

HOUSE BILL 55

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2002 Regular Session  
2lr0387

(PRE-FILED)

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By: **Delegates K. Kelly, Taylor, Dembrow, Montague, Boschert, and Edwards**

Requested: August 29, 2001  
Introduced and read first time: January 9, 2002  
Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Firearms - Enforcement of Federal Law - Qualifications**

3 FOR the purpose of prohibiting the disapproval of certain firearms applications based  
4 on certain federal firearms laws and certain enforcement of federal laws related  
5 to firearms under certain circumstances; altering certain circumstances relating  
6 to criminal convictions and juvenile delinquency adjudications regarding  
7 prohibitions and eligibility requirements related to regulated firearms;  
8 clarifying certain restrictions and prohibitions regarding juvenile delinquency  
9 adjudications; clarifying the authority of the Department of State Police to  
10 administer laws relating to regulated firearms; and generally relating to  
11 regulated firearms.

12 BY repealing and reenacting, with amendments,  
13 Article 27 - Crimes and Punishments  
14 Section 442(h)(2)(i) and (viii) and (i), 443(d)(4)(iii), (e), and (i)(2), and 445(b)(1)  
15 and (3) and (d)(1) and (3)  
16 Annotated Code of Maryland  
17 (1996 Replacement Volume and 2001 Supplement)

18 BY repealing and reenacting, with amendments,  
19 Article 88B - Department of State Police  
20 Section 4(d) and 13  
21 Annotated Code of Maryland  
22 (1998 Replacement Volume and 2001 Supplement)

23 BY adding to  
24 Article - Criminal Procedure  
25 Section 2-108  
26 Annotated Code of Maryland  
27 (2001 Volume)

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

3 **Article 27 - Crimes and Punishments**

4 442.

5 (h) The application to purchase, rent, or transfer shall contain the following  
6 information:

7 (2) A statement by the applicant under the penalty of perjury that he or  
8 she:

9 (i) Has never been convicted of:

10 1. A crime of violence;

11 2. Any violation classified as a felony in this State;

12 3. Any violation classified as a misdemeanor in this State  
13 [that carries a statutory penalty of more than 2 years] WHERE THE PERSON  
14 RECEIVED A TERM OF IMPRISONMENT OF MORE THAN 1 YEAR; or

15 4. Any violation classified as a common law offense where  
16 the person received a term of imprisonment of more than [2 years] 1 YEAR.

17 (viii) [Is] IF less than 30 years of age at the time of application  
18 [and], has not been adjudicated delinquent by a juvenile court for:

19 1. A crime of violence;

20 2. Any violation classified as a felony in this State; or

21 3. Any violation classified as a misdemeanor in this State  
22 [that carries a statutory penalty of more than 2 years] WHERE THE PERSON WAS  
23 COMMITTED TO THE CUSTODY OF THE DEPARTMENT OF JUVENILE JUSTICE FOR  
24 MORE THAN 1 YEAR; and

25 (i) (1) The Secretary may request the assistance of the Police Commissioner  
26 of Baltimore City, the chief of police in any county maintaining a police force, or the  
27 sheriff in a county not maintaining a police force and shall promptly upon receipt of  
28 an application to purchase, rent, or transfer conduct an investigation in order to  
29 determine the truth or falsity of the information supplied and statements made in the  
30 application. If it be thereupon determined that any false information or statement has  
31 been supplied or made by the applicant, that the application has not been properly  
32 completed, or that written notification from the applicant's licensed attending  
33 physician has been received stating that the applicant is suffering from a mental  
34 disorder or disorders and is a danger to himself or herself or to others, the Secretary  
35 shall notify the prospective seller, lessor, or transferor, in writing, within seven days  
36 from the date the executed application to purchase or transfer was forwarded by

1 certified mail or facsimile machine, of his disapproval of the application. Written  
2 notification of such disapproval shall be thereafter forwarded by the Secretary to the  
3 prospective purchaser, lessee, or transferee. The date upon which the executed  
4 application to purchase, rent, or transfer was forwarded by certified mail or by  
5 facsimile machine to the Secretary by the prospective seller, lessor, or transferor shall  
6 be considered as the first day of the seven-day period allowed for notice of  
7 disapproval to the prospective seller, lessor, or transferor. If the seventh day of the  
8 seven-day period allowed for the notice of disapproval shall fall on a Sunday or legal  
9 holiday, the computation period shall be extended to the first day next following,  
10 which is neither a Sunday nor a legal holiday.

11 (2) IF THE FIREARM APPLICANT IS ELIGIBLE TO PURCHASE, RENT,  
12 TRANSFER, OR POSSESS A FIREARM UNDER THIS SUBHEADING, THE SECRETARY MAY  
13 NOT DISAPPROVE AN APPLICATION TO PURCHASE, RENT, OR TRANSFER ON THE  
14 GROUNDS THAT THE PERSON IS PROHIBITED FROM PURCHASING, RENTING,  
15 TRANSFERRING, OR POSSESSING A FIREARM UNDER 18 U.S.C. §§ 921 THROUGH 930.

16 443.

17 (d) The application for a regulated firearms dealer's license shall contain the  
18 following information:

19 (4) A statement by the applicant that he or she:

20 (iii) Has never been convicted of:

21 1. A crime of violence;

22 2. Any violation classified as a felony in this State;

23 3. Any violation classified as a misdemeanor in this State  
24 [that carries a statutory penalty of more than 2 years] WHERE THE PERSON  
25 RECEIVED A TERM OF IMPRISONMENT OF MORE THAN 1 YEAR; or

26 4. Any violation classified as a common law offense where  
27 the person received a term of imprisonment of more than [2 years] 1 YEAR.

28 (e) (1) The Secretary shall conduct an investigation in order to determine  
29 the truth or falsity of the information supplied and statements made in an application  
30 for a regulated firearms dealer's license. If it be thereupon determined that any false  
31 information or statement has been supplied or made by the applicant, a written  
32 notification is received from the applicant's licensed attending physician that the  
33 applicant is suffering from a mental disorder or disorders and is a danger to himself  
34 or herself or to others, or that the application has not been properly completed, the  
35 Secretary shall forward written notification to the prospective licensee of the  
36 Secretary's disapproval of said application.

37 (2) IF THE APPLICANT TO BE A REGULATED FIREARMS DEALER IS  
38 ELIGIBLE TO BE A REGULATED FIREARMS DEALER UNDER THIS SUBHEADING, THE

1 SECRETARY MAY NOT DISAPPROVE AN APPLICATION ON THE GROUNDS THAT THE  
2 APPLICANT IS INELIGIBLE UNDER 18 U.S.C. §§ 921 THROUGH 930.

3 (i) The Secretary shall revoke an issued regulated firearm dealer's license, by  
4 written notification forwarded to the licensee, under any of the following  
5 circumstances:

6 (2) If the licensee:

7 (i) Is convicted of a crime of violence;

8 (ii) Is convicted of any violation classified as a felony in this State;

9 (iii) Is convicted of any violation classified as a misdemeanor in this  
10 State [that carries a statutory penalty of more than 2 years] WHERE THE PERSON  
11 RECEIVED A TERM OF IMPRISONMENT OF MORE THAN 1 YEAR;

12 (iv) Is convicted of any violation classified as a common law offense  
13 where the licensee received a term of imprisonment of more than [2 years] 1 YEAR;

14 (v) Is a fugitive from justice;

15 (vi) Is a habitual drunkard;

16 (vii) Is addicted to or a habitual user of any controlled dangerous  
17 substance;

18 (viii) Has spent more than 30 consecutive days in any medical  
19 institution for treatment of a mental disorder or disorders, unless the licensee  
20 produces a physician's certificate, issued subsequent to the last period of  
21 institutionalization, certifying that the licensee is capable of possessing a regulated  
22 firearm without undue danger to himself or herself, or to others;

23 (ix) Has knowingly or willfully manufactured, offered to sell, or sold  
24 a handgun not on the handgun roster in violation of § 36-I of this article; or

25 (x) Has knowingly or willfully participated in a straw purchase of a  
26 regulated firearm.

27 445.

28 (b) A dealer or person may not sell, rent, or transfer a regulated firearm to any  
29 person whom he knows or has reasonable cause to believe:

30 (1) Has been convicted of:

31 (i) A crime of violence;

32 (ii) Any violation classified as a felony in this State or any  
33 conspiracy to commit any crimes established by those sections;

1 (iii) Any violation classified as a misdemeanor in this State [that  
2 carries a statutory penalty of more than 2 years] WHERE THE PERSON RECEIVED A  
3 TERM OF IMPRISONMENT OF MORE THAN 1 YEAR; or

4 (iv) Any violation classified as a common law offense where the  
5 person received a term of imprisonment of more than [2 years] 1 YEAR.

6 (3) [Is] IF less than 30 years of age at the time of the transaction [and],  
7 has been adjudicated delinquent by a juvenile court for committing:

8 (i) A crime of violence;

9 (ii) Any violation classified as a felony in this State; or

10 (iii) Any violation classified as a misdemeanor in this State [that  
11 carries a statutory penalty of more than 2 years] WHERE THE PERSON WAS  
12 COMMITTED TO THE CUSTODY OF THE DEPARTMENT OF JUVENILE JUSTICE FOR  
13 MORE THAN 1 YEAR.

14 (d) A person may not possess a regulated firearm if the person:

15 (1) Has been convicted of:

16 (i) A crime of violence;

17 (ii) Any violation classified as a felony in this State;

18 (iii) Any violation classified as a misdemeanor in this State [that  
19 carries a statutory penalty of more than 2 years] WHERE THE PERSON RECEIVED A  
20 TERM OF IMPRISONMENT OF MORE THAN 1 YEAR; or

21 (iv) Any violation classified as a common law offense where the  
22 person received a term of imprisonment of more than [2 years] 1 YEAR.

23 (3) [Is] IF less than 30 years of age at the time of possession [and], has  
24 been adjudicated delinquent by a juvenile court for committing:

25 (i) A crime of violence;

26 (ii) Any violation classified as a felony in this State; or

27 (iii) Any violation classified as a misdemeanor in this State [that  
28 carries a statutory penalty of more than 2 years] WHERE THE PERSON WAS  
29 COMMITTED TO THE CUSTODY OF THE DEPARTMENT OF JUVENILE JUSTICE FOR  
30 MORE THAN 1 YEAR.

**Article 88B - Department of State Police**1  
2 4.

3 (d) (1) No police employee shall be placed on detached service and act for  
4 any federal department, agency or committee outside of the State of Maryland  
5 without the written approval of the Governor or as otherwise provided by law.

6 (2) IF A PERSON IS IN COMPLIANCE WITH ARTICLE 27, §§ 441 THROUGH  
7 449 OF THE CODE, A POLICE EMPLOYEE MAY NOT SEARCH, ARREST, OR OTHERWISE  
8 ENFORCE AGAINST THAT PERSON A MORE STRINGENT PROVISION OF 18 U.S.C. §§ 921  
9 THROUGH 930.

10 13.

11 (A) [The] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE  
12 Department shall administer the laws relating to the sales of [pistols and revolvers]  
13 REGULATED FIREARMS, the licensing and supervision of private detective agencies  
14 and certification of private detectives and security guards, the registration of  
15 eavesdropping or wiretapping devices, and the inspection of certain classes of motor  
16 vehicles as provided elsewhere in this Code. The Department shall perform such  
17 other duties as may be assigned from time to time by the General Assembly.

18 (B) IF A PERSON IS IN COMPLIANCE WITH ARTICLE 27, §§ 441 THROUGH 449 OF  
19 THE CODE, THE DEPARTMENT MAY NOT:

20 (1) DISAPPROVE AN APPLICATION UNDER ARTICLE 27, §§ 441 THROUGH  
21 449 OF THE CODE BASED ON A MORE STRINGENT PROVISION OF 18 U.S.C. §§ 921  
22 THROUGH 930; OR

23 (2) ENFORCE AGAINST THAT PERSON A MORE STRINGENT PROVISION  
24 OF 18 U.S.C. §§ 921 THROUGH 930.

25 **Article - Criminal Procedure**

26 2-108.

27 IF A PERSON IS IN COMPLIANCE WITH ARTICLE 27, §§ 441 THROUGH 449 OF THE  
28 CODE, A POLICE OFFICER MAY NOT SEARCH, ARREST, OR OTHERWISE ENFORCE  
29 AGAINST THAT PERSON A MORE STRINGENT PROVISION OF 18 U.S.C. §§ 921 THROUGH  
30 930.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
32 October 1, 2002.