

SENATE BILL 102

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E4
SB 408/96 - JPR

1998 Regular Session
8lr0406

By: **Senators Middlebrooks and Haines**
Introduced and read first time: January 19, 1998
Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Handguns - Permits for Retired Law Enforcement Officers**

3 FOR the purpose of establishing a category of handgun permits for certain retired law
4 enforcement officers; providing for the issuance, scope, term, and renewal of a
5 permit; requiring the Secretary to issue a permit under certain circumstances;
6 prohibiting the issuance of a permit under certain circumstances; allowing a
7 holder of a permit to wear, carry, or transport a handgun at any time without
8 requiring a finding by the Secretary of the Department of State Police that the
9 holder has a good and substantial reason for doing so; authorizing the Secretary
10 to charge a reasonable application fee; prohibiting the Secretary from imposing
11 training requirements on applicants; requiring a permit holder to carry the
12 permit whenever the holder carries, wears, or transports a handgun;
13 authorizing the Secretary to revoke a permit under certain circumstances;
14 requiring the holder of a permit that is revoked to return the permit to the
15 Secretary within a certain time period; establishing a penalty for failure to
16 return a revoked permit within the required time period; establishing
17 procedures for an informal review of the Secretary's decision to deny or revoke a
18 permit; allowing a person aggrieved by a final decision of the Secretary to take
19 an appeal under certain conditions; prohibiting a person who is issued a permit
20 from carrying, wearing, or transporting a handgun while under the influence of
21 alcohol or drugs; establishing a penalty for this offense; defining certain terms;
22 and generally relating to handgun permits for retired law enforcement officers
23 and the wearing, carrying, or transporting of handguns.

24 BY renumbering

25 Article 27 - Crimes and Punishments
26 Section 36E(a) through (l), respectively
27 to be Section 36E(b) through (m), respectively
28 Annotated Code of Maryland
29 (1996 Replacement Volume and 1997 Supplement)

30 BY adding to

31 Article 27 - Crimes and Punishments
32 Section 36E(a) and 36E-1

1 Annotated Code of Maryland
2 (1996 Replacement Volume and 1997 Supplement)

3 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
4 MARYLAND, That Section(s) 36E(a) through (l), respectively, of Article 27 - Crimes
5 and Punishments of the Annotated Code of Maryland be renumbered to be Section(s)
6 36E(b) through (m), respectively.

7 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
8 read as follows:

9 **Article 27 - Crimes and Punishments**

10 36E.

11 (A) A RETIRED LAW ENFORCEMENT OFFICER MAY OBTAIN A PERMIT TO
12 CARRY A HANDGUN BY MEETING THE REQUIREMENTS OF THIS SECTION OR § 36E-1
13 OF THIS SUBHEADING.

14 36E-1.

15 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
16 INDICATED.

17 (2) "LAW ENFORCEMENT OFFICER" MEANS:

18 (I) A LAW ENFORCEMENT OFFICER AS DEFINED IN § 727(B) OF THIS
19 ARTICLE; OR

20 (II) AN INDIVIDUAL WHO, IN AN OFFICIAL CAPACITY, IS
21 AUTHORIZED BY THE FEDERAL GOVERNMENT, ANOTHER STATE, OR A SUBDIVISION
22 OF ANOTHER STATE TO MAKE ARRESTS.

23 (3) "PERMIT" MEANS A RETIRED LAW ENFORCEMENT OFFICER'S
24 HANDGUN PERMIT.

25 (4) "SECRETARY" MEANS THE SECRETARY OF THE DEPARTMENT OF
26 STATE POLICE.

27 (B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, THE
28 SECRETARY SHALL ISSUE A PERMIT WITHIN A REASONABLE TIME TO AN APPLICANT
29 WHO:

30 (1) SUBMITS TO THE SECRETARY AN APPLICATION UNDER OATH AND IN
31 THE FORM THAT THE SECRETARY REQUIRES WITHIN 90 DAYS AFTER THE DATE OF
32 THE APPLICANT'S RETIREMENT;

33 (2) IS RETIRED AS A LAW ENFORCEMENT OFFICER WITH AT LEAST 20
34 YEARS OF SERVICE AS A LAW ENFORCEMENT OFFICER;

1 (3) WAS CERTIFIED AS A LAW ENFORCEMENT OFFICER UNTIL AT LEAST
2 3 MONTHS BEFORE RETIREMENT BY THE MARYLAND POLICE TRAINING COMMISSION
3 OR EQUIVALENT AGENCY OF THE FEDERAL GOVERNMENT OR THE GOVERNMENT OF
4 ANOTHER STATE; AND

5 (4) HAS BEEN A RESIDENT OF THIS STATE FOR AT LEAST 30 DAYS
6 BEFORE THE DATE OF APPLICATION.

7 (C) THE SECRETARY MAY NOT ISSUE A PERMIT TO AN APPLICANT WHO:

8 (1) HAS BEEN CONVICTED OF:

9 (I) A FELONY;

10 (II) A CRIME OF VIOLENCE AS DEFINED IN § 643B OF THIS ARTICLE;

11 (III) A MISDEMEANOR FOR WHICH A SENTENCE OF IMPRISONMENT
12 FOR MORE THAN 1 YEAR HAS BEEN IMPOSED; OR

13 (IV) AN OFFENSE INVOLVING THE POSSESSION, USE, OR
14 DISTRIBUTION OF CONTROLLED DANGEROUS SUBSTANCES;

15 (2) (I) IS CURRENTLY ADDICTED TO DRUGS;

16 (II) IS A HABITUAL USER OF A CONTROLLED DANGEROUS
17 SUBSTANCE NOT UNDER LEGITIMATE MEDICAL DIRECTION; OR

18 (III) IS AN ALCOHOLIC;

19 (3) HAS, BASED ON THE RESULTS OF INVESTIGATION, EXHIBITED A
20 PROPENSITY FOR VIOLENCE OR INSTABILITY WHICH MAY REASONABLY RENDER THE
21 POSSESSION OF A HANDGUN A DANGER TO THE PERSON IN POSSESSION OR TO
22 OTHER PERSONS; OR

23 (4) RETIRED FROM SERVICE BECAUSE OF DISCIPLINARY ACTION TO
24 AVOID DISCIPLINARY OR CRIMINAL ACTION.

25 (D) (1) THE SECRETARY MAY CHARGE A REASONABLE APPLICATION FEE TO
26 OFFSET ANY COSTS ASSOCIATED WITH ADMINISTERING THE APPLICATION PROCESS
27 SET FORTH IN THIS SECTION.

28 (2) THE SECRETARY MAY NOT REQUIRE AN APPLICANT FOR A PERMIT
29 OR RENEWAL OF A PERMIT TO MEET A TRAINING REQUIREMENT.

30 (E) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A PERMIT
31 EXPIRES ON THE LAST DAY OF THE HOLDER'S BIRTH MONTH IN THE SECOND YEAR
32 AFTER ISSUANCE OF THE PERMIT.

33 (2) WITHIN 90 DAYS BEFORE A PERMIT EXPIRES, A HOLDER MAY RENEW
34 THE PERMIT FOR AN ADDITIONAL 2-YEAR TERM IF THE HOLDER SUBMITS A

1 RENEWAL APPLICATION TO THE SECRETARY IN THE FORM THAT THE SECRETARY
2 REQUIRES.

3 (F) A PERMIT ISSUED UNDER THIS SECTION AUTHORIZES THE HOLDER OF
4 THE PERMIT TO WEAR, CARRY, OR TRANSPORT A HANDGUN AT ANY TIME WITHOUT
5 REQUIRING A FINDING BY THE SECRETARY THAT THE HOLDER HAS A GOOD AND
6 SUBSTANTIAL REASON FOR DOING SO.

7 (G) (1) A PERSON WHO IS ISSUED A PERMIT UNDER THIS SECTION SHALL
8 CARRY THE PERMIT WHENEVER THE PERSON CARRIES, WEARS, OR TRANSPORTS A
9 HANDGUN.

10 (2) A PERMIT ISSUED UNDER THIS SECTION IS VALID FOR ANY
11 HANDGUN LEGALLY IN THE POSSESSION OF THE PERMIT HOLDER.

12 (H) (1) THE SECRETARY MAY REVOKE A PERMIT ISSUED OR RENEWED AT
13 ANY TIME ON A FINDING THAT THE HOLDER OF THE PERMIT:

14 (I) FRAUDULENTLY OR DECEPTIVELY OBTAINED OR ATTEMPTED
15 TO OBTAIN A PERMIT FOR THE HOLDER OR FOR ANOTHER APPLICANT OR HOLDER;

16 (II) NO LONGER SATISFIES THE QUALIFICATIONS SET FORTH IN
17 SUBSECTION (B) OF THIS SECTION; OR

18 (III) HAS COMMITTED AN ACT THAT WOULD DISQUALIFY AN
19 APPLICANT FOR A PERMIT UNDER SUBSECTION (C) OF THIS SECTION.

20 (2) A PERSON HOLDING A PERMIT THAT IS REVOKED UNDER THIS
21 SUBSECTION SHALL RETURN THE PERMIT TO THE SECRETARY WITHIN 10 DAYS
22 AFTER THE RECEIPT OF NOTICE OF THE REVOCATION.

23 (3) (I) ANY PERSON WHO FAILS TO RETURN A REVOKED PERMIT IN
24 VIOLATION OF THIS SUBSECTION IS GUILTY OF A MISDEMEANOR AND ON
25 CONVICTION IS SUBJECT TO A FINE OF NOT LESS THAN \$100 AND NOT MORE THAN
26 \$1,000 OR IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR BOTH.

27 (II) NOTWITHSTANDING § 643 OF THIS ARTICLE, IT IS MANDATORY
28 ON THE COURT TO IMPOSE NO LESS THAN THE MINIMUM FINE OF \$100.

29 (III) THE MANDATORY MINIMUM FINE OF \$100 MAY NOT BE
30 SUSPENDED.

31 (I) (1) A PERSON WHOSE APPLICATION FOR A PERMIT OR RENEWAL OF A
32 PERMIT HAS BEEN REJECTED OR WHOSE PERMIT HAS BEEN REVOKED MAY REQUEST
33 THE SECRETARY TO CONDUCT AN INFORMAL REVIEW BY FILING A WRITTEN
34 REQUEST WITHIN 10 DAYS AFTER RECEIPT OF WRITTEN NOTICE OF THE
35 SECRETARY'S INITIAL ACTION.

1 (2) THE INFORMAL REVIEW MAY INCLUDE A PERSONAL INTERVIEW OF
2 THE APPLICANT AND IS SUBJECT TO APPEAL AS PROVIDED IN SUBSECTION (J) OF
3 THIS SECTION.

4 (3) PURSUANT TO THE INFORMAL REVIEW, THE SECRETARY SHALL
5 SUSTAIN, REVERSE, OR MODIFY THE INITIAL ACTION TAKEN AND NOTIFY THE
6 APPLICANT OF THE DECISION IN WRITING WITHIN 30 DAYS AFTER RECEIPT OF THE
7 REQUEST FOR INFORMAL REVIEW.

8 (4) INSTITUTION OF PROCEEDINGS UNDER THIS SUBSECTION IS WITHIN
9 THE DISCRETION OF THE APPLICANT AND IS NOT A CONDITION PRECEDENT TO
10 INSTITUTION OF PROCEEDINGS UNDER SUBSECTION (J) OF THIS SECTION.

11 (J) A PERSON AGGRIEVED BY A FINAL DECISION OF THE SECRETARY MAY
12 TAKE AN APPEAL AS ALLOWED UNDER §§ 10-215 AND 10-216 OF THE STATE
13 GOVERNMENT ARTICLE.

14 (K) (1) A PERSON WHO IS ISSUED A PERMIT UNDER THIS SECTION MAY NOT
15 CARRY, WEAR, OR TRANSPORT A HANDGUN WHILE UNDER THE INFLUENCE OF
16 ALCOHOL OR DRUGS.

17 (2) ANY PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A
18 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$1,000
19 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.

20 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 1998.