Unofficial Copy E4 2000 Regular Session 0lr0628

### (PRE-FILED)

By: **Delegate Kagan** Requested: October 4, 1999

Introduced and read first time: January 12, 2000

Assigned to: Judiciary

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#### A BILL ENTITLED

1	A TAT		•
1	AN	ACL	concerning
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### 2 Regulated Firearms - Purchase, Rent, or Transfer - Application Process

- 3 FOR the purpose of altering the method that certain persons who sell, rent, or
- 4 transfer regulated firearms are required to use for processing applications for
- 5 the sale, rent, or transfer of regulated firearms; providing that certain
- 6 requirements in the processing of applications for the sale, rent, or transfer of
- 7 regulated firearms be completed within a certain time period; providing for a
- 8 certain exception; making a technical correction; and generally relating to the
- 9 purchase, renting, or transfer of regulated firearms.
- 10 BY repealing and reenacting, with amendments,
- 11 Article 27 Crimes and Punishments
- 12 Section 442
- 13 Annotated Code of Maryland
- 14 (1996 Replacement Volume and 1999 Supplement)
- 15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
- 16 MARYLAND, That the Laws of Maryland read as follows:

#### 17 Article 27 - Crimes and Punishments

18 442.

- 19 (a) All restrictions imposed by the laws, ordinances or regulations of all
- 20 subordinated jurisdictions within the State of Maryland on sales of regulated
- 21 firearms are superseded by this section, and the State of Maryland hereby preempts
- 22 the rights of such jurisdictions to regulate the sale of regulated firearms.
- 23 (b) (1) Except as otherwise provided in this subsection, a person may not
- 24 knowingly or willfully participate in a straw purchase of a regulated firearm.
- 25 (2) The prohibitions of this subsection do not apply to a person
- 26 purchasing a regulated firearm as a gift provided:
- 27 (i) The recipient of the gift is a resident of this State; and

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1 Both the purchaser and recipient of the gift comply with the (ii) 2 requirements under this subheading pertaining to the possession, sale, rental, 3 receipt, transfer, or purchase of a regulated firearm, unless the gift is in the form of a 4 gift certificate, in which case only the recipient shall comply with the requirements. If the regulated firearm is a gift to a spouse, parent, grandparent, 6 grandchild, brother, sister, son, or daughter: An application to purchase or transfer a regulated firearm shall 7 8 be completed by the recipient and forwarded to the Secretary within 5 days of receipt 9 of the regulated firearm; and The \$10 application fee, as provided by subsection [(g)] (F) of (ii) 11 this section, shall be waived by the Secretary. No regulated firearms dealer shall sell, rent, or transfer any regulated 13 firearm until after seven days shall have elapsed from the time an application to 14 purchase or transfer shall have been executed by the prospective purchaser or 15 transferee, in triplicate, and the original copy is forwarded by the prospective seller or 16 transferor to the Secretary. 17 A person who is not a regulated firearms dealer may not sell, rent, (1) 18 transfer, or purchase any regulated firearm until after 7 days shall have elapsed from 19 the time an application to purchase or transfer shall have been executed by the 20 prospective purchaser or transferee, in triplicate, and the original copy is forwarded 21 by a regulated firearms dealer to the Secretary. 22 As an alternative to completing a secondary sale of a regulated 23 firearm through a regulated firearms dealer, the prospective seller or transferor and 24 the prospective purchaser or transferee may complete the transaction through a 25 designated law enforcement agency. 26 A person who makes an application to purchase, rent, or transfer a 27 regulated firearm by secondary sale shall pay a processing fee not to exceed \$20 to the 28 regulated firearms dealer. [The] EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (2) OF THIS 29 (e) (1) 30 SUBSECTION, THE regulated firearms dealer or designated law enforcement agency 31 shall [promptly after receiving], PRIOR TO THE END OF THE BUSINESS DAY ON 32 WHICH an application to purchase, rent, or transfer, completed in accordance with 33 subsection (h) below IS RECEIVED, forward one copy of the same, [by certified mail 34 or] by facsimile machine, to the Secretary. The copy forwarded to the Secretary shall 35 contain the name, address, and signature of the prospective seller, lessor, or 36 transferor. The prospective seller, lessor, or transferor shall retain one copy of the 37 application for a period of not less than three years. The prospective purchaser, lessee, 38 or transferee shall be entitled to the remaining copy of the application. 39 A REGULATED FIREARMS DEALER OR DESIGNATED LAW (2) 40 ENFORCEMENT AGENCY THAT RECEIVED NOT MORE THAN FIVE APPLICATIONS TO 41 PURCHASE, RENT, OR TRANSFER A REGULATED FIREARM WITHIN THE PRECEDING

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2 3 4 5 6 7 8	PURCHASE, RENT, (H) OF THIS SECTION MAIL OR BY FACS THE SECRETARY S PROSPECTIVE SEL LESSOR, OR TRAN PERIOD OF NOT LI	OR TRAON, FOR IMILE METALL CLER, LESFERORESS THA	ANSFER, WARD ( IACHINI CONTAIN SSOR, C SHALL IN 3 YEA	COMPLETED IN ACCORDANCE WITH SUBSECTION ONE COPY OF THE APPLICATION, BY CERTIFIED E, TO THE SECRETARY. THE COPY FORWARDED TO N THE NAME, ADDRESS, AND SIGNATURE OF THE OR TRANSFEROR. THE PROSPECTIVE SELLER, RETAIN ONE COPY OF THE APPLICATION FOR A ARS. THE PROSPECTIVE PURCHASER, LESSEE, OR D TO THE REMAINING COPY OF THE APPLICATION.				
12	regulated firearm sha	all pay to	the regul	akes an application to purchase, rent, or transfer a ated firearms dealer or designated law fee with the application to purchase, rent, or				
14 15	· /			earms dealer or designated law enforcement agency long with the application to the Secretary.				
	(3) If the regulated firearms dealer or designated law enforcement agency utilizes a facsimile machine to forward the application to the Secretary, the dealer or designated law enforcement agency shall:							
19 20	during the month; an	(i) d	Be bille	d \$10 for each application forwarded to the Secretary				
21		(ii)	Pay the	total application fee by the 15th day of the next month.				
24	(g) The application to purchase, rent, or transfer shall bear the following legend: "Any false information supplied or statement made in this application is a crime which may be punished by imprisonment for a period of not more than three years, or a fine of not more than \$5,000, or both."							
26 27	(h) The apprinformation:	olication t	o purcha:	se, rent, or transfer shall contain the following				
30 31 32	Applicant's name, address, driver's or photographic identification soundex number, Social Security number, occupation, place and date of birth, height, weight, race, eye and hair color and signature and regulated firearm information for each firearm to be purchased, rented, or transferred. In the event the applicant is a corporation, the application shall be completed and executed by a corporate officer who is a resident of this State.							
34 35	(2) she:	A staten	nent by th	ne applicant under the penalty of perjury that he or				
36		(i)	Has nev	er been convicted of:				
37			1.	A crime of violence;				
38			2.	Any violation classified as a felony in this State;				

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that carries a statutory	penalty		Any violation classified as a misdemeanor in this State nan 2 years; or				
the person received a	term of in	4. nprisonm	Any violation classified as a common law offense where ent of more than 2 years.				
	(ii)	Is not a f	rugitive from justice.				
	(iii)	Is not a l	nabitual drunkard.				
substances.	(iv)	Is not an	addict or habitual user of any controlled dangerous				
(v) Has never spent more than thirty consecutive days in any medical institution for treatment of a mental disorder or disorders, unless there is attached to the application a physician's certificate, issued within thirty days prior to the date of application, certifying that the applicant is capable of possessing a regulated firearm without undue danger to himself or herself, or to others.							
	(vi)	Is at leas	t 21 years of age.				
protective order has b	(vii) been enter		espondent against whom a current non ex parte civil § 4-506 of the Family Law Article.				
(3) the prospective seller			the application was delivered in completed form to be prospective purchaser, lessee, or transferee.				
(i) The Secretary may request the assistance of the Police Commissioner of Baltimore City, the chief of police in any county maintaining a police force, or the sheriff in a county not maintaining a police force and shall promptly upon receipt of an application to purchase, rent, or transfer conduct an investigation in order to determine the truth or falsity of the information supplied and statements made in the application. If it be thereupon determined that any false information or statement has been supplied or made by the applicant, that the application has not been properly completed, or that written notification from the applicant is suffering from a mental disorder or disorders and is a danger to himself or herself or to others, the Secretary shall notify the prospective seller, lessor, or transferor, in writing, within seven days from the date the executed application to purchase or transfer was forwarded by certified mail or facsimile machine, of his disapproval of the application. Written notification of such disapproval shall be thereafter forwarded by the Secretary to the prospective purchaser, lessee, or transfere. The date upon which the executed application to purchase, rent, or transfer was forwarded by certified mail or by facsimile machine to the Secretary by the prospective seller, lessor, or transferor shall be considered as the first day of the seven-day period allowed for notice of disapproval to the prospective seller, lessor, or transferor. If the seventh day of the seven-day period allowed for the notice of disapproval shall fall on a Sunday or legal holiday, the computation period shall be extended to the first day next following, which is neither a Sunday nor a legal holiday.							
	substances.  medical institution fo attached to the application regulated firearm with protective order has be (3) the prospective seller  (i) The Sect Baltimore City, the clasheriff in a county no an application to pure determine the truth or application. If it be the been supplied or mad completed, or that wrighted prospective purchase shall notify the prospective purchase application to purchase application	the person received a term of in  (ii)  (iii)  (iv)  substances.  (v)  medical institution for treatme attached to the application a pl the date of application, certifyir regulated firearm without under (vi)  (vii)  protective order has been enter (3)  The date the prospective seller or transf (i)  The Secretary man abaltimore City, the chief of posheriff in a county not maintain an application. If it be thereupon been supplied or made by the accompleted, or that written not in physician has been received standisorder or disorders and is a constitution of such disapprovation of such disapprovation of such disapprovation of such disapprovation to purchase, rent, of accimile machine to the Secretary period allowed for the holiday, the computation period of the substitution of the computation period holiday, the computation period in the substitution of the prospective seven-day period allowed for the holiday, the computation period in the substitution of the prospective seven-day period allowed for the holiday, the computation period in the prospective seven-day period allowed for the holiday, the computation period in the prospective seven-day period allowed for the holiday, the computation period in the prospective seven-day period allowed for the holiday, the computation period in the prospective seven-day period allowed for the holiday, the computation period in the prospective seven-day period allowed for the holiday, the computation period in the prospective seven-day period allowed for the holiday, the computation period in the prospective seven-day period allowed for the holiday the computation period in the prospective seven-day period allowed for the holiday the computation period in the prospective seven-day period allowed for the holiday the computation period in the prospective seven-day period allowed for the holiday the computation period in the prospective seven-day period allowed for the holiday the computation period in the prospective seven-day period allowed for the holiday the computation per	that carries a statutory penalty of more that carries a statutory penalty of more that carries a statutory penalty of more that the person received a term of imprisonm.  (ii) Is not a factor of the person received a term of imprisonm.  (iii) Is not a factor of the person of the date of application of the physician's the date of application, certifying that the regulated firearm without undue danger.  (vi) Is at leas (vii) Is not a reprotective order has been entered under.  (3) The date and hour the prospective seller or transferor by the chief of police in an sheriff in a county not maintaining a position and polication. If it be thereupon determine the truth or falsity of the infoapplication. If it be thereupon determine been supplied or made by the applicant, completed, or that written notification find physician has been received stating that disorder or disorders and is a danger to shall notify the prospective seller, lessor from the date the executed application to certified mail or facsimile machine, of frontification of such disapproval shall be prospective purchaser, lessee, or transfer facsimile machine to the Secretary by the considered as the first day of the seven disapproval to the prospective seller, lesson from the office of the notice holiday, the computation period shall be seven-day period allowed for the notice holiday, the computation period shall be seven-day period allowed for the notice holiday, the computation period shall be seven-day period allowed for the notice holiday, the computation period shall be seven-day period allowed for the notice holiday, the computation period shall be seven-day period allowed for the notice holiday, the computation period shall be seven-day period allowed for the notice holiday, the computation period shall be seven-day period allowed for the notice holiday, the computation period shall be seven-day period allowed for the notice holiday.				

- 1 (j) No regulated firearms dealer or person shall sell, rent, or transfer a (1) 2 regulated firearm to an applicant whose application has been placed on hold because 3 of an open disposition of criminal proceedings against the applicant or disapproved, 4 unless such disapproval has been subsequently withdrawn by the Secretary or
- 5 overruled by the action of the courts pursuant to subsection (k) of this section.
- An approved application is valid only for the purchase, rental, or 6 7 transfer of the regulated firearm listed in the application.
- 8 (k) Any prospective purchaser, lessee, or transferee aggrieved by the 9 action of the State Police may request a hearing within 30 days from the date when 10 written notice was forwarded to the aggrieved person by writing to the Secretary, who 11 shall grant the hearing within fifteen days of the request.
- 12 The hearing and subsequent proceedings of judicial review, if any, 13 thereupon following shall be conducted in accordance with the provisions of the 14 Administrative Procedure Act.
- 15 The hearing shall be held in the county of the legal residence of the (3) 16 aggrieved person.
- 17 Any regulated firearms dealer or person who sells, rents, or transfers a
- 18 regulated firearm in compliance with this subtitle shall forward a copy of the written
- 19 notification of such completed transaction, within seven days from the date of
- 20 delivery of the regulated firearm, to the Secretary, whose duty it shall be to maintain
- 21 a permanent record of all such completed sales, rentals, and transfers of regulated
- 22 firearms in the State. The notification shall contain an identifying description of the
- 23 regulated firearm sold, rented, or transferred including its caliber, make, model,
- 24 manufacturer's serial number, if any, and any other special or peculiar characteristics
- 25 or marking by which the regulated firearm may be identified.
- 26 (m) A regulated firearms dealer or person shall complete the sale, rental, (1)
- 27 or transfer of a regulated firearm within 90 days of the date the application of the
- 28 prospective purchaser, lessee, or transferee was stamped by the Secretary as not
- 29 being disapproved.
- 30 (2) A regulated firearms dealer or person shall within 7 days, return to
- 31 the Secretary any application for which the sale, rental, or transfer of a regulated
- 32 firearm was not completed within 90 days of the date the application was stamped by
- 33 the Secretary as not being disapproved. All such applications returned to the
- 34 Secretary shall be voided as an incomplete sale, rental, or transfer.
- 35 Nothing in this section shall be construed to affect sales and/or transfers
- 36 for bona fide resale in the ordinary course of business of a person duly licensed under
- 37 § 443 of this subtitle, or sales, rentals, transfers, and/or the use of regulated firearms
- 38 by any person authorized or required to sell, rent, transfer, and/or use regulated
- 39 firearms as part of his or her duties as a member of any official police force or other
- 40 law enforcement agency, the armed forces of the United States, including all official
- 41 reserve organizations, or the Maryland National Guard.

- SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect 2 October 1, 2000.