

Department of Legislative Services  
Maryland General Assembly  
2024 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 430 (Delegate Hill, *et al.*)  
Judiciary and Economic Matters

---

**Firearms - Liability Insurance - Public Wearing and Carrying**

---

This bill prohibits, with specified exceptions, a person from wearing or carrying a firearm unless the person has obtained and is covered by specified liability insurance to cover specified claims of up to \$300,000 for damages arising from the same incident, in addition to interest and costs. A violator is guilty of a misdemeanor and on conviction is subject to loss of the person’s right to possess a regulated firearm, a rifle, and a shotgun. A police officer who charges a person must issue a citation that includes specified information and must provide a copy to the person charged. Violations must be tried in the District Court and scheduled for trial within 30 calendar days after the date the citation is issued. Under specified circumstances, a person who is disqualified from possessing a regulated firearm, rifle, or shotgun under the bill may apply to the District Court for the county in which the person was convicted for relief from the disqualification.

---

**Fiscal Summary**

**State Effect:** General fund expenditures for the Judiciary increase by approximately \$28,000 in FY 2025 only for computer programming; operational effects are also possible. Potential significant increase in State expenditures (multiple funds) for State law enforcement agencies to the extent that they reimburse officers or cover the cost of the required liability insurance. Potential significant decrease in State revenues (multiple funds) to the extent fewer licenses and permits are issued by the Department of State Police (DSP) and the Department of Natural Resources (DNR); a reliable estimate cannot be made, but the decrease could total several million dollars annually, as discussed below.

**Local Effect:** Local law enforcement agencies may incur significant costs to the extent they reimburse officers or cover the cost of the required liability insurance. Revenues are not affected.

**Small Business Effect:** Potential meaningful.

---

## Analysis

### **Bill Summary:**

*General Prohibition:* The bill prohibits, with specified exceptions, a person from wearing or carrying a firearm unless the person has obtained and is covered by liability insurance issued by an insurer authorized to do business in the State to cover claims for property damage, bodily injury, or death arising from an accident resulting from the person's use or storage of a firearm of up to \$300,000 for damages arising from the same incident, in addition to interest and costs.

*Exceptions to Prohibition:* The prohibition does not apply to (1) a member of the U.S. Armed Forces, the National Guard, or the uniformed services on duty or traveling to or from duty; (2) a law enforcement officer employed by the federal government to enforce the laws of the United States while on duty or traveling to or from duty; (3) a firearm that is unloaded; or (4) the wearing or carrying of a signal pistol or other visual distress signal approved by the U.S. Coast Guard.

A court may not find a person guilty of violating the bill's prohibition if, before the conclusion of the trial for an alleged violation, the person submits proof to the court and the State's Attorney that the person has obtained and is currently covered by the required liability insurance to prospectively insure against the person's liability arising from the person's use or storage of a firearm.

*Relief from Disqualification:* A person who is disqualified from possessing a regulated firearm, rifle, or shotgun under the bill may apply to the District Court for the county in which the person was convicted for relief from the disqualification if the applicant (1) is not disqualified from possessing a firearm under any other provision of State or federal law and (2) has obtained and is currently covered by the required liability insurance to insure prospectively against liability arising from the person's use or storage of a firearm.

An application for relief must include evidence that the applicant has obtained the required insurance. If the court finds that the applicant has submitted satisfactory evidence of liability insurance coverage, the court must issue an order that the applicant is relieved from disqualification from possessing a regulated firearm, rifle, or shotgun under the bill's provisions.

The order must state that the order (1) will cease to be valid if the applicant is convicted of a subsequent violation of the bill's prohibition and (2) may not be construed to relieve the applicant of any disqualification from possessing a firearm other than a disqualification under the bill's provisions. The court must send a copy of an order issued under the bill to the applicant and the Maryland State Police Gun Center.

*Definition:* “Firearm” means a weapon that expels, is designed to expel, or may readily be converted to expel a projectile by the action of an explosive; however, “firearm” does not include an antique firearm, as specified, or a starter gun.

### **Current Law:**

*Regulation of Firearms:* DSP regulates firearms and regulated firearms dealer licensees under provisions of the Public Safety Article. Before a person purchases, rents, or transfers a regulated firearm in the State, the person must submit to DSP or other designated law enforcement agency a firearm application that identifies the applicant and the firearm that is the subject of the transaction. Applications are investigated by DSP and are subject to a seven-day waiting period before the transaction may take place. Chapter 11 of 2021 requires that before a sale, rental, or transfer of a rifle or shotgun is conducted, the seller, lessor, or transferor and purchaser, lessee, or transferee both request that a licensed firearms dealer facilitate the sale, rental, or transfer.

A person must lawfully possess a regulated firearms dealer’s license issued by the Secretary of State Police before the person engages in the business of selling, renting, or transferring regulated firearms. One dealer’s license is required for each place of business where regulated firearms are sold.

Reports of sales of all regulated firearms must be forwarded to DSP within seven days of the completed sale. A dealer must also forward all disapproved applications that are being held. A dealer must maintain the dealer’s copy of the application form for a minimum of three years. The prospective seller, lessor, or transferor must keep one copy of the firearm application for at least three years. These records must be open for inspection by any law enforcement officer during normal business hours or as specifically requested by the Secretary.

State licensees must also have a federal firearms license issued by the Bureau of Alcohol, Tobacco, Firearms, and Explosives.

*Prohibitions on the Sale, Rental, or Transfer of Regulated Firearms:* A dealer or other person is prohibited from selling, renting, or transferring a regulated firearm to a purchaser, lessee, or transferee who the dealer or other person knows or has reasonable cause to believe:

- is younger than age 21;
- has been convicted of a disqualifying crime;
- has been convicted of a conspiracy to commit a felony;

- has been convicted of a violation classified as a common law crime and received a term of imprisonment 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, as specified;
- has been confined for more than 30 consecutive days to a mental health facility, as specified;
- is a respondent against whom a current non *ex parte* civil protective order has been entered;
- if younger than age 30 at the time of the transaction, has been adjudicated delinquent by a juvenile court for an act that would be a disqualifying crime if committed by an adult;
- is visibly under the influence of alcohol;
- is a participant in a straw purchase; or
- has not completed a specified certified firearms safety training course.

A violator is guilty of a misdemeanor and on conviction subject to maximum penalties of imprisonment for five years and/or a \$10,000 fine. Each violation is a separate crime.

*Prohibitions on the Sale, Rental, Transfer, or Loan of Rifles and Shotguns:* A licensee or any other person may not sell, rent, transfer, or loan a rifle or shotgun to a purchaser, lessee, transferee, or recipient who the licensee or other person knows or has reasonable cause to believe:

- has been convicted of a disqualifying crime;
- has been convicted of a violation classified as a common law crime and received a term of imprisonment 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 purchaser, lessee, transferee, recipient, or another;
- has been found incompetent to stand trial;
- has been found not criminally responsible;
- has been voluntarily admitted for more than 30 consecutive days to a facility that provides treatment or other services for mental disorders;
- has been involuntarily committed to a facility that provides treatment or other services for mental disorders;

- is under the protection of a guardian of the person or property of a disabled person appointed by a court, except for cases in which the appointment of a guardian is solely a result of a physical disability;
- is a respondent against whom a current non *ex parte* civil protective order has been entered in this State or an order for protection has been issued by a court of another state or a Native American tribe and is in effect;
- if younger than age 30 at the time of the transaction, has been adjudicated delinquent by a juvenile court for an act that would be a disqualifying crime if committed by an adult;
- is visibly under the influence of alcohol or drugs;
- is a participant in a straw purchase; or
- intends to use the rifle or shotgun to commit a crime, or cause harm to the purchaser, lessee, transferee, or recipient or another person.

A violator is guilty of a misdemeanor and on conviction subject to maximum penalties of imprisonment for five years and/or a \$10,000 fine.

*Prohibitions on Possession:* Generally, a person is prohibited from possessing regulated firearms, rifles, and shotguns if the person:

- has been convicted of a disqualifying crime;
- has been convicted of a violation classified as a common law crime and received a term of imprisonment 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;
- has been found not criminally responsible;
- has been voluntarily admitted for more than 30 consecutive days to a facility that provides treatment or other services for mental disorders;
- has been involuntarily committed to a facility that provides treatment or other services for mental disorders;
- is under the protection of a guardian of the person or property of a disabled person appointed by a court, except for cases in which the appointment of a guardian is solely a result of a physical disability;
- is a respondent against whom a current non *ex parte* civil protective order has been entered in this State or an order for protection 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.

In addition, a person is prohibited from possessing a regulated firearm if the person (1) was previously convicted of a crime of violence, a violation of specified controlled dangerous substances laws, or an offense under the laws of another state or the United States that would constitute one of these crimes if committed in this State; (2) has been convicted on or after October 1, 2023, of a second or subsequent violation of § 4-104 of the Criminal Law Article (child's access to firearms), or has been convicted on or after October 1, 2023, of a violation of § 4-104 of the Criminal Law Article if the violation resulted in the use of a loaded firearm by a minor causing death or serious bodily injury to the minor or another person; or (3) unless the person was not convicted of but received only probation before judgment for an offense, is on supervised probation after being convicted of a crime punishable by imprisonment for one year or more, for a violation of § 21-902(b) or (c) of the Transportation Article (driving while impaired), or for violating a protective order under § 4-509 of the Family Law Article. Further, a person who has been convicted on or after October 1, 2023, of a violation of § 4-104 of the Criminal Law Article may not possess a regulated firearm for five years following the date of the conviction.

*Maryland Tort Claims Act:* In general, the State is immune from tort liability for the acts of its employees and cannot be sued in tort without its consent. Under the Maryland Tort Claims Act (MTCA), the State statutorily waives its own common law (sovereign) immunity on a limited basis. MTCA applies to tortious acts or omissions, including State constitutional torts, by State personnel performed in the course of their official duties, so long as the acts or omissions are made without malice or gross negligence. Under MTCA, the State essentially “waives sovereign or governmental immunity and substitutes the liability of the State for the liability of the state employee committing the tort.” *Lee v. Cline*, 384 Md. 245, 262 (2004). Lawsuits filed under MTCA typically proceed against the State as the named defendant, not the State employee.

MTCA covers a multitude of personnel, including some local officials and nonprofit organizations. Sheriffs and deputy sheriffs are considered State personnel under MTCA. In actions involving malice or gross negligence or actions outside of the scope of the public duties of the State employee, the State employee is not shielded by the State's color of authority or sovereign immunity and may be held personally liable.

In general, MTCA limits State liability to \$400,000 to a single claimant for injuries arising from a single incident. However, for claims arising on or after July 1, 2022, if liability of the State or its units arises from intentional tortious acts or omissions or a violation of a constitutional right committed by a law enforcement officer, the following limits on liability apply: (1) the combined award for both economic and noneconomic damages may

not exceed a total of \$890,000 for all claims arising out of the same incident or occurrence, regardless of the number of claimants or beneficiaries who share in the award; and (2) in a wrongful death action in which there are two or more claimants or beneficiaries, an award for noneconomic damages may not exceed \$1,335,000, regardless of the number of claimants or beneficiaries who share in the award.

The State does not waive its immunity for punitive damages. Attorney's fees are included in the liability cap under MTCA. Under MTCA, attorneys may not charge or receive a fee that exceeds 20% of a settlement or 25% of a judgment.

*Local Government Tort Claims Act:* The Local Government Tort Claims Act (LGTC) defines local government to include counties, municipal corporations, Baltimore City, and various agencies and authorities of local governments such as community colleges, county public libraries, special taxing districts, nonprofit community service corporations, sanitary districts, housing authorities, and commercial district management authorities.

In general, LGTC limits the liability of a local government to \$400,000 per individual claim and \$800,000 per total claims that arise from the same occurrence for damages from tortious acts or omissions (including intentional and constitutional torts). However, for claims arising on or after July 1, 2022, if the liability of a local government arises from intentional tortious acts or omissions or a violation of a constitutional right committed by a law enforcement officer, the following limits on liability apply: (1) the combined award for both economic and noneconomic damages may not exceed a total of \$890,000 for all claims arising out of the same incident or occurrence, regardless of the number of claimants or beneficiaries who share in the award; and (2) in a wrongful death action in which there are two or more claimants or beneficiaries, an award for noneconomic damages may not exceed \$1,335,000, regardless of the number of claimants or beneficiaries who share in the award.

A local government must provide its employees a legal defense in any action that alleges damages resulting from tortious acts or omissions committed by an employee within the scope of employment with the local government. LGTC further establishes that the local government is liable for tortious acts or omissions of its employees acting within the scope of employment, so long as the employee did not act with actual malice. Thus, LGTC prevents local governments from asserting a common law claim of governmental immunity from liability for such acts or omissions of its employees. A person may not execute against an employee on a judgment rendered for tortious acts or omissions committed by the employee within the scope of employment with a local government. However, an employee is fully liable for all damages awarded in an action in which it is found that the employee acted with actual malice. In circumstances involving actual malice, the judgment may be executed against the employee and the local government may seek indemnification for any sums it is required to pay under LGTC.

A local government is not liable for punitive damages. However, a local government, subject to the liability limits, may indemnify an employee for a judgment for punitive damages entered against the employee. A local government may not enter into an agreement that requires indemnification for an act or omission of an employee that may result in liability for punitive damages.

### **State Fiscal Effect:**

#### *Judiciary*

General fund expenditures increase by \$27,964 in fiscal 2025 only, for one-time programming costs for the Judiciary to accommodate the bill's changes. If there is a high volume of citations issued, the bill may also result in a significant operational impact on the Judiciary to schedule trials within the required 30-day timeframe; however, without experience under the bill, it is not possible to estimate such an impact.

#### *Department of State Police*

DSP did not respond to a request for information regarding the fiscal effect of this bill. Nevertheless, given the bill's prohibition – and the associated requirement to have specified liability insurance – the bill has the potential to result in a decrease in handgun qualification licenses (HQLs) and handgun permits issued by DSP. A handgun permit application costs \$125; two years after the initial permit and every three years thereafter, a \$75 renewal fee is due. 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, and license renewal fees are set at up to \$20. Fees are paid into the general fund, so any decrease in licenses and permits issued by DSP results in a decrease in general fund revenues.

*For context*, in 2023, DSP received 64,724 new applications for handgun permits and 13,682 handgun permit renewal applications. DSP denied 2,258 applications in the same year. As of January 1, 2024, there are approximately 175,662 active handgun permits in the State. In 2023, DSP received 44,186 new applications for HQLs. DSP denied 1,524 applications in the same year. There are currently approximately 318,500 active HQLs in the State (issued since October 1, 2013).

#### *Department of Natural Resources*

According to DNR, approximately 100,000 individuals annually carry loaded firearms during the course of their hunting activities in Maryland. The bill's prohibition – and associated requirement to have specified liability insurance – may decrease participation in hunting activities in the State. The Wildlife and Heritage Service (WHS) within DNR relies on hunting license and stamp fees and associated federal matching funds to operate.



The fiscal 2025 budget as introduced includes \$375,000 in general funds, \$7.2 million in special funds, and \$14.2 million in federal funds for WHS. DNR advises that federal funding is awarded at a 1:3 ratio based on the use of special funds; for every \$1.0 million in special funds that WHS spends on eligible conservation-related work, WHS receives \$3.0 million in federal grant funding through the Federal Aid in Wildlife Restoration Act in the next fiscal year. Thus, if fewer individuals seek hunting licenses and stamps in the State as a result of the bill, special fund revenues (and related expenditures) decrease, resulting in a decrease in federal fund revenues in the next fiscal year. *For illustrative purposes*, if 25% of hunters decline to obtain hunting licenses, WHS special fund revenues from fees decrease by approximately \$1.5 million annually and federal fund revenues decrease by approximately \$4.5 million annually beginning in the next fiscal year.

### *State Law Enforcement Agencies*

Under the bill, a person may not wear or carry a firearm unless the person has obtained and is covered by liability insurance (up to \$300,000 for damages, as specified). Law enforcement officers are *not exempt* from the bill's requirements and prohibitions. However, as noted above in the Current Law section of this fiscal and policy note, State law enforcement officers are immune from suit by virtue of common law and statute. That means the officers cannot be sued in their personal capacities unless the officer is outside of the scope of the employment, acting with gross negligence, or with malice. MTCA's waiver of sovereign immunity (up to \$400,000) would be sufficient to meet the bill's requirement; however, it is unclear whether a person is obligated to obtain personal coverage for liability. In addition, it is unclear if State law enforcement officers can negotiate for coverage through collective bargaining to meet the bill's requirements.

Many law enforcement officers are authorized to wear and carry a firearm while not acting within the scope of and working as a law enforcement officer. During such times, under the bill, each person is required to obtain and be covered by the required liability insurance. However, if such coverage can be obtained, it is possible that a State law enforcement agency could choose to reimburse its officers for premiums. The extent to which any State government entities reimburse law enforcement officers for the base rate of insurance coverage, as required by the bill, is unknown. If reimbursements are provided, general fund expenditures increase, likely significantly.

### *Enforcement and Tracking*

As noted above, as of January 1, 2024, there are approximately 175,662 active permits to wear, carry, or transport a handgun in the State. It is not known how many handgun permit holders have obtained and are covered by liability insurance that meets the requirements under the bill. Thus, without actual experience under the bill, it is not possible to reliably

estimate the number of persons who would be subject to the bill's penalty provisions; however, it is assumed that enforcement can be handled with existing budgeted resources.

In addition, it is unclear if any entity is responsible for tracking insurance coverage by persons who wear or carry firearms in the State. To the extent that individual agencies must track insurance coverage of law enforcement officers within the agency, State expenditures (multiple funds) likely increase.

### *Recruitment of Law Enforcement Officers*

It is likely that the bill significantly hampers future recruitment efforts for State law enforcement officers if similar employment can be found in other states where such coverage is not required.

**Local Expenditures:** Many local government entities in Maryland have covered their primary and excess liability through the Local Government Insurance Trust (LGIT). LGIT is a nonprofit association authorized under State law and is wholly owned and managed by its local government members. LGIT provides joint self-insurance programs or pools for towns, cities, and counties in the State. Rather than paying premiums to buy insurance from an insurance company, local governments contribute those premiums into a jointly owned fund. The money in that fund is used to pay for the members' claims, losses, and expenses.

LGIT currently provides liability insurance to all law enforcement officers employed by its members who have procured such coverage. However, LGIT coverage only applies when an officer is within the scope of and working as a law enforcement officer.

Many law enforcement officers are authorized to wear and carry a firearm while not acting within the scope of and working as a law enforcement officer. During such times, each person is required to obtain and be covered by the required liability insurance. However, if such coverage can be obtained, it is possible that a local law enforcement agency could choose to reimburse its officers for premiums. The extent to which any local government entities reimburse law enforcement officers for the base rate of insurance coverage, as required by the bill, is unknown. If reimbursements are provided, local expenditures increase, likely significantly. When there are multiple individuals under a single insurance policy, premiums may be smaller due to the larger risk pool. Therefore, requiring each law enforcement officer to obtain insurance as an individual may result in a net increase in total premiums paid to cover all officers, compared to if the officers were all covered under a single policy. However, if local law enforcement officers are not adequately covered and local law enforcement agencies are responsible for providing required coverage, local expenditures increase.

Similar to State law enforcement agencies, it is likely that the bill significantly hampers future recruitment efforts for local law enforcement officers if similar employment can be found in other states where such coverage is not required.

**Small Business Effect:** A reduction in the number of individuals who seek to wear or carry a firearm may have a meaningful impact on businesses that sell goods and services relating to firearms. There are currently 787 licensed firearms dealers in the State.

To the extent the bill results in a decrease in hunting in the State, small businesses that support hunting are also affected. For example, the U.S. Fish and Wildlife Service reports that, in 2011, the average hunter in Maryland spent \$49 per hunting day on trip-related expenditures. In 2011, the National Survey of Fishing, Hunting, and Wildlife Associated Recreation estimated that hunters in Maryland spend more than \$260 million annually on food, lodging, equipment, and transportation.

---

### Additional Information

**Recent Prior Introductions:** Similar legislation has not been introduced within the last three years.

**Designated Cross File:** None.

**Information Source(s):** Baltimore, Carroll, Harford, Queen Anne's, and St. Mary's counties; City of Annapolis; Alcohol, Tobacco, and Cannabis Commission; Comptroller's Office; Maryland State Treasurer's Office; 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 General Services; Maryland Department of Labor; Department of Natural Resources; Department of Public Safety and Correctional Services; Maryland Department of Transportation; Maryland Insurance Administration; Department of State Police; U.S. Fish and Wildlife Service; Association of Firearm and Tool Mark Examiners; Department of Legislative Services

**Fiscal Note History:** First Reader - February 27, 2024  
km/lgc

---

Analysis by: Shirleen M. E. Pilgrim

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