



2A Maryland

2A@2AMaryland.org

Senate Bill 0086

Rifles and Shotguns – Possession – Age Requirement (Raise the Age Act of 2023)

UNFAVORABLE

Senate Bill 0086 §5-205 (c) (1) prohibits the possession of a rifle or shotgun by a person under 21 years of age with certain limited exceptions.

There is no language which addresses the thousands of rifles and shotguns currently owned and/or possessed by Maryland citizens under the age of twenty-one. What plans does the government have to enforce HB 0086?

Will law enforcement agencies be tasked with verifying that the thousands of rifles and shotguns currently owned by persons under the age of 21 will now be possessed only under the limited exceptions this Bill allows?

SB 0086 totally ignores the fact that most under the age of 21 and who will be impacted by the proposed ban on possession of rifles and shotguns are also the legal owners of these firearms.

The 14th Amendment to the United State Constitution provides *“No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”*

Will compensation for loss of possession of a legally owned and constitutionally protected item be provided by the government? Or does the United States Constitution no longer apply?

One of the enumerated exceptions is §5-205 (c)(2)(VI): THE POSSESSION OF A FIREARM FOR SELF-DEFENSE OR THE DEFENSE OF OTHERS AGAINST A TRESPASSER INTO THE RESIDENCE OF THE PERSON IN POSSESSION OR INTO A RESIDENCE IN WHICH THE PERSON IN POSSESSION IS AN INVITED GUEST.

Under this limited exception, possession of a rifle or shotgun is still permissible for self-defense within the home. It is unclear how the person would achieve possession in the first place. Is there a presumption the dealer would deliver the firearm to the buyer's residence? Is there a provision which would allow possession between the dealer's place of business and the home? How would the person in possession be able to transport the firearm from possessor's home to the home to which they are an invited guest? Will the person who extends the invitation be required to post a "firearms welcome" sign as envisioned by the sponsor's SB 0001?

The ownership of a rifle or shotgun by a parent is never addressed by SB 0086. If a parent or other person over the age of 21 owns or possesses a shotgun in the home. Is the under twenty-one person living in the home in "constructive possession" of the rifle or shotgun? Is the under twenty-one person in violation if the rifle or shotgun is not designated for self-defense?

"One of the archetypal examples of constructive possession is when a suspect has actual possession of a key to a lockbox or safe, and within that container is the alleged contraband (drugs, stolen property, guns, etc.). Since the person who holds the key has the exclusive ability to access and use what lies in a locked container, the law treats the keyholder as if he or she had the lockbox's contents in his or her pocket.

The lockbox metaphor doesn't have to be so literal. You can constructively possess a car or house by knowingly possessing the keys to either one. Stashing stolen merchandise or drugs in your car or home won't stop prosecutors from saying that you possessed them."

Source: <https://www.findlaw.com/legalblogs/criminal-defense/what-is-constructive-possession/>

SB 0086 makes liberal use of the terms "transfer" and "temporary transfer." The definition of "transfer" as it pertains to this section is not contained in the Bill which leaves the term vague and the intent misleading. A "transfer" is the permanent change in ownership and not simple possession. A "temporary transfer" is not legally a transfer and should be described as a loan to accurately reflect the action involved.

It should be noted that the language of this Bill conflicts with the language in Criminal Law §4- and also conflicts with Sections §10-301 and §10-301.1 of the Natural Resources Article.

It is unrealistic to believe that any person who intends to commit murder or a violent felony will be in any way deterred by the commission of a misdemeanor offense and the potential penalties of up to 3 years imprisonment and/or a fine of up to \$1,000?

SB 0086 will have a chilling impact on hunting, competitive shooting, firearms ownership, and the shooting sports as a whole. We believe this is the intended purpose of the Bill.

We strongly urge an Unfavorable report.

John H. Josselyn, Director
2A Maryland