for police officers or security guards, business owners, residents who live within 100 yards of a place of public assembly, and instructors for firearm safety and use.

In order for people to thrive in Montgomery County and engage in its civic and commercial life, they should feel welcome and not be subject to menacing threats. The goal of this bill is to promote public safety and ease of mind. We want to minimize concerns and worries that people have about people carrying weapons in and around these places. People should be able to go to school, their places of worship, the mall, or

community centers without having to constantly look over their shoulder and worry about shooters.

Recently we have seen a troubling trend of people showing up with openly carried weapons outside polling places and other locations; these are blatant attempts to intimidate people, discouraging them from voting and exercising their other political rights. And various authoritarian groups have shown up to various events, most notably Drag Queen Story Hour, and tried to disrupt them.

Bill 21-22 would help reduce acts of violence in county public spaces, counter attempts to intimidate people, and keep people safer. MCYD urges the County Council to vote yes on this bill.

Sincerely,

The Montgomery County Young Democrats

Montgomery County Council
Council Office Building
100 Maryland Avenue, 6th Floor
Rockville, MD 20850

July 25, 2022

Re: OPPOSE Bill 21-22, Weapons – Firearms In or Near Places of Public Assembly.

Esteemed Council Members:

I am writing you as a Maryland native, a Montgomery County business owner, and a registered Montgomery County voter to oppose Bill 21-22, Weapons – Firearms In or Near Places of Public Assembly. I am also a Maryland Wear and Carry permit holder, earned with a substantial amount of background checks and training. While I understand your intent is to protect the lives of innocent people, this bill is vague and will create confusion for law-abiding citizens with carry permits.

Under this proposed bill, there is no definition of “places of public assembly,” which can be construed as something as simple as a grocery store or bank without context. Since many of us with carry permits are frequently traveling from work and the primary purpose of the permit is to keep us safe in the disposition of our duties as a business owner while banking or traveling to and from our home, this vague wording places us at risk for breaking the law within the county where Maryland has provided us the right to protect our lives.

For instance, the specific addition of school parking lots places many of us at risk as we travel home from work while legally carrying a firearm. With the current cost of gasoline, it is ridiculous to expect us to go miles out of our way to return home.

The most substantial reason for my opposition to this bill is that it creates a patchwork regulation within the state of Maryland, which creates a challenging structure for law-abiding citizens of Montgomery County and Maryland to comply. This would also set a precedent where law-abiding citizens are placed at risk for prosecution from laws within a smaller jurisdiction without any type of signage to identify that legal firearm carrying is prohibited. It is challenging enough to recall which states have which specific laws and which areas are restricted.

In addition, there has been an inadequate amount of time since Bill 21-22 was introduced and the hearing date of July 26, 2022. Many Montgomery County residents are unaware of the aforementioned bill and have not had an opportunity to read or speak their affirmation or opposition to it. This quick vote seems underhanded and sneaky, something I am certain none of you wishes to be, particularly with the upcoming election.

Please oppose this bill and let us address gun violence from root cause mitigation. I would be honored to help with supporting the council with data and statistics on root cause mitigation and public awareness.

Sincerely,

Rachel King

Testimony in Opposition of Council Bill 21-22

I submit this petition hosted on change.org in opposition of Council Bill 21-22.

<https://chnge.it/bKmKQXGq>

Regards,
Katie Novotny

Dear Councilmembers,

I'm writing you as a resident of Montgomery county to let you know that I strongly oppose bill 21-22. I've lived here in Montgomery county for over 20 years now, I've seen the area go through lots of changes some good, some bad. Over the years, crime in the area is slowly getting worse and worse, from shootings happening less than a mile away from me, to muggings and armed assaults'. While I appreciate your efforts to try keep citizens safe, all this bill is doing is sending a message to criminals that the county is leaving its citizens defenseless. Stripping your law abiding citizens rights to protect themselves even when they've gone through the training, the background checks showing that the police approve of them to conceal a weapon is not a well thought out idea.

Someone that conceal carry's a firearm should be of sound mind and an upstanding citizen, there are checks and balances in place to restrict who can and cannot own and even conceal carry a firearm already in place. Thorough training is required, background checks are in place police have references to double check people who are applying. These should be more than enough. This is not going to be the wild west with people carrying a weapon exposed on their hip, These are going to be law abiding citizens, concealing a weapon, knowing it's a last line of defense incase something were to happen. With crimes going up, police response time going up, its not enough to solely rely on the police. I've had friends be victims of violent hate crimes, I've been in a situation where there was an attempted murder and was run to for help, in those 8-9 minutes of waiting for police to hopefully respond can often mean life or death for some.

I urge you to reconsider going through with this bill. Criminals will never listen to the letter of the law. Criminals see gun free zones as easy targets. Allowing your citizens the option to carry with a concealed carry permit is a deterrent in itself. Criminals may think twice, and move along not knowing who may or may not be able to defend themselves. Freedom is a two way street. Its often said ignorance of the law does not make you innocent. I've seen a lot of arguments that people should not have to worry who around them may or may not legally be carrying a weapon, well, ignorance of the law on their part does not make me a criminal. There have been a large number of situations where legal residents carrying a concealed firearm have kept horrible things from happening. A perfect example of this would be what just happened in Indiana. A mall where a "gun free zone" was in place 2 people broke that rule, one with the intent to cause harm to as many as he could, the other, a citizen with a concealed carry permit and a firearm out of sight. That citizen was able to save countless lives that day due to his training and fast thinking. While that is an extreme example it's also a realistic one.

In closing. Please reconsider passing this. I appreciate your attempts to make this county a "safer" place, but this will not accomplish it and will only hurt its citizens, and possibly even turn perfectly law abiding citizens into criminals just by wanting to legally protect themselves by carrying WITH a permit that has been issues by the police.

Thank you for your time,

Luke Roetman.

Testimony on Expedited Bill 21-22

Councilmembers,

My name is Daniel Sangaree and I'm a Montgomery County resident in Glenmont, a member of my community's home owners' association's board of directors, a married gay man, a registered and voting Democrat, and a Maryland Handgun Wear and Carry permit holder. My firearms training and experience includes handgun training by the Greene County (Missouri) Sheriff's Department as part of my university's criminal justice degree program, competitive handgun shooting as part of the American Criminal Justice Association, years of experience as a concealed weapons permit holder before moving to Maryland, Maryland's Handgun Qualification License training, and Maryland and DC's 16+ hours of concealed handgun permit training. This letter is my testimony in opposition to expedited Bill 21-22 currently under your consideration.

Bill 21-22 proposes to remove the exemption for Maryland handgun permit holders to the county's places of public assembly restrictions. As a permit holder this bill will affect me to a rather extreme degree. It is, in fact, a de facto ban on legal firearm carry throughout the populated areas of the county. Under even the much more objective definitions that existed before Bill 4-21, which this council previously passed, with the exemption removed I will not be able to do any of the following while otherwise legally armed:

- travel more than a block from my home in any direction on foot, Metro rail, or by car
- inspect, as a director, all of the property that is under my HOA's jurisdiction
- shop at my primary grocery store, the Safeway in Wheaton, or almost any of the grocery stores in the area, including: Giant in Aspen Hill, Lidl in Glenmont, Aldi in Glenmont, H-Mart

in Glenmont, Giant in Norbeck, Safeway in Norbeck, Giant in Wheaton, Target in Wheaton, Safeway in Kensington, and so many more.

- walk my dog on his normal route which was chosen entirely for conflict avoidance
- defend myself in my car during a rising trend of violent, armed carjackings in the county that police, by the laws of physics, are unable to defend us from

While I am only speaking for myself, as an HOA board member I have also noted that there are households within my HOA that, due to their proximity to a park, residents won't be able to legally leave their house at all while armed, either walking or by car. Many are likely even unaware that they are affected in this way. This specific scenario applies to many people in the county and that's before applying the vague definitions as provided in Bill 4-21.

The vague definitions for a place of public assembly brought by 4-21 add a truly dystopian lens through which to view this bill. This bill will allow police to arrest anyone who is otherwise legally armed nearly anywhere in the county based purely on the personal discretion and biases of the officer. It takes absolutely zero imagination to figure out exactly how that will be abused and what groups will be victimized by the wide latitude this bill would give police. But just to be absolutely clear, it will be people of color, queer people, and other oppressed minorities that bear the brunt of abuses by police from this just as they bear the brunt of all police abuses. This is exactly why The Black Attorneys of Legal Aid, the Bronx Defenders, and Brooklyn Defender Services, three public-defender groups in New York, filed an amicus brief in support of NY State Rifle and Pistol Association in *NYSRPA v Bruen*. To quote that brief, "virtually all our clients whom New York prosecutes for exercising their Second Amendment right are Black or Hispanic. And that is no accident. New York enacted its firearm licensing requirements to criminalize gun ownership by racial and ethnic minorities. That remains the effect of its enforcement by police and prosecutors today." ("Brief amici curiae of Black Attorneys of Legal Aid, et al. ", 2021)

Which brings me to the biggest problem with this bill. Either the members of this council have never visited a county jail, prison, or other place of incarceration or they came away from it with a wholly different takeaway than I did when I visited jails and prisons as part of my criminal justice program. This bill intends to send upstanding members of our community, vetted by the state police as law abiding and trained, to jail for up to six months for an act with no element of malice and likely an honest mistake or a matter of police/prosecutorial discretion. This result, which is explicitly what this bill demands, is cruel and honestly horrific. This is the exact opposite of criminal justice reform that the Democratic Party has called for over the past multiple decades.

I ask that the members of this council reject this bill which will only serve to criminalize upstanding, and disproportionately minority, members of our community.

Sincerely,



Daniel Sangaree

References

“BRIEF OF THE BLACK ATTORNEYS OF LEGAL AID, THE BRONX DEFENDERS, BROOKLYN DEFENDER SERVICES, ET AL. AS AMICI CURIAE IN SUPPORT OF PETITIONERS”, July 2021. Accessible via Supreme Court of the United States website, Docket 20-843.

**Testimony for the Montgomery County Council
July 26, 2022**

**Expedited Bill 21-22, Weapons – Firearms In or Near
Places of Public Assembly
FAVORABLE**

To Council President Albornoz and members of the Public Safety Committee,

My name is Lisa Morris. I am a volunteer with Maryland Moms Demand Action and I live in North Potomac. I am submitting written testimony in support of Expedited Bill 21-22, Weapons – Firearms In or Near Places of Public Assembly.

I have lived in Montgomery County my entire life. I am also a gun violence survivor as my life intersected with gun violence two times. I feel and believe our safety as a community and individuals/families are more at risk then ever.

The very dangerous decision made by the Supreme Court to weaken states permitting systems is already seeing ripple effect in states across the country, including in Maryland. States see that a weakened permitting system has a 13-15% increase in the rate of violent crimes. Research shows that when it is easier for people to carry guns in public, violent crime goes ups.

Montgomery County is experiencing a rise in gun violence; the last thing our county needs is guns where people gather. The increased prevalence of guns outside the home only increases the risk of violence in public places. This will further endanger the public in Montgomery county and Maryland putting families, children, individuals and law enforcement in danger in what is already a gun violence and mass shooting epidemic.

Now the burden is more then ever on state and local officials to define the spaces in our community where guns are not permitted

and to provide strong public safety and gun reform legislation to keep all of us safe from gun violence in our communities as we go about our daily lives.

I urge you and the council to pass Bill 21-22.

Thank you and the all of the council members for all you do for our county.

Lisa Morris
Volunteer
Moms Demand Action for Gun Sense in America, Maryland
Chapter

Testimony for the Montgomery County Council

July 26, 2022

Expedited Bill 21-22, Weapons – Firearms In or Near Places of Public Assembly

FAVORABLE

To Council President Albornoz and members of the Public Safety Committee,

I am Peter Benjamin, a former mayor of the Town of Garrett Park. I am submitting written testimony in support of Expedited Bill 21-22, Weapons – Firearms In or Near Places of Public Assembly.

I agree with the legislation proposed and respectfully suggest two additions:

1. Include within the definition of places of public assembly all modes of public transportation, including vehicles and facilities as well as school buses.
2. I believe that New York, in its action in response to the Bruen decision, dealt with weapons carried into private business. I would propose a similar provision that would ban weapons in all places of business, including stores, offices, and service facilities unless the owner or operator chooses to allow weapons in its place of business, in which case the exemption must be posted prominently and publicly at all entrances.

Thank you for your consideration,

Peter Benjamin



President
Mark W. Pennak

July 21, 2022

WRITTEN TESTIMONY OF MARK W. PENNAK, PRESIDENT, MSI, IN OPPOSITION TO BILL 21-22

I am the President of Maryland Shall Issue (“MSI”). Maryland Shall Issue is a Section 501(c)(4), all-volunteer, non-partisan organization dedicated to the preservation and advancement of gun owners’ rights in Maryland. It seeks to educate the community about the right of self-protection, the safe handling of firearms, and the responsibility that goes with carrying a firearm in public. I am also an attorney and an active member of the Bar of the District of Columbia and the Bar of Maryland. I recently retired from the United States Department of Justice, where I practiced law for 33 years in the Courts of Appeals of the United States and in the Supreme Court of the United States. I am an expert in Maryland Firearms Law, federal firearms law and the law of self-defense. I am also a Maryland State Police certified handgun instructor for the Maryland Wear and Carry Permit and the Maryland Handgun Qualification License and a certified NRA instructor in rifle, pistol, personal protection in the home, personal protection outside the home, muzzle loading, as well as a range safety officer. This letter is submitted in opposition to Bill 21-22.

In Bill 21-22, the County would amend Section 57.11(b) of the County Code to eliminate the existing exemption for carry permit holders from the prohibitions found in Section 57.11(a). Section 57.11(a) provides: “In or within 100 yards of a place of public assembly, a person must not: (1) sell, transfer, possess, or transport a ghost gun, undetectable gun, handgun, rifle, or shotgun, or ammunition or major component for these firearms; or (2) sell, transfer, possess, or transport a firearm created through a 3D printing process.” The County code defines the term “place of public assembly” extremely broadly to mean: “a place where the public may assemble, whether the place is publicly or privately owned.” This definition goes on to include, but is not limited to, any “park; place of worship; school; library; recreational facility; hospital; community health center; long-term facility; or multipurpose exhibition facility, such as fairgrounds or a conference center.” See County Code Section 57.1 (definitions).

The County invokes as its authority for this bill, an exception provision to a State preemption statute, MD Code, Criminal Law, § 4-209(a). That statute provides: “(a) Except as otherwise provided in this section, the State preempts the right of a county, municipal corporation, or special taxing district to regulate the purchase, sale, taxation, transfer, manufacture, repair, ownership, possession, and transportation of: (1) a handgun, rifle, or shotgun; and (2) ammunition for and components of a handgun, rifle, or shotgun.” Section 4-209(b) contains exceptions to this general preemption, one of which is that a “county, municipal corporation, or special taxing district may regulate the purchase, sale, transfer, ownership, possession, and transportation of the items listed in subsection (a) of this section:

*** (iii) * * * within 100 yards of or in a park, church, school, public building, and other place of public assembly.” MD Code, Criminal Law, 4-209(b)(1)(iii).

That exception provision is narrow and strictly construed. In *Mora v. City of Gaithersburg*, 462 F.Supp.2d 675, 689 (D.Md. 2006), *modified on other grounds*, 519 F.3d 216 (4th Cir. 2008), a federal district court here in Maryland held that “the Legislature” has “occup[ie]d virtually the entire field of weapons and ammunition regulation,” holding further there can be no doubt that “the exceptions [in Section 4-209(b)] to otherwise blanket preemption [in Section 4-209(a)] are narrow and strictly construable.” As thus construed, Section 4-209(b)(1)(iii) does not authorize this legislation. Indeed, the extent of the County’s power under this provision is currently in litigation in *MSI v. Montgomery County*, Case No.: 485899V (Mont. Co. Cir. Ct), where MSI and other plaintiffs have challenged the County’s enactment of Bill 4-21 last year. Cross-motions for summary judgment in that case were filed and oral argument conducted on July 19, 2022. Bill 21-22 builds on the framework established by Bill 4-21 and effectively negates carry permits issued by the State Police throughout the County. If the County loses the Bill 4-21 suit, such a decision would necessarily mean that the County likewise lacks the authority to enact Bill 21-22, as currently drafted. The County would be well-advised to await a decision before doubling down on its misguided reliance on Section 4-209(b)(1)(iii).

But even assuming *arguendo* that the County has the power it claims under Section 4-209(b)(1)(iii), Bill 21-22 still fails as it is blatantly unconstitutional under the Second Amendment, as construed by the Supreme Court in *New York State Rifle & Pistol Association, Inc. v. Bruen*, 142 S.Ct. 2111 (2022). In *Bruen*, the Supreme Court held that the Second Amendment right to bear arms means “a State may not prevent law-abiding citizens from publicly carrying handguns because they have not demonstrated a special need for self-defense.” Slip op. at 24-25 n.8. Specifically, the Court struck down as unconstitutional New York’s “proper cause” requirement for issuance of a permit to carry a handgun in public. The Court went on to reject the “means-end,” two step, intermediate scrutiny analysis used by the lower courts to sustain gun regulations, holding that “[d]espite the popularity of this two-step approach, it is one step too many.” The Court ruled that “the standard for applying the Second Amendment is as follows: When the Second Amendment’s plain text covers an individual’s conduct, the Constitution presumptively protects that conduct. The government must then justify its regulation by demonstrating that it is consistent with the Nation’s historical tradition of firearm regulation.” Any such historical analogue would have to date from 1791 or, at the latest, 1868, when the 14th Amendment was adopted. See *Bruen*, slip op. at 25-26. That is because “Constitutional rights are enshrined with the scope they were understood to have when the people adopted them.” *Bruen*, slip op. at 25, quoting *District of Columbia v. Heller*, 554 U.S. 570, 634–635 (2008).

Bruen also holds that governments may regulate the public possession of firearms at “legislative assemblies, polling places, and courthouses” and notes that governments may also regulate firearms “in” schools and government buildings. *Bruen*, slip op. at 21, citing *Heller*, 554 U.S. at 599. *Bruen* states that “courts can use analogies to those historical regulations of ‘sensitive places’ to determine that modern regulations prohibiting the carry of firearms in new and analogous sensitive

places are constitutionally permissible.” (Id.). But nothing in *Bruen* can be read to allow a State (or a municipality) to regulate or ban firearms at every location where the “public may assemble” regardless of whether the place is “publicly or privately owned.” Indeed, the Court rejected New York’s “attempt to characterize New York’s proper-cause requirement as “a ‘sensitive-place’ law,” ruling that **“expanding the category of ‘sensitive places’ simply to all places of public congregation that are not isolated from law enforcement defines the category of ‘sensitive places’ far too broadly.”** Slip op. at 22. As the Court explained, “[p]ut simply, there is no historical basis for New York to effectively declare the island of Manhattan a ‘sensitive place’ simply because it is crowded and protected generally by the New York City Police Department.” (Id.).

In a courtroom, the County will bear the burden of proof to show the historical presence of such analogous regulations. See *Bruen*. at 52 (“we are not obliged to sift the historical materials for evidence to sustain New York’s statute. That is respondents’ burden.”). *Ipse dixit* declarations or avowed public safety concerns will not do. Under *Bruen*, “when the Second Amendment’s plain text covers an individual’s conduct, the Constitution presumptively protects that conduct.” Slip op. at 8. Here, the text of the Second Amendment indisputably covers the “possession, sale, transport, and transfer” of firearms and ammunition, as regulated by Section 57.11(a) of the County Code. **In such cases, “the government may not simply posit that the regulation promotes an important interest,” but rather “the government must demonstrate that the regulation is consistent with this Nation’s historical tradition of firearm regulation.”** Id. In short, under *Bruen*, **“the Second Amendment guarantees a general right to public carry.”** *Bruen*, slip op. at 24.

The County has not and cannot make any such showing that eliminating the right to carry under a permit issued by the State Police “is consistent with this Nation’s historical tradition of firearm regulation.” Indeed, the very suggestion is nonsensical. There is no historical analogue that would permit the County to ban all possession of firearms in a church or a park, much less in any “other place of public assembly” as vastly defined by the County to include any place where the public “may assemble” regardless of whether such place is on public or private land. Montgomery County is no more a “sensitive place” than is Manhattan. Under the Second Amendment, the County may presumptively enact otherwise reasonable firearms regulations for these five, specific locations identified in *Bruen* and *Heller*, viz, in schools, public buildings, polling places, courthouses and legislative assemblies, **to the extent such regulation is otherwise authorized by State law.** As noted, the State has generally barred local regulation of firearms under Section 4-209(a). For example, the County has no authority to enact its own, “shall issue” licensing system that would supersede or conflict with that established by State law. Nor would it make any practical sense for the County to attempt to duplicate State law on such matters.

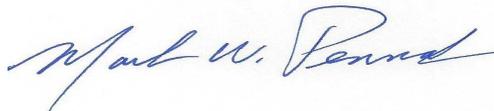
The State Police may continue to regulate public possession of handguns under its existing permit system as long as it issues permits on an objective, “shall issue” basis and the permitting system does not operate in such a way as to “deny ordinary citizens their right to public carry.” See *Bruen*, slip op. at 30 n.9. But, there is no historical analogue that could justify regulating within 100 yards of those locations

or beyond those places. *Bruen* holds that the “Second Amendment guarantees a general right to public carry,” and thus the County may not purport to ban the “possession, sale, transport, and transfer of firearms” within 100 yards of any location. Again, the burden is on the County to prove an historical analogue to the contrary.

Such bans are particularly nonsensical for persons who have obtained a wear and carry permit from the Maryland State Police. Under State law, MD Code, Public Safety, § 5-306(b), such individuals are subject to highly intrusive background investigations (including fingerprinting) conducted by the State Police and must undergo extensive training by State certified instructors, including passing a scored live-fire proficiency test. The undersigned is such a State Police-certified instructor. The State Police will continue to enforce those requirements even after *Bruen*. See Maryland State Police Advisory, LD-HPU-22-002 (July 5, 2022). Permit holders are among the most law-abiding individuals there are. They are not the problem. That has been true in all of the 43 States and the District of Columbia that issue permits on a “shall issue” basis. <https://www.dailywire.com/news/report-concealed-carry-permit-holders-are-most-law-aaron-bandler/>. Eliminating the exception for permit holders currently found in Section 57.11(b) of the County Code is utterly senseless from any calm, rational perspective.

Stated simply, regardless of the personal views of members of the Council County, this County is bound by the decisions of the Supreme Court, including decisions involving the Second Amendment. The County needs to rethink this Bill. If the County persists with the enactment of Bill 21-22, it will not survive judicial review. Defying the Supreme Court did not work for the racist proponents of segregation who refused to accept *Brown v. Board* in the 1950s and 1960s, and it will not work for any County attempt to defy *Bruen*. The Second Amendment is not a “second class right” that the County is free to ignore. *Bruen*, slip op. at 62. The sooner that members of the Council are able to put aside their personal opinions and accept that reality, the better. As stated in *Heller*, “the enshrinement of constitutional rights necessarily takes certain policy choices off the table.” *Heller*, 554 U.S. at 636. County taxpayer dollars have better uses than litigation that will most certainly ensue from any enactment of Bill 21-22. When plaintiffs prevail in such litigation (and they will), the County will also be on the hook for plaintiffs’ attorneys’ fees and costs under federal law, 42 U.S.C. § 1988, and those sums could well be substantial. The County Council should stop and think carefully before it goes down that road. Responsible, adult stewardship of the County requires nothing less. The County cannot say it was not put on notice or acted in ignorance of State law or the Second Amendment.

Respectfully,



Mark W. Pennak
President, Maryland Shall Issue, Inc.
mpennak@marylandshallissue.org

Testimony for the Montgomery County Council
July 26, 2022

Expedited Bill 21-22, Weapons—Firearms In or Near Places of Public Assembly
FAVORABLE

To Council President Albornoz and members of the Public Safety Committee,

My name is Jennifer Stein, and I am a long-standing volunteer with Maryland Moms Demand Action. I have lived in Montgomery County since 1995 and currently live in the Town of Chevy Chase. Together with my husband, Michael, we have raised a family here. I am submitting written testimony in support of Expedited Bill 21-22, Weapons—Firearms In or Near Places of Public Assembly.

Gun violence in our country has become a public health crisis of epic proportions. The statistics are so monumental—110 deaths and 200 more injuries every day—it is possible to become numb unless directly affected. But none of us is immune to the scourge of gun violence, which destroys lives, families, and communities. So far, Montgomery County has avoided a mass shooting in a sensitive public space, but this is not a matter of luck. Maryland’s strong concealed carry permitting system was appropriate and necessary for public safety. Meanwhile, Montgomery County is experiencing a rise in gun violence—the last thing our county needs is guns where people gather. And no one should have to worry about gun violence when they take their kids to a playground, to a park, or drop them off at school.

The Supreme Court’s dangerous decision striking down the “proper cause” discretionary requirement to conceal carry a firearm has already increased the risk of tragic mass shootings in our community. When permitting systems are weakened and more people may carry concealed weapons into sensitive public spaces, the research shows that deadly violence rises. States with no such discretion in issuing concealed carry permits have homicide rates 11% higher than states like Maryland and New York.

Now that the Supreme Court’s concealed carry decision is the law of the land, Maryland and its local governments must take all reasonable action to protect children and adults from senseless gun violence within its borders. Expedited Bill 21-22, Weapons—Firearms In or Near Places of Public Assembly would be a commonsense, constitutional measure to help ensure public safety in the post-*Bruen* era. Montgomery County has the power under Maryland state law to regulate firearms as set forth in Expedited Bill 21-22. I urge the passage of this life-saving bill.

Sincerely,
Jennifer Stein
State Data Co-Lead
Moms Demand Action for Gun Sense in America, Maryland Chapter

Dear Sir or Ma'am -

In reference to Bill 4-21:

It is inherently dangerous to signal to criminals that the entire county is, in effect, a giant gun-free zone... "a place where the public may assemble" is literally and figuratively anywhere.

Please be reminded that the Colorado theater shooter specifically chose the particular theater because of it being in a gun-free zone, that is to say, free of law-abiding citizens capable of defending themselves. In doing so, he knew he could maximize the most damage in the least amount of time without a worry that someone, anyone could fight back.

Now, what are the chances of that happening here? That's the wrong question to ask. It's not about the chances, it's about the stakes - my life, and that of my family, is too great to risk.

I am open to any question or comments.

Very sincerely,

- Ben Figueroa

Testimony for the Montgomery County Council

July 26, 2022

Expedited Bill 21-22, Weapons – Firearms In or Near Places of Public Assembly

FAVORABLE

To Council President Alborno and members of the Public Safety Committee,

My name is Melissa Ladd. I am a volunteer with Maryland Moms Demand Action and I am a resident of Olney, and have lived in Montgomery County for 20 years. I am submitting written testimony in support of **Expedited Bill 21-22, Weapons – Firearms In or Near Places of Public Assembly**. Thank you for writing this bill in response to the misguided decision of the Supreme Court.

The breadth of studies on concealed carry permitting show that when permitting restrictions are eased, the rate of violent crime increases. A 2019 Study from Journal of Empirical Legal Studies shows that “RTC (Right to Carry) laws are associated with 13–15 percent *higher* aggregate violent crime rates 10 years after adoption”.¹ Also, the Johns Hopkins School of Public Health research indicates that “By years 7 through 10 following the adoption of a RTC law, violent crime rates were 11% to 14% higher than predicted had such laws not been in place.”² From a study by Duke University we learn that “increases in violent gun crime (29 percent), gun robbery (32 percent), and gun theft (35 percent) following the introduction of shall-issue concealed carry permit laws.”³

We know that sensitive area prohibitions keep people safe where the risk of gun violence is elevated. Maryland law grants counties and other local authorities the power to regulate firearms in and near certain sensitive places, like those listed in this ordinance. The county must

¹ <https://onlinelibrary.wiley.com/doi/abs/10.1111/jels.12219>

² <https://www.jhsph.edu/research/centers-and-institutes/johns-hopkins-center-for-gun-violence-prevention-and-policy/archive-2019/pdfs/concealed-carry-of-firearms.pdf>

³

https://www.nber.org/system/files/working_papers/w30190/w30190.pdf?utm_source=The+Trace+mailing+list&utm_campaign=b670a8e418-EMAIL_CAMPAIGN_2019_09_24_04_06_COPY_01&utm_medium=email&utm_term=0_f76c3ff31c-b670a8e418-112434573

do all it can to keep guns out of these sensitive locations where our children and families gather, and where we and our elected representatives take part in the democratic process.

Thank you for addressing this issue and I strongly urge you to pass Bill 21-22.

Sincerely,

Melissa Ladd

Chapter Leader

Moms Demand Action for Gun Sense in America, Maryland Chapter

**Testimony for the Montgomery County Council
July 26, 2022**

**Expedited Bill 21-22, Weapons – Firearms In or Near Places of Public Assembly
FAVORABLE**

To Council President Albornoz and members of the Public Safety Committee,

My name is Joanna Pearl. I am a volunteer with Maryland Moms Demand Action, and I live in Kensington. I submit this written testimony in support of Expedited Bill 21-22, Weapons – Firearms In or Near Places of Public Assembly.

I recently moved to this area, and my family chose to live in Maryland because we hope and believe it will be a safe place to raise my four-year-old daughter. Every day, I worry that even here in our state, we and our children are not safe from gun violence as we do everyday things like go to a park, a synagogue, a library, or a community center.

Montgomery County is experiencing a rise in gun violence, and the last thing we need is guns where people gather. Maryland law grants counties and other local authorities the power to regulate firearms in and near certain sensitive places, like those listed in the ordinance. The county should do all it can to keep guns out of these sensitive locations where our children and families gather, and where we and our elected representatives take part in the democratic process.

A growing body of research shows that when it is easier for people to carry guns in public, violent crime goes up. Sensitive area prohibitions, however, keep people safe where the risk of gun violence is elevated. It is a myth that mass shooters target gun-free zones: a study of 30-year of shootings showed no evidence that a single mass shooter chose to target a place because it prohibited guns. Rather, studies have shown that most mass shooters were connected to the location or were motivated by hate, a perceived grievance, or an interpersonal conflict. Keeping guns out of sensitive areas, as this bill would do, will make us all safer.

I hope the Committee will pass Expedited Bill 21-22 and protect everyone in our community from gun violence. Thank you for your attention to this critically important issue.

Sincerely,
Joanna Pearl
Montgomery County Local Group Co-Lead
Moms Demand Action for Gun Sense in America, Maryland Chapter

I would like to submit brief testimony in opposition to Expedited Bill 21-22, Weapons - Firearms In or Near Places of Public Assembly. I have four reasons for opposing this legislation:

It will not make me and my family less susceptible to violent crime.

While the legislation's intended purpose is to improve safety and protect county residents from violent offenders, I fail to see how this provision does that. Literally, all Montgomery County residents, including legally armed residents deemed responsible by the state police, will be more vulnerable to violent crime. Criminals will know they have the tactical advantage when pursuing targets in places of public gatherings such as bus stops, train stations, parks and shopping center parking lots. I found it ironic this bill was announced the same day county police announced the arrest of district residents performing armed robbery of MontCo residents waiting at bus stops. This type of crime will continue.

The legislation will place a greater burden on police officers

At a time when police officers are retiring at record paces and the number of recruits failing to meet those losses, current officers will be forced to bear a greater burden to prevent and respond to crimes, particularly violent crime, before and when they occur. As a native New Yorker, I have personally experienced moments of tranquillity turn to chaos in a matter of seconds. The time chaos ensues to the time when the police arrive seems like an eternity whether it is 30 seconds or three minutes. The truth is every individual is their own first responder.

The legislation will place greater liability costs on businesses

Businesses will bear additional costs to ensure occupants to their businesses are safe from criminal elements. Liability and security

insurance will increase as businesses look to protect themselves from lawsuits stemming from crimes committed on their premises. Public officials need to reevaluate their objective and not target law abiding citizens.

It appears to me this legislation is not addressing the problem it is trying to solve: gun-related crime.

There is a process in place to ensure firearms are not in the hands of law abiding citizens who may not be suitable for owning firearms; are criminals looking to circumvent the law, and/or are individual with emotional or mental health issues. The county needs to trust this process and not disarmed county residents the state police deem responsible to legally own and carry firearms. There are also many laws in place designed to prevent the illegal purchase, use and distribution of firearms. Elected officials must trust the process and laws in place and only make changes which ensure law abiding citizens are protected not punished.

Thank you.

Expedited Bill No. 21-22
Concerning: Weapons – Firearms In or
Near Places of Public Assembly
Revised: 11/10/2022 Draft No. 2
Introduced: July 12, 2022
Enacted: November 15, 2022
Executive: November 28, 2022
Effective: November 28, 2022
Sunset Date: None
Ch. 36, Laws of Mont. Co. 2022

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Council President Alborno
Co-Sponsors: Councilmembers Hucker, Friedson, Jawando, Riemer, and Katz; Council Vice-
President Glass; and Councilmember Rice

AN EXPEDITED ACT to:

- (1) prohibit the possession of firearms in or near places of public assembly, with certain exemptions;
- (2) remove an exemption that allows individuals with certain handgun permits to possess handguns within 100 yards of a place of public assembly; and
- (3) generally amend the law regarding restrictions against firearms in the County.

By amending

Montgomery County Code
Chapter 57, Weapons
[[Section]] Sections 57-1, 57-7, and 57-11

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:



- 79 (3) apply to the possession of a firearm or ammunition, other than a
80 ghost gun or an undetectable gun, in the person’s own home;
- 81 (4) apply to the possession of one firearm, and ammunition for the
82 firearm, at a business by either the owner who has a permit to carry
83 the firearm, or one authorized employee of the business who has a
84 permit to carry the firearm; or
- 85 (5) [apply to the possession of a handgun by a person who has received
86 a permit to carry the handgun under State law; or]
- 87 [(6)] apply to separate ammunition or an unloaded firearm:
- 88 (A) transported in an enclosed case or in a locked firearms rack
89 on a motor vehicle, unless the firearm is a ghost gun or an
90 undetectable gun; or
- 91 (B) being surrendered in connection with a gun turn-in or
92 similar program approved by a law enforcement agency.

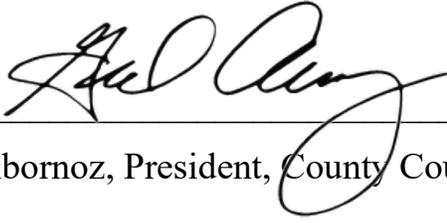
93 * * *

94 **Sec. 2. Expedited Effective Date.** The Council declares that this legislation is
95 necessary for the immediate protection of the public interest. This Act takes effect on
96 the date on which it becomes law.

97 **Sec. 3. Severability.** If any provision of this Act, or any provision of Chapter
98 57, is found to be invalid by the final judgment of a court of competent jurisdiction,
99 the remaining provisions must be deemed severable and must continue in full force
100 and effect.

101 **Sec. 4.** This Act and Chapter 57 must be construed in a manner that is consistent
102 with regulations of the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives,
103 including 87 FR 24652 (effective August 24, 2022), as amended.

Approved:



11/17/2022

Gabriel Albornoz, President, County Council

Date

Approved:

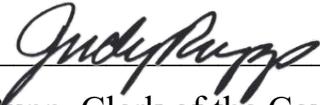


11/28/2022

Marc Elrich, County Executive

Date

This is a correct copy of Council action.



11/28/2022

Judy Rupp, Clerk of the Council

Date

Bill No. 4-97
Concerning: Weapons - Places of
Public Assembly and Access by
Minors
Revised: July 1, 1997 Draft No. 8
Introduced: February 11, 1997
Enacted: July 1, 1997
Executive: Returned unsigned
Effective: October 14, 1997
Sunset Date: None
Ch. 14, Laws of Mont. Co. 1997

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmembers Berlage, Leggett, Ewing, Subin, and Council President Praisner

AN ACT to:

- (1) limit the purchase, sale, transfer, possession, and transportation of certain firearms and ammunition with respect to minors or within 100 yards of places of public assembly; and
- (2) generally amend County law regarding weapons.

By amending

Montgomery County Code
Chapter 57, Weapons
Sections 57-1, 57-3, 57-4, 57-5, 57-8

By adding

Section 57-7A

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland, approves the following Act:



1 ball shot or a single projectile for each single pull of the
 2 trigger.

3 Gun shop: An establishment where a **handgun, rifle, or shotgun,** or
 4 ammunition or major component of these guns is sold[[,]] or
 5 transferred[[, manufactured, repaired, or transported]]. “Gun shop” does not
 6 include an area of an establishment that is separated by a secure, physical
 7 barrier from all areas where any of these items is located.

8 * * *

9 Minor: An individual younger than 18 years old.

10 Place of public assembly: [[“Place]] A “place of public assembly”
 11 [[includes]] is a [[:(1)]] government owned park identified by the
 12 Maryland-National Capital Park and Planning Commission; place of
 13 worship; elementary or secondary school; [[public building, or child care
 14 center]] public library; or [[(2) swim club or cultural,]] government owned
 15 or operated recreational [[, sports or social center that admits minors]]
 16 facility. A place of public assembly includes all property associated with
 17 the place, such as a parking lot or grounds of a building.

18 * * *

19 Sporting use: “Sporting use” of a firearm and ammunition means hunting or
 20 target shooting in compliance with all federal, State, and local laws.

21 Sporting use includes:

- 22 (a) participation in a managed hunt sponsored by a government agency;
 23 and
 24 (b) the sale or other transfer of ammunition by a sporting club for
 25 immediate, on-site use at the club.

* * *

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

57-3. Discharge of guns in the urban area.

A person, other than a peace officer or employee of the Maryland Department of Natural Resources performing official duties, must not discharge a gun within the urban area. ~~[[This section does not apply to the]]~~ Except as provided in Sections 57-5 and 57-7A, a person may discharge ~~[[of]]~~ a gun:

* * *

57-4. Discharge of guns outside the urban area.

* * *

(b) ~~[[Paragraph (a)(1) does not apply to the]]~~ Except as provided in Sections 57-5 and 57-7A, a person may discharge ~~[[of]]~~ a gun:

* * *

57-5. ~~[Transfer of rifles or shotguns to]~~ Access to guns by minors.

(a) ~~[It shall be unlawful for any]~~ A person ~~[to]~~ must not give, sell, rent, lend, or otherwise transfer any ~~[[handgun,]]~~ rifle~~[[,]]~~ or shotgun ~~[designed to use explosive ammunition]~~ or any ~~[projectile therefor within]~~ ammunition or major component for these guns in the ~~[county]~~ County to a minor ~~[under the age of eighteen (18) years; provided, that nothing contained within this section shall be construed to].~~ This subsection does not apply ~~[where the relationship of]~~ when the transferor is at least 18 years old and is the parent ~~[and child], guardian [and ward], or [adult] instructor [and pupil exists between such person and]~~ of the minor, or in connection with a regularly conducted or supervised program of marksmanship or marksmanship training ~~[or participation].~~

1 (b) An owner, employee, or agent of a **gun shop** must not allow a minor
 2 to, and a minor must not, enter the **gun shop** unless the minor is
 3 accompanied by a parent or other legal guardian at all times when the
 4 minor is in the **gun shop**.

5 (c) This section must be construed as broadly as possible within the
 6 limits of State law to protect minors.

7 * * *

8 **57-7A. Firearms in or near places of public assembly.**

9 (a) A person must not sell, transfer, [[manufacture, repair,]] possess, or
 10 transport a handgun, rifle, or shotgun, or ammunition for these
 11 firearms, in or within 100 yards of a **place of public assembly**.

12 (b) This section does not:

13 (1) prohibit the teaching of firearms safety or other educational or
 14 sporting use [[by adults within]] in the areas described in
 15 subsection (a);

16 (2) apply to a law enforcement officer [[acting in the officer's
 17 official capacity]], or a security guard licensed to carry the
 18 firearm: [[or]]

19 (3) apply to the possession of a firearm or ammunition in the
 20 person's own home;

21 (4) apply to the possession of one firearm, and ammunition for the
 22 firearm, at a business by either the owner or one authorized
 23 employee of the business;

24 (5) apply to the possession of a handgun by a person who has
 25 received a permit to carry the handgun under State law;

1 (6) apply to a sale or other transfer of a firearm or ammunition in a
 2 gun shop operating continuously at the same location since
 3 before the place of public assembly was established if the place
 4 is established after January 1, 1997; or

5 ~~[(5)]~~

6 (7) apply to [[the transportation of]] separate ammunition or an
 7 unloaded firearm [[that is]]:

8 (A) transported in [[a locked container]] an enclosed case or
 9 in a locked firearms rack on a motor vehicle; or

10 (B) being surrendered in connection with a gun turn-in or
 11 similar program approved by a law enforcement agency.

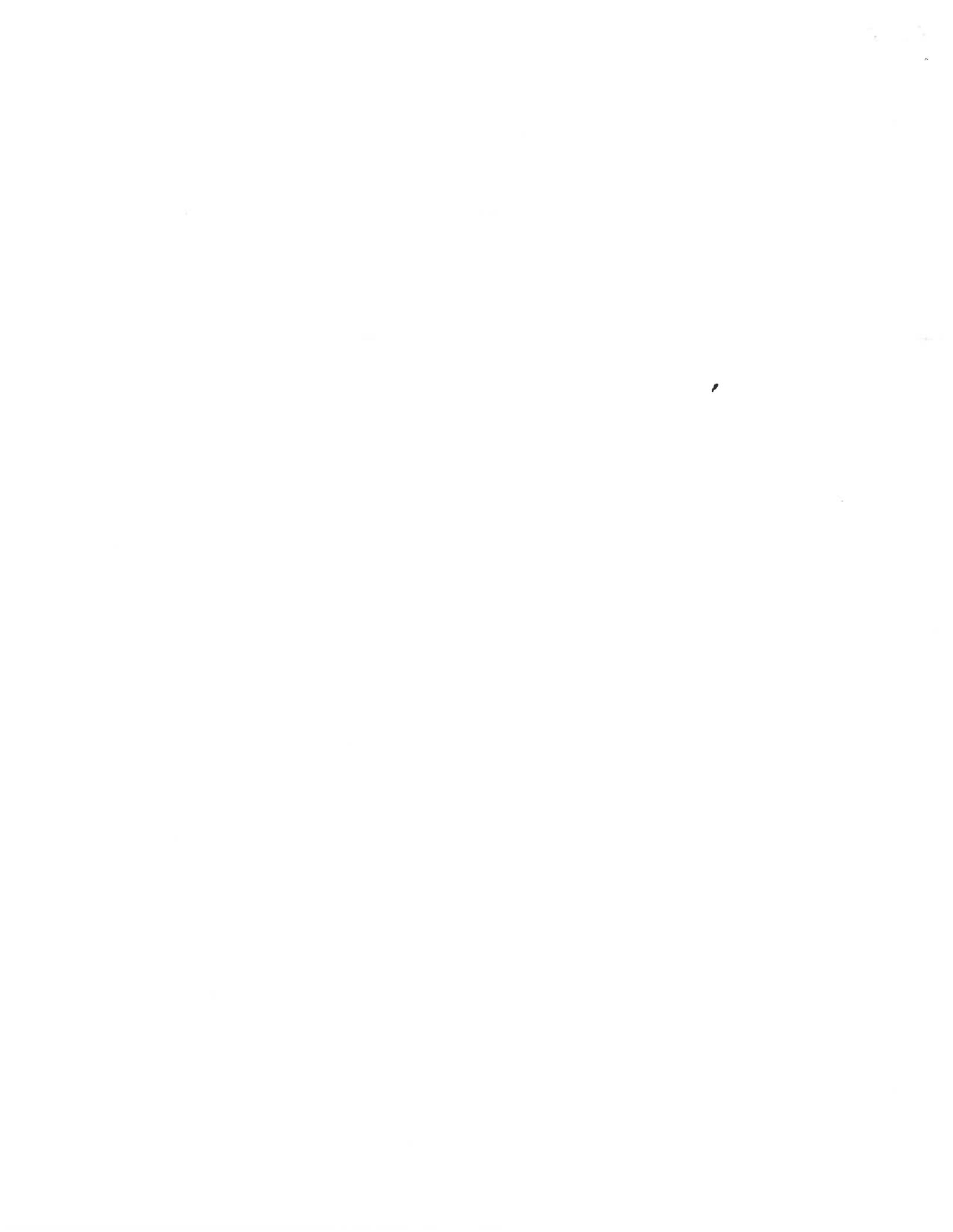
12 **57-8. Exemptions from provisions of chapter.**

13 Nothing in this ~~[[chapter shall apply]]~~ Chapter applies to the purchase,
 14 ownership or possession of bona fide antique guns which are incapable of use as a
 15 gun. ~~[[Further]]~~ Except as provided in Sections 57-5 and 57-7A, nothing in this
 16 ~~[[chapter shall be deemed to prohibit]]~~ Chapter prohibits the owner or tenant of
 17 any land from carrying or discharging a firearm on ~~[[his]]~~ that land for the purpose
 18 of killing predatory animals which prey on, damage or destroy ~~[[his]]~~ property,
 19 livestock, or crops.

20 **Sec. 2. Transition.**

21 Notwithstanding Section 57-7A, as added by Section 1, a gun shop owned
 22 and operated by a firearms dealer licensed under Maryland or federal law on
 23 January 1, 1997, may conduct regular, continuous operations in the same
 24 permanent location until the later of:

25 (a) two years after this Act takes effect; or



LAWS
of
MONTGOMERY COUNTY
1966



(3) The fire shall be attended at all times by an attendant over twenty-one years of age until it is completely extinguished.

(4) The nearest fire department shall be notified by the [developer, builder, or sawmill operator] *permitted* prior to the start of fire and be furnished an estimated time of burning.

(5) If due to dry weather, winds, and other like conditions it is the opinion of the local fire chief or his agent that the fire creates a hazard, the fire chief or his agent may order same to be extinguished.

(6) Clearance, as designated by the Fire Marshal shall be maintained around all [bonfires] *open fires*.

(7) *Rubber tires, crank case oil, or other materials which create dense smoke or emissions injurious or noxious to people or property shall not be burned, either continuously or starting.*

(8) *Smoke density shall not exceed Ringelmann No. 2 for more than 3 minutes in any hour.*

[7] B. [No] The owner, operator, or other person in charge of a sawmill shall not remove such mill from any place of operation without first disposing of all slash, slabs, sawdust or other debris resulting from such operation. Before abandoning such operational site, the owner or operator or other person shall notify the Fire Marshal of the abandonment in order that the Fire Marshal may inspect the site.

BE IT FURTHER ORDAINED that—

Chapter 87, Montgomery County Code 1960 is hereby amended to read as follows:

Section 87-9. (2)

All incinerators shall be operated in such a manner that they shall not emit fly ash in excess of 0.85 pounds per one thousand pounds of dry flue gas, corrected to twelve per cent CO₂ or fifty per cent excess air, nor shall they produce smoke in excess of those limitations imposed in Section 3 of the "Air Pollution Control Ordinance." Any incinerator [not] being operated not in accordance with these specifications shall be corrected within the time specified by written notice of the [Director] *Health Officer* or his authorized agent, to the owner, his agent or operator [thereof] *of the incinerator*.

BE IT FURTHER ORDAINED that Ordinance No. 4-114, Laws of Montgomery County 1962, is hereby amended to read as follows:

Section 9f. Dust Air Pollution

[Upon a finding by the Director that] In order to avoid injurious effects to persons and damage to property resulting from the emission of dust or other air pollutants and to obtain compliance with the *Air Pollution Control Ordinance*, the Director shall have authority to [prescribe] *require employment* of methods for the control of said dust and air pollutants including but not limited to the following: (a) complete or partial enclosure of all machinery used in the crushing, washing, sorting or processing of rock, sand, gravel or other natural resources; (b) spraying by hand or automatic spraying devices; (c) installation of dust inhibitors and dust control devices. [Air pollution measurements shall be taken at the places prescribed in Section 9a (1), (2) or (3).]

BE IT FURTHER ORDAINED that Ordinance No. 5-139 is declared an emergency measure for the immediate preservation of the public health and safety and shall become effective immediately upon adoption except that—

(1) Where compliance with Sections 3, 4 and 6 of Chapter 74A requires major alteration in physical plants, a period not to exceed one (1) year from said effective date shall be allowed for such compliance. This exception shall not apply to motor vehicles.

(2) Section 5a (2) (d) of Chapter 74A, "That no leaves shall be burned in those areas where provision is made for public collection thereof" shall not become effective until September 1, 1966, except that during the interim, the County Manager is authorized to ban the burning of leaves for any period during which he determines that atmospheric or other conditions are such as to produce intolerable or unsafe conditions if burning of leaves is permitted.

Adopted: October 19, 1965.

Ordinance No. 5-140 Re: Ordinance Regulating Transfer of Pistols.

BE IT ORDAINED by the County Council for Montgomery County, Maryland, that Chapter 103, titled "Weapons," Montgomery County Code 1960, is hereby amended as follows:

Sec. 1. Section 103-1, titled "Definitions," Chapter 103, titled "Weapons," Montgomery County Code 1960, is hereby amended by

adding certain new definitions to be arranged alphabetically with existing definitions in said section:

"Crime of violence": shall mean murder, voluntary manslaughter, rape, mayhem, kidnapping, burglary, housebreaking; assault with intent to murder, ravish or rob; assault with a deadly weapon, or assault with intent to commit any offense punishable by imprisonment for more than one year.

"Dealer": shall include any person engaged in the business of selling firearms at wholesale or retail, or any person engaged in the business of renting or repairing such firearms, or any person who is either licensed, or required to be licensed as such under State or Federal law.

"Fixed Ammunition": shall mean any ammunition composed of a projectile or projectiles, a casing and a primer, all of which shall be contained as one unit.

"Fugitive from justice": shall mean any person for whom criminal proceedings have been instituted, warrant issued, or indictment presented to the grand jury, who has fled from a sheriff or other peace officer within this State, or who has fled from any State, territory or the District of Columbia, or possession of the United States, to avoid prosecution for crime of violence or to avoid giving testimony in any criminal proceeding involving a felony or treason.

"Habitual drunkard": shall mean any person who has been convicted of being drunk three or more times within a period of one year.

"Person": shall include an individual, partnership, association or corporation.

"Pistol or Revolver": shall mean any gun with a barrel less than sixteen (16) inches in length that uses fixed ammunition.

"Sell, and Purchase": and the various derivatives of such words, shall be construed to include letting on hire, giving, lending, borrowing or otherwise transferring.

"Subversive Organization": shall include any "subversive organization" or "Foreign subversive organization" as defined by Article 85A, Sec. 1, Annotated Code of Maryland, 1957.

"Subversive Person": shall include any person as defined by Article 85A, Sec. 1, Annotated Code of Maryland, 1957.

"Superintendent of Police": shall mean the Superintendent of Police for Montgomery County, Maryland, or his duly authorized agents.

"Unsound Mind": shall include any person who is, or has a history of (1) psychosis, or (2) brain dysfunction with or without specific mental retardation.

Sec. 2. Section 103-6, titled "Transfer to minors prohibited; exceptions," Chapter 103, titled "Weapons," Montgomery County Code 1960, is hereby amended to read as follows:

It shall be unlawful for any person to give, sell, rent, lend or otherwise transfer any [gun] rifle or shotgun designed to use explosive ammunition or any projectile therefor within the county to a minor under the age of [sixteen] eighteen years, or to give, sell, rent, lend or otherwise transfer any pistol designed to use explosive ammunition or any projectile therefor within the county to a minor under the age of twenty-one years. [except] Provided, however, that nothing contained within this subsection shall be construed to apply where the relationship of parent and child, guardian and ward, or adult instructor and pupil exist between such person and the minor, or in connection with a regularly conducted or supervised program of marksmanship training or participation.

Sec. 3. Chapter 103, titled "Weapons", Montgomery County Code 1960, is hereby amended by adding new Sections 103-10 through 103-18, inclusive, to read as follows:

Sec. 103-10. Unlawful possession of a pistol.
It shall be unlawful for any person to own or keep a rifle, shotgun, or pistol, or have a rifle, shotgun, or pistol in his possession or control within the county, if: (1) he is a drug addict, or (2) he has been convicted in this State or elsewhere of a crime of violence, trafficking in narcotics, or violating any of the provisions of Article 27, subtitle "Pistols," Annotated Code of Maryland 1957, or (3) he is an habitual drunkard, or (4) he is of unsound mind, or (5) he is a subversive person, or (6) a member of a subversive organization.

It shall be unlawful for any person to sell, give, or otherwise transfer a pistol to, or keep a pistol for, or intentionally make a pistol available to any person whom he knows, or has reasonable cause to believe, (1) has been so convicted, or (2) is a drug

addict, or (3) is an habitual drunkard, or (4) is of unsound mind, or (5) is a subversive person, or (6) a member of a subversive organization.

Sec. 103-11. Dealers not to sell, etc. to minors and other persons.

No dealer shall sell, barter, give or furnish, or cause to be sold, bartered, given or furnished to any minor under twenty-one (21) years of age, a pistol. Nor shall any dealer sell, lend, rent, or otherwise transfer any pistol to any person who has validly been denied the right to purchase, borrow, rent, or otherwise acquire a pistol, by the Superintendent of Police, under the provisions of this Ordinance.

Sec. 103-12. Acquisition of pistols from dealers.

Any person desiring to purchase, borrow, rent or otherwise acquire a pistol from a dealer shall make application on forms provided by the Superintendent of Police which shall be signed in triplicate by such person stating his full name, address, occupation, place and date of birth, the date and hour of application, make, model, serial number, and a statement that he has never been convicted in this State or elsewhere of a crime of violence, that he is not an habitual drunkard, or a drug addict, and that he has never been committed to an institution for treatment of mental illness from which he has not been discharged for a period of three years prior to the date of his application to purchase a pistol, or is a subversive person, or a member of a subversive organization. Within eight hours after receipt of such application, the dealer who proposes to sell a pistol shall sign and attach his address and mail or deliver two copies of such statement to the Superintendent of Police, together with a stamped, self-addressed envelope. A copy of the application shall be retained by the dealer for three years. Upon receipt of an application from the dealer, the Superintendent of Police shall stamp the time and date received and return one copy to the dealer.

Sec. 103-13. Five day waiting period for sale of pistol.

No dealer shall deliver any pistol to any purchaser thereof until five (5) days, excluding Saturdays, Sundays and holidays, shall have elapsed from the time the application has been received by the Superintendent of Police, provided, that the Superintendent of Police may, in his sole discretion, authorize in writing the seller to deliver a pistol to the purchaser during the Five

day period. Provided, that the Superintendent of Police may, in his sole discretion, extend such Five day period, for a period not to exceed fifteen days, by written notice to the seller. In the event of an extension of the Five day period, the Superintendent of Police shall include in the written notice the reason therefor.

Sec. 103-14. Notice of dealers.

If, within the Five (5) day period, or extension thereof as herein provided, the Superintendent of Police shall inform, in writing, the dealer who proposes to sell the pistol that the application to purchase is denied, it shall be unlawful for the dealer to deliver the pistol to the applicant. A notification of denial by the Superintendent of Police shall be furnished to the applicant by the dealer and the dealer shall not deliver or disclose the information contained therein to anyone else without the express permission of the applicant. The Superintendent shall deny the application to purchase a pistol of any applicant that (1) is under the age of twenty-one (21) years, or (2) is a drug addict, or (3) has been convicted of a crime of violence, trafficking in narcotics, or violation of any of the provisions of Article 27, subtitle, "Pistols," Annotated Code of Maryland, 1957, or (4) is an habitual drunkard, or (5) is of unsound mind, or (6) is a subversive person, or (7) is a member of a subversive organization. Further, the Superintendent of Police shall inform the applicant, in writing, of the specific reasons for denying said application.

Sec. 103-15. Exception.

Those who desire to purchase pistols from time to time without the waiting period prescribed above may apply to the Superintendent of Police for a Certificate of Identity.

The Superintendent of Police shall require of the applicant for a Certificate of Identity, his name, address, occupation, brief physical description, date and place of birth, fingerprints, photograph and signature. After fifteen (15) days from the date of application, and in the absence of evidence that the applicant (1) is a drug addict, or (2) has been convicted in this State or elsewhere for, or there are charges pending against him in this State or elsewhere for, a crime of violence or trafficking in narcotics, or (3) has been convicted of violating any of the provisions of Article 27, subtitle "Pistols," Annotated Code of Maryland 1957, or (4) is an habitual drunkard, or (5) he is of unsound mind, or (6) is a subversive person, or (7) is a member of

a subversive organization, and upon payment of such fee not to exceed \$5.00 as may be required by the Superintendent of Police, the Superintendent of Police shall issue the requested Certificate of Identity.

The Certificate of Identity shall be suitably laminated to prevent alteration and shall bear the name, address, brief physical description, photograph and signature of the one to whom it is issued. It shall also bear a serial number, the issue date, and the expiration date, which shall be two years from the date of issue, and the statement that the one to whom it is issued is entitled to purchase pistols from a licensed dealer without the prescribed waiting period.

A Certificate of Identity may be cancelled by the Superintendent of Police should conclusive evidence appear that the holder (1) is a drug addict, or (2) he has been convicted in this State or elsewhere of, or there are charges pending against him in this State or elsewhere for, a crime of violence or trafficking in narcotics, or (3) has been convicted of violating any of the provisions of Article 27, subtitle "Pistols," Annotated Code of Maryland, or (5) is an habitual drunkard, or (6) he is of unsound mind, or (7) he is a subversive person, or (8) he is a member of a subversive organization.

In the event of a cancellation, the holder is to be informed by registered U. S. Mail and all licensed dealers are to be notified of the name and serial number of the cancelled Certificate.

Sec. 103-16. Right of appeal.

Any purchaser, aggrieved by any decision of the Superintendent of Police may, within ten (10) days after receipt of the letter of denial by the Superintendent of Police, appeal said decision to the County Board of Appeals for Montgomery County, Maryland, by a petition setting forth the reasons for such appeal, whereupon the Board shall, after a hearing, affirm, modify or reverse the action of the Superintendent of Police.

Sec. 103-17. Exemptions.

This Ordinance shall not apply to (1) marshals, sheriffs, prison or jail wardens or their deputies, policemen or other law enforcement officers currently employed as such, (2) any person having State Department diplomatic immunity, to any person employed in or by an official branch of a Federal, State or local government whose duty includes law enforcement in the nature of a

police officer, (3) purchases by any dealer, (4) rental on the premises of pistols by persons twenty-one (21) years of age or over while upon the premises and being used upon a supervised rifle or pistol range, (5) the delivery of a pistol to its lawful owner by any person with whom such pistol has been left on consignment, for safekeeping, or for repairs, or (6) a wholesale purchase from a dealer by any person, firm or corporation regularly engaged in the business of manufacturing, repairing or selling pistols at retail.

Sec. 103-18. Saving clause.

Should any section, subsection, sentence, clause or phrase of this Chapter be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of the chapter in its entirety or of any part thereof other than that so declared to be invalid. The County Council for Montgomery County, Maryland, hereby declares that it would have adopted this chapter and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

Adopted: November 9, 1965.

Ordinance No. 5-143

BE IT ORDAINED by the County Council for Montgomery County, Maryland, sitting as a District Council for that portion of the Maryland-Washington Regional District located within Montgomery County, that—

The Montgomery County Zoning Ordinance adopted May 31, 1958, being Chapter 104, Montgomery County Code 1960, as amended, is hereby amended to read as follows:

Amend Section 104-13B b(6), title "Development Standards. Set-backs", as follows:

"No building or structure, other than entrance gate houses, shall be located within 100 feet of any exterior boundary line of the tract except that for 40% of the boundary line, the minimum set-back may be reduced to 50 feet [1]; and except further, that where the exterior boundary line adjoins property owned or occupied by any

MONTGOMERY COUNTY

CODE

1955

EXHIBIT

H

Consisting of a compilation and codification of the public local laws of Montgomery County, the laws applicable to special taxing areas, the city, town and village laws, the bicounty district laws, and the ordinances, rules and regulations of the County, so as to set forth all such laws, ordinances, rules and regulations which are general and permanent in character as they are in force on August 15, 1955

Volume 2

PUBLISHED BY ORDER OF THE COUNTY COUNCIL

Under the Supervision of

CHARLES M. IRELAN

County Attorney

MICHE CITY PUBLICATIONS COMPANY
CHARLOTTESVILLE, VIRGINIA 4
1955

Sec. 94-37. Penalty.

Any person violating any term, condition or provision of this chapter shall be guilty of a misdemeanor and upon conviction there- of shall be punished by a fine of not more than one hundred dollars for each offense. (Jour. A-31, Ord. 2-11, April 10, 1951. Jour. A-33, Ord. 2-49, Feb. 19, 1952.)

Sec. 94-38. Appeals.¹

Any person feeling aggrieved by the denial, suspension or revocation of any registration card by the director shall have the opportunity to appeal from such denial, suspension or revocation to the county council and to show cause why such license should be issued or should not be suspended or revoked; provided, that such appeal is noted with the clerk of the county council within ten days after such person is notified of such action. A registered letter from the director to the last address on file with the department for the person against whom action has been or is to be taken shall be sufficient notification for the purposes of any action taken by the director under the provisions of this chapter. (Jour. A-31, Ord. 2-11, April 10, 1951. Jour. A-33, Ord. 2-49, Feb. 19, 1952.)

1. Section 2-81 of this Code provides that appeals under this section shall be heard by the county board of appeals.

CHAPTER 95.

WEAPONS.²

§ 95-1. Definitions.

§ 95-2. Use by children under seventeen years of age; penalty.

§ 95-3. Range approval committee established; powers, duties and functions.

§ 95-4. Discharge—Prohibited generally; exceptions.

§ 95-5. Same—On or near highways or buildings.

§ 95-6. Transfer to minors prohibited; exceptions.

§ 95-7. Possession prohibited; exceptions.

§ 95-8. Exemptions from chapter.

§ 95-9. Penalty.

Sec. 95-1. Definitions.

The following words as used in this chapter, shall for the purpose of this chapter, have the meanings respectively ascribed to them in this section:

Gun shall include any firearm, rifle, shotgun, revolver, pistol, air gun, air rifle or any similar mechanism by whatever name known which is designed to expel a projectile through a gun barrel by the action of any explosive, gas, compressed air, spring or elastic.

Urban area shall include that portion of the county lying within the following boundaries:

Beginning at a point where the Maryland-District of Columbia boundary line in the county intersects the Maryland-Virginia boundary line on the southwest side of the Potomac River; running thence in a northwesterly direction along the said Maryland-Virginia boundary line to a point opposite the mouth of Rocky Run, said point being the meeting point of the Maryland-Virginia boundary line and the Washington Suburban Sanitary District line; thence with said Washington Suburban Sanitary District line; thence the Potomac River to the north side of MacArthur Boulevard; thence easterly along the north side of MacArthur Boulevard; thence easterly along the north side of MacArthur Boulevard to Persimmon Tree Road; thence northwesterly along Persimmon Tree Road to River Road; thence northwesterly along River Road to Falls Road (Md. Route # 189); thence northeasterly to Kendale Road; thence easterly along Kendale Road to the northwest boundary of the property of the Sisters of Mercy; thence northeasterly along the northwesterly boundary of the property of the Sisters of

2. As to authority of county to adopt ordinances regulating, etc., firearms, see § 18-2 of this Code.

Mercy to Bells Mill Road; thence easterly and southeasterly along Bells Mill Road to Seven Locks Road; thence northerly along Seven Locks Road to its intersection with Montrose Road; thence easterly along Montrose Road to its intersection with U. S. Route 240; thence northwesterly along U. S. 240 to its intersection with the corporate limits of the Town of Rockville, as the same was established as of the effective date of Chapter 626, Laws of Maryland 1953; thence following said corporate limits to their intersection with Viers Mill Road; thence southeasterly along Viers Mill Road to Rock Creek; thence following the meanderings of Rock Creek in a northwesterly direction to the Norbeck-Rockville Road; thence along the Norbeck-Rockville Road in a northeasterly direction to its intersection with Georgia Avenue extended; thence in a southerly direction along Georgia Avenue extended to its intersection with the Bel Pre Road; thence in an easterly direction along the Bel Pre Road to the Town of Layhill; thence along the Bonnant Road in an easterly direction to its intersection with the Colesville-Ashton Road; thence along the Colesville-Ashton Road in a southerly direction to its intersection with the Beltsville Road at the Town of Colesville; thence in a southeasterly direction along the Beltsville Road to its intersection with the Montgomery County-Prince George's County boundary line; thence with the said Montgomery County-Prince George's County boundary line to the Montgomery County-District of Columbia boundary line; thence with the Montgomery County-District of Columbia boundary line to the place of beginning.

The term "urban area" shall also include all incorporated cities, towns or villages of the county. (Jour. A-30, Ord. 48, Oct. 3, 1950, sec. 1. Jour. A-37, Ord. 2-141, April 22, 1954, sec. 1. Ord. 2-167, July 22, 1954, sec. 1.)

Sec. 95-2. Use by children under seventeen years of age; penalty.

It shall be unlawful for any person under the age of seventeen years to discharge any firearms or high-powered air rifles whatsoever at any time within the county suburban district; provided, however, that the provisions of this section shall not apply to any person while engaged in hunting game during the hunting season, to anyone shooting skeet or clay pigeons, or to anyone shooting at a licensed shooting gallery or licensed target range.

Any person who shall violate the provisions of this section shall, upon conviction, be deemed guilty of a misdemeanor and shall be punished by a fine of not less than five dollars nor more than fifty dollars for each violation, and in default of any fine so imposed

1268

may be imprisoned for a period not to exceed thirty days for each violation. (Jour. A-18, p. 124, May 29, 1944. Mont. Co. Code (1950), sec. 165-1.)

Sec. 95-3. Range approval committee established; powers, duties and functions.

There is hereby established a range approval committee for the urban area of the county, to be composed of five qualified parties who are citizens of the county and who shall be appointed by the county council and who shall serve without compensation. One ex officio member shall be an employee of the division of police protection, one ex officio member shall be appointed from the department of inspection and licenses, and three members shall be appointed to serve for a period of three years, provided that the initial appointments pursuant to this section shall have staggered terms of one, two and three years, and that appointments made thereafter shall be for three years. One each of the three members shall be appointed from lists of names submitted by the Maryland State Rifle and Pistol Association, the Isaac Walton League and the League of Maryland Sportsmen, respectively. Ex officio members shall serve at the pleasure of the county council. The committee shall issue target, trap and skeet range and shooting area approval certificates, which certificates may specify the time and manner of shooting and the type of gun or ammunition which may be used on such range or area. Any such approval certificate shall be valid for eighteen months after its issuance, and shall be issued only upon a finding by a majority of the committee that the discharge of guns upon such ranges or areas will not jeopardize life or property. No range or area shooting certificates shall be issued except upon the written application of the owner, lessee or person lawfully in possession of the land upon which is located the range or area sought to be licensed or approved. Copies of all approval certificates shall be sent by the committee to the police station or substation having jurisdiction, and copies of all certificates shall be submitted to the county council and a record of same incorporated into the minutes. (Jour. A-30, Ord. 48, Oct. 3, 1950, sec. 2. Ord. 3-22, May 3, 1955.)

Sec. 95-4. Discharge—Prohibited generally; exceptions.

It shall be unlawful for any person to discharge any gun within the urban area, whether the gun is loaded with blank or live cartridges or projectiles of any kind. This section shall not apply to the discharge of guns on any target, trap or skeet range or shoot-

1269

ing area which has been inspected and approved in writing by the range approval committee, or to the discharge of guns by any person in a private basement or cellar target range, or to the discharge of guns where necessary to protect life or property or to kill any dangerous animal, or to any duly authorized peace officer acting in the proper performance of his official duties, or to the discharge of blank cartridges in theatrical performances or sporting events, or to the firing of salutes by firing squads at military funerals. (Jour. A-30, Ord. 48, Oct. 3, 1950, sec. 3.)

Sec. 95-5. Same—On or near highways or buildings.

It shall be unlawful for any person to discharge a gun from, onto, across or within one hundred yards of any public highway or building in the county; provided, that this section shall not apply to any discharge of a gun permitted by section 95-4 of this Code. (Jour. A-30, Ord. 48, Oct. 3, 1950, sec. 6. Ord. 2-168, July 22, 1954, sec. 2.)

Sec. 95-6. Transfer to minors prohibited; exceptions.

It shall be unlawful for any person to give, sell, rent, lend or otherwise transfer any gun designed to use explosive ammunition or any projectile therefor within the county to a minor under the age of sixteen years, except where the relationship of parent and child, guardian and ward, or adult instructor and pupil exists between such person and the minor. (Jour. A-30, Ord. 48, Oct. 3, 1950, sec. 4.)

Sec. 95-7. Possession prohibited; exceptions.

It shall be unlawful for any person to have upon his person, concealed or exposed, any gun designed to use explosive ammunition unless:

- (a) *Lawful mission.* Such person is then engaged upon a lawful mission for which it is necessary to carry a gun upon his person; or
- (b) *Special guard, special police, etc.* Such person is employed as a special guard, special police officer or special detective and is lawfully commissioned or licensed to carry such gun and then is on or in the immediate vicinity of the premises of any employer whose occupation lawfully requires the employment of a person carrying a gun while in the discharge of the duties of such employment; or

(c) *Military service.* Such person is then lawfully engaged in military service or as a duly authorized peace officer; or

1270

(d) *Hunting, target practice, etc.* Such person be engaged in lawful hunting, drill, training or target practice on property of which he is the owner or lessee or on property with the prior permission of the owner or lessee thereof; or,

(e) *Going to or returning from hunting, target practice, etc.* Such person be engaged in going to or from lawful hunting, drill, training or target practice, or in delivering such gun to or carrying it from a gunsmith or repairman, or be engaged in any other lawful transfer of possession; provided, that such person is on or traveling upon a public highway or property of which he is the owner or lessee or on property with the prior permission of the owner or lessee thereof; and, provided further, that such gun is not loaded with explosive ammunition. (Jour. A-30, Ord. 48, Oct. 3, 1950, Jour. A-32, Ord. 2-31, Aug. 28, 1951. Ord. 2-168, July 22, 1954, sec. 1.)

Sec. 95-8. Exemptions from chapter.

Nothing in this chapter shall apply to the purchase, ownership or possession of bona fide antique guns which are incapable of use, as a gun. Further, nothing in this chapter shall be deemed to prohibit the owner or tenant of any land from carrying or discharging a firearm on his land for the purpose of killing predatory animals which prey upon, damage or destroy his property, livestock or crops. (Jour. A-30, Ord. 48, Oct. 3, 1950, sec. 7. Ord. 2-168, July 22, 1954, sec. 3.)

Sec. 95-9. Penalty.

Except as otherwise provided in section 95-2 of this Code, any person who shall violate any of the provisions of this chapter or of the conditions of an approval certificate issued hereunder shall be deemed guilty of a misdemeanor and shall be punishable by a fine of not to exceed twenty-five dollars or imprisonment of not to exceed ten days in jail. (Jour. A-30, Ord. 48, Oct. 3, 1950, sec. 8.)

1271



Montgomery County

Office of Intergovernmental Relations

ROCKVILLE: 240-777-6550

ANNAPOLIS: 240-777-8270

SB 387

DATE: February 16, 2022

**SPONSOR: The President (By Request - Office of the Attorney General) and
Senator Lee**

ASSIGNED TO: Judicial Proceedings

CONTACT PERSON: Sara Morningstar (Sara.Morningstar@montgomerycountymd.gov)

POSITION: SUPPORT

Public Safety – Untraceable Firearms

Gun violence in the United States is a public health issue that cannot be ignored any longer. The alarming rise in “ghost guns” or untraceable firearms confiscated by Maryland law enforcement, aligned with the reported national surge of legal gun purchases made during the pandemic, requires that 2022 be the year for Maryland to adopt legislation to ban ghost guns.

Effective June 1, 2022, SB 387 will ban the purchase, sale and transfer of an unfinished frame or receiver if it does not have a serial number imprinted by a licensed manufacturer. Marylanders who already own these handmade firearms will have until January 1, 2023, to take them to a federally-licensed firearms dealer to have a serial number and manufacturing information engraved on the weapon. Failure to comply with the law will result in a misdemeanor punishable by up to three years in jail and a fine of up to \$10,000. The ban will not apply to guns manufactured before 1968 or to antique firearms.

The danger of these deadly weapons is that they can be easily assembled from components bought online with no required background check, have no serial numbers, and are, therefore, untraceable. These fully functional firearms are often difficult to identify as guns due to their shape or configuration and can evade metal detectors or x-ray machines creating a potential threat to public safety. Tragically, last month’s shooting at Magruder High School involved a 17-year-old using a 9 mm ghost gun purchased online to shoot and seriously harm a fellow student inside the school. And last summer at a recreation center in Germantown, a ghost gun was used by a 14-year-old to fatally shoot a 20-year-old. While it’s not fully known how many ghost guns are used in crimes, Montgomery County Department of Police reports that the number is rising. In 2021, 70 ghost guns were recovered from crime scenes in the County – up from 16 ghost guns in 2019 and 56 ghost guns in 2020.

With increasing incidents of gun violence in Maryland, Montgomery County supports stricter gun safety laws to include untraceable and undetectable firearms. We would urge the Committee adopt a favorable report on SB 387.





Montgomery County

Office of Intergovernmental Relations

ROCKVILLE: 240-777-6550

ANNAPOLIS: 240-777-8270

HB 425

DATE: February 9, 2022

**SPONSOR: The Speaker (By Request – Office of the Attorney General) and
Delegate Lopez**

ASSIGNED TO: Judiciary

CONTACT PERSON: Sara Morningstar (Sara.Morningstar@montgomerycountymd.gov)

POSITION: SUPPORT

Public Safety – Untraceable Firearms

Gun violence in the United States is a public health issue that cannot be ignored any longer. The alarming rise in “ghost guns” or untraceable firearms confiscated by Maryland law enforcement, aligned with the reported national surge of legal gun purchases made during the pandemic, requires that 2022 be the year for Maryland to adopt legislation to ban ghost guns.

Effective June 1, 2022, HB 425 will ban the purchase, sale, and transfer of an unfinished frame or receiver if it does not have a serial number imprinted by a licensed manufacturer. Marylanders who already own these handmade firearms will have until January 1, 2023 to take them to a federally-licensed firearms dealer to have a serial number and manufacturing information engraved on the weapon. Failure to comply with the law will result in a misdemeanor punishable by up to three years in jail and a fine of up to \$10,000. The ban will not apply to guns manufactured before 1968 or to antique firearms.

The danger of these deadly weapons is that they can be easily assembled from components bought online with no required background check, have no serial numbers, and are, therefore, untraceable. These fully functional firearms are often difficult to identify as guns due to their shape or configuration and can evade metal detectors or x-ray machines creating a potential threat to public safety. Tragically, last month’s shooting at Magruder High School involved a 17-year-old using a 9 mm ghost gun purchased online to shoot and seriously harm a fellow student inside the school. And last summer at a recreation center in Germantown, a ghost gun was used by a 14-year-old to fatally shoot a 20-year-old. While it’s not fully known how many ghost guns are used in crimes, Montgomery County Department of Police reports that the number is rising. In 2021, 70 ghost guns were recovered from crime scenes in the County- up from 16 ghost guns in 2019 and 56 ghost guns in 2020.

With increasing incidents of gun violence in Maryland, Montgomery County supports stricter gun safety laws to include untraceable and undetectable firearms. We urge the Committee to adopt a favorable report on HB 425.

EXHIBIT

J



VICTIM SERVICES ADVISORY BOARD

February 16, 2022

The Honorable William C. Smith, Jr.
Chair, Senate Judicial Proceedings Committee
2 East, Miller Senate Office Building
Annapolis, Maryland 21401

Re: Support - SB387 - Public Safety - Untraceable Firearms

Dear Chairman Smith:

Senate Bill 387 addresses the need to monitor and control the use of “do-it-yourself” (DIY) or “ghost guns” by extending the definition of regulated firearms to include certain unfinished frames or receivers. Additionally, the bill requires that all firearms are marked with a unique serial number and that individuals possessing such firearms maintain a certain log. Penalties are imposed for violations in the manufacture, possession, sale, and transfer of these firearms.

The Montgomery County Victim Services Advisory Board (VSAB) advises the County Council and County Executive on assisting victims and their family members who experience violent crimes including domestic violence, sexual assault and homicide. Montgomery County experienced 35 homicides in 2021, the most in one year for the past 32 years. (<https://wjla.com/news/local/montgomery-county-murder-homicide-deadliest-year-record-germantown-fatal-shooting-circle-gate-drive-seneca-valley>, Dec. 24, 2021). Montgomery County is reporting more serious domestic violence crimes than ever before. (<https://wtop.com/montgomery-county>, Oct. 13, 2021). The county’s inability to track weapons used in such violence puts victims at significantly greater risk.

Too many - almost a half dozen - ghost guns have been found in Montgomery County schools this year already. (<https://www.nbcwashington.com/news/local/dc-gun-violence/new-legislation-would-ban-ghost-guns-in-maryland/2942514>, Jan. 20, 2022). County ghost gun seizures increased fivefold in two years, from 16 in 2019 to 70 in 2021. (<https://bethesdamagazine.com/bethesda-beat/government/advocates-officials-focus-on-ghost-gun-crackdown-after-magruder-shooting/>, Jan. 26, 2022). More than 12,000 ghost gun kits were shipped to Maryland between 2016 and 2019, and the Bureau of Alcohol, Tobacco and Firearms (ATF) reported 117 ghost guns recovered in the state in 2019. (<https://wjla.com/news/local/ghost-guns-ban-maryland-rally-moms-students-demand-action-everytown-for-gun-safety-brian-frosh-attorney-general-tuesday-lawyers-mall-annapolis-senator-will-smith>, Jan. 24, 2022). The state regulation of these dangerous firearms is long overdue.

VSAB asks the committee to issue a favorable report on Senate Bill 387.

Sincerely,

Amos Hicks III
VSAB Member

Department of Health and Human Services



Witness Signup

Name	Organization	Position	Testimony	Committee
Adams, William		UNF	Oppose SB0387.pdf	JPR
Adamson, Jeff		UNF	Adamson SB387Testimony.pdf	JPR
Ali, Saqib		FAV	Oral Testimony	JPR
Amsbaugh, Brent		UNF	SB0387 Testimony.pdf	JPR
Andraka, Nicholas		UNF	Oral Testimony Senate Bill 387.pdf	JPR
Apple, Chris		FAV	Oral Testimony SB0387_Chris_Apple_FAV.pdf	JPR
Aziz, Malik	Chief of Prince George's County Police Department	FAV	Oral Testimony	JPR
BAILEY, JOSHUA		UNF	Oral Testimony Letter to MD Senate.pdf	JPR
Bailey, Michael		UNF	No Testimony	JPR
Balazek, John	Self	UNF	Oral Testimony	JPR
Barbieri, Nicholas		UNF	No Testimony	JPR
Bartlett, Olivia	DoTheMostGood	FAV	SB0387-FAV-DTMG-2-16-22.pdf	JPR
Bartlett, Olivia	DoTheMostGood	FAV	SB0387-FAV-DTMG-3-23-22.pdf	JUD
Beller, Joel	Baltimore County Government	FAV	BaltimoreCounty_FAV_SB0387.pdf	JPR
Beller, Joel	Baltimore County Government	FAV	BaltimoreCounty_FAV_SB0387.pdf	JUD
Benjamin, Peter	Marylanders to Prevent Gun Violence	FAV	Oral Testimony	JPR
Bledsoe, Janice	Baltimore City State's Attorney Office	FWA	Oral Testimony	JPR
Boston, Frank		UNF	Oral Testimony	JPR
Brown, Anthony G.	House of Representatives	FAV	Oral Testimony	JPR
Brown, Michael		UNF	SB0387_brownmj_unf.pdf	JPR
Burke, Michael	Maryland Shall Issue	UNF	Oral Testimony MFB - Testimony on HB 485 and SB 387.pdf	JPR
Caine, Brian		UNF	SB0387_Brian_Caine_unf.pdf	JPR
Carlin-Weber, Daniel		UNF	Oral Testimony DC-W_SB387_UNF.pdf	JPR
Carrington, Darrell	Carrington & Associates, LLC	FAV	Carrington 2022 PGC - SB 387 - Public Safety - Unt	JUD



Name	Organization	Position	Testimony	Committee
Ceresi, Austin		UNF	SB0387 Testimony.pdf	JPR
Cockrum, Chris	Accuforge	UNF	SB0387_Testimony_Accuforge_20220215.pdf	JPR
Collins, Michael	Baltimore City State's Attorney's Office	FWA	SB387 Amedment.BCSAO.pdf	JPR
Conway, Mark		FAV	Oral Testimony	JPR
Cyphers, Moira	Compass Government Relations	FAV	Oral Testimony Giffords Testimony in Support of SB 387.pdf	JPR
Davis, Scott		UNF	WRITTEN TESTIMONY SCOTT GREGORY DAVIS UNFAVORABLE	JPR
Davis, Sherrie-Lynn		UNF	Written testimony of Sherrie-Lynn H Davis unfavora	JPR
DeTello, Jessica		UNF	SB387_Jessica_DeTello.pdf	JPR
DeTello, Lydia		UNF	Oral Testimony SB387_Lydia_DeTello.pdf	JPR
DeTello, Nicholas		UNF	Oral Testimony SB387_Nicholas_DeTello.pdf	JPR
Doherty, Mike	Maryland State Rifle & Pistol Association	UNF	MSRPA Opposes SB387-2022.pdf	JPR
Dolan, John		UNF	SB387_JohnDolan_unf.pdf	JPR
Dubovsky, Stephen		UNF	No Testimony	JPR
Dummitt, Ashley		UNF	Oral Testimony HB425_SB387 Testimony.pdf	JPR
Egan, Ashley	UULM-MD	FAV	SB 387 -Support-UULM-MD Jan Bird, MD.docx - Google	JPR
Egan, Ashley	UULM-MD	FAV	SB 387 -Support-UULM-MD Jan Bird, MD jud.docx - Go	JUD
Elrich, Marc	Montgomery County Government	FAV	Oral Testimony	JPR
Fedorko, Joel		UNF	sb387.pdf	JPR
Frey, Leslie	Montgomery County	FAV	VSAB Support Ltr Ghost Guns Senate 2022.pdf	JPR
Frosh, Brian	Office of the Attorney General	FAV	Oral Testimony 2022-02-16 SB 387 (Support).pdf	JPR
Frosh, Brian	Office of the Attorney General	FAV	2022-03-23 SB 387 (Cross-over Support).pdf	JUD
Frosh, Brian	Attorney General of Maryland	FAV	No Testimony	JUD
Fry, Donald	Greater Baltimore Committee	FAV	SB0387 - 2.16.22 -- Public Safety - Untraceable Fi	JPR
Gentry, Patrick		UNF	Oral Testimony As a gun owner, I enjoy the building and engineeri	JPR
Gibson, Rich	Howard County State's Attorney's Office	FWA	SB 0387_Howard Co State's Attorney_FWA 2.14.22.pdf	JPR
Goode, Willow	The League of Women Voters Maryland	FAV	SB387-Public Safety-Untraceable Firearms .pdf	JPR

Name	Organization	Position	Testimony	Committee
Grose, James		UNF	Oral Testimony	JPR
Gross, Kenneth		UNF	SB387 Testimony 2022.pdf	JPR
GUNDLING, JOHN		UNF	MD Senate JPC Opposing Testimony SB387.pdf	JPR
Hall, Dillon		UNF	SB387_HB425 DH Testimony.pdf	JPR
Harman, David		UNF	Letter written in Opposition to Senate Bill 387.pd	JPR
Hayes, Justin	Comptroller of Maryland	FAV	2-16-2022 - SB387 - Public Safety - Untraceable Fi	JPR
Herren, Karen		FAV	Oral Testimony (Final)Ghost Guns 2022 SB387.pdf	JPR
Hewitt, Scott		UNF	grassley_to_justice_dept.guncrimeinitiative.pdf Senate Judicial Proceedings Committee, Testimony i	JPR
Hinkle, Russell		UNF	RJH SB387 UNF.pdf	JPR
Hodge, Daryl		UNF	Oral Testimony Ghost Gun Testimony.pdf	JPR
Hollywood, Nicole		FAV	Oral Testimony 2.16 MD Mom Testimony.pdf	JPR
Hudson, Lee	Delaware-Maryland Synod, ELCA	FAV	sb387, ghost guns, 2022.pdf	JUD
Johnston, Stephen		UNF	SB387 UNFAVORABLE - Stephen Johnston.pdf	JPR
Josselyn, John	2A Maryland	UNF	Oral Testimony SB0387_Testimony_Unfavorable_2-16-22.pdf	JPR
Kasemeyer, Pam		FAV	SB0387_FAV_City of Rockville_Public Safety - Untra	JPR
Kasuba, Thomas		UNF	Oral Testimony Kasuba_OPPOSE_SB0387.pdf Kasuba2_OPPOSE_SB0387.pdf	JPR
Kohler, Gene		UNF	SB 387 Gene Kohler.pdf	JPR
Koravos, JoAnne	Montgomery County Women's Democratic Club	FAV	WDC Testimony SB0387_2022.pdf	JPR
Kraska, MJ	Maryland Catholic Conference	FAV	MD Catholic Conference_FAV_SB0387.pdf	JPR
Kraska, MJ	Maryland Catholic Conference	FAV	MD Catholic Conference_FAV_SB0387.pdf	JUD
Krone, Christine		FAV	No Testimony	JPR
Kryger, William		UNF	SB0387 Unfavorable Position.pdf	JPR
Lee, Susan		FAV	Oral Testimony SB387_FAV_Lee_2022.pdf	JPR
Levy, Samuel	Everytown for Gun Safety	FAV	MD SB 387 Testimony.pdf	JPR
Lieberman, Jim	CIF	FAV	SB 387 ghost gun testimony 2-15- 22 ..pdf	JPR
Lipko, Seth		UNF	No Testimony	JPR

Name	Organization	Position	Testimony	Committee
Love, William		UNF	No Testimony	JPR
Lowe, Mary Pat	Moms Demand Action	FAV	Oral Testimony	JPR
McAdam, Hunter		UNF	_SB387_htm_unf.pdf	JPR
McCann Jr, William B		UNF	SB 387 McCann Unfav.pdf	JPR
McCarthy, John	Montgomery County State's Attorney's Office	FAV	Oral Testimony	JPR
McGuire, James		UNF	Oral Testimony mcguire_opposed_sb-0387.pdf	JPR
Mehu, Natasha	Mayor's Office of Government Relations	FAV	SB0387-JPR-FAV.pdf	JPR
Mehu, Natasha	Mayor's Office of Government Relations	FAV	SB0387-JUD-FAV.pdf	JUD
Menendez, Daniel		UNF	RE_ HB425_SB387 (4).pdf	JPR
Mooney, Karla	TWAW / DC Project / MSI	UNF	Oral Testimony Testimony SB 0387_HB 0425 Untraceable Firearms.pd	JPR
Morningstar, Sara	Montgomery County Government	FAV	SB 387 - MoCo_Morningstar_FAV (GA 22).pdf	JPR
Morris, Laura	Moms Demand Action	FAV	Oral Testimony	JPR
Munson II, Jon		UNF	SB_327_JonCMunsonII_UNFAVORABLE.pdf	JPR
Novotny, Art		UNF	Art_Novotny_UNF_SB387.pdf	JPR
Novotny, Katie		UNF	Oral Testimony Katie_Novotny_UNF_SB387.pdf	JPR
Paylor, Perry	State's Attorney's Office for Prince George's County	FAV	Oral Testimony	JPR
Pennak, Mark	Maryland Shall Issue, Inc.	UNF	Oral Testimony MSI Testimony on HB 425 and SB 387 Final.final.pdf	JPR
Peterson, Matt		FAV	SB 387 - Ghost Guns.pdf	JPR
Phelps, Ken	Maryland Episcopal Public Policy Network	FAV	2022 SB 0387 - FAVORABLE.pdf	JPR
Phelps, Ken	Maryland Episcopal Public Policy Network	FAV	2022 SB 0387 - FAVORABLE.pdf	JUD
Pica, John	Pica & Associates, LLC	UNF	NSFF SB 387 - Untraceable Firearms - Oppose.pdf	JPR
Plante, Cecilia	Maryland Legislative Coalition	FAV	SB0387_Untraceable_Firearms_MLC_FAV.pdf	JPR
Plante, Cecilia	Maryland Legislative Coalition	FAV	SB0387_Untraceable_Firearms_MLC_FAV.pdf	JUD
President, President		FAV	Oral Testimony	JPR
President, President		FAV	Oral Testimony	JUD

Name	Organization	Position	Testimony	Committee
Reid, Denise	Moms Demand Action	FAV	Oral Testimony	JPR
Sanchez, Osiris		UNF	SB0387_Osiris Sanchez_UNF.pdf	JPR
Schardt , Tanya	Brady	FAV	Brady.SB387.Support.pdf	JPR
Scott, Brandon	Mayor, Baltimore City Administration	FAV	Oral Testimony	JPR
Shapiro, Melanie	Maryland Network Against Domestic Violence	FAV	Oral Testimony SB 387_MNADV_FAV.pdf	JPR
Shapiro, Melanie	Maryland Network Against Domestic Violence	FAV	SB 387_MNADV_FAV_JUD.pdf	JUD
Sharpless, Bradford		UNF	SB 387, Untraceable Firearms, 2022, Sharpless.pdf	JPR
Spiker, D.J.	National Rifle Association	UNF	Oral Testimony	JPR
Stramella, Scott		UNF	SB387 Opposition.pdf	JPR
Sugar, Earle		UNF	SB0387_Earle Sugar_UNF.pdf	JPR
Testimony, All		N/A	Merged Testimony as of 2-16-2022 at 1006 AM	JPR
Toscano, Christopher		UNF	TOSCANO_ Written Testimony on SB0387 Untaceable Fi	JPR
Upman, Patrick		UNF	SB387.pdf	JPR
Veith, Danielle	Maryland Moms Demand Action	FAV	Oral Testimony	JPR
Williams, Krystal	MARYLAND OFFICE OF THE PUBLIC DEFENDER	UNF	No Testimony	JPR
Williams, Peggy		UNF	No Testimony	JPR
Wojtysiak, Theodore		UNF	SB387.pdf	JPR
Worley , Richard	Baltimore Police Department	FAV	Oral Testimony SB 387 BPD Support.pdf	JPR
Yiannakis, Christin		UNF	No Testimony	JPR
Yontef-McGrath, Amy	Maryland Moms Demand Action and Students Demand Action	FAV	Oral Testimony	JPR

Witness Signup

Name	Organization	Position	Testimony	Committee
Abrams, Stephan	Brady	FAV	Oral Testimony	JUD
Adamson, Jeff		UNF	Adamson SB387_HB425Testimony.pdf	JUD
Anders, Neal	Maryland Shall Issue	UNF	No Testimony	JUD
Andraka, Nicholas		UNF	House Bill 425.pdf	JUD
Aziz, Malik	Chief of Prince George's County Police Department	FAV	Oral Testimony	JUD
Bagwell, Ashlie		FAV	2022 JCRC HB 425 Public Safety Untraceable Firearm	JUD
BAILEY, JOSHUA		UNF	Oral Testimony Letter to MD House.pdf	JUD
Bartlett, Olivia	DoTheMostGood	FAV	HB0425-FAV-DTMG-2-9-22.pdf	JUD
Beller, Joel	Baltimore County Government	FAV	BaltimoreCounty_FAV_HB0425.pdf	JUD
Bledsoe, Janice	Baltimore City State's Attorney Office	FWA	Oral Testimony	JUD
Bowman, Robert		UNF	Oral Testimony	JUD
Braveboy, Aisha	Prince George's County State's Attorney	FAV	Oral Testimony HB425 Written Testimony (A. Braveboy).pdf	JUD
Caine, Brian		UNF	hb0425_opposition.pdf	JUD
Carlin-Weber, Daniel		UNF	DC-W_HB425_UNF.pdf	JUD
Chamblee, Andrea	Moms Demand Action	FAV	Oral Testimony	JUD
Cheakalos, Paul		UNF	No Testimony	JUD
Colburn, Ashley	None	UNF	HB0425_Written Testimony of Ashley Colburn.pdf	JUD
Crisafulli, Matthew	Worcester County Sheriffs Office	UNF	HB 425 Crisafulli.pdf	JUD
Davis, Scott		UNF	WRITTEN TESTIMONY OF SCOTT G. DAVIS IN OPPOSITION	JUD
DeTello, Lydia		UNF	Lydia DeTello.pdf	JUD
DeTello, Nicholas		UNF	Oral Testimony HB0425_Nicholas_DeTello.pdf	JUD
Ditraglia, Frank		UNF	No Testimony	JUD
Dudley, Kara		FAV	Oral Testimony	JUD
Egan, Ashley	UULM-MD	FAV	HB 425 -Support-UULM-MD Jan Bird, MD.docx - Google	JUD

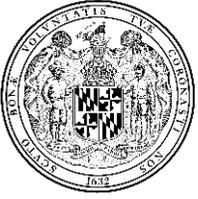


Name	Organization	Position	Testimony	Committee
Elbourn, James		UNF	No Testimony	JUD
Elrich, Marc	Montgomery County Government	FAV	Oral Testimony	JUD
Ferguson, Jesse		UNF	Oral Testimony	JUD
Fink, Nelda		UNF	No Testimony	JUD
Fry, Donald	Greater Baltimore Committee	FAV	HB0425 - 2.9.22 -- Public Safety - Untraceable Fir	JUD
Gahler, Sheriff Jeff	Harford County Sheriff's Office	UNF	Oral Testimony HB425 Untraceable Firearms.pdf	JUD
Gay, Morris		UNF	Oral Testimony HB425- Opposed.pdf	JUD
Gay, Timothy		UNF	New PDF document.pdf	JUD
Gentry, Patrick		UNF	As a gun owner, I enjoy the building and engineeri	JUD
Gibson, Rich	Howard County State's Attorney's Office	FWA	Oral Testimony HB 0425_Howard Co SAO_fav with amendments_Untracea	JUD
Gross, Kenneth		UNF	HB0425 Testimony 2022.pdf	JUD
Hall, Dillon		UNF	SB387_HB425 DH Testimony.pdf	JUD
Harrison , Michael	Baltimore Police Department	FAV	Oral Testimony HB 441 BPD Support.pdf	JUD
Hayes, Justin	Comptroller of Maryland	FAV	2-9-2022 Final - HB425 Public Safety - Untraceabl	JUD
Herren, Karen		FAV	Oral Testimony (Final)Ghost Guns 2022 HB425.pdf	JUD
Hershon, Edward	Hershon Legal, LLC	UNF	Oral Testimony	JUD
Hill, Robert	Montgomery County State's Attorney's Office and Maryland State's Attorney's Association	FAV	Oral Testimony	JUD
Hines Jr, John		UNF	Oral Testimony	JUD
Hollywood, Nicole		FAV	Oral Testimony	JUD
Johnston, Stephen		UNF	HB425 UNFAVORABLE - Stephen Johnston.pdf	JUD
Josselyn, John	2A Maryland	UNF	Oral Testimony HB0425_Testimony_Unfavorable_2-7-22.pdf	JUD
Joyce, Kevin		UNF	HB425.pdf	JUD
Kasemeyer, Pam		FAV	No Testimony	JUD
Kasemeyer, Pam	City of Rockville	FAV	City of Rockville - FAV	JUD
Kasuba, Thomas		UNF	Oral Testimony KASUBA_OPPOSE_HB0425.pdf	JUD
Kemerer, Hannibal	Office of Attorney General	FAV	Oral Testimony 2022-02-09 HB 425 (Support).pdf	JUD

Name	Organization	Position	Testimony	Committee
Klein, Michelle		UNF	No Testimony	JUD
Kraska, MJ	Maryland Catholic Conference	FAV	MD Catholic Conference_FAV_HB0425.pdf	JUD
Ladd, Melissa		FAV	Oral Testimony ML HB 425 Testimony.docx.pdf	JUD
Landau, Mindy	Brady United Against Gun Violence	FAV	Oral Testimony GG Testimony2-9-22.pdf	JUD
Lerol, Travis	Travis Lerol	UNF	Oral Testimony HB425.pdf	JUD
Levy, Samuel	Everytown for Gun Safety	FAV	Oral Testimony	JUD
Lewis, Mike	Maryland Chiefs & Sheriffs Associations	UNF	Oral Testimony PUBLIC SAFETY - UNTRACEABLE FIREARMS - HOUSE BILL	JUD
Lieberman, Jim	CIF	FAV	HR 425 ghost gun testimony 830 am 2-6-22 for filin	JUD
Long, Lauren		UNF	Please do not pass this bill.pdf	JUD
Lopez, Lesley		FAV	Oral Testimony HB 425 Sponsor Testimony.pdf	JUD
Love, William		UNF	No Testimony	JUD
Lowman, Lisa	Moms Demand Action-Maryland Chapter	FAV	Oral Testimony	JUD
Mansfield, Andrea	Maryland Chiefs & Sheriffs Associations	INFO	MCPA-HB425.pdf	JUD
Martínez, Ana		FAV	Oral Testimony	JUD
McCann Jr, William B		UNF	Oral Testimony McCann TESTIMONY HB425 + SB387 2022-02-07.pdf	JUD
McCarthy, John	Montgomery County State's Attorney's Office	FAV	Mccarthy HB425.pdf	JUD
McGettigan, James		UNF	Oral Testimony HB0425.pdf	JUD
Mehu, Natasha	Mayor's Office of Government Relations	FAV	HB0425-JUD-FAV.pdf	JUD
Menendez, Daniel		UNF	Oral Testimony RE_ HB425_SB387 (1).pdf	JUD
Milano, Leslie	Montgomery County Women's Democratic Club	FAV	Oral Testimony	JUD
Mooney, Karla	TWAW / DC Project / MSI	UNF	Testimony HB 0425 Untraceable Firearms.pdf	JUD
Morch, Giselle	Marylanders to Prevent Gun Violence	FAV	Oral Testimony	JUD
Morningstar, Sara	Montgomery County Government	FAV	HB 425 - MoCo_Morningstar_FAV (GA 22).pdf	JUD
Novotny, Art		UNF	Art_Novotny_UNF_HB425.pdf	JUD
Novotny, Katie		UNF	Oral Testimony Katie_Novotny_UNF_HB425.pdf	JUD
PARRISH, GEORGE		UNF	No Testimony	JUD

Name	Organization	Position	Testimony	Committee
Paylor, Perry	State's Attorney's Office for Prince George's County	FAV	Oral Testimony	JUD
Pennak, Mark	Maryland Shall Issue, Inc.	UNF	Oral Testimony MSI Testimony on HB 425 and SB 387 Final3.pdf	JUD
Peterson, Matt		FAV	HB 425 - Ghost Guns.pdf	JUD
Phelps, Ken	Maryland Episcopal Public Policy Network	FAV	2022 HB 0425 - FAVORABLE.pdf	JUD
Pilling, Ronald	Jesse Klump Memorial Fund, Inc.	FAV	hb0425 written testimony feb 7 2022.pdf	JUD
Pucino, David	Giffords	FAV	Oral Testimony	JUD
regan, charles		UNF	2022 testimony on home built guns.pdf	JUD
riley, joseph	Maryland State's Attorneys Association	FAV	Oral Testimony	JUD
Santos, Trevor	National Shooting Sports Foundation	UNF	Oral Testimony MD_2022_ HB 425 - Untraceable Firearms - Oppose.pdf	JUD
Scarborough, Brenda		UNF	HB0425 Oppose.pdf	JUD
Schardt , Tanya	Brady	FAV	HB0425.Brady.pdf	JUD
Schipper, Daniel		UNF	Bill HB0425.pdf	JUD
Scott, Brandon	Mayor, Baltimore City Administration	FAV	Oral Testimony	JUD
Shapiro, Melanie	Maryland Network Against Domestic Violence	FAV	Oral Testimony HB 425_MNADV_FAV.pdf	JUD
Sharpless, Bradford		UNF	No Testimony	JUD
Simonson, Grace		FAV	Oral Testimony	JUD
Speaker, Speaker		FAV	Oral Testimony	JUD
Stramella, Scott		UNF	HB425 Opposition.pdf	JUD
Sugar, Earle		UNF	Earle_Sugar_Opposed_HB0425_2022 Revision 1.pdf	JUD
Tchantchou, Kevine	Lith Home LLC	INFO	No Testimony	JUD
Toscano, Christopher		UNF	TOSCANO_ Written Testimony on HB0425 Untaceable Fi	JUD
Van Hollen, Chris	US Senator	FAV	Senator Van Hollen - FAV	JUD
Williams, Peggy		UNF	No Testimony	JUD
Wolcott, Clinton		FAV	Oral Testimony	JUD
Yu, Alfred		UNF	Oral Testimony HB425-SB387 testimony - Yu.pdf	JUD

Name	Organization	Position	Testimony	Committee
Ziegelbauer, Joe		FAV	Oral Testimony	JUD



SENATE JUDICIAL PROCEEDINGS COMMITTEE
WILLIAM C. SMITH, JR., CHAIR · COMMITTEE REPORT SYSTEM
DEPARTMENT OF LEGISLATIVE SERVICES · 2022 MARYLAND GENERAL ASSEMBLY

FLOOR REPORT

Senate Bill 387

Public Safety - Untraceable Firearms

SPONSORS: The President (By Request - Office of the Attorney General) and Senator Lee

COMMITTEE RECOMMENDATION: Favorable with Amendments (9)

SHORT SUMMARY:

As amended, this bill, with specified exceptions, (1) prohibits a person from purchasing, receiving, selling, offering to sell, or transferring an “unfinished frame or receiver” unless it is required by federal law to be, and has been, imprinted with a serial number, as specified; (2) prohibits a person from selling, offering to sell, or transferring a firearm lacking a specified serial number; and (3) beginning March 1, 2023, prohibits a person from possessing a firearm unless the firearm is imprinted with specified information. The bill also (1) requires registration of specified firearms with the Secretary of State Police; (2) establishes procedures for registration; (3) establishes penalties for violations of the bill’s provisions relating to untraceable firearms; and (4) expands the definition of a “firearm” to include an unfinished frame or receiver. The bill takes effect June 1, 2022.

COMMITTEE AMENDMENTS: There are nine (9) committee amendments

AMENDMENT NO. 1: is technical.

AMENDMENT NO. 2: alters the bill’s exceptions.

AMENDMENT NO. 3: alters the definition of an “unfinished frame or receiver”.

AMENDMENT NO. 4: establishes a mens rea requirement for possession offenses under the bill.

AMENDMENT NO. 5: alters marking requirements for firearms, as specified.



AMENDMENT NO. 6: alters the date after which a person may be subject to the bill's requirements relating to possession of specified firearms.

AMENDMENT NO. 7: establishes a prohibition on sale, offers for sale, and transfers of specified firearms, alters the bill's penalty provisions, and strikes record-keeping language.

AMENDMENT NO. 8: establishes a requirement that a certain person register a firearm with the Secretary of State Police, provides for that registration, and requires an annual appropriation, as specified.

AMENDMENT NO. 9: provides for the construction of the bill.

SUMMARY OF BILL:

Untraceable Firearms

A person is prohibited from purchasing, receiving, selling, offering to sell, or transferring an unfinished frame or receiver unless it is required by federal law to be, and has been, imprinted with a serial number by a federally licensed firearms manufacturer or federally licensed firearms importer in compliance with all federal laws and regulations applicable to the manufacture and import of firearms.

Beginning March 1, 2023, a person may not possess a firearm unless:

- the firearm is required by federal law to be, and has been, imprinted by a federally licensed firearms manufacturer or federally licensed firearms importer with a serial number in compliance with all federal laws and regulations applicable to the manufacture and import of firearms; or
- the firearm has been imprinted by a federally licensed firearms dealer, or other federal licensee authorized to provide marking services, as specified.

A federally licensed firearms dealer, or other federal licensee authorized to provide marking services, who imprints a firearm under the bill's provisions must (1) imprint the firearm in compliance with all federal laws and regulations applicable to affixing serial numbers to firearms, as specified.

A violator of the bill's provisions relating to the purchase, receipt, sale, offer for sale, and transfer of unfinished frames or receivers, as well as those provisions relating to the sale, offer for sale, or transfer of a firearm lacking marking or serialization or which are not

registered in accordance with the bill's provisions are guilty of a misdemeanor and subject to maximum penalties of imprisonment not exceeding 5 years and/or a \$10,000 fine.

A violator of the bill's provisions relating to the possession of a firearm lacking marking or serialization or which are not registered in accordance with the bill's provisions are guilty of a misdemeanor and subject to maximum penalties of imprisonment not exceeding 2 years and/or a \$10,000 fine.

The provisions relating to untraceable firearms do not apply to (1) a firearm that was manufactured before 1968 or is an antique firearm; (2) a sale, an offer to sell, a transfer, or a delivery of a firearm or an unfinished frame or receiver to, or possession of a firearm or unfinished frame or receiver by, a federally licensed firearms dealer, a federally licensed firearms manufacturer, or a federally licensed firearms importer; or (3) a transfer or surrender of a firearm or an unfinished frame or receiver to a law enforcement agency.

The provisions relating to possession of a firearm that is not marked or serialized or registered in accordance with the bill's provisions do not apply to a person unless the person knows or reasonably should have known that the firearm is not imprinted with a serial number, as specified.

A person who makes, completes, or initially assembles a firearm or the current legal owner of a firearm that is not imprinted with a serial number must register the firearm with the Secretary of State Police. The Secretary is required to maintain a system to register firearms, as specified. Registration data provided for registration under the bill is not open to public inspection. Moreover, information or evidence obtained from a registration application or records required to be submitted to register a firearm under the bill may not be used against the person applying to register the firearm in a criminal proceeding for a violation of law that occurred before or at the time the person applied to register the firearm or provide records required to register the firearm. However, this information may be used as evidence in a prosecution relating to providing false information.

Each year, the Governor is required to include an appropriation in the annual State budget of at least \$150,000 to fund registration activities conducted by the Secretary under the bill's provisions.

The Secretary of State Police may adopt regulations to carry out these provisions.

The bill's amendments provide that the bill is to be construed in a manner that is consistent with proposed federal rules regarding privately made firearms. If the proposed federal rules are modified at the time of their adoption, the bill is required to be construed in a manner that is consistent with those modifications.

“Unfinished frame or receiver” means a forged, cast, printed, extruded, or machined body or similar article that has reached a stage in manufacture where it may readily be completed, assembled, or converted to be used as the frame or receiver of a functional firearm.

Federal Firearms Licensed Dealers

The Secretary of State Police must suspend a dealer's license if the licensee is charged with a crime under the bill's provisions relating to untraceable firearms. The Secretary must revoke a dealer's license if the licensee is convicted of a crime under the same provisions.

BACKGROUND:

According to the U.S. Department of Justice, between 2016 and 2020, more than 23,000 ghost guns were recovered by law enforcement from potential crime scenes, including 325 in connection with homicides and attempted homicides. In November 2020, the Baltimore Sun reported that between 2016 and 2019, more than 12,000 build kits were shipped to Maryland, with total sales of the kits exceeding \$1.0 million. The Baltimore Sun further reported that the Baltimore City Police Department recovered 126 privately made firearms in 2020 compared to 29 recovered in 2019, and that nearly one-quarter of such firearms recovered were from individuals under the age of 21.

Eight states (California, Connecticut, Hawaii, Nevada, New Jersey, New York, Rhode Island, and Washington) and the District of Columbia have enacted laws regulating privately made firearms to varying degrees. California and Connecticut have enacted laws that require privately made firearms to be registered and marked with a serial number obtained from a governmental agency within each state. Nevada and New Jersey require serialization of unfinished frames and receivers by federally licensed firearms manufacturers and importers. The District of Columbia passed legislation in 2020 to ban build kits and specifically the possession of unfinished frames and receivers and untraceable firearms.

Some cities and local jurisdictions have also started to implement laws to address privately made firearms. In August 2021, San Diego became the first city in California to prohibit the sale of unserialized frames and receivers, and San Francisco passed similar legislation shortly thereafter. In Maryland, Montgomery County passed legislation in April 2021 to restrict the access of privately made firearms to minors and in places of public assembly within the county.

FISCAL IMPACT:

State Effect: As drafted, a potential minimal increase in general fund revenues and expenditures due to the bill's penalty provisions was expected. It is unknown at this time what impact, if any, the bill's amendments will have on State finances.

Local Effect: As drafted, a potential minimal increase in local revenues and expenditures due to the bill's penalty provisions was expected. It is unknown at this time what, if any, impact the bill's amendments will have on local finances.

Small Business Effect: Minimal.

ADDITIONAL INFORMATION:

Prior Introductions: None.

Cross File: Designated HB 425 (The Speaker)(By Request - Office of the Attorney General) and Delegate Lopez - Judiciary.

COUNSEL: Lancaster

Department of Legislative Services
 Maryland General Assembly
 2022 Session

FISCAL AND POLICY NOTE
 Third Reader - Revised

Senate Bill 387

(The President)(By Request - Office of the Attorney
 General) and Senator Lee

Judicial Proceedings

Judiciary

Public Safety - Untraceable Firearms

This bill, with specified exceptions, (1) requires the Secretary of State Police to maintain a system to register firearms imprinted with serial numbers, as specified, and (2) prohibits a person from purchasing, receiving, selling, offering to sell, or transferring an “unfinished frame or receiver” or a firearm unless imprinted with specified information. The Governor must include at least \$150,000 in the annual State budget to fund registration activities conducted by the Secretary under the bill. The bill also (1) requires the Secretary to suspend or revoke a dealer’s license under specified conditions relating to untraceable firearms; (2) establishes penalties for violations of specified provisions of the bill; and (3) expands the definition of a “firearm” to include an unfinished frame or receiver. The bill must be construed in a manner that is consistent with a specified proposed federal rule regarding privately made firearms. If the proposed federal rule is modified at the time of adoption, the bill must be construed in a manner that is consistent with those modifications. Provisions of the bill are severable. **The bill takes effect June 1, 2022.**

Fiscal Summary

State Effect: No effect in FY 2022. General fund expenditures increase by at least \$150,000 annually beginning in FY 2024 due to the mandated appropriation; although discretionary, this analysis assumes funding is also provided in FY 2023. Potential minimal increase in general fund revenues and expenditures due to the bill’s penalty provisions. **This bill establishes a mandated appropriation beginning in FY 2024.**

(in dollars)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	150,000	150,000	150,000	150,000	150,000
Net Effect	(\$150,000)	(\$150,000)	(\$150,000)	(\$150,000)	(\$150,000)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease



Local Effect: Potential minimal increase in local revenues and expenditures due to the bill's penalty provisions.

Small Business Effect: Minimal.

Analysis

Bill Summary:

Untraceable Firearms

A person is prohibited from purchasing, receiving, selling, offering to sell, or transferring an *unfinished frame or receiver* unless it is required by federal law to be, and has been, imprinted with a serial number by a federally licensed firearms manufacturer or federally licensed firearms importer in compliance with all federal laws and regulations applicable to the manufacture and import of firearms. Except as otherwise authorized, a person may not sell, offer to sell, or transfer a *firearm* unless it is imprinted with a specified serial number.

A violator of the provisions relating to required imprinting is guilty of a misdemeanor and on conviction is subject to imprisonment for up to five years and/or a fine of up to \$10,000. Each violation is a separate crime.

Beginning March 1, 2023, a person may not possess a firearm unless:

- the firearm has been registered with the Secretary of State Police; and
- (1) the firearm is required by federal law to be, and has been, imprinted by a federally licensed firearms manufacturer or federally licensed firearms importer, or other federal licensee authorized to provide marking services, with a serial number in compliance with all federal laws and regulations applicable to the manufacture and import of firearms or (2) the firearm has been imprinted by a federally licensed firearms dealer, federal firearms manufacturer, or other federal licensee authorized to provide marking services with specified information.

The prohibition that begins March 1, 2023, does not apply to:

- possession of a firearm unless a person knew or reasonably should have known that the firearm was not imprinted with a serial number, as specified;

- possession of a firearm that does not comply with the marking requirements by a person who received the firearm through inheritance, and is not otherwise prohibited from possessing the firearm, for up to 30 days after inheriting the firearm; or
- possession of an unfinished frame or receiver by a person that made or manufactured the unfinished frame or receiver, without the use of any prefabricated parts, and who is not otherwise prohibited from possessing the unfinished frame or receiver for up to 30 days after the person made or manufactured the unfinished frame or receiver.

A violator of the prohibition that begins March 1, 2023, is guilty of a misdemeanor and on conviction is subject to imprisonment for up to two years and/or a fine of up to \$10,000. Each violation is a separate crime.

A federally licensed firearms dealer or other federal licensee authorized to provide marking services who imprints a firearm under the bill's provisions must imprint the firearm in compliance with all federal laws and regulations applicable to affixing serial numbers to firearms, as specified.

The provisions relating to untraceable firearms do not apply to (1) a firearm that was manufactured before October 22, 1968, or is an antique firearm; (2) a sale, an offer to sell, a transfer, or a delivery of a firearm or an unfinished frame or receiver to, or possession of a firearm or unfinished frame or receiver by, a federally licensed firearms dealer, a federally licensed firearms manufacturer, or a federally licensed firearms importer; or (3) a transfer or surrender of a firearm or an unfinished frame or receiver to a law enforcement agency.

Nothing in the bill may be construed in a manner that abridges or otherwise limits a person's right against self-incrimination under the U.S. Constitution or the Maryland Declaration of Rights.

Registration data provided for registration of a firearm under the bill's provisions is not open to public inspection.

The Secretary of State Police may adopt regulations to carry out these provisions.

“Unfinished frame or receiver” means a forged, cast, printed, extruded, or machined body or similar article that has reached a stage in manufacture where it may readily be completed, assembled, or converted to be used as the frame or receiver of a functional firearm.

Federal Firearms Licensed Dealers

The Secretary of State Police must suspend a dealer's license if the licensee is charged with a crime under the bill's provisions relating to untraceable firearms. The Secretary must revoke a dealer's license if the licensee is convicted of a crime under the same provisions.

Current Law: Generally, State law prohibits a person from manufacturing for distribution or sale a handgun that is not included on the handgun roster in the State. However, law enforcement may not be aware of firearms manufactured within a person's home for personal use until the firearm is used or transferred. The federal Undetectable Firearms Act prohibits a person from manufacturing, importing, selling, shipping, delivering, possessing, transferring, or receiving any firearm that is not as detectable by a walk-through metal detection as a security exemplar containing 3.7 ounces of steel, or any firearm with major components that do not generate an accurate image before standard airport imaging technology. The federal prohibition was first enacted in 1988 and was renewed for 10 years in December 2013.

Background: According to the U.S. Department of Justice, between 2016 and 2020, more than 23,000 ghost guns were recovered by law enforcement from potential crime scenes, including 325 in connection with homicides and attempted homicides. In November 2020, the *Baltimore Sun* reported that between 2016 and 2019, more than 12,000 build kits were shipped to Maryland, with total sales of the kits exceeding \$1.0 million. The *Baltimore Sun* further reported that the Baltimore City Police Department recovered 126 privately made firearms in 2020 compared to 29 recovered in 2019, and that nearly one-quarter of such firearms recovered were from individuals under the age of 21.

Eight states (California, Connecticut, Hawaii, Nevada, New Jersey, New York, Rhode Island, and Washington) and the District of Columbia have enacted laws regulating privately made firearms to varying degrees. California and Connecticut have enacted laws that require privately made firearms to be registered and marked with a serial number obtained from a governmental agency within each state. Nevada and New Jersey require serialization of unfinished frames and receivers by federally licensed firearms manufacturers and importers. The District of Columbia passed legislation in 2020 to ban build kits and specifically the possession of unfinished frames and receivers and untraceable firearms.

Some cities and local jurisdictions have also started to implement laws to address privately made firearms. In August 2021, San Diego became the first city in California to prohibit the sale of unserialized frames and receivers, and San Francisco passed similar legislation shortly thereafter. In Maryland, Montgomery County passed legislation in April 2021 to restrict the access of privately made firearms to minors and in places of public assembly within the county.

State Expenditures: The bill requires the Governor to include in the annual State budget an appropriation of at least \$150,000 to fund registration activities conducted by the Secretary of State Police under the bill. Accordingly, general fund expenditures increase by at least \$150,000 annually beginning in fiscal 2024 due to the mandated appropriation. Because the Department of State Police (DSP) is expected to incur costs in fiscal 2023 (as discussed below), this estimate assumes that \$150,000 in general funds is also provided in fiscal 2023; however, funding in that year is discretionary.

DSP operates a licensing portal to handle registration requirements relating to firearms. In order to track the new registration requirements under the bill, DSP needs to revise the licensing portal at a cost of \$150,000 in fiscal 2023 only. As noted above, although funding is discretionary in fiscal 2023, this analysis assumes that funding is provided in that year so that DSP can upgrade the licensing portal. This analysis further assumes that the mandated funding in subsequent years is used for other DSP registration-related functions resulting from the bill.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 425 (The Speaker)(By Request - Office of the Attorney General) and Delegate Lopez - Judiciary.

Information Source(s): Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State's Attorneys' Association; Department of Public Safety and Correctional Services; Department of State Police; U.S. Department of Justice; *Baltimore Sun*; Department of Legislative Services

Fiscal Note History: First Reader - February 7, 2022
fnu2/lgc Third Reader - March 21, 2022
Revised - Amendment(s) - March 21, 2022

Analysis by: Shirleen M. E. Pilgrim

Direct Inquiries to:
(410) 946-5510
(301) 970-5510

Department of Legislative Services
 Maryland General Assembly
 2022 Session

FISCAL AND POLICY NOTE
 Enrolled - Revised

House Bill 425

(The Speaker)(By Request - Office of the Attorney
 General) and Delegate Lopez

Judiciary

Judicial Proceedings

Public Safety - Untraceable Firearms

This bill, with specified exceptions, (1) requires the Secretary of State Police to maintain a system to register firearms imprinted with serial numbers, as specified, and (2) prohibits a person from purchasing, receiving, selling, offering to sell, or transferring an “unfinished frame or receiver” or a firearm unless imprinted with specified information. The Governor must include at least \$150,000 in the annual State budget to fund registration activities conducted by the Secretary under the bill. The bill also (1) requires the Secretary to suspend or revoke a dealer’s license under specified conditions relating to untraceable firearms; (2) establishes penalties for violations of specified provisions of the bill; and (3) expands the definition of a “firearm” to include an unfinished frame or receiver. The bill must be construed in a manner that is consistent with a specified proposed federal rule regarding privately made firearms. If the proposed federal rule is modified at the time of adoption, the bill must be construed in a manner that is consistent with those modifications. Provisions of the bill are severable. **The bill takes effect June 1, 2022.**

Fiscal Summary

State Effect: No effect in FY 2022. General fund expenditures increase by at least \$150,000 annually beginning in FY 2024 due to the mandated appropriation; although discretionary, this analysis assumes funding is also provided in FY 2023. Potential minimal increase in general fund revenues and expenditures due to the bill’s penalty provisions. **This bill establishes a mandated appropriation beginning in FY 2024.**

(in dollars)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	150,000	150,000	150,000	150,000	150,000
Net Effect	(\$150,000)	(\$150,000)	(\$150,000)	(\$150,000)	(\$150,000)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease



Local Effect: Potential minimal increase in local revenues and expenditures due to the bill's penalty provisions.

Small Business Effect: Minimal.

Analysis

Bill Summary:

Untraceable Firearms

A person is prohibited from purchasing, receiving, selling, offering to sell, or transferring an *unfinished frame or receiver* unless it is required by federal law to be, and has been, imprinted with a serial number by a federally licensed firearms manufacturer or federally licensed firearms importer in compliance with all federal laws and regulations applicable to the manufacture and import of firearms. Except as otherwise authorized, a person may not sell, offer to sell, or transfer a *firearm* unless it is imprinted with a specified serial number.

A violator of the provisions relating to required imprinting is guilty of a misdemeanor and on conviction is subject to imprisonment for up to five years and/or a fine of up to \$10,000. Each violation is a separate crime.

Beginning March 1, 2023, a person may not possess a firearm unless:

- the firearm has been registered with the Secretary of State Police; and
- (1) the firearm is required by federal law to be, and has been, imprinted by a federally licensed firearms manufacturer or federally licensed firearms importer with a serial number in compliance with all federal laws and regulations applicable to the manufacture and import of firearms or (2) the firearm has been imprinted by a federally licensed firearms dealer, federal firearms manufacturer, or other federal licensee authorized to provide marking services with specified information.

The prohibition that begins March 1, 2023, does not apply to:

- possession of a firearm unless a person knew or reasonably should have known that the firearm was not imprinted with a serial number, as specified;
- possession of a firearm that does not comply with the marking requirements by a person who received the firearm through inheritance, and is not otherwise prohibited from possessing the firearm, for up to 30 days after inheriting the firearm; or

- possession of an unfinished frame or receiver by a person that made or manufactured the unfinished frame or receiver, without the use of any prefabricated parts, and who is not otherwise prohibited from possessing the unfinished frame or receiver for up to 30 days after the person made or manufactured the unfinished frame or receiver.

A violator of the prohibition that begins March 1, 2023, is guilty of a misdemeanor and on conviction is subject to imprisonment for up to two years and/or a fine of up to \$10,000. Each violation is a separate crime.

A federally licensed firearms dealer or other federal licensee authorized to provide marking services who imprints a firearm under the bill's provisions must imprint the firearm in compliance with all federal laws and regulations applicable to affixing serial numbers to firearms, as specified.

The provisions relating to untraceable firearms do not apply to (1) a firearm that was manufactured before October 22, 1968, or is an antique firearm; (2) a sale, an offer to sell, a transfer, or a delivery of a firearm or an unfinished frame or receiver to, or possession of a firearm or unfinished frame or receiver by, a federally licensed firearms dealer, a federally licensed firearms manufacturer, or a federally licensed firearms importer; or (3) a transfer or surrender of a firearm or an unfinished frame or receiver to a law enforcement agency.

Nothing in the bill may be construed in a manner that abridges or otherwise limits a person's right against self-incrimination under the U.S. Constitution or the Maryland Declaration of Rights.

Registration data provided for registration of a firearm under the bill's provisions is not open to public inspection.

The Secretary of State Police may adopt regulations to carry out these provisions.

“Unfinished frame or receiver” means a forged, cast, printed, extruded, or machined body or similar article that has reached a stage in manufacture where it may readily be completed, assembled, or converted to be used as the frame or receiver of a functional firearm.

Federal Firearms Licensed Dealers

The Secretary of State Police must suspend a dealer's license if the licensee is charged with a crime under the bill's provisions relating to untraceable firearms. The Secretary must revoke a dealer's license if the licensee is convicted of a crime under the same provisions.

Current Law: Generally, State law prohibits a person from manufacturing for distribution or sale a handgun that is not included on the handgun roster in the State. However, law

enforcement may not be aware of firearms manufactured within a person's home for personal use until the firearm is used or transferred. The federal Undetectable Firearms Act prohibits a person from manufacturing, importing, selling, shipping, delivering, possessing, transferring, or receiving any firearm that is not as detectable by a walk-through metal detection as a security exemplar containing 3.7 ounces of steel, or any firearm with major components that do not generate an accurate image before standard airport imaging technology. The federal prohibition was first enacted in 1988 and was renewed for 10 years in December 2013.

Background: According to the U.S. Department of Justice, between 2016 and 2020, more than 23,000 ghost guns were recovered by law enforcement from potential crime scenes, including 325 in connection with homicides and attempted homicides. In November 2020, the *Baltimore Sun* reported that between 2016 and 2019, more than 12,000 build kits were shipped to Maryland, with total sales of the kits exceeding \$1.0 million. The *Baltimore Sun* further reported that the Baltimore City Police Department recovered 126 privately made firearms in 2020 compared to 29 recovered in 2019, and that nearly one-quarter of such firearms recovered were from individuals under the age of 21.

Eight states (California, Connecticut, Hawaii, Nevada, New Jersey, New York, Rhode Island, and Washington) and the District of Columbia have enacted laws regulating privately made firearms to varying degrees. California and Connecticut have enacted laws that require privately made firearms to be registered and marked with a serial number obtained from a governmental agency within each state. Nevada and New Jersey require serialization of unfinished frames and receivers by federally licensed firearms manufacturers and importers. The District of Columbia passed legislation in 2020 to ban build kits and specifically the possession of unfinished frames and receivers and untraceable firearms.

Some cities and local jurisdictions have also started to implement laws to address privately made firearms. In August 2021, San Diego became the first city in California to prohibit the sale of unserialized frames and receivers, and San Francisco passed similar legislation shortly thereafter. In Maryland, Montgomery County passed legislation in April 2021 to restrict the access of privately made firearms to minors and in places of public assembly within the county.

State Expenditures: The bill requires the Governor to include in the annual State budget an appropriation of at least \$150,000 to fund registration activities conducted by the Secretary of State Police under the bill. Accordingly, general fund expenditures increase by at least \$150,000 annually beginning in fiscal 2024 due to the mandated appropriation. Because the Department of State Police (DSP) is expected to incur costs in fiscal 2023 (as discussed below), this estimate assumes that \$150,000 in general funds is also provided in fiscal 2023; however, funding in that year is discretionary.

DSP operates a licensing portal to handle registration requirements relating to firearms. In order to track the new registration requirements under the bill, DSP needs to revise the licensing portal at a cost of \$150,000 in fiscal 2023 only. As noted above, although funding is discretionary in fiscal 2023, this analysis assumes that funding is provided in that year so that DSP can upgrade the licensing portal. This analysis further assumes that the mandated funding in subsequent years is used for other DSP registration-related functions resulting from the bill.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 387 (The President)(By Request - Office of the Attorney General) and Senator Lee - Judicial Proceedings.

Information Source(s): Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State's Attorneys' Association; Department of Public Safety and Correctional Services; Department of State Police; U.S. Department of Justice; *Baltimore Sun*; Department of Legislative Services

Fiscal Note History: First Reader - February 7, 2022
fnu2/lgc Third Reader - March 15, 2022
Enrolled - April 7, 2022
Revised - Amendment(s) - April 7, 2022

Analysis by: Shirleen M. E. Pilgrim

Direct Inquiries to:
(410) 946-5510
(301) 970-5510