

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 39

(Senator Waldstreicher)

Judicial Proceedings

Public Safety - Regulated Firearm - Definition

This bill alters the definition of “regulated firearm” to include Anderson Manufacturing .223 caliber AM-15 and .300 caliber AM-15 rifles, thus including the rifles within the definition of an “assault long gun” and prohibiting their possession if purchased after October 1, 2013.

Fiscal Summary

State Effect: Since it is assumed that the bill applies in a limited number of cases, State finances are not materially affected.

Local Effect: Since it is assumed that the bill applies in a limited number of cases, local government finances are not materially affected.

Small Business Effect: Minimal.

Analysis

Current Law: Title 5 of the Public Safety Article regulates firearms and handguns in the State. A regulated firearm is any handgun or any of the 45 assault weapons (or copies) identified in that article (with the specific exception of the Colt AR-15 Sporter H-BAR rifle). 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 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 violator is guilty of a misdemeanor and on conviction subject to maximum penalties of three years imprisonment and/or a \$5,000 fine.

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.

Background: In *Kolbe v. Hogan* (formerly *Kolbe v. O’Malley*), 13-cv-2841, U.S. District Court, Maryland (Baltimore), a group of individual and organizational plaintiffs challenged the assault weapons and large-capacity magazine bans enacted as part of the Act. The plaintiffs contended that the bans violate the Second Amendment by precluding the plaintiffs from possessing commonly owned firearms for self-defense purposes. The plaintiffs also contended that the bans violate their due process rights because the definition of assault long guns is imprecise and vague and that the exemption in the law applicable to retired law enforcement officers violates the equal protection clause. On August 12, 2014, the District Court awarded summary judgment in favor of the defendants on all of the plaintiffs’ claims. On September 9, 2014, the plaintiffs filed a notice of appeal. On February 4, 2016, a three-judge panel of the U.S. Court of Appeals for the Fourth Circuit concluded that the semiautomatic weapons and high-capacity magazines banned by the Firearm Safety Act “are in common use by law-abiding citizens.” As a result, the panel concluded that they do not fall under the exception to the right to bear arms that applies to “unusual” weapons such as machine guns and hand grenades. On February 16, 2016, the defendants filed a petition for rehearing *en banc*. On March 4, 2016, the Fourth Circuit issued an order granting the motion for the full hearing. Arguments before the full court in Richmond, Virginia, were heard on May 11, 2016. A divided panel of the Fourth Circuit affirmed the judgment of the District Court. On July 21, 2017, the plaintiffs filed a petition for *writ of certiorari* with the U.S. Supreme Court. The petition was denied November 27, 2017.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): 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; Department of Legislative Services

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mr/lgc

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