

MD Code, Criminal Law, § 4-203



Formerly cited as MD CODE Art. 27, § 36B

West's Annotated Code of Maryland [Currentness](#)

Criminal Law ([Refs & Annos](#))

▢ [Title 4](#). Weapon Crimes

▢ [Subtitle 2](#). Handguns

→ § 4-203. Wearing, carrying, or transporting handgun

Prohibited

(a)(1) Except as provided in subsection (b) of this section, a person may not:

- (i) wear, carry, or transport a handgun, whether concealed or open, on or about the person;
- (ii) wear, carry, or knowingly transport a handgun, whether concealed or open, in a vehicle traveling on a road or parking lot generally used by the public, highway, waterway, or airway of the State;
- (iii) violate item (i) or (ii) of this paragraph while on public school property in the State; or
- (iv) violate item (i) or (ii) of this paragraph with the deliberate purpose of injuring or killing another person.

(2) There is a rebuttable presumption that a person who transports a handgun under paragraph (1)(ii) of this subsection transports the handgun knowingly.

Exceptions

(b) This section does not prohibit:

(1) the wearing, carrying, or transporting of a handgun by a person who is authorized at the time and under the circumstances to wear, carry, or transport the handgun as part of the person's official equipment, and is:

- (i) a law enforcement official of the United States, the State, or a county or city of the State;
- (ii) a member of the armed forces of the United States or of the National Guard on duty or traveling to or from duty;
- (iii) a law enforcement official of another state or subdivision of another state temporarily in this State on official business;
- (iv) a correctional officer or warden of a correctional facility in the State;
- (v) a sheriff or full-time assistant or deputy sheriff of the State; or
- (vi) a temporary or part-time sheriff's deputy;

(2) the wearing, carrying, or transporting of a handgun, in compliance with any limitations imposed under [§ 5-307 of the Public Safety Article](#), by a person to whom a permit to wear, carry, or transport the handgun has

been issued under Title 5, Subtitle 3 of the Public Safety Article;

(3) the carrying of a handgun on the person or in a vehicle while the person is transporting the handgun to or from the place of legal purchase or sale, or to or from a bona fide repair shop, or between bona fide residences of the person, or between the bona fide residence and place of business of the person, if the business is operated and owned substantially by the person if each handgun is unloaded and carried in an enclosed case or an enclosed holster;

(4) the wearing, carrying, or transporting by a person of a handgun used in connection with an organized military activity, a target shoot, formal or informal target practice, sport shooting event, hunting, a Department of Natural Resources-sponsored firearms and hunter safety class, trapping, or a dog obedience training class or show, while the person is engaged in, on the way to, or returning from that activity if each handgun is unloaded and carried in an enclosed case or an enclosed holster;

(5) the moving by a bona fide gun collector of part or all of the collector's gun collection from place to place for public or private exhibition if each handgun is unloaded and carried in an enclosed case or an enclosed holster;

(6) the wearing, carrying, or transporting of a handgun by a person on real estate that the person owns or leases or where the person resides or within the confines of a business establishment that the person owns or leases;

(7) the wearing, carrying, or transporting of a handgun by a supervisory employee:

(i) in the course of employment;

(ii) within the confines of the business establishment in which the supervisory employee is employed; and

(iii) when so authorized by the owner or manager of the business establishment;

(8) the carrying or transporting of a signal pistol or other visual distress signal approved by the United States Coast Guard in a vessel on the waterways of the State or, if the signal pistol or other visual distress signal is unloaded and carried in an enclosed case, in a vehicle; or

(9) the wearing, carrying, or transporting of a handgun by a person who is carrying a court order requiring the surrender of the handgun, if:

(i) the handgun is unloaded;

(ii) the person has notified the law enforcement unit, barracks, or station that the handgun is being transported in accordance with the court order; and

(iii) the person transports the handgun directly to the law enforcement unit, barracks, or station.

Penalty

(c)(1) A person who violates this section is guilty of a misdemeanor and on conviction is subject to the penalties provided in this subsection.

(2) If the person has not previously been convicted under this section, § 4-204 of this subtitle, or § 4-101 or §

4-102 of this title:

(i) except as provided in item (ii) of this paragraph, the person is subject to imprisonment for not less than 30 days and not exceeding 3 years or a fine of not less than \$250 and not exceeding \$2,500 or both; or

(ii) if the person violates subsection (a)(1)(iii) of this section, the person shall be sentenced to imprisonment for not less than 90 days.

(3)(i) If the person has previously been convicted once under this section, § 4-204 of this subtitle, or § 4-101 or § 4-102 of this title:

1. except as provided in item 2 of this subparagraph, the person is subject to imprisonment for not less than 1 year and not exceeding 10 years; or

2. if the person violates subsection (a)(1)(iii) of this section, the person is subject to imprisonment for not less than 3 years and not exceeding 10 years.

(ii) The court may not impose less than the applicable minimum sentence provided under subparagraph (i) of this paragraph.

(4)(i) If the person has previously been convicted more than once under this section, § 4-204 of this subtitle, or § 4-101 or § 4-102 of this title, or of any combination of these crimes:

1. except as provided in item 2 of this subparagraph, the person is subject to imprisonment for not less than 3 years and not exceeding 10 years; or

2. A. if the person violates subsection (a)(1)(iii) of this section, the person is subject to imprisonment for not less than 5 years and not exceeding 10 years; or

B. if the person violates subsection (a)(1)(iv) of this section, the person is subject to imprisonment for not less than 5 years and not exceeding 10 years.

(ii) The court may not impose less than the applicable minimum sentence provided under subparagraph (i) of this paragraph.

CREDIT(S)

Added by Acts 2002, c. 26, § 2, eff. Oct. 1, 2002. Amended by Acts 2003, c. 17, § 1, eff. Oct. 1, 2003; Acts 2003, c. 21, § 1, eff. April 8, 2003; Acts 2004, c. 25, § 1, eff. April 13, 2004; Acts 2005, c. 482, § 1, eff. Oct. 1, 2005; Acts 2010, c. 712, § 1, eff. Oct. 1, 2010; Acts 2011, c. 65, § 1, eff. April 12, 2011; Acts 2013, c. 427, § 1, eff. Oct. 1, 2013.

Formerly Art. 27, § 36B.

LEGISLATIVE NOTES

Revisor's Note (Acts 2002, c. 26):

This section is new language derived without substantive change from former Art. 27, § 36B(b) and (c).

In subsection (a)(1) of this section, the introductory language "[e]xcept as provided in subsection (c) of this section" is added for clarity.

In subsection (a)(1)(ii) of this section, the former reference to "roads or parking lots generally used by the public" is deleted in light of the references to a "public" road and parking lot.

In subsection (b)(1) of this section, the reference to wearing, carrying, or transporting "the handgun" is substituted for the former reference to wearing, carrying, or transporting "such weapon" for specificity.

Also in subsection (b)(1) of this section, the former reference to an individual being "duly" authorized is deleted as surplusage.

In subsection (b)(1)(ii) of this section, the reference to "a member" is substituted for the former reference to "members" in light of Art. 1, § 8, which provides that the singular includes the plural. Similarly, in subsection (b)(1)(v) and (vi) of this section, the references to "a sheriff or full-time assistant or deputy sheriff" and "a temporary or part-time sheriffs' deputy" are substituted for the former references to "sheriffs ... or full-time assistant or deputy sheriffs" and "temporary or part-time sheriffs' deputies".

In subsection (b)(1)(iv) of this section, the reference to a "correctional officer" is substituted for the former references to a "jailer", "prison guard", "guard", and "keeper" for consistency with usage in the Correctional Services Article.

Also in subsection (b)(1)(iv) of this section, the defined term "correctional facility" is substituted for the former reference to a "penal, correctional or detention institution" for consistency within this article.

In subsection (b)(2) of this section, the reference to a permit to wear, carry, or transport "the handgun" is substituted for the former reference to a permit to wear, carry, or transport "any such weapon" for clarity.

In subsection (b)(5) of this section, the reference to "each" handgun is added for clarity.

Also in subsection (b)(5) of this section, the former phrase "while traveling to or from any such place or event referred to in this paragraph" is deleted as unnecessary.

In subsection (c)(2) of this section, the reference to a person being "subject to imprisonment" is substituted for the former references to a person "be[ing] imprisoned in jail or sentenced to the Maryland Division of Correction" for consistency within this article. Currently inmates are sentenced to the custody of a unit such as the Division of Correction and then are placed in a particular facility. *See CS § 9-103.*

In subsection (c)(2), (3)(i), and (4)(i) of this section, the references to a previous conviction "under this section, § 4-204 of this subtitle, or § 4-101 or § 4-102 of this title" are substituted for the former references to a person who has not previously been convicted "of unlawfully wearing, carrying or transporting a handgun in violation of this section, or of unlawfully using a handgun in the commission of a crime in violation of subsection (d) of this section, or of unlawfully carrying a concealed weapon in violation of § 36 of this article [Article 27], or of unlawfully carrying a deadly weapon on public school property in violation of § 36A of this article [Article 27]" for brevity.

In subsection (c)(2)(i) of this section, the phrase "except as provided in item (ii) of this paragraph" is

added for clarity.

In subsection (c)(3) of this section, the reference to a person previously being convicted "once" is added for clarity.

In subsection (c)(3)(ii) of this section, the reference to requiring the court to impose the "applicable" minimum sentence is substituted for the former reference to requiring imposition of "no less than the minimum sentence of 1 year" for clarity. The Criminal Law Article Review Committee brings this substitution to the attention of the General Assembly.

The Criminal Law Article Review Committee notes, for the consideration of the General Assembly, that in subsection (a)(1)(ii) of this section the prohibition on wearing, carrying, or transporting a handgun in a vehicle "traveling on a road or parking lot generally used by the public" may provide an inadvertent defense in the case of a person who is parked, and arguably not traveling, on the side of the road or in the parking lot. The General Assembly may wish to address this matter in substantive legislation.

The Criminal Law Article Review Committee also notes, for the consideration of the General Assembly, that in subsection (c)(2)(i) of this section, it is not clear whether the reference to a "fine of not less than \$250" is subject to reduction under § 14-102 of this article, or is a true minimum penalty. The General Assembly may wish to clarify this matter in substantive legislation.

Defined terms: "Correctional facility" § 1-101

"County" § 1-101

"Handgun" § 4-201

"Law enforcement official" § 4-201

"Person" § 1-101

"State" § 1-101

"Vehicle" § 4-201

HISTORICAL AND STATUTORY NOTES

2003 Legislation

Acts 2003, c. 17, § 1, in subsec. (b)(2), substituted "Title 5, Subtitle 3 of the Public Safety Article" for "Article 27, § 36E of the Code".

Acts 2003, c. 21, § 1, in subsecs. (b)(3) and (b)(4), inserted "if each handgun is unloaded and carried in an enclosed case or an enclosed holster".

2004 Legislation

Acts 2004, c. 25, § 1, made technical corrections to the Code.

2005 Legislation

Acts 2005, c. 482, § 1, inserted subsecs. (a)(1)(iii) and (a)(1)(iv); and rewrote subsec. (c), which previously read:

"(c)(1) A person who violates this section is guilty of a misdemeanor and on conviction is subject to the penalties provided in this subsection.

"(2) If the person has not previously been convicted under this section, § 4- 204 of this subtitle, or § 4-101 or § 4-102 of this title:

"(i) except as provided in item (ii) of this paragraph, the person is subject to imprisonment for not less than 30 days and not exceeding 3 years or a fine of not less than \$250 and not exceeding \$2,500 or both; but

"(ii) if it appears from the evidence that the handgun was worn, carried, or transported on public school property in the State, the person shall be sentenced to imprisonment for not less than 90 days.

"(3)(i) If the person has previously been convicted once under this section, § 4-204 of this subtitle, or § 4-101 or § 4-102 of this title, the person shall be sentenced:

"1. to imprisonment for not less than 1 year and not exceeding 10 years; but

"2. if it appears from the evidence that the handgun was worn, carried, or transported on public school property in the State, to imprisonment for not less than 3 years and not exceeding 10 years.

"(ii) The court may not impose less than the applicable minimum sentence provided under subparagraph (i) of this paragraph.

"(4)(i) If the person has previously been convicted more than once under this section, § 4-204 of this subtitle, or § 4-101 or § 4-102 of this title, or of any combination of these crimes, the person shall be sentenced:

"1. to imprisonment for not less than 3 years and not exceeding 10 years; but

"2. A. if it appears from the evidence that the handgun was worn, carried, or transported on public school property in the State, to imprisonment for not less than 5 years and not exceeding 10 years; or

"B. if it appears from the evidence that the handgun was worn, carried, or transported with the deliberate purpose of injuring or killing another person, to imprisonment for not less than 5 years and not exceeding 10 years.

"(ii) The court may not impose less than the applicable minimum sentence provided under subparagraph (i) of this paragraph."

2010 Legislation

Acts 2010, c. 712, § 1, added subsec. (b)(9).

2011 Legislation

Acts 2011, c. 65, § 1, in subsec. (c)(4)(i)1, removed parenthesis from around "2".

2013 Legislation

Acts 2013, c. 427, § 1, in subsec. (b)(1), substituted "who is authorized" for "who is on active assignment engaged in law enforcement, is authorized"; and in subsec. (b)(2), inserted ", in compliance with any limitations imposed under [§ 5-307 of the Public Safety Article](#)",.

Derivation:

Former Art. 27, § 36B, related to unlawful wearing or carrying of handguns, repealed by Acts 2002, c. 26, § 1.

MD Code, Criminal Law, § 4-203, MD CRIM LAW § 4-203

Current through the 2014 Regular Session of the General Assembly.

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