
By: **Senator Stoltzfus**
Introduced and read first time: February 2, 2000
Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

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

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

12 BY repealing and reenacting, with amendments,
13 Article 27 - Crimes and Punishments
14 Section 36E
15 Annotated Code of Maryland
16 (1996 Replacement Volume and 1999 Supplement)

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

19 **Article 27 - Crimes and Punishments**

20 36E.

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

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

25 (2) Has not been convicted of a felony or of a misdemeanor for which a
26 sentence of imprisonment for more than one year has been imposed or, if convicted of
27 such a crime, has been pardoned or has been granted relief pursuant to Title 18, §
28 925(c) of the United States Code; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (f) The Secretary may revoke any permit issued or renewed at any time upon
10 a finding that (i) the holder no longer satisfies the qualifications set forth in
11 subsection (a), or (ii) the holder of the permit has violated subsection (e) hereof. A
12 person holding a permit which is revoked by the Secretary shall return the permit to
13 the Secretary within ten days after receipt of notice of the revocation. Any person who
14 fails to return a revoked permit in violation of this section shall be guilty of a
15 misdemeanor, and, upon conviction, shall be fined not less than \$100 or more than
16 \$1,000, or be imprisoned for not more than one year, or both.

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

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

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

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

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

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

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

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

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

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

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

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

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

40 (j) Each person referred to in subsection (i) hereof shall, within one year after
41 March 27, 1972, make application for a permit as provided in this section. Such
42 application shall include evidence satisfactory to the Secretary of the State Police that

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

6 (k) (1) IN THIS SUBSECTION, "RETIRED OFFICER" MEANS:

7 (I) A RETIRED LAW ENFORCEMENT OFFICER OF ANY AGENCY
8 LISTED UNDER § 727 (B) OF THIS ARTICLE;

9 (II) A RETIRED CORRECTIONAL OFFICER AS DEFINED IN §
10 8-201(E)(1) OF THE CORRECTIONAL SERVICES ARTICLE; OR

11 (III) THE CHIEF OR DEPUTY CHIEF OF A CORRECTIONAL UNIT, A
12 SHERIFF, A WARDEN, SUPERINTENDENT, OR AN INDIVIDUAL WITH AN EQUIVALENT
13 TITLE WHO IS APPOINTED OR EMPLOYED BY A UNIT OF GOVERNMENT TO EXERCISE
14 EQUIVALENT SUPERVISORY AUTHORITY.

15 (2) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION TO
16 THE CONTRARY, ON APPLICATION WITHIN 1 YEAR AFTER RETIREMENT BY A RETIRED
17 OFFICER WHO QUALIFIES UNDER THIS SUBSECTION, THE SECRETARY, WITH NO
18 FURTHER INVESTIGATION OR ACTION, SHALL ISSUE A HANDGUN PERMIT TO THE
19 RETIRED OFFICER.

20 (3) TO QUALIFY FOR A HANDGUN PERMIT, A RETIRED OFFICER:

21 (I) SHALL HAVE SERVED FOR AT LEAST 30 YEARS IN A LAW
22 ENFORCEMENT OR CORRECTIONAL UNIT; AND

23 (II) MAY NOT HAVE BEEN CONVICTED OF A FELONY OR
24 MISDEMEANOR FOR WHICH A SENTENCE OF IMPRISONMENT FOR MORE THAN 1
25 YEAR HAS BEEN IMPOSED.

26 (4) (I) AN INITIAL PERMIT ISSUED UNDER THIS SUBSECTION IS VALID
27 FOR 4 YEARS AFTER THE RETIRED OFFICER'S RETIREMENT.

28 (II) ON APPLICATION, A PERMIT ISSUED UNDER THIS SUBSECTION
29 MAY BE RENEWED FOR SUCCESSIVE 3-YEAR PERIODS IF THE RETIRED OFFICER IS
30 OTHERWISE QUALIFIED UNDER THIS SUBSECTION FOR THE ISSUANCE OF A PERMIT.

31 (5) (I) THE SECRETARY SHALL SET THE INITIAL PERMIT FEE.

32 (II) THERE SHALL BE NO CHARGE FOR A RENEWAL OF A PERMIT.

33 (6) (I) A RETIRED OFFICER WHO HAS BEEN ISSUED A PERMIT UNDER
34 THIS SUBSECTION SHALL NOTIFY THE SECRETARY OF ANY CRIMINAL CHARGES
35 FILED AGAINST THE RETIRED OFFICER INVOLVING A FELONY OR A MISDEMEANOR
36 FOR WHICH THE PENALTY MAY BE IMPRISONMENT FOR MORE THAN 1 YEAR.

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

5 (III) THE SECRETARY SHALL REVOKE THE PERMIT OF A RETIRED
6 LAW ENFORCEMENT OFFICER AGAINST WHOM CRIMINAL CHARGES HAVE BEEN
7 FILED OR WHO HAS BEEN CONVICTED OF A FELONY OR A MISDEMEANOR FOR WHICH
8 A SENTENCE OF IMPRISONMENT FOR MORE THAN 1 YEAR HAS BEEN IMPOSED.

9 (L) As used in this section, Secretary means the Secretary of the State Police,
10 acting directly or through duly authorized officers and agents of the Secretary.

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

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