

Department of Legislative Services
 Maryland General Assembly
 2013 Session

FISCAL AND POLICY NOTE

House Bill 1457 (Delegate Clippinger)
 Judiciary

Public Safety - Regulated Firearm Application - Required Information and Warnings

This bill requires that an application for a regulated firearm include a statement from the applicant, under penalty of perjury, that the applicant is aware that a person may not possess a regulated firearm if, after acquiring the firearm, the person becomes disqualified by specified State prohibitions against the possession of a regulated firearm. Before a licensee or designated law enforcement officer accepts a firearm application, the licensee or officer must (1) read aloud in the presence of the applicant and initial specified requirements of the application and (2) ensure that the applicant initials each requirement and regulation. A person who violates the requirements to read and initial the requirements of the application is guilty of a misdemeanor and subject to specified fines and/or imprisonment.

Fiscal Summary

State Effect: General fund expenditures increase by \$10,000 in FY 2014 only for the Department of State Police (DSP) to revise the Application and Affidavit to Purchase a Regulated Firearm. Enforcement can be handled with existing budgeted resources. The criminal penalty provisions of this bill are not expected to have a material impact on State finances or operations.

(in dollars)	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	10,000	0	0	0	0
Net Effect	(\$10,000)	\$0	\$0	\$0	\$0

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: The criminal penalty provisions of this bill are not expected to have a material impact on local finances or operations.

Small Business Effect: Potential meaningful. The bill may present some operational difficulties for firearms dealers relating to the sale of regulated firearms. In 2012, there were 296 State-regulated firearm dealer licensees in Maryland.

Analysis

Bill Summary: For a first offense relating to a violation of the bill's requirements to read aloud and initial the requirements of the firearm application, a violator is subject to maximum penalties of imprisonment for 90 days and/or a \$500 fine. For a second or subsequent offense, the maximum penalties are imprisonment for one year and/or a fine of \$1,000.

Current Law: The primary enforcement of the State's firearms laws and any licensing requirements are handled by DSP and its Licensing Division. A firearm applicant must submit to a licensee or designated law enforcement agency a firearm application on the form that the Secretary of State Police provides and pay to the licensee or designated law enforcement agency an application fee of \$10. A firearm application must contain:

- the applicant's name, address, Social Security number, place and date of birth, height, weight, race, eye and hair color, signature, driver's or photographic identification soundex number, occupation, and regulated firearm information for each regulated firearm to be purchased, rented, or transferred;
- the date and time that the firearm applicant delivered the completed firearm application to the prospective seller or transferor; and
- a statement by the firearm applicant under the penalty of perjury that the firearm applicant (1) is at least 21 years old; (2) has never been convicted of a "disqualifying crime"; (3) has never been convicted of a violation classified as a common law crime and received a term of imprisonment of more than two years; (4) is not a fugitive from justice; (5) is not a habitual drunkard; (6) is not addicted to a controlled dangerous substance or is not a habitual user; (7) has never spent more than 30 consecutive days in a medical institution for treatment of a mental disorder, unless a physician's certificate issued within 30 days before the date of application is attached to the application, certifying that the firearm applicant is capable of possessing a regulated firearm without undue danger to the firearm applicant or to another; (8) is not a respondent against whom a current non *ex parte* civil protective order has been entered; (9) if younger than age 30 at the time of application, has not been adjudicated delinquent by a juvenile court for an act that would be a disqualifying crime if committed by an adult; and (10) has completed a certified firearms safety training course that the Police Training Commission (PTC) conducts without charge or that meets PTC standards.

Each firearm application must contain the following statement: “Any false information supplied or statement made in this application is a crime which may be punished by imprisonment for a period of not more than 3 years, or a fine of not more than \$5,000, or both.”

If the firearm applicant is a corporation, a corporate officer who is a resident of the State shall complete and execute the firearm application.

A person may not possess a regulated firearm if the person:

- has been convicted of a “disqualifying crime”;
- has been convicted of a violation classified as a common law crime and received a term of imprisonment of more than two years;
- is a fugitive from justice;
- is a habitual drunkard;
- is addicted to a controlled dangerous substance or is a habitual user;
- suffers from a mental disorder as defined in the Health-General Article and has a history of violent behavior against the person or another, unless the person has a physician’s certificate that the person is capable of possessing a regulated firearm without undue danger to the person or to another;
- has been confined for more than 30 consecutive days to a mental health “facility,” as defined in the Health-General Article, unless the person has a physician’s certificate that the person is capable of possessing a regulated firearm without undue danger to the person or to another;
- except under specified conditions, is a respondent against whom a current non *ex parte* civil protective order has been entered; or
- if younger than age 30 at the time of possession, has been adjudicated delinquent by a juvenile court for an act that would be a disqualifying crime if committed by an adult.

A “disqualifying crime” means a crime of violence, a felony, or a misdemeanor that carries a statutory penalty of more than two years.

A person may not knowingly or willfully participate in a “straw purchase” of a regulated firearm. “Straw purchase” means a sale of a regulated firearm in which a person uses another, known as the straw purchaser, to (1) complete the application to purchase a regulated firearm; (2) take initial possession of the regulated firearm; and (3) subsequently transfer the regulated firearm to the person.

A dealer or other person may not sell, rent, or transfer a regulated firearm to a purchaser, lessee, or transferee who the dealer or other person knows or has reasonable cause to

believe is a participant in a straw purchase. A dealer or other person may not be a knowing participant in a straw purchase of a regulated firearm to a minor or to a person prohibited by law from possessing a regulated firearm. A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for 10 years and/or a fine of \$25,000. Each violation is a separate crime. The Secretary of State Police must revoke the license of a firearms dealer who has knowingly or willfully participated in a straw purchase of a regulated firearm.

Background: According to the National Conference of State Legislatures, 34 states (including Maryland) and the District of Columbia have specific statutory prohibitions against straw purchases of firearms or ammunition.

On January 1, 2013, DSP opened a Maryland Gun Center as a component of the department's firearms enforcement program. The center operates around the clock, seven days per week. It is designed to provide immediate substantive assistance and guidance to local law enforcement agencies on a variety of cases where firearms may be an issue. The center's responsibilities include real-time background checks, tracking and coordinating cross-jurisdictional cases, evidence coordination, guidance on the removal of firearms from a crime scene, forensic recommendations, and case tracking, among other activities.

In addition, the Office of the Attorney General's (OAG) Firearms Trafficking Unit has initiated a program that, in cooperation with several gun dealers across the State, maintains ammunition logs that include identification information of purchasers of ammunition. According to OAG, review of these logs results in the investigation of individuals who are prohibited from possessing regulated firearms and who are believed to have purchased ammunition which could be used in such firearms.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Calvert, Howard, and Montgomery counties; Baltimore City; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Department of State Police; Department of Public Safety and Correctional Services; State's Attorneys' Association; Office of the Public Defender; Office of the Attorney General; National Conference of State Legislatures; Department of Legislative Services

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