

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 948

(Senator Smith, *et al.*)

Judicial Proceedings

Public Safety - Rifles and Shotguns - Secondary Transactions

This bill prohibits the transfer of a rifle or shotgun, other than a regulated firearm, unless the person is in compliance with the bill's provisions. Specifically, before the transfer of a rifle or shotgun is conducted, the transferor and transferee must meet jointly with a licensed firearms dealer and request that the dealer facilitate the transfer. A dealer who agrees to facilitate the transfer must (1) process the transfer as though transferring the rifle or shotgun from the dealer's own inventory to the transferee and (2) comply with all federal and State law that would apply to the transfer, including all background check and record-keeping requirements. A dealer may charge a reasonable fee for facilitating a transfer of a rifle or shotgun.

A violator of the bill's provisions is guilty of a misdemeanor and on conviction is subject to imprisonment for up to five years and/or a fine of up to \$10,000. A person who provides false information while conducting a transaction under the bill is guilty of a misdemeanor and on conviction is subject to imprisonment for up to three years and/or a fine of up to \$5,000.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues and expenditures due to the bill's penalty provisions.

Local Effect: Potential minimal increase in revenues and expenditures due to the bill's penalty provisions.

Small Business Effect: Minimal.

Analysis

Bill Summary: The transferor may remove the rifle or shotgun from the premises of the dealer or a gun show while a background check is being conducted but must subsequently deliver the rifle or shotgun to the dealer to complete the transfer. If the results of the background check indicate that the transferee is prohibited from possessing the rifle or shotgun, the transfer may not be completed, and the transferor may remove the rifle or shotgun from the premises of the dealer or a gun show.

The bill's provisions do not apply to a transfer:

- involving a licensed firearms dealer or a federally licensed gun manufacturer, dealer, or importer;
- between specified immediate family members;
- involving law enforcement personnel of any unit of the federal government, a member of the U.S. Armed Forces, a member of the National Guard, or law enforcement personnel of the State or any local agency in the State, while acting in the scope of official duty;
- of a curio or relic firearm between collectors, as specified;
- that is temporary and necessary to prevent imminent death or serious bodily harm if the transfer lasts as long as necessary to prevent imminent death or serious bodily harm;
- occurring by operation of law on the death of a person for whom the transferee is an executor, an administrator, a trustee, or a personal representative of an estate or a trust created in a will;
- of an unserviceable rifle or shotgun transferred as a curio or museum piece;
- of a rifle or shotgun modified to render it permanently inoperative; or
- that is temporary, as specified, and takes place exclusively at a specified established sport shooting range, during a lawfully organized competition, during a performance or a practice, while the transferee is hunting or trapping, as specified, or in the actual presence of the transferor.

Current Law: Maryland regulates the sale, transfer, rental, and possession of regulated firearms, which consist of handguns and assault weapons. However, Maryland generally does not regulate the sale of rifles or shotguns, and no permit is required to purchase a rifle or shotgun that is able to be purchased in the State.

Possession of a Rifle or Shotgun

A resident of Maryland who is eligible to purchase a rifle or shotgun under the laws of an adjacent state may purchase a rifle or shotgun from a federally licensed gun dealer in the

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adjacent state. Likewise, a resident of an adjacent state who is eligible to purchase a rifle or shotgun under the laws of Maryland may purchase a rifle or shotgun from a federally licensed gun dealer in Maryland.

Generally, a person is prohibited from possessing a rifle or a shotgun, with the exception of an antique 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 an imprisonment term 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 and has a history of violent behavior against the person or another;
- has been found incompetent to stand trial or has been found not criminally responsible in a criminal case;
- has been voluntarily admitted for more than 30 consecutive days to a facility;
- has been involuntarily committed to a facility;
- is under the protection of a guardian appointed by a court under specified provisions of the Estates and Trusts Article relating to the protection of minors and disabled persons, except for cases in which the appointment of a guardian is solely a result of a physical disability;
- is a respondent against whom (1) a current non ex parte civil protective order has been entered or (2) a protective order has been issued by a court of another state or a Native American tribe and is in effect; 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.

Statutory restrictions on the possession of rifles and shotguns do not apply to a person transporting a rifle or shotgun if the person is carrying a civil protective order requiring the surrender of the weapon and (1) the rifle or shotgun is unloaded; (2) the person has notified a law enforcement unit that it is being transported in accordance with the protective order; and (3) the person transports it directly to the law enforcement unit. A person who is disqualified from owning a rifle or shotgun for mental health reasons may seek relief under restoration provisions of statute.

In addition, a person may not possess a rifle or shotgun if the person was previously convicted of (1) a crime of violence under § 5-101 of the Public Safety Article; (2) a

violation of specified felonies involving a controlled dangerous substance; or (3) an offense under the laws of another state or the United States that would constitute one of the crimes listed in the provisions of (1) or (2) if committed in this State.

Purchase, Rental, or Receipt of a Handgun

Chapter 427 of 2013 (the Firearm Safety Act of 2013) created a new licensing scheme for handguns under the licensing authority of the Department of State Police. A handgun qualification license (HQL) 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 must 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.

The application fee for an HQL is to cover administrative costs and may be up to \$50. The term of the license is 10 years. License renewal fees are set at up to \$20. Generally, the Secretary of State Police must issue an HQL to a person who (1) is at least age 21; (2) is a State resident; (3) has completed a firearms safety training course; and (4) is not prohibited by federal or State law from purchasing or possessing a handgun. An applicant is not required to complete an approved firearms safety training course under specified conditions. Renewal applicants are not required to complete the firearms safety training course or submit to a State and national criminal history records check.

The Secretary may issue an HQL without an additional application or fee to a person who meets the requirements for the issuance of a handgun permit who does not already have an HQL.

Additional Information

Prior Introductions: SB 947 of 2016 received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken. HB 692 of 2016, a similar bill, was referred to the House Judiciary Committee, but was subsequently withdrawn.

Cross File: None designated. However, HB 1448 (Delegates Davis, *et. al.* – Judiciary) is nearly identical except for the title.

Information Source(s): Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; State's Attorneys' Association; Department of Public Safety and Correctional Services; Department of State Police; Department of Legislative Services

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