

**CITY OF BALTIMORE
COUNCIL BILL 17-0056
(First Reader)**

Introduced by: The Council President
At the request of: The Administration (Law Department)
Introduced and read first time: April 24, 2017
Assigned to: Judiciary and Legislative Investigations Committee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Police Department

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Electronic Control Devices – Authorizing Possession in Most Circumstances**

3 FOR the purpose of allowing a person to possess and use an electronic control device as a form of
4 non-lethal self-defense in the home and in public; prohibiting a person from possessing and
5 using an electronic control device in sensitive places; prohibiting a person who poses an
6 unacceptable risk to public safety from possessing and using an electronic control device;
7 prohibiting the sale of an electronic control device to persons who pose an unacceptable risk
8 to public safety; establishing certain penalties; defining certain terms; providing for a special
9 effective date; and generally relating to electronic control devices.

10 BY repealing and reordaining, with amendments

11 Article 19 - Police Ordinances
12 Section(s) 59-28
13 Baltimore City Code
14 (Edition 2000)

15 **Recitals**

16 **WHEREAS**, the Second Amendment to the United States Constitution reserves to the people
17 the right to keep and bear arms.

18 **WHEREAS**, in 2008, the Supreme Court of the United States decided in the case of *District of*
19 *Columbia v. Heller* that the Second Amendment to the United States Constitution protects an
20 individual's right to possess and use a firearm for traditionally lawful purposes, such as
21 self-defense in the home, and that the Second Amendment encompasses weapons that are
22 typically used by law-abiding citizens for lawful purposes.

23 **WHEREAS**, in 2010, the Supreme Court of the United States decided in the case of *McDonald*
24 *v. City of Chicago* that the Second Amendment's right to possess a firearm for self-defense in the
25 home also applies to the states.

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

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1 (4) "MENTAL DISORDER".

2 (I) "MENTAL DISORDER" MEANS A BEHAVIORAL OR EMOTIONAL ILLNESS THAT
3 RESULTS FROM A PSYCHIATRIC DISORDER.

4 (II) "MENTAL DISORDER" INCLUDES A MENTAL ILLNESS THAT SO SUBSTANTIALLY
5 IMPAIRS THE MENTAL OR EMOTIONAL FUNCTIONING OF AN INDIVIDUAL AS TO
6 MAKE CARE OR TREATMENT NECESSARY OR ADVISABLE FOR THE WELFARE OF THE
7 INDIVIDUAL OR FOR THE SAFETY OF THE PERSON OR PROPERTY OF ANOTHER.

8 (5) "PROTECTIVE ORDER".

9 "PROTECTIVE ORDER" MEANS A TEMPORARY OR FINAL PROTECTIVE ORDER ENTERED
10 UNDER THE AUTHORITY OF MARYLAND CODE, FAMILY LAW ARTICLE, §§ 4-505 AND
11 4-506.

12 (B) [(a)] *Possession or sale, etc., prohibited.*

13 (1) It shall be unlawful TO POSSESS AN ELECTRONIC CONTROL DEVICE IN A:

14 (I) PUBLIC SCHOOL;

15 (II) STATE PUBLIC BUILDING; OR

16 (III) CITY PUBLIC BUILDING [for any person, firm, or corporation to sell, give away,
17 lend, rent or transfer to any individual, firm, or corporation a stun gun or other
18 electronic device by whatever name or description which discharges a
19 non-projectile electric current within the limits of the City of Baltimore].

20 (2) IT SHALL BE UNLAWFUL TO SELL OR SHIP AN ELECTRONIC CONTROL DEVICE TO ANY
21 PERSON KNOWING OR HAVING REASONABLE CAUSE TO BELIEVE THAT THE PERSON HAS
22 BEEN:

23 (I) ADJUDICATED AS A MENTAL DEFECTIVE; OR

24 (II) COMMITTED TO ANY MENTAL INSTITUTION. [It further shall be unlawful for any
25 person to possess, fire, or discharge any such stun gun or electronic device
26 within the City.]

27 (3) IT SHALL BE UNLAWFUL FOR ANY PERSON TO POSSESS AN ELECTRONIC CONTROL
28 DEVICE IF THE PERSON SUFFERS FROM A MENTAL DISORDER AND HAS A HISTORY OF
29 VIOLENT BEHAVIOR AGAINST THEMSELVES OR ANOTHER.

30 (4) IT SHALL BE UNLAWFUL FOR ANY PERSON SUBJECT TO A PROTECTIVE ORDER TO
31 POSSESS AN ELECTRONIC CONTROL DEVICE FOR THE DURATION OF THE PROTECTIVE
32 ORDER.

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1 (C) [(b)] *Exceptions.*

2 Nothing in this [subsection] SECTION shall be held to apply to any member of the
3 Baltimore City Police Department or any other law enforcement officer while in the
4 performance of his or her official duty.

5 (D) [(c)] *Penalties.*

6 Any violation of the provisions of this section shall be deemed to be a misdemeanor,
7 subject upon conviction to a fine of not more than \$500 or to imprisonment for not longer
8 than 60 days or to both fine and imprisonment, in the discretion of the Court.

9 **SECTION 2. AND BE IT FURTHER ORDAINED,** That the catchlines contained in this Ordinance
10 are not law and may not be considered to have been enacted as a part of this or any prior
11 Ordinance.

12 **SECTION 3. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the date it is
13 enacted.