



Committee: PS
Committee Review: At a future date
Staff: Christine Wellons, Senior Legislative Attorney
Purpose: To introduce agenda item – no vote expected
Keywords: #FirearmsInPublicPlaces

AGENDA ITEM #10A
July 12, 2022
Introduction

SUBJECT

Expedited Bill 21-22, Weapons – Firearms In or Near Places of Public Assembly

Lead Sponsors: Council President Albornoz

Co-Sponsors: Councilmembers Hucker and Friedson

EXPECTED ATTENDEES

None

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- N/A

DESCRIPTION/ISSUE

Expedited Bill 21-22 would:

- (1) prohibit the possession of firearms in or near places of public assembly, with certain exemptions;
- (2) remove an exemption that allows individuals with certain handgun permits to possess handguns within 100 yards of a place of public assembly; and
- (3) generally amend the law regarding restrictions against firearms in the County.

SUMMARY OF KEY DISCUSSION POINTS

- N/A

This report contains:

Staff Report

Expedited Bill 21-22

Legislative Request Report

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MEMORANDUM

July 7, 2022

TO: County Council

FROM: Christine Wellons, Senior Legislative Attorney

SUBJECT: Expedited Bill 21-22, Weapons – Firearms In or Near Places of Public Assembly

PURPOSE: Introduction – no Council votes required

Bill 21-22, Weapons – Firearms In or Near Places of Public Assembly, sponsored by Lead Sponsor Council President Alborno and Co-Sponsors Councilmembers Hucker and Friedson, is scheduled for introduction on July 12, 2022. A Public Hearing is tentatively scheduled for July 26, 2022.

Expedited Bill 21-22 would:

- (1) prohibit the possession of firearms in or near places of public assembly, with certain exemptions;
- (2) remove an exemption that allows individuals with certain handgun permits to possess handguns within 100 yards of a place of public assembly; and
- (3) generally amend the law regarding restrictions against firearms in the County.

BACKGROUND

In the recent Supreme Court decision of *New York State Rifle & Pistol Assn. v. Bruen*, *Superintendent of New York State Police*, Slip Opinion No. 20-843 (June 23, 2022), available at https://www.supremecourt.gov/opinions/21pdf/20-843_7j80.pdf, the Supreme Court overturned a requirement of New York’s handgun carry law. The New York law had required an applicant for a handgun carry license to show “proper cause” for the license, and the Supreme Court held that the requirement violated the Second Amendment’s right to bear arms. The Court explained, however, that “longstanding” “laws forbidding the carrying of firearms in sensitive places such as schools and government buildings” are constitutionally permissible.

Like New York, Maryland has a proper-cause requirement for wear-and-carry handgun licenses. See Md. Code Ann., Public Safety Section 5-306. Governor Hogan, in response to *Bruen*, has instructed the Maryland State Police not to enforce the proper-cause element of the Maryland law. <https://governor.maryland.gov/2022/07/05/governor-hogan-directs-maryland-state-police-to-suspend-good-and-substantial-reason-standard-for-wear-and-carry-permits/>.

As a result of the Supreme Court ruling and Governor Hogan's order to the Maryland State Police, more individuals in Maryland likely will carry firearms, regardless of whether the individuals have any good or substantial reason to carry them.

BILL SPECIFICS

Expedited Bill 21-22 would **prevent an individual from possessing a firearm within 100 yards of a place of public assembly even when the individual has a wear-and-carry permit from the State of Maryland.** This restriction would strengthen current County law, which exempts individuals with permits from the restriction against carrying weapons within 100 yards of places of public assembly.

LEGAL FRAMEWORK

Maryland law specifically allows counties to regulate the possession of certain firearms within 100 yards of a place of public assembly. Under the Criminal Law Article of the Maryland Code, § 4-209:

State preemption

(a) Except as otherwise provided in this section, the State preempts the right of a county, municipal corporation, or special taxing district to regulate the purchase, sale, taxation, transfer, manufacture, repair, ownership, possession, and transportation of:

- (1) a handgun, rifle, or shotgun; and
- (2) ammunition for and components of a handgun, rifle, or shotgun.

Exceptions

(b)(1) A county, municipal corporation, or special taxing district **may regulate the purchase, sale, transfer, ownership, possession, and transportation** of the items listed in subsection (a) of this section:

- (i) with respect to minors;
- (ii) with respect to law enforcement officials of the subdivision; and
- (iii) except as provided in paragraph (2) of this subsection, **within 100 yards of or in a park, church, school, public building, and other place of public assembly.**

(2) A county, municipal corporation, or special taxing district may not prohibit the teaching of or training in firearms safety, or other educational or sporting use of the items listed in subsection (a) of this section.

(Emphasis added).

There are many instances in which the State limits a person’s ability to carry a weapon, regardless of whether the person has a permit. *See* the Maryland State Police website, <https://mdsp.maryland.gov/Organization/Pages/CriminalInvestigationBureau/LicensingDivision/Firearms/WearandCarryPermit.aspx>, which lists numerous state areas, such as State parks and State buildings, where a concealed carry permit does not apply. Currently, the State law prevents permit carriers from possessing firearms at specific locations including school property, state buildings (not County buildings), state parks, the General Assembly, aircraft, Maryland Rest Areas, and certain daycares. *See id.*

Notably, these restricted areas identified by the State Police do not include certain areas within the County’s broader definition of “place of public assembly” – which was amended under Bill 4-21 bill to mean “a place where the public may assemble, whether the place is publicly or privately owned, including a park; place of worship; school; library; recreational facility; hospital; community health center; long-term facility; or multipurpose exhibition facility, such as a fairgrounds or conference center. A place of public assembly includes all property associated with the place, such as a parking lot or grounds of a building.”

<u>This packet contains:</u>	<u>Circle #</u>
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Expedited Bill No. 21-22
Concerning: Weapons – Firearms In or
Near Places of Public Assembly
Revised: 7/1/2022 Draft No. 1
Introduced: July 12, 2022
Expires: January 12, 2024
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Council President Alborno
Co-Sponsors: Councilmembers Hucker and Friedson

AN EXPEDITED ACT to:

- (1) prohibit the possession of firearms in or near places of public assembly, with certain exemptions;
- (2) remove an exemption that allows individuals with certain handgun permits to possess handguns within 100 yards of a place of public assembly; and
- (3) generally amend the law regarding restrictions against firearms in the County.

By amending

Montgomery County Code
Chapter 57, Weapons
Section 57-11

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec. 1. Section 57-11 is amended as follows:**

2 **57-11. Firearms in or near places of public assembly.**

- 3 (a) In or within 100 yards of a place of public assembly, a person must not:
- 4 (1) sell, transfer, possess, or transport a ghost gun, undetectable gun,
5 handgun, rifle, or shotgun, or ammunition or major component
6 for these firearms; or
- 7 (2) sell, transfer, possess, or transport a firearm created through a 3D
8 printing process..
- 9 (b) This section does not:
- 10 (1) prohibit the teaching of firearms safety or other educational or
11 sporting use in the areas described in subsection (a);
- 12 (2) apply to a law enforcement officer, or a security guard licensed to
13 carry the firearm;
- 14 (3) apply to the possession of a firearm or ammunition, other than a
15 ghost gun or an undetectable gun, in the person's own home;
- 16 (4) apply to the possession of one firearm, and ammunition for the
17 firearm, at a business by either the owner who has a permit to
18 carry the firearm, or one authorized employee of the business
19 who has a permit to carry the firearm; or
- 20 (5) [apply to the possession of a handgun by a person who has
21 received a permit to carry the handgun under State law; or]
- 22 [[6]] apply to separate ammunition or an unloaded firearm:
- 23 (A) transported in an enclosed case or in a locked firearms rack
24 on a motor vehicle, unless the firearm is a ghost gun or an
25 undetectable gun; or

26 (B) being surrendered in connection with a gun turn-in or
27 similar program approved by a law enforcement agency.

28 * * *

29 **Sec. 2. Expedited Effective Date.** The Council declares that this legislation
30 is necessary for the immediate protection of the public interest. This Act takes effect
31 on the date on which it becomes law.

LEGISLATIVE REQUEST REPORT

Bill 21-22

Weapons – Firearms in or Near Places of Public Assembly

DESCRIPTION:	The bill would prohibit the possession of firearms in or near areas of public assembly and remove an exemption that currently allows individuals with certain handgun permits to possess weapons within 100 yards of a place of public assembly.
PROBLEM:	Gun violence.
GOALS AND OBJECTIVES:	Protect the possession of certain areas within sensitive areas, e.g., in or near places of public assembly.
COORDINATION:	Montgomery County Police Department
FISCAL IMPACT:	To Be Completed
ECONOMIC IMPACT:	To Be Completed
RACIAL EQUITY AND SOCIAL JUSTICE IMPACT:	To Be Completed
EVALUATION:	To be done.
EXPERIENCE ELSEWHERE:	State of Maryland
SOURCE OF INFORMATION:	Christine Wellons, Senior Legislative Attorney
APPLICATION WITHIN MUNICIPALITIES:	Yes
PENALTIES:	N/A