

HOUSE BILL 259

D3
HB 1396/22 – JUD

3lr1259
CF SB 113

By: **Delegates Atterbeary and Rosenberg**
Introduced and read first time: January 25, 2023
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Civil Actions – Public Nuisances – Firearm Industry Members**
3 **(Gun Industry Accountability Act of 2023)**

4 FOR the purpose of prohibiting certain firearm industry members from knowingly or
5 recklessly creating, maintaining, or contributing to harm to the public through the
6 sale, manufacture, importation, or marketing of a firearm–related product under
7 certain circumstances; requiring a firearm industry member to establish and
8 implement certain reasonable controls regarding the sale, manufacture, importation,
9 distribution, marketing, possession, and use of certain firearm–related products;
10 establishing that a violation of this Act is a public nuisance; authorizing the Attorney
11 General or certain persons to bring an action against a firearm industry member for
12 violations under this Act; and generally relating to civil actions against firearm
13 industry members.

14 BY adding to

15 Article – Courts and Judicial Proceedings
16 Section 3–2301 through 3–2304 to be under the new subtitle “Subtitle 23. Civil
17 Actions for Public Nuisance Against Firearm Industry Members”
18 Annotated Code of Maryland
19 (2020 Replacement Volume and 2022 Supplement)

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

22 **Article – Courts and Judicial Proceedings**

23 **SUBTITLE 23. CIVIL ACTIONS FOR PUBLIC NUISANCE AGAINST FIREARM**
24 **INDUSTRY MEMBERS.**

25 **3–2301.**

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



1 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
2 INDICATED.

3 (B) (1) "FIREARM" HAS THE MEANING STATED IN § 5-101 OF THE PUBLIC
4 SAFETY ARTICLE.

5 (2) "FIREARM" INCLUDES AN ANTIQUE FIREARM AS DEFINED IN §
6 4-201 OF THE CRIMINAL LAW ARTICLE.

7 (C) "FIREARM ACCESSORY" MEANS AN ITEM THAT IS SOLD,
8 MANUFACTURED, DISTRIBUTED, IMPORTED, OR MARKETED TO BE ATTACHED TO A
9 FIREARM.

10 (D) "FIREARM INDUSTRY MEMBER" MEANS A PERSON ENGAGED IN THE
11 SALE, MANUFACTURE, DISTRIBUTION, IMPORTATION, OR MARKETING OF A
12 FIREARM-RELATED PRODUCT.

13 (E) "FIREARM-RELATED PRODUCT" MEANS A FIREARM, AMMUNITION, A
14 COMPONENT OR PART OF A FIREARM, OR A FIREARM ACCESSORY THAT IS:

15 (1) SOLD, MANUFACTURED, DISTRIBUTED, OR MARKETED IN THE
16 STATE;

17 (2) INTENDED TO BE SOLD, MANUFACTURED, DISTRIBUTED, OR
18 MARKETED IN THE STATE; OR

19 (3) POSSESSED IN THE STATE, IF IT WAS REASONABLY FORESEEABLE
20 THAT POSSESSION WOULD OCCUR IN THE STATE.

21 (F) "FIREARM TRAFFICKER" MEANS A PERSON WHO ACQUIRES,
22 TRANSFERS, OR ATTEMPTS TO ACQUIRE OR TRANSFER A FIREARM FOR THE
23 PURPOSE OF SELLING OR DISPOSING OF THE FIREARM IN VIOLATION OF STATE OR
24 FEDERAL LAW.

25 (G) "REASONABLE CONTROLS" MEANS POLICIES THAT ARE DESIGNED:

26 (1) TO PREVENT THE SALE OR DISTRIBUTION OF A
27 FIREARM-RELATED PRODUCT TO:

28 (I) A STRAW PURCHASER;

29 (II) A FIREARM TRAFFICKER;

1 (III) A PERSON PROHIBITED FROM POSSESSING A FIREARM
2 UNDER STATE OR FEDERAL LAW; AND

3 (IV) A PERSON WHO THE FIREARM INDUSTRY MEMBER HAS
4 REASONABLE CAUSE TO BELIEVE INTENDS TO USE THE FIREARM-RELATED
5 PRODUCT:

6 1. TO COMMIT A CRIME; OR

7 2. TO CAUSE HARM TO THE PERSON OR ANOTHER
8 PERSON;

9 (2) TO PREVENT THE LOSS OR THEFT OF A FIREARM-RELATED
10 PRODUCT FROM A FIREARM INDUSTRY MEMBER; AND

11 (3) TO ENSURE THAT THE FIREARM INDUSTRY MEMBER COMPLIES
12 WITH ALL PROVISIONS OF STATE AND FEDERAL LAW AND DOES NOT OTHERWISE
13 PROMOTE THE UNLAWFUL SALE, MANUFACTURE, IMPORTATION, MARKETING,
14 POSSESSION, OR USE OF A FIREARM-RELATED PRODUCT.

15 (H) "STRAW PURCHASER" MEANS A PERSON WHO ENGAGES OR ATTEMPTS
16 TO ENGAGE IN A STRAW PURCHASE AS DEFINED IN § 5-101 OF THE PUBLIC SAFETY
17 ARTICLE.

18 3-2302.

19 (A) A FIREARM INDUSTRY MEMBER MAY NOT KNOWINGLY OR RECKLESSLY
20 CREATE, MAINTAIN, OR CONTRIBUTE TO HARM TO THE PUBLIC THROUGH THE SALE,
21 MANUFACTURE, DISTRIBUTION, IMPORTATION, OR MARKETING OF A
22 FIREARM-RELATED PRODUCT BY ENGAGING IN CONDUCT THAT IS:

23 (1) UNLAWFUL; OR

24 (2) UNREASONABLE UNDER THE TOTALITY OF THE CIRCUMSTANCES.

25 (B) A FIREARM INDUSTRY MEMBER SHALL ESTABLISH AND IMPLEMENT
26 REASONABLE CONTROLS REGARDING THE SALE, MANUFACTURE, DISTRIBUTION,
27 IMPORTATION, MARKETING, POSSESSION, AND USE OF THE FIREARM INDUSTRY
28 MEMBER'S FIREARM-RELATED PRODUCTS.

29 (C) A VIOLATION OF THIS SECTION IS A PUBLIC NUISANCE.

1 (D) NOTWITHSTANDING ANY INTERVENING ACTIONS, INCLUDING A
2 CRIMINAL ACTION BY A THIRD PARTY, THE CONDUCT OF A FIREARM INDUSTRY
3 MEMBER IS A PROXIMATE CAUSE OF HARM TO THE PUBLIC IF THE HARM IS A
4 REASONABLY FORESEEABLE EFFECT OF THE CONDUCT.

5 **3-2303.**

6 (A) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE
7 ATTORNEY GENERAL MAY BRING AN ACTION AGAINST A FIREARM INDUSTRY
8 MEMBER FOR A PUBLIC NUISANCE CAUSED BY A VIOLATION OF § 3-2302 OF THIS
9 SUBTITLE.

10 (2) IN AN ACTION BROUGHT UNDER THIS SUBSECTION, THE
11 ATTORNEY GENERAL MAY SEEK:

- 12 (I) INJUNCTIVE RELIEF;
- 13 (II) RESTITUTION;
- 14 (III) COMPENSATORY AND PUNITIVE DAMAGES;
- 15 (IV) REASONABLE ATTORNEY'S FEES AND COSTS; AND
- 16 (V) ANY OTHER APPROPRIATE RELIEF.

17 (B) (1) A PERSON MAY BRING AN ACTION FOR DAMAGES AGAINST A
18 FIREARM INDUSTRY MEMBER FOR INJURY OR LOSS SUSTAINED AS A RESULT OF A
19 VIOLATION OF § 3-2302 OF THIS SUBTITLE.

20 (2) A PERSON WHO BRINGS AN ACTION UNDER THIS SUBSECTION MAY
21 SEEK AND BE AWARDED:

- 22 (I) INJUNCTIVE RELIEF;
- 23 (II) COMPENSATORY DAMAGES;
- 24 (III) PUNITIVE DAMAGES; AND
- 25 (IV) REASONABLE ATTORNEY'S FEES AND COSTS.

26 (3) (I) A PERSON WHO BRINGS AN ACTION UNDER THIS
27 SUBSECTION SHALL NOTIFY THE ATTORNEY GENERAL THAT THE PERSON HAS
28 BROUGHT THE ACTION WITHIN 5 DAYS AFTER FILING THE COMPLAINT.

1 **(II) THE PERSON SHALL PROVIDE THE ATTORNEY GENERAL**
2 **WITH A COPY OF THE COMPLAINT AND ANY OTHER DOCUMENTS OR PLEADINGS**
3 **FILED WITH THE COMPLAINT.**

4 **(C) A PARTY SEEKING RELIEF UNDER THIS SECTION IS NOT REQUIRED TO**
5 **PROVE THAT A FIREARM INDUSTRY MEMBER ACTED WITH THE INTENT TO VIOLATE**
6 **THIS SUBTITLE.**

7 **3-2304.**

8 **NOTHING IN THIS SUBTITLE MAY BE CONSTRUED TO AFFECT:**

9 **(1) ANY OTHER COMMON LAW OR STATUTORY CAUSE OF ACTION; OR**

10 **(2) ANY OTHER OBLIGATION OR RESTRICTION IMPOSED ON A**
11 **FIREARM INDUSTRY MEMBER UNDER STATE OR FEDERAL LAW.**

12 SECTION 2. AND BE IT FURTHER ENACTED, That, if any provision of this Act or
13 the application thereof to any person or circumstance is held invalid for any reason in a
14 court of competent jurisdiction, the invalidity does not affect other provisions or any other
15 application of this Act that can be given effect without the invalid provision or application,
16 and for this purpose the provisions of this Act are declared severable.

17 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June
18 1, 2023.