

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE
Revised

House Bill 189
Judiciary

(Delegate Cluster, *et al.*)

Judicial Proceedings

Public Safety - Handgun Permit Background Investigation - Armored Car
Company Employees

This bill authorizes the Secretary of State Police to accept a criminal background investigation performed on behalf of an armored car company in place of the State and national criminal history records check performed by the Criminal Justice Information System for a handgun permit application for an employee of the company if (1) the investigation meets minimum requirements established by the Department of State Police (DSP) and (2) the Secretary performs a cursory check to verify the facts listed in the investigation.

Fiscal Summary

State Effect: None. The bill's changes do not affect overall operations or finances of DSP.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: Chapter 427 of 2013 (the Firearm Safety Act of 2013) created a new licensing scheme for handguns under the licensing authority of DSP. DSP has adopted regulations to implement the Act's provisions related to this license. A "handgun qualification license" authorizes a person to purchase, rent, or receive a handgun. A licensed firearms manufacturer, a specified active or retired law enforcement officer, a member or retired member of the U.S. Armed Forces or the National Guard, and a person

purchasing, renting, or receiving an antique, curio, or relic firearm (as defined under federal law) are exempt from the requirements of the licensing provisions. The Secretary of State Police is required to apply for a State and national criminal history records check for each applicant. As part of the application for a criminal history records check, the Secretary must submit one complete set of fingerprints of the applicant.

Under Chapter 427, an applicant for a handgun qualification license is not required to complete an approved firearms safety training course if the applicant has previously completed a certified firearms training course, has completed a hunting safety course prescribed by the Department of Natural Resources, is currently a qualified handgun instructor, is an honorably discharged member of the U.S. Armed Forces or the National Guard, is an employee of an armored car company with a State permit to possess or transport a regulated firearm, or lawfully owns a regulated firearm. Renewal applicants are not required to complete the firearms safety training course or submit to a State and national criminal history records check.

Possession or transport of an assault weapon or a detachable magazine by an employee of an armored car company is permitted if the individual is acting within the scope of employment and has a State permit to wear, carry, or transport issued under Title 5 of the Public Safety Article.

Generally, with certain exceptions, to be issued a permit to carry a handgun by the Secretary of State Police, an applicant (1) must be 18 or older; (2) must not have been convicted of a felony or misdemeanor for which a sentence of imprisonment for more than one year has been imposed or, if convicted, must have been pardoned or been granted relief under federal law; (3) if the person is younger than 30, must not have been committed to a facility for juveniles for longer than one year or adjudicated delinquent for a crime of violence, a felony, or misdemeanor that carries a statutory penalty of more than two years; (4) must not have been convicted of a controlled dangerous substance violation and must not presently be an addict, a habitual user of a controlled dangerous substance, or an alcoholic; (5) must not exhibit a propensity for violence or instability which may reasonably render possession of a handgun a danger to the applicant or another; and (6) must have a good and substantial reason to wear, carry, or transport a handgun. "Good and substantial reason" includes a finding that the permit is necessary as a reasonable precaution against apprehended danger. The Secretary may limit the geographic area; circumstances; or times of day, week, month, or year in which a permit is effective.

A handgun permit application costs \$75; two years after the initial permit and every three years thereafter, a \$50 renewal fee is due. In addition, the applicant must pay for fingerprint-based federal and State criminal history background checks for initial applications and renewals. A permit expires on the last day of the holder's birth month

following two years after the date the permit is issued. A permit may be renewed for successive periods of three years each if, at the time of an application for renewal, the applicant possesses the qualifications for the issuance of a permit and pays the renewal fee.

Chapter 427 requires a handgun permit applicant to successfully complete prior to the application and each renewal, a firearms training course approved by the Secretary that includes (1) for an initial application, a minimum of 16 hours of instruction by a qualified handgun instructor, or 8 hours of instruction for a renewal application; (2) classroom instruction on State firearm law, home firearm safety, and handgun mechanisms and operation; and (3) a firearms qualification component that demonstrates the applicant's proficiency and use of the firearm.

Background: In 1993, Congress enacted the Armored Car Industry Reciprocity Act, which was amended in 1998. In general, if an armored car crew member employed by an armored car company (1) has a license issued by the appropriate state agency (in the state in which such member is primarily employed by the company) to carry a weapon on the job, and the state agency meets all minimum requirements and (2) has met all other applicable requirements to act as an armored car crew member in the state in which the member is primarily employed by the company, then the crew member is entitled to lawfully carry any weapon to which the license relates and function as an armored car crew member in any state while the member is acting in the service of the company.

For both the initial and subsequent license issuance, federal law relies on each state to determine to its own satisfaction that "the crew member has received classroom and range training in weapon safety and marksmanship during the current year from a qualified instructor for each weapon that the crew member will be licensed to carry." Licensees hold the duty of qualifying on every weapon they will carry each year. Each state must keep detailed records of any armored car crew member issued a permit in that jurisdiction, and those records must include every weapon the crew member received training on and when that instruction occurred.

The statute goes on to mandate "the receipt or possession of a weapon by the crew member would not violate federal law, determined on the basis of a criminal record background check conducted during the current year." The issuing state must perform a criminal background check initially and for every subsequent renewal by the crew member. According to the Federal Bureau of Investigation (FBI), any issuing state that is not a point of contact for the National Instant Criminal Background Check System should contact the FBI directly to ascertain the applicant's eligibility for the license or permit.

Additional Information

Prior Introductions: SB 283 of 2014 passed the Senate with amendments and received a hearing in the House Judiciary Committee, but no further action was taken. SB 646 of 2013 passed the Senate and received a hearing in the House Judiciary Committee, but no further action was taken.

Cross File: SB 261 (Senator Jennings, *et al.*) - Judicial Proceedings.

Information Source(s): Department of State Police, Department of Legislative Services

Fiscal Note History: First Reader - March 5, 2015
min/lgc Revised - House Third Reader - March 23, 2015
Revised - Enrolled Bill - April 28, 2015

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