
By: Delegates Hutchins, Harkins, and Hubbard

Introduced and read first time: February 8, 1996

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Sale or Transfer of Regulated Firearms - Use of Facsimile Machine**

3 FOR the purpose of authorizing the use of a facsimile machine to forward a certain
4 application form to the Secretary of the Department of State Police;correcting a
5 certain reference regarding the completion requirements of a certainapplication;
6 and generally relating to the sale or transfer of regulated firearms.

7 BY repealing and reenacting, with amendments,
8 Article 27 - Crimes and Punishments
9 Section 442
10 Annotated Code of Maryland
11 (1992 Replacement Volume and 1995 Supplement)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
13 MARYLAND, That the Laws of Maryland read as follows:

14 **Article 27 - Crimes and Punishments**

15 442.

16 (a) All restrictions imposed by the laws, ordinances or regulations of all
17 subordinate jurisdictions within the State of Maryland on sales of pistols or revolvers are
18 superseded by this section, and the State of Maryland hereby preempts the rights of such
19 jurisdictions to regulate the sale of pistols and revolvers.

20 (b) No dealer shall sell or transfer any pistol or revolver until after seven days
21 shall have elapsed from the time an application to purchase or transfershall have been
22 executed by the prospective purchaser or transferee, in triplicate, andforwarded by the
23 prospective seller or transferor to the Secretary of the State Police.

24 (c) The dealer shall promptly after receiving an application to purchase or
25 transfer, completed in accordance with subsection [(e)] (F) below, forward one copy of
26 the same, [by certified mail] EITHER BY CERTIFIED MAIL OR BY USING A FACSIMILE
27 MACHINE, to the Secretary of the State Police. The copy forwarded to the Secretary shall
28 contain the name, address, and signature of the prospective seller or transferor. The
29 prospective seller or transferor shall retain one copy of the application for a period of not
30 less than three years. The prospective purchaser or transferee shall beentitled to the
31 remaining copy of the application.

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1 (d) (1) A person who makes an application to purchase or transfer a pistol or
2 revolver shall pay to the dealer a \$10 application fee with the application to purchase or
3 transfer.

4 (2) The dealer shall forward the \$10 application fee along with the
5 application to the Secretary of the State Police.

6 (e) The application to purchase or transfer shall bear the following legend: "Any
7 false information supplied or statement made in this application is a crime which may be
8 punished by imprisonment for a period of not more than three years, or a fine of not more
9 than \$5,000, or both."

10 (f) The application to purchase or transfer shall contain the following
11 information:

12 (1) Applicant's name, address, occupation, place and date of birth, height,
13 weight, race, eye and hair color and signature. In the event the applicant is a corporation,
14 the application shall be completed and executed by a corporate officer who is a resident
15 of the jurisdiction in which the application is made.

16 (2) A statement by the applicant that he or she:

17 (i) Has never been convicted of a crime of violence, in this State or
18 elsewhere, or of a violation of any of the provisions of §§ 286, 286A or 286C of this article
19 or any conspiracy to commit any crimes established by those sections, or of any of the
20 provisions of this subtitle.

21 (ii) Is not a fugitive from justice.

22 (iii) Is not a habitual drunkard.

23 (iv) Is not an addict or a habitual user of narcotics, barbiturates or
24 amphetamines.

25 (v) Has never spent more than thirty consecutive days in any medical
26 institution for treatment of a mental disorder or disorders, unless there is attached to the
27 application a physician's certificate, issued within thirty days prior to the date of
28 application, certifying that the applicant is capable of possessing a pistol or revolver
29 without undue danger to himself or herself, or to others.

30 (vi) Is at least 21 years of age as required by federal law.

31 (vii) Has or has not submitted a prior application and, if so, when and
32 where.

33 (3) The date and hour the application was delivered in completed form to
34 the prospective seller or transferor by the prospective purchaser or transferee.

35 (g) The Secretary of the State Police may request the assistance of the police
36 commissioner of Baltimore City, the chief of police in any county maintaining a police
37 force, or the sheriff in a county not maintaining a police force and shall promptly upon
38 receipt of an application to purchase or transfer conduct an investigation in order to
39 determine the truth or falsity of the information supplied and statements made in said

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1 application. If it be thereupon determined that any false information or statement has
2 been supplied or made by the applicant, or that the application has not been properly
3 completed, the Secretary or any specific member of the Department of State Police
4 authorized by the Secretary to act as the Secretary's agent in matters relating to pistol or
5 revolver sales shall notify the prospective seller or transferor, in writing, within seven days
6 from the date the executed application to purchase or transfer was forwarded by certified
7 mail OR BY FACSIMILE MACHINE, of his disapproval of said application. Written
8 notification of such disapproval shall be thereafter forwarded by the Secretary or the
9 Secretary's duly authorized agent or agents to the prospective purchaser or transferee.
10 The date upon which the executed application to purchase or transfer was forwarded by
11 certified mail OR BY FACSIMILE MACHINE TO THE SECRETARY by the prospective
12 seller or transferor shall be considered as the first day of the seven-day period allowed for
13 notice of disapproval to the said prospective seller or transferor. If the seventh day of the
14 seven-day period allowed for the said notice of disapproval shall fall on a Sunday or legal
15 holiday, the computation period shall be extended to the first day next following, which is
16 neither a Sunday nor a legal holiday.

17 (h) No dealer shall sell or transfer a pistol or revolver to an applicant whose
18 application has been timely disapproved, unless such disapproval has been subsequently
19 withdrawn by the Secretary of the State Police or the Secretary's duly authorized agent or
20 agents or overruled by the action of the courts pursuant to subsection (i) of this section.

21 (i) (1) Any prospective purchaser or transferee aggrieved by the action of the
22 Department of State Police may request a hearing within 30 days from the date when
23 written notice was forwarded to the aggrieved person by writing to the Secretary of the
24 State Police, who shall grant the hearing within fifteen days of the request.

25 (2) The hearing and subsequent proceedings of judicial review, if any,
26 thereupon following shall be conducted in accordance with the provisions of the
27 Administrative Procedure Act.

28 (3) The hearing shall be held in the county of the legal residence of the
29 aggrieved person. If the aggrieved person is not a State resident, the hearing shall be held
30 at a location designated by the Secretary of the State Police.

31 (j) Any dealer who sells or transfers a pistol or revolver in compliance with this
32 subtitle shall forward a copy of the written notification of such completed transaction,
33 within seven days from the date of delivery of the said pistol or revolver, to the Secretary
34 of the State Police, whose duty it shall be to maintain a permanent record of all such
35 completed sales and transfers of pistols and revolvers in the State. The notifications shall
36 contain an identifying description of the pistol or revolver sold or transferred including its
37 caliber, make, model, manufacturer's serial number, if any, and any other special or
38 peculiar characteristics or marking by which the said pistol or revolver may be identified.

39 (k) Nothing in this section shall be construed to affect sales and/or transfers for
40 bona fide resale in the ordinary course of business of a person duly licensed under § 443
41 of this subtitle, or sales, transfer, and/or the use of pistols or revolvers by any person
42 authorized or required to sell, transfer, and/or use such pistols or revolvers as part of his
43 or her duties as a member of any official police force or other law enforcement agency,
44 the armed forces of the United States, including all official reserve organizations, or the
45 Maryland National Guard.

1 (1) Any person who knowingly gives any false information or makes any material
2 misstatement in an application required by this section, or who fails to promptly forward
3 such application to the Secretary of the State Police or the Secretary's duly authorized
4 agent or agents, or who sells or transfers a pistol or revolver to a person other than the
5 one by whom application was made, or who otherwise sells, transfers, purchases, or
6 receives transfer of a pistol or revolver in violation of this section, shall upon conviction
7 thereof be subject to the penalties hereinafter provided in § 448 of this subtitle.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 1996.