

Department of Legislative Services
Maryland General Assembly
2000 Session

FISCAL NOTE

House Bill 279 (The Speaker. *et al.*)
(Administration)

Judiciary

Responsible Gun Safety Act of 2000

This Administration bill alters and expands provisions relating to the regulation of firearms in the State.

Fiscal Summary

State Effect: General fund expenditures attributable only to administrative and operating costs for the State Police would increase by at least \$2.4 million in FY 2001. Out-year costs reflect annualization and inflation. Additional significant costs for a Grant Program for Enforcement and Technology, as well as for increased incarcerations, are not reflected in this table. Revenues would not be affected.

(in millions)	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
GF Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditures	2.402	2.073	2.158	2.257	2.330
Net Effect	(\$2.402)	(\$2.073)	(\$2.158)	(\$2.257)	(\$2.330)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - =indeterminate effect

Local Effect: Minimal. While it is assumed that the circuit courts and State's Attorneys would be ultimately affected by some of the bill's provisions, it is assumed that these changes could be accommodated with existing budgeted resources. Seizure and forfeiture provisions are not expected to significantly affect the operations or finances of local law enforcement agencies.

Small Business Effect: A small business impact statement was not provided by the

Administration in time for inclusion in this fiscal note. A revised fiscal note will be issued when the Administration's assessment becomes available.

Analysis

Bill Summary: This Administration bill alters and expands provisions relating to the regulation of firearms in the State in the following ways:

Commission on Personalized Handgun Technology

The bill establishes an 11-member Commission on Personalized Handgun Technology, consisting of six legislators and five members appointed by the Governor, which is required to consider whether “personalized handguns” are “commercially available” and report its recommendations by July 1, 2002.

If the commission recommends that the handguns are commercially available, the Governor must notify the Legislative Policy Committee (LPC) of the General Assembly by January 1, 2003, that as of June 1, 2003, a dealer may not sell or transfer a handgun in the State made after May 31, 2003 unless it is a personalized handgun. (This provision does not apply to sales to the government, military, or law enforcement, or sales or transfers to dealers out-of-state.)

If the commission recommends that the handguns are not commercially available, the commission is required to issue a report on July 1 and December 31 of each subsequent year.

When the commission finally determines that the handguns are commercially available, the Governor must notify the LPC and the requirement takes effect on June 1 of that year.

Integrated Safety Device

As of January 1, 2002, the bill prohibits a dealer from selling or transferring in the State a handgun made after December 31, 2001, unless the handgun has an “integrated mechanical safety device” or other incorporated design technology designed to prevent an unauthorized user from firing the gun. (This provision does not apply to sales to the government, military, or law enforcement, or sales or transfers to dealers out-of-state.)

Ballistic Fingerprinting

The bill requires any manufacturer (in or out-of-state) who ships a handgun to be sold or

transferred in the State to include in a box with the handgun, a separate sealed container with a projectile and shell casing discharged from the gun, and any other identifying information required by the Department of State Police.

Upon receipt of a handgun from a manufacturer, a dealer shall confirm to the department that the manufacturer complied with the above requirements. Upon the sale or transfer of the gun, a dealer is required to send the container to the State Police Crime Lab, who then enters the information in a database.

Juvenile Offenders

The bill prohibits a person under 30 who had been adjudicated delinquent for a crime of violence, a felony offense, or a two-year incarcerable misdemeanor offense from: (1) applying to buy, rent, or transfer a regulated firearm; (2) applying for a permit to carry a handgun; or (3) possessing a handgun.

The bill also prohibits a dealer from selling, renting, or transferring a regulated firearm to a person the dealer knows or has reasonable cause to believe is under 30 and has been adjudicated delinquent as provided above.

Firearm Possession by a Felon

If a person who was previously convicted of a crime of violence or serious drug offense illegally possesses a firearm, the person is guilty of a felony and will be imprisoned for a minimum of five years, and is not eligible for a suspended sentence or parole. Each violation is a separate offense.

Forfeiture of Firearms for Violations

The bill subjects any handgun involved in a possession, sales, or transfer violation under the handgun and regulated firearms provisions of the Code to seizure and forfeiture. If a handgun is forfeited to a law enforcement agency, the agency is required to either use or destroy the handgun, or sell, exchange, or transfer the handgun to another law enforcement agency.

A law enforcement agency that disposes of its own handguns is required to either: (1) destroy the handgun; (2) sell, exchange, or transfer the handgun to another law enforcement agency; (3) sell the handgun to a retired State police officer; or (4) sell the handgun to the law enforcement officer who was previously issued the handgun.

Mandatory Safety Course for Purchasers

The bill requires a person applying to buy, rent, or transfer a regulated firearm to have completed a certified firearms safety training course established by the Police Training Commission. A dealer is prohibited from selling, renting, or transferring a regulated firearm to a person the dealer knows or has reasonable cause to believe has not completed such a firearms safety training course.

The bill also authorizes the Police Training Commission to adopt regulations by January 1, 2001, requiring completion of a certified firearms training safety course for all handgun purchasers after December 31, 2001.

Cease Fire Council: Grant Program for Enforcement and Technology

The bill establishes a Cease Fire Council within the Department of State Police to administer a State grant program to support innovative and collaborative firearms violence reduction initiatives; reduce firearms violence; target law enforcement against criminals who illegally possess firearms; supplement law enforcement and prosecutor salaries; pay for covert firearms investigations; pay for initiatives to trace firearms used in criminal activities; and purchase technology and information systems to support firearms violence reduction efforts.

The bill requires the program to be funded through the State budget and requires that expenditures from the program may only be made by appropriation or budget amendment to the State budget.

Current Law: Prohibitions against possessing a handgun do not extend to persons with juvenile records. The use of a firearm in a “drug trafficking offense” subjects offenders to various mandatory minimum, non-parolable sentencing provisions, which may not be suspended. Additional enhanced penalties, including forfeiture, are also applicable to such offenses when certain types of weapons are employed.

Possession of a firearm by persons previously convicted of a crime of violence or any violation classified as a felony are guilty of a misdemeanor and subject to maximum penalties of a fine of \$1,000 and/or imprisonment for one year.

Background: The average annual number of applications to transfer and purchase regulated firearms in the State is 30,225. There are approximately 28,000 people in Maryland licensed to carry a handgun. The State Police issues an average of 1,297 initial handgun permits annually. There are an estimated 350 handgun instructors in the State. The number of illegal firearms in the State is unknown.

The Administration has identified the development of childproof guns as one of its major legislative initiatives for the 2000 legislative session. In June of 1999, Governor Glendening signed an executive order creating a Task Force on Childproof Guns. One of the duties of the task force was to “draft legislation to implement measures that prevent the unintentional and criminal misuse of handguns by children and other unauthorized users” including “design alterations and technological enhancements.” This bill reflects all the recommendations of the task force.

In October 1999, New Jersey enacted a bill establishing a licensing and certification program applicable to all retail gun dealers in the state and their employees. This enactment, effective January 1, 2000, also requires all handguns sold in the state, with the exception of antique weapons, to be accompanied by a “trigger lock or a locked case, gun box, container or other secure facility.” New Jersey, by separate enactment, provided a sales tax exemption for firearms dealers applicable to these trigger locks or other secure devices.

Beretta USA, one of the nation's leading firearms companies, is the only gun manufacturer located in Maryland. At its Accokeek factory, the company makes the U.S. military's standard side arm and supplies pistols to 2,000 police agencies in North America, including the Maryland State Police.

State Fiscal Effect: While the State Police has provided estimates of cost for this bill, that information did not arrive in a timely enough manner for the Department of Legislative Services to verify the estimates contained therein. The Governor’s Office has not provided any such information on this Administration bill.

The currently used equipment for ballistics fingerprinting is called the "Drug Fire System." Use of each system unit also requires a specialized electronic communication transmission line. While the average annual number of applications to transfer and purchase all regulated firearms in the State is 30,225, it is believed that 90%-95% of those transactions involve handguns. The number of Drug Fire System units for this volume of data entries is 12. Accordingly, the State Police advises that general fund expenditures attributable to the ballistics fingerprinting component of the bill could increase by an estimated \$2,371,996 in fiscal 2001, which accounts for the bill’s October 1, 2000, effective date. This estimate reflects the cost of hiring 34 firearms toolmark exam experts and one data base specialist to enter ballistic fingerprinting data in all pertinent data bases on 27,000 to 29,000 handguns. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Salaries and Fringe Benefits	\$1,313,600
12 Drug Fire System Units	772,320

Operating Expenses

286,076

FY 2001 Ballistics Expenditures

\$2,371,996

Future year expenditures reflect (1) full salaries with 4.5% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

In addition, the State Police is required to provide staffing for the Cease Fire Council. The State Police advises that general fund expenditures could increase by an estimated \$30,000 in fiscal 2001, which accounts for the bill's October 1, 2000, effective date, reflecting the cost of hiring one fiscal specialist to staff the council. Council members would be reimbursed for expenses under the standard State travel regulations. It is assumed that these costs could be handled with the existing budgeted resources of the State Police and/or the Office of the Governor.

The amount of money the Governor intends to provide to the council grant program is unknown, but any appropriations to such a grant fund would be subject to the normal budget processes.

Commission on Personalized Handgun Technology members would also be reimbursed for expenses under the standard State travel regulations. It is assumed that all staffing and other costs for the commission would be provided by the Office of the Governor, and could be accommodated with existing budgeted resources.

It is assumed that enforcement costs associated with the bill's provisions relating to integrated safety devices could be handled with the existing budgeted resources of the State Police.

The Department of Legislative Services (DLS) advises that all costs associated with the Department of State Police reflected in this fiscal note could not be fully verified due to the lateness of the agency's response to the DLS request for information.

This bill's provisions that change the crime of illegally possessing a firearm, when there has been a prior violent or felony offense, from a misdemeanor to a felony means that: (1) such persons would be subject to considerably stiffer sentencing; (2) such cases will be filed in the circuit courts rather than the District Court; and (3) some persons could eventually serve longer incarcerations due to enhanced penalty provisions, applicable to some offenses, for prior felony convictions.

In fiscal 1999, the Division of Correction (DOC) had 574 intakes for handgun-related violations, and the Division of Parole and Probation had 740 such intakes. Accordingly, it is

assumed that this bill would increase both the number of persons incarcerated per year by over 1,300 persons. It is also estimated that the term of incarceration for each new handgun offense intake would increase by 18 months. The new intakes represented here do not include those with misdemeanor handgun convictions who now serve their sentence (less than one year) in a local detention facility. Requiring each violation to be considered a separate offense would also tend to add to DOC costs, but cannot be reliably estimated.

In any event, general fund expenditures could increase significantly as a result of the bill's stiffer incarceration penalties due to significantly more people being committed to DOC facilities for longer periods of time and increased payments to counties for reimbursement of pretrial inmate costs. This bill could increase the average daily population in DOC facilities to the extent that additional beds, personnel, infrastructure improvements, or a new prison facility will be necessary. Based on a cost of approximately \$105,000 per bed, the cost of building a new medium security 1,300 bed prison facility is currently estimated at \$136.5 million.

Persons serving a sentence longer than one year are incarcerated in DOC facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$1,700 per month. The average variable cost of housing a new inmate (food, medical costs, etc.), excluding overhead, is \$260 per month. For illustrative purposes only, under the bill's mandatory minimum sentencing provisions the average time served would be 18 months greater than that for current intakes. Assuming full inmate costs of \$1,700 per month, State costs could increase by \$30,600 for each person imprisoned under the bill, and by \$40,208,400 assuming 1,300 persons are subject to the sentencing provisions of the bill. Such an increase in costs would not be felt until after fiscal 2006.

This bill could also provide for some minimal temporary savings for the Division of Parole and Probation. The estimated number of all intakes for Parole and Probation for fiscal 2001 is 52,200. A reduction in intakes of 740 persons represents a decrease of less than 1.5%. Such a decrease is not expected to have a measurable effect on the agency's operations and finances. In any case, the convicted persons not immediately remanded to Parole and Probation are presumed to eventually represent new intakes for the agency after the mandatory minimum sentence is served. It is noted that the agency's fiscal 2001 budget request includes nearly \$1.6 million to hire an additional 54 agents as part of a caseload reduction initiative.

The bill's prohibitions against a person under 30 with juvenile records from: (1) applying to buy, rent, or transfer a regulated firearm; (2) applying for a permit to carry a handgun; or (3) possessing a handgun would likely lead to some additional arrests, charges, convictions, and incarcerations. However, gauging the magnitude of that likelihood cannot be reliably measured without some actual experience under these provisions.

Finally the Police Training Commission, an agency of the Department of Public Safety and Correctional Services, reports that the bill's requirement for a mandatory safety course for gun purchasers would be handled via the commission's authority to recognize and certify participation in private sector programs as adequate to meet the bill's mandate. Such programs are believed to be available, from organizations such as the National Rifle Association or the Associated Gun Clubs of Maryland, as two- to four-hour programs with costs ranging from \$10 to \$35 per participant. Accordingly, the Police Training Commission advises that the requirements of this bill applicable to that agency, including the requirement to develop regulations for such gun safety courses, could be accommodated with existing budgeted resources.

Additional Information

Prior Introductions: None.

Cross File: SB 211 (The President (Administration), *et al.*) - Judicial Proceedings.

Information Source(s): Department of Public Safety and Correctional Services (Division of Correction, Police Training Commission), Baltimore City, Carroll County, Cecil County, Montgomery County, Prince George's County, Queen Anne's County, St. Mary's County, Department of Legislative Services

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