
By: Delegate Arnick

Requested: June 26, 1996

Introduced and read first time: January 8, 1997

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Handgun Permits - Retired Law Enforcement Officers**

3 FOR the purpose of requiring the Secretary of State Police, on application, to issue
4 without investigation or further action a permit to carry a handgun to certain retired
5 law enforcement officers; providing for the duration of the permit; providing for the
6 renewal of a permit for a certain time period under certain circumstances; providing
7 for certain exceptions; requiring a retired law enforcement officer who is issued a
8 permit to notify the Secretary of certain criminal charges and convictions; requiring
9 the Secretary to revoke a permit under certain circumstances; and generally relating
10 to the issuance of a permit to carry a handgun to retired law enforcement officers.

11 BY repealing and reenacting, with amendments,
12 Article 27 - Crimes and Punishments
13 Section 36E
14 Annotated Code of Maryland
15 (1996 Replacement Volume)

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

18 **Article 27 - Crimes and Punishments**

19 36E.

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

23 (1) Is eighteen years of age or older; and

24 (2) Has not been convicted of a felony or of a misdemeanor for which a
25 sentence of imprisonment for more than one year has been imposed or, if convicted of
26 such a crime, has been pardoned or has been granted relief pursuant to Title 18, § 925(c)
27 of the United States Code; and

28 (3) Has not been committed to any detention, training, or correctional
29 institution for juveniles for longer than one year after an adjudication of delinquency by

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1 a juvenile court; provided, however, that a person shall not be disqualified by virtue of
2 this paragraph (3) if, at the time of the application, more than ten years has elapsed since
3 his release from such institution; and

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

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

11 (6) Has, based on the results of investigation, good and substantial reason to
12 wear, carry, or transport a handgun, provided however, that the phrase "good and
13 substantial reason" as used herein shall be deemed to include a finding that such permit
14 is necessary as a reasonable precaution against apprehended danger.

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

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

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

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

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

29 (i) A complete set of the applicant's legible fingerprints taken on
30 standard fingerprint cards; and

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

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

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

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

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

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

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

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

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

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

39 (2) Any person whose application for a permit or renewal of a permit has
40 been rejected or whose permit has been revoked or limited may request the Board to
41 review the decision of the Secretary by filing a written request for review with the Board
42 within ten days after receipt of written notice of the Secretary's final action. The Board
43 shall, within 90 days after receipt of the request, either review the record developed by
44 the Secretary, or conduct a hearing. In conducting its review of the decision of the

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1 Secretary, the Board may receive and consider any additional evidence submitted by any
2 party. Based upon its consideration of the record, and any additional evidence, the Board
3 shall either sustain, reverse or modify the decision of the Secretary. If the action taken by
4 the Board results in the rejection of an application for a permit or renewal of a permit or
5 the revocation or limitation of a permit, the Board shall submit in writing to that person
6 the reasons for the action taken by the Board.

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

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

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

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

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

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

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

32 (j) Each person referred to in subsection (i) hereof shall, within one year after
33 March 27, 1972, make application for a permit as provided in this section. Such
34 application shall include evidence satisfactory to the Secretary of the State Police that the
35 applicant is trained and qualified in the use of handguns. The right to wear, carry, or
36 transport a handgun provided for in subsection (i) hereof shall terminate at the expiration
37 of one year after March 27, 1972, if no such application is made, or immediately upon
38 notice to the applicant that his application for a permit has not been approved.

39 (K) (1) (I) ON APPLICATION WITHIN ONE YEAR AFTER RETIREMENT BY A
40 RETIRED LAW ENFORCEMENT OFFICER OF THE STATE OR OF A COUNTY OR
41 MUNICIPAL CORPORATION OF THE STATE, THE SECRETARY, WITH NO FURTHER
42 INVESTIGATION OR ACTION, SHALL ISSUE A HANDGUN PERMIT TO THE RETIRED
43 LAW ENFORCEMENT OFFICER.

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1 (II) AN INITIAL PERMIT ISSUED UNDER THIS SUBSECTION SHALL
2 BE VALID FOR A PERIOD OF 4 YEARS FOLLOWING THE OFFICER'S RETIREMENT.

3 (2) ON APPLICATION, A PERMIT ISSUED UNDER THIS SUBSECTION MAY
4 BE RENEWED FOR SUCCESSIVE 3-YEAR PERIODS, PROVIDED THE OFFICER IS
5 OTHERWISE QUALIFIED UNDER THIS SECTION FOR THE ISSUANCE OF A PERMIT.

6 (3) THIS SUBSECTION DOES NOT APPLY TO A RETIRED LAW
7 ENFORCEMENT OFFICER WHO HAS BEEN CONVICTED OF A FELONY OR
8 MISDEMEANOR FOR WHICH A SENTENCE OF IMPRISONMENT FOR MORE THAN 1
9 YEAR HAS BEEN IMPOSED, UNLESS THE OFFICER HAS BEEN PARDONED OR HAS
10 BEEN GRANTED RELIEF UNDER TITLE 18, § 925 OF THE UNITED STATES CODE.

11 (4) (I) A RETIRED LAW ENFORCEMENT OFFICER WHO HAS BEEN
12 ISSUED A PERMIT UNDER THIS SECTION SHALL NOTIFY THE SECRETARY OF ANY
13 CRIMINAL CHARGES FILED AGAINST THE OFFICER INVOLVING A FELONY OR A
14 MISDEMEANOR FOR WHICH THE PENALTY MAY BE IMPRISONMENT FOR MORE THAN 1
15 1 YEAR.

16 (II) A RETIRED LAW ENFORCEMENT OFFICER SHALL NOTIFY THE
17 SECRETARY OF ANY CONVICTION OF THE OFFICER OF A FELONY OR A
18 MISDEMEANOR FOR WHICH A SENTENCE OF IMPRISONMENT FOR MORE THAN 1
19 YEAR IS IMPOSED.

20 (III) THE SECRETARY SHALL REVOKE THE PERMIT OF A RETIRED
21 LAW ENFORCEMENT OFFICER WHO VIOLATES THE PROVISIONS OF THIS
22 PARAGRAPH.

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

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

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 1997.