

BY: Senator Ferguson

AMENDMENTS TO SENATE BILL NO. 215

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 3, after the first "of" insert "establishing a certain period of time in which the Secretary of the State Police must issue a permit to carry a handgun after an application is approved; raising the minimum age requirement for a holder of a permit to carry a handgun; requiring that an individual be certified by a qualified handgun instructor before that individual may receive a permit for carrying a handgun; imposing certain requirements for certification, including the successful completion of certain course requirements and the achievement of at least a certain score on a certain firing range test; establishing requirements that must be met for issuance of a qualified handgun instructor's card; authorizing the Secretary to deny a qualified handgun instructor's card to any applicant, reprimand any holder of a card, or suspend or revoke a card under certain circumstances;".

AMENDMENT NO. 2

On page 2, in line 18, after "36B(d)," insert "36E,".

AMENDMENT NO. 3

On page 3, after line 21, insert:

"36E.

(a) A permit to carry a handgun shall be issued within [a reasonable time] 45 DAYS by the Secretary of the State Police, upon application under oath therefor, to any person whom the Secretary finds:

(1) Is [eighteen] 21 years of age or older; and

(2) Has not been convicted of a felony or of a misdemeanor for which a sentence of

(Over)

imprisonment for more than one year has been imposed or, if convicted of such a crime, has been pardoned or has been granted relief pursuant to Title 18, § 925(c) of the United States Code; and

(3) Has not been committed to any detention, training, or correctional institution for juveniles for longer than one year after an adjudication of delinquency by a juvenile court; provided, however, that a person shall not be disqualified by virtue of this paragraph (3) if, at the time of the application, more than ten years has elapsed since his release from such institution; and

(4) Has not been convicted of any offense involving the possession, use, or distribution of controlled dangerous substances; and is not presently an addict, an habitual user of any controlled dangerous substance not under legitimate medical direction, or an alcoholic; and

(5) [Has, based on the results of investigation, not exhibited a propensity for violence or instability which may reasonably render his possession of a handgun a danger to himself or other law-abiding persons; and

(6) Has, based on the results of investigation, good and substantial reason to wear, carry, or transport a handgun, provided however, that the phrase “good and substantial reason” as used herein shall be deemed to include a finding that such permit is necessary as a reasonable precaution against apprehended danger] IS NOT PROHIBITED FROM POSSESSING A PISTOL OR REVOLVER UNDER § 445(D) OF THIS ARTICLE; AND

(6) HAS MET THE HANDGUN CERTIFICATION REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION.

(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, AN APPLICANT SHALL SUCCESSFULLY COMPLETE A COURSE OF HANDGUN INSTRUCTION, PASS A FIRING RANGE TEST, AND BE CERTIFIED BY A HOLDER OF A QUALIFIED HANDGUN INSTRUCTOR'S CARD BEFORE THE APPLICANT MAY BE GRANTED A PERMIT TO CARRY A HANDGUN.

(2) THE COURSE OF HANDGUN INSTRUCTION SHALL INCLUDE AT LEAST:

(I) 1 HOUR OF STUDY ON HANDGUN SAFETY ON AND OFF THE

FIRING RANGE, IN THE HOME, AND IN TRANSPORT;

(II) 1 HOUR OF STUDY ON THE LEGAL RESPONSIBILITIES OF GUN OWNERS; AND

(III) 6 HOURS OF STUDY AND TRAINING IN NOMENCLATURE, MAINTENANCE, SIGHT ALIGNMENT, POSITION SHOOTING, DRY-FIRING, AND RANGE PRACTICE WITH A .38 CALIBER REVOLVER, WITH A BARREL LENGTH BETWEEN 2 AND 6 INCHES, OR A 9 MM PISTOL.

(3) AN APPLICANT IS REQUIRED TO ATTAIN A SCORE OF AT LEAST 70% IN FIRING A .38 CALIBER REVOLVER WITH A BARREL LENGTH BETWEEN 2 AND 6 INCHES OR A 9 MM PISTOL AT A PRACTICAL POLICE COURSE THAT DOES NOT EXCEED 25 YARDS.

(4) THE SECRETARY MAY WAIVE THE COURSE AND FIRING RANGE TEST REQUIREMENTS FOR AN APPLICANT WHO IS:

(I) A FORMER LAW ENFORCEMENT OFFICER;

(II) A MEMBER OF THE ARMED FORCES TRAINED IN THE USE OF HANDGUNS; OR

(III) A MEMBER OF AN ACCREDITED GUN CLUB WHO IS APPROVED BY A HOLDER OF A QUALIFIED HANDGUN INSTRUCTOR'S CARD.

(C) (1) THE SECRETARY SHALL ISSUE A QUALIFIED HANDGUN INSTRUCTOR'S CARD TO AN APPLICANT WHO MEETS THE REQUIREMENTS OF THIS SUBSECTION.

(2) AN APPLICANT SHALL:

(I) COMPLETE AND SUBMIT AN APPLICATION FORM PROVIDED BY THE LICENSING DIVISION OF THE STATE POLICE;

(Over)

(II) HAVE HAD FORMAL TRAINING IN THE CARE, SAFETY, AND USE OF HANDGUNS;

(III) HAVE ACHIEVED AT LEAST AN 80% SCORE ON A FIRING RANGE TEST AT A PRACTICAL POLICE COURSE; AND

(IV) HAVE TAUGHT A COURSE IN THE CARE, SAFETY, AND USE OF HANDGUNS FOR AT LEAST 1 YEAR.

(3) A HOLDER OF A QUALIFIED HANDGUN INSTRUCTOR'S CARD MAY CONDUCT HANDGUN TRAINING COURSES AND FIRING RANGE TESTS FOR APPLICANTS FOR PERMITS FOR CARRYING A HANDGUN.

(4) SUBJECT TO THE HEARING PROVISIONS OF PARAGRAPH (5) OF THIS SUBSECTION, THE SECRETARY MAY DENY A QUALIFIED HANDGUN INSTRUCTOR'S CARD TO ANY APPLICANT, REPRIMAND ANY HOLDER OF A CARD, OR SUSPEND OR REVOKE A CARD IF THE APPLICANT OR HOLDER:

(I) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO OBTAIN A CARD FOR THE APPLICANT OR ANOTHER INDIVIDUAL;

(II) FRAUDULENTLY OR DECEPTIVELY USES A CARD;

(III) ENGAGES IN UNSAFE RANGE PRACTICES;

(IV) FALSIFIES QUALIFICATION SCORES IN AN APPLICATION FOR A HANDGUN PERMIT;

(V) DEVIATES SIGNIFICANTLY FROM THE PRESCRIBED TRAINING COURSE;

(VI) IS CONVICTED OF A CRIMINAL OFFENSE THAT WOULD PROHIBIT THE APPLICANT OR HOLDER FROM BUYING OR POSSESSING A FIREARM;
OR

(VII) IS CONVICTED OF A CRIMINAL OFFENSE THAT INVOLVES THE POSSESSION, USE, OR DISTRIBUTION OF A CONTROLLED DANGEROUS SUBSTANCE AS DEFINED BY § 277 OF THIS ARTICLE.

(5) (I) EXCEPT AS OTHERWISE PROVIDED IN TITLE 10, SUBTITLE 4 OF THE STATE GOVERNMENT ARTICLE, BEFORE THE SECRETARY TAKES ANY FINAL ACTION UNDER PARAGRAPH (4) OF THIS SUBSECTION, THE SECRETARY SHALL GIVE THE INDIVIDUAL AGAINST WHOM THE ACTION IS CONTEMPLATED AN OPPORTUNITY FOR A HEARING BEFORE THE SUPERINTENDENT.

(II) AN INDIVIDUAL MAY REQUEST A HEARING ONLY WITHIN 10 DAYS AFTER RECEIPT OF NOTICE OF THE CONTEMPLATED ACTION.

[(b)] (D) (1) Except as provided in paragraph (2) of this subsection, the Secretary may charge a nonrefundable fee not to exceed \$75 for an initial application, \$50 for a renewal or subsequent application, and \$10 for a duplicate or modified permit payable at the time an application is filed. The fee may be paid with a personal check, business check, certified check, or money order.

(2) The Secretary may not charge any of the following persons a fee for an initial application, for a renewal or subsequent application, or for a duplicate or modified permit for that handgun:

(i) A State, county, or municipal public safety employee who is required to wear or carry a handgun as a condition of government employment; or

(ii) A retired law enforcement officer of the State or of a county or municipal corporation of the State.

(3) Notwithstanding the above fees, the applicant shall submit to the Department of State Police:

(i) A complete set of the applicant's legible fingerprints taken on standard

(Over)

fingerprint cards; and

(ii) Payment for the cost of the fingerprint card record checks.

[(c)] (E) A permit issued under this section shall expire on the last day of the holder's birth month following two years after its issuance. The permit may be renewed, upon application and payment of the renewal fee, for successive periods of three years each, if the applicant, at the time of application, possesses the qualifications set forth in this section for the issuance of a permit.

[(d)] (F) [The Secretary may, in any permit issued under this section, limit the geographic area, circumstances, or times during the day, week, month, or year in or during which the permit is effective.] The Secretary may reduce the cost of the permit accordingly, if THE APPLICANT REQUESTS the permit [is granted] for one day only and at one place only.

[(e)] (G) Any person to whom a permit shall be issued or renewed shall carry such permit in his possession every time he carries, wears, or transports a handgun. A permit issued pursuant to this section shall be valid for any handgun legally in the possession of the person to whom the permit was issued.

[(f)] (H) The Secretary may revoke any permit issued or renewed at any time upon a finding that (i) the holder no longer satisfies the qualifications set forth in subsection (a), or (ii) the holder of the permit has violated subsection [(e)] (G) hereof. A person holding a permit which is revoked by the Secretary shall return the permit to the Secretary within ten days after receipt of notice of the revocation. Any person who fails to return a revoked permit in violation of this section shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than \$100 or more than \$1,000, or be imprisoned for not more than one year, or both.

[(g)] (I) (1) Any person whose application for a permit or renewal of a permit has been rejected or whose permit has been revoked or limited may request the Secretary to conduct an informal review by filing a written request within 10 days after receipt of written notice of the Secretary's initial action.

(2) The informal review may include a personal interview of the applicant and is not subject to the Administrative Procedure Act.

(3) Pursuant to the informal review, the Secretary shall sustain, reverse, or modify the initial action taken and notify the applicant of the decision in writing within 30 days after receipt of the request for informal review.

(4) Institution of proceedings under this section is within the discretion of the applicant and is not a condition precedent to institution of proceedings under subsection [(h)] (J) of this section.

[(h)] (J) (1) There is created a Handgun Permit Review Board as a separate agency within the Department of Public Safety and Correctional Services. The Board shall consist of five members appointed from the general public by the Governor with the advice and consent of the Senate of Maryland and shall hold office for terms of three years. The members shall hold office for a term of one, two, and three years, respectively, to be designated by the Governor. After the first appointment, the Governor shall annually appoint a member of the Board in the place of the member whose term shall expire. Members of the Board shall be eligible for reappointment. In case of any vacancy in the Board, the Governor shall fill the vacancy by the appointment of a member to serve until the expiration of the term for which the person had been appointed. Each member of the Board shall receive per diem compensation as provided in the budget for each day actually engaged in the discharge of his official duties as well as reimbursement, in accordance with the Standard State Travel Regulations, for all necessary and proper expenses.

(2) Any person whose application for a permit or renewal of a permit has been rejected or whose permit has been revoked or limited may request the Board to review the decision of the Secretary by filing a written request for review with the Board within ten days after receipt of written notice of the Secretary's final action. The Board shall, within 90 days after receipt of the request, either review the record developed by the Secretary, or conduct a hearing. In conducting its review of the decision of the Secretary, the Board may receive and consider any additional evidence submitted by any party. Based upon its consideration of the record, and any additional evidence, the Board shall either sustain, reverse or modify the decision of the Secretary. If the action taken by the Board results in the rejection of an application for a permit or renewal of a permit or the revocation or limitation of a permit, the Board shall submit in writing to that person the reasons for the action taken by the Board.

(3) Any hearing and any subsequent proceedings of judicial review shall be conducted in accordance with the provisions of Title 10, Subtitle 2 of the State Government Article; provided, however, that no court of this State shall order the issuance or renewal of a permit or alter any limitations on a permit pending final determination of the proceeding.

(4) Any person whose application for a permit or renewal of a permit has not been acted upon by the Secretary within 90 days after the application was submitted, may request the Board for a hearing by filing a written request for such a hearing with the Board.

[(i)] (K) Notwithstanding any other provision of this subheading, the following persons may, to the extent authorized prior to March 27, 1972, and subject to the conditions specified in this subsection and subsection [(j)] (L) hereof, continue to wear, carry, or transport a handgun without a permit:

(1) Holders of special police commissions issued under Title 4, Subtitle 9 of Article 41 of the Annotated Code of Maryland, while actually on duty on the property for which the commission was issued or while traveling to or from such duty;

(2) Uniformed security guards, special railway police, and watchmen who have been cleared for such employment by the Department of State Police, while in the course of their employment or while traveling to or from the place of employment;

(3) Guards in the employ of a bank, savings and loan association, building and loan association, or express or armored car agency, while in the course of their employment or while traveling to or from the place of employment; and

(4) Private detectives and employees of private detectives previously licensed under former Article 56, § 90A of the Code, while in the course of their employment or while traveling to or from the place of employment.

[(j)] (L) Each person referred to in subsection [(i)] (K) hereof shall, within one year after March 27, 1972, make application for a permit as provided in this section. Such application shall include evidence satisfactory to the Secretary of the State Police that the applicant is trained and

(Over)

qualified in the use of handguns. The right to wear, carry, or transport a handgun provided for in subsection [(i)] (K) hereof shall terminate at the expiration of one year after March 27, 1972, if no such application is made, or immediately upon notice to the applicant that his application for a permit has not been approved.

[(k)] (M) As used in this section, Secretary means the Secretary of the State Police, acting directly or through duly authorized officers and agents of the Secretary.

[(l)] (N) It is unlawful for a person to whom a permit has been issued or renewed to carry, wear, or transport a handgun while he is under the influence of alcohol or drugs. A person violating this subsection is guilty of a misdemeanor, and upon conviction he shall be fined \$1,000 or be imprisoned for not more than one year or both.”.