

Department of Legislative Services
Maryland General Assembly
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FISCAL AND POLICY NOTE
First Reader

House Bill 888
Judiciary

(Delegate Moon, *et al.*)

Criminal Law – Firearm Crimes – Rapid Fire Trigger Activator

This bill prohibits a person from transporting a “rapid fire trigger activator” into the State. A person is also prohibited from manufacturing, possessing, selling, offering to sell, transferring, purchasing, or receiving a “rapid fire trigger activator.” Violators are subject to an existing misdemeanor penalty of a maximum of three years imprisonment and/or a fine of \$5,000. In addition, the bill prohibits a person from using a rapid fire trigger activator in the commission of a felony or a crime of violence. Violators are subject to the existing more stringent penalties that apply to the use of an assault weapon or a magazine with a capacity of more than 10 rounds of ammunition in the commission of a felony or crime of violence.

Fiscal Summary

State Effect: Minimal increase in general fund revenues and expenditures due to the bill’s application of existing penalty provisions. The Judiciary and other affected State agencies can implement the bill’s provisions with existing budgeted resources.

Local Effect: Minimal increase in revenues and expenditures due to the bill’s application of existing penalty provisions. Affected local agencies can implement the bill’s provisions with existing budgeted resources.

Small Business Effect: None.

Analysis

Bill Summary: “Rapid fire trigger activator” means any device, part, or combination of devices or parts that is designed and functions to accelerate the rate of fire of a firearm

beyond the standard rate of fire for firearms that are not equipped with that device, part, or combination of devices or parts. “Rapid fire trigger activator” includes a bump stock and trigger crank.

The bill also defines “machine gun” as a loaded or unloaded weapon that is capable of automatically discharging more than one shot or bullet from a magazine by a single function of the firing device.

Current Law: The Firearm Safety Act of 2013 (Chapter 427) modified and expanded the regulation of firearms, firearms dealers, and ammunition in Maryland and made changes to related mental health restrictions on the possession of firearms. Among other things, the Act extended the scope of assault pistol prohibitions to all assault weapons, created a new licensing scheme for handguns under the authority of the Department of State Police (DSP), and imposed restrictions on the capacity of detachable magazines and ammunition.

Among its many provisions, the Act created a definition of “assault weapon,” encompassing assault pistols, assault long guns, and copycat weapons. The Act applied existing prohibitions relating to assault pistols to all assault weapons. With specified exceptions, transporting, possessing, selling, offering to sell, transferring, purchasing, or receiving any assault weapon is prohibited. A person who lawfully possessed an assault pistol before June 1, 1994, and who registered the pistol with DSP before August 1, 1994, may continue to possess and transport the assault pistol. A person who lawfully possessed, had a purchase order for, or completed an application to purchase an assault long gun or a copycat weapon before October 1, 2013, is allowed to continue to possess and transport the weapon. A licensed firearms dealer may continue to possess, sell, offer for sale, or transfer an assault long gun or a copycat weapon that the dealer lawfully possessed on or before October 1, 2013. Chapter 427 also clarified when the inheritance of a prohibited assault weapon is permitted.

A person who uses an assault pistol or a magazine that has a capacity of more than 10 rounds of ammunition in the commission of a felony or a crime of violence is guilty of a misdemeanor and, in addition to any other sentence imposed for the felony or crime of violence, must be sentenced as follows:

- for a first violation, a nonsuspendable, nonparolable, mandatory minimum sentence of 5 years with a maximum imprisonment of 20 years; and
- for each subsequent violation, a mandatory minimum sentence of 10 years with a maximum imprisonment of 20 years.

A sentence imposed under this penalty provision must be consecutive to and not concurrent with any other sentence imposed for the underlying felony or crime of violence.

A person may not manufacture, sell, offer for sale, purchase, receive, or transfer a detachable magazine that has a capacity of more than 10 rounds of ammunition for a firearm. A violator is guilty of a misdemeanor and on conviction is subject to maximum penalties of imprisonment for three years and/or a \$5,000 fine.

Section 5-101 of the Public Safety Article defines a “crime of violence” as (1) abduction; (2) arson in the first degree; (3) assault in the first or second degree; (4) burglary in the first, second, or third degree; (5) carjacking and armed carjacking; (6) escape in the first degree; (7) kidnapping; (8) voluntary manslaughter; (9) maiming; (10) mayhem; (11) murder in the first or second degree; (12) rape in the first or second degree; (13) robbery; (14) robbery with a dangerous weapon; (15) sexual offense in the first, second, or third degree; (16) home invasion; (17) an attempt to commit offenses (1) through (16); or (18) assault with the intent to commit offenses (1) through (16) or a crime punishable by imprisonment for more than one year.

Background: Bump stocks made national news in October 2017 when a gunman fired into a Law Vegas concert crowd killing almost 60 people and injuring more than 600 in less than 10 minutes with the use of such a device. Shortly after the incident, the Bureau of Alcohol, Tobacco, Firearms, and Explosives advised that while simulating automatic fire, bump stocks do not actually alter a firearm to fire automatically; therefore, they are legal under federal law. Bump fire stocks allow semi-automatic firearms to mimic the firing speed of fully automatic firearms and can achieve rates of fire between 400 to 800 rounds per minute.

According to the National Conference of State Legislatures, at least 15 states and a number of local jurisdictions have taken up proposals to ban bump stocks. On February 20, 2018, President Trump proposed a regulatory ban on devices, including bump stocks, that “turn weapons into machine guns.”

State Revenues: General fund revenues increase minimally as a result of the bill’s application of existing monetary penalty provisions from cases heard in the District Court.

State Expenditures: General fund expenditures increase minimally as a result of the bill’s application of existing incarceration penalties due to more people being committed to State correctional facilities and increased payments to counties for reimbursement of inmate costs. The number of people convicted of this proposed crime is expected to be minimal.

Persons serving a sentence longer than 18 months are incarcerated in State correctional facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$3,800 per month. Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the

sentence be served at a local facility or a State correctional facility. The State provides assistance to the counties for locally sentenced inmates and for (1) inmates who are sentenced to and awaiting transfer to the State correctional system; (2) sentenced inmates confined in a local detention center between 12 and 18 months; and (3) inmates who have been sentenced to the custody of the State but are confined in or who receive reentry or other prerelease programming and services from a local facility.

The State does not pay for pretrial detention time in a local correctional facility. Persons sentenced in Baltimore City are generally incarcerated in State correctional facilities. The Baltimore Pretrial Complex, a State-operated facility, is used primarily for pretrial detentions.

The Maryland State Commission on Criminal Sentencing Policy (MSCCSP) advises that it needs to update the Sentencing Guideline Offense Table in the *Maryland Sentencing Guidelines Manual* to reflect the new and altered offenses. As these are routine activities for MSCCSP, this can be handled with existing budgeted resources.

The Office of the Public Defender (OPD) advises that the bill results in additional cases handled by the agency. However, according to OPD, because the increase in cases is unknown, the overall effect of the bill on OPD cannot be determined at this time.

Local Revenues: Revenues increase minimally as a result of the bill's application of existing monetary penalty provisions from cases heard in the circuit courts.

Local Expenditures: Expenditures increase minimally as a result of the bill's incarceration penalties. Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. Per diem operating costs of local detention facilities have ranged from approximately \$40 to \$170 per inmate in recent years.

Additional Information

Prior Introductions: None.

Cross File: SB 707 (Senator Ramirez, *et al.*) - Judicial Proceedings.

Information Source(s): Baltimore, Charles, Frederick, Montgomery, and Prince George's counties; cities of Frederick and Havre de Grace; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State's Attorneys' Association; Department of Public Safety and Correctional Services; Department of State Police; National Conference of State Legislatures; *Baltimore Sun*; Department of Legislative Services

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