

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

House Bill 262
Judiciary

(Delegate Beitzel, *et al.*)

Rules

Bow Hunting - Possession of Handguns for Protection

This bill prohibits the Department of Natural Resources (DNR) from preventing a licensed bow hunter from openly carrying a “handgun” that the hunter is otherwise authorized to carry if the bow hunter (1) is at least 21 years old; (2) is hunting in deer management Region A; (3) is carrying the handgun for personal protection; and (4) does not use the handgun to kill wildlife wounded by a vertical bow or crossbow. A “handgun” is a firearm that has a barrel length not exceeding six inches and does not have a scope or an electronic device attached.

Fiscal Summary

State Effect: None. The bill’s changes can be handled with existing budgeted resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law:

Hunting Regulations

DNR regulates hunting in the State. Among other things, DNR must (1) prescribe by regulation the means or weapons for hunting designated wildlife and (2) set forth any restrictions relating to weapons used to hunt designated wildlife, including the amount and size of ammunition for designated game birds or mammals. DNR is not authorized to restrict the use of firearms except in the activity of hunting designated

wildlife. While current regulations allow the use of handguns for hunting certain types of wildlife during specified hunting seasons, firearms may not be carried while hunting deer during the bow season.

Under current regulations, Maryland has two deer management regions. Region A includes Allegany and Garrett counties and the western portion of Washington County. Region B includes Anne Arundel, Baltimore, Calvert, Caroline, Carroll, Cecil, Charles, Dorchester, Frederick, Harford, Howard, Kent, Montgomery, Prince George's, Queen Anne's, St. Mary's, Somerset, Talbot, Washington (eastern portion), Wicomico, and Worcester counties.

Possession of a Firearm

Although Maryland law requires a person to be issued a permit to wear, carry, or transport a handgun, whether concealed or not, there are several exceptions to that requirement. For example, two of the exceptions include authorizing a person to wear, carry, or transport a handgun, provided that the handgun is unloaded and in an enclosed case or enclosed holster when being transported, if the person is (1) transporting the handgun to or from a legal place of sale or a repair shop or between the person's home or business or (2) wearing, carrying, or transporting the handgun in connection with an organized military activity, a target shoot, formal or informal target practice, sport shooting event, hunting, a DNR-sponsored firearms and hunter safety class, trapping, or a dog obedience training class or show under specified conditions. Further, a person may wear, carry, or transport a handgun if the person is in the person's home, place of business, or other property that the person owns or is a supervisory employee who is wearing, carrying, or transporting the handgun under specified circumstances. The Governor's Firearm Safety Act of 2013 (Chapter 427) modified exceptions to the prohibition against wearing, carrying, or transporting handguns without a State permit by eliminating the active assignment requirement from being applicable to federal, State, or local law enforcement personnel; certain military personnel; out-of-state law enforcement personnel temporarily in Maryland on official business; and State correctional officers and wardens.

In *Woollard v. Gallagher* (No. 12-1437), the U.S. Court of Appeals for the Fourth Circuit is considering the constitutionality of Maryland's "good and substantial reason" handgun permit requirement. On March 2, 2012, the U.S. District Court for the District of Maryland issued an opinion that Maryland's "good and substantial reason" requirement infringes on an individual's right to bear arms under the Second Amendment. Maryland filed an appeal in the U.S. Court of Appeals for the Fourth Circuit seeking to overturn that finding. On August 2, 2012, the Fourth Circuit granted Maryland's motion for a stay pending the outcome of the appeal. As a result, Maryland was allowed to continue its

current handgun permitting practices while the appeal is pending. Oral arguments for the appeal were heard on October 24, 2012. On March 21, 2013 the U.S. Court of Appeals for the Fourth Circuit reversed the decision of the U.S. District Court. On October 15, 2013, the U.S. Supreme Court denied a petition for *writ of certiorari* to the U.S. Court of Appeals for the Fourth Circuit.

Background: The black bear is the largest terrestrial mammal native to Maryland. Currently, Maryland has a resident black bear population in the four westernmost counties (Garrett, Allegany, Washington, and Frederick), with the highest bear densities in Garrett and western Allegany counties.

Some individuals have voiced concern about the threat of bear attacks on bow hunters in western Maryland. Bow hunters have encountered bears in this region. Some bow hunters would like to openly carry handguns for self protection purposes while bow hunting. Currently, DNR regulations prohibit individuals from carrying firearms while hunting deer during the bow season.

According to the U.S. Fish and Wildlife Service, while no bear deterrent is 100% effective, proper use of bear spray has proven to be the best method for fending off threatening and attacking bears and for preventing injury. DNR advises that bear pepper spray is commercially available and has been used effectively to repel black bears. DNR also reports that according to the Center for Wildlife Information in Missoula, Montana, recent incidents show bear spray to be more effective than a bullet in diverting or stopping a charging bear.

Additional Information

Prior Introductions: SB 204 of 2013 received an unfavorable report from the Senate Education, Health, and Environmental Affairs Committee. Its cross file, HB 584, was referred to the House Judiciary Committee but was subsequently withdrawn. SB 588 of 2012 passed the Senate but received an unfavorable report from the House Judiciary Committee. Its cross file, HB 739, also received an unfavorable report from the House Judiciary Committee.

Cross File: SB 231 (Senator Edwards, *et al.*) - Education, Health, and Environmental Affairs.

Information Source(s): Department of Natural Resources, Department of State Police, U.S. Fish and Wildlife Service, Department of Legislative Services

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Analysis by: Michael Sanelli

Direct Inquiries to:
(410) 946-5510
(301) 970-5510