



AMENDMENTS TO COUNCIL BILL 17-056  
(1<sup>st</sup> Reader Copy)

By: Judiciary Committee  
{To be offered on the Council Floor}

Amendment No. 1

On page 2, strike lines 5 through 11, in their entireties, and substitute:

“WHEREAS, in response to the Supreme Court's rulings affecting States and their jurisdictions, it is necessary to promptly pass an ordinance that replaces the local ban on electronic control devices and provides for reasonable regulation of the sale, possession, and use of these devices, in addition to those regulations already established in State law.”

Amendment No. 2

**ADOPTED**

On page 3, after line 12, insert:

“IN ADDITION TO ALL STATE LAW PROHIBITIONS AND PENALTIES ON THE SALES OF ELECTRONIC CONTROL DEVICES, INCLUDING NO SALES TO MINORS, NO SALES TO THOSE CONVICTED OF CERTAIN CRIMES, AND NO SALES WITHOUT BACKGROUND CHECKS, IT IS UNLAWFUL IN THE CITY:”;

and, in line 13 and in line 20, strike “It shall be unlawful” and “IT SHALL BE UNLAWFUL”, respectively, and, in each case, substitute “FOR ANY PERSON”; and, in line 21, before both iterations of “PERSON”, insert “OTHER”; and, in each of lines 27 and 30, strike “IT SHALL BE UNLAWFUL”; and, in each of lines 19 and 24, strike the period and substitute a semi-colon; and, in line 29, strike the period and substitute “: AND”.

Amendment No. 3

On page 4, in line 7, strike “\$500” and substitute “\$1,000”; and, in line 8, strike “60 days” and substitute “12 MONTHS”.



**COUNCIL BILL 17-056**

**UNOFFICIAL REPRINT TO SHOW CONTEXT  
OF AMENDMENTS PROPOSED BY JUDICIARY COMMITTEE**

**A BILL ENTITLED**

AN ORDINANCE concerning

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

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

BY repealing and reordaining, with amendments

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

**Recitals**

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

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

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

WHEREAS, in 2016, the Supreme Court of the United States concluded in a per curiam opinion in the case of *Caetano v. Massachusetts* that a state government's categorical ban on the possession and use of electronic control devices had not been sufficiently justified under *Heller*, and the concurring opinion stated that such a ban clearly violates the Second Amendment.

EXPLANATION: CAPITALS indicate matter added to existing law.  
[Brackets] indicate matter deleted from existing law.  
Underlining indicates matter added to the bill by amendment.  
~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from existing law by amendment.

~~WHEREAS, in order to promote public welfare and safety, non-lethal self-defense weapons such as electronic control devices are preferable to more lethal self-defense weapons, such as handguns, and it is therefore desirable to permit the sale, use, and possession of electronic control devices for use in self-defense, with reasonable restrictions.~~

~~WHEREAS, in order to promote public welfare and safety, it is necessary to promptly pass an ordinance that provides for reasonable regulation of the sale, possession, and use of electronic control devices, in addition to those regulations already established in Maryland State law.~~

WHEREAS, in response to the Supreme Court's rulings affecting States and their jurisdictions, it is necessary to promptly pass an ordinance that replaces the local ban on electronic control devices and provides for reasonable regulation of the sale, possession, and use of these devices, in addition to those regulations already established in State law.

SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That the Laws of Baltimore City read as follows:

**Baltimore City Code**

**Article 19. Police Ordinances**

**Subtitle 59. Weapons**

**§ 59-28. [Stun guns] ELECTRONIC CONTROL DEVICES.**

(A) *DEFINITIONS.*

(1) *IN GENERAL.*

IN THIS SECTION, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

(2) *"ELECTRONIC CONTROL DEVICE".*

"ELECTRONIC CONTROL DEVICE" MEANS A PORTABLE DEVICE DESIGNED AS A WEAPON CAPABLE OF INJURING, IMMOBILIZING, OR INFLECTING PAIN ON AN INDIVIDUAL BY THE DISCHARGE OF ELECTRICAL CURRENT.

(3) *"ADJUDICATED AS A MENTAL DEFECTIVE".*

"ADJUDICATED AS A MENTAL DEFECTIVE" MEANS A DETERMINATION BY A COURT, BOARD, COMMISSION, OR OTHER LAWFUL AUTHORITY, THAT, AS A RESULT OF MARKED SUBNORMAL INTELLIGENCE, MENTAL ILLNESS, INCOMPETENCY, CONDITION, OR DISEASE, A PERSON:

(i) IS A DANGER TO THEMSELVES OR TO OTHERS; OR

(ii) LACKS THE MENTAL CAPACITY TO CONTRACT OR MANAGE HIS OR HER OWN AFFAIRS.

(4) *"MENTAL DISORDER".*

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

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

(5) "PROTECTIVE ORDER".

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

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

IN ADDITION TO ALL STATE LAW PROHIBITIONS AND PENALTIES ON THE SALES OF ELECTRONIC CONTROL DEVICES, INCLUDING NO SALES TO MINORS, NO SALES TO THOSE CONVICTED OF CERTAIN CRIMES, AND NO SALES WITHOUT BACKGROUND CHECKS, IT IS UNLAWFUL IN THE CITY:

- (1) ~~It shall be unlawful~~ FOR ANY PERSON TO POSSESS AN ELECTRONIC CONTROL DEVICE IN A:

(I) PUBLIC SCHOOL;

(II) STATE PUBLIC BUILDING; OR

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

- (2) ~~IT SHALL BE UNLAWFUL~~ FOR ANY PERSON TO SELL OR SHIP AN ELECTRONIC CONTROL DEVICE TO ANY OTHER PERSON KNOWING OR HAVING REASONABLE CAUSE TO BELIEVE THAT THE OTHER PERSON HAS BEEN:

(I) ADJUDICATED AS A MENTAL DEFECTIVE; OR

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

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

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

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

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

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

Any violation of the provisions of this section shall be deemed to be a misdemeanor, subject upon conviction to a fine of not more than ~~\$500~~ \$1,000 or to imprisonment for not longer than ~~60 days~~ 12 MONTHS or to both fine and imprisonment, in the discretion of the Court.

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

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