

SENATE BILL 81

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2002 Regular Session
2lr0926

(PRE-FILED)

By: **Senator Stone**

Requested: November 15, 2001

Introduced and read first time: January 9, 2002

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 or certain
9 medical treatment; requiring the Secretary to revoke a permit under certain
10 circumstances; defining a certain term; and generally relating to the issuance of
11 a permit to carry a handgun to retired law enforcement officers and retired
12 correctional officers.

13 BY repealing and reenacting, with amendments,
14 Article 27 - Crimes and Punishments
15 Section 36E
16 Annotated Code of Maryland
17 (1996 Replacement Volume and 2001 Supplement)

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

20 **Article 27 - Crimes and Punishments**

21 36E.

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

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

26 (2) Has not been convicted of a felony or of a misdemeanor for which a
27 sentence of imprisonment for more than one year has been imposed or, if convicted of

1 such a crime, has been pardoned or has been granted relief pursuant to Title 18, §
2 925(c) of the United States Code; and

3 (3) If the person is less than 30 years of age and who has not been:

4 (i) Committed to any detention, training, or correctional
5 institution for juveniles for longer than one year after an adjudication of delinquency
6 by a juvenile court; or

7 (ii) Adjudicated delinquent by a juvenile court for:

8 1. A crime of violence;

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

10 3. Any violation classified as a misdemeanor in this State
11 that carries a statutory penalty of more than 2 years; and

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (f) The Secretary may revoke any permit issued or renewed at any time upon
20 a finding that (i) the holder no longer satisfies the qualifications set forth in
21 subsection (a), or (ii) the holder of the permit has violated subsection (e) hereof. A
22 person holding a permit which is revoked by the Secretary shall return the permit to
23 the Secretary within ten days after receipt of notice of the revocation. Any person who
24 fails to return a revoked permit in violation of this section shall be guilty of a
25 misdemeanor, and, upon conviction, shall be fined not less than \$100 or more than
26 \$1,000, or be imprisoned for not more than one year, or both.

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

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

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

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

1 (h) (1) There is created a Handgun Permit Review Board as a separate
2 agency within the Department of Public Safety and Correctional Services. The Board
3 shall consist of five members appointed from the general public by the Governor with
4 the advice and consent of the Senate of Maryland and shall hold office for terms of
5 three years. The members shall hold office for a term of one, two, and three years,
6 respectively, to be designated by the Governor. After the first appointment, the
7 Governor shall annually appoint a member of the Board in the place of the member
8 whose term shall expire. Members of the Board shall be eligible for reappointment. In
9 case of any vacancy in the Board, the Governor shall fill the vacancy by the
10 appointment of a member to serve until the expiration of the term for which the
11 person had been appointed. Each member of the Board shall receive per diem
12 compensation as provided in the budget for each day actually engaged in the
13 discharge of his official duties as well as reimbursement, in accordance with the
14 Standard State Travel Regulations, for all necessary and proper expenses.

15 (2) Any person whose application for a permit or renewal of a permit has
16 been rejected or whose permit has been revoked or limited may request the Board to
17 review the decision of the Secretary by filing a written request for review with the
18 Board within ten days after receipt of written notice of the Secretary's final action.
19 The Board shall, within 90 days after receipt of the request, either review the record
20 developed by the Secretary, or conduct a hearing. In conducting its review of the
21 decision of the Secretary, the Board may receive and consider any additional evidence
22 submitted by any party. Based upon its consideration of the record, and any
23 additional evidence, the Board shall either sustain, reverse or modify the decision of
24 the Secretary. If the action taken by the Board results in the rejection of an
25 application for a permit or renewal of a permit or the revocation or limitation of a
26 permit, the Board shall submit in writing to that person the reasons for the action
27 taken by the Board.

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

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

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

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

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

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

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

11 (j) Each person referred to in subsection (i) hereof shall, within one year after
12 March 27, 1972, make application for a permit as provided in this section. Such
13 application shall include evidence satisfactory to the Secretary of the State Police that
14 the applicant is trained and qualified in the use of handguns. The right to wear, carry,
15 or transport a handgun provided for in subsection (i) hereof shall terminate at the
16 expiration of one year after March 27, 1972, if no such application is made, or
17 immediately upon notice to the applicant that his application for a permit has not
18 been approved.

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

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

22 (II) A RETIRED CORRECTIONAL OFFICER AS DEFINED IN §
23 8-201(E)(1) OF THE CORRECTIONAL SERVICES ARTICLE; OR

24 (III) THE CHIEF OR DEPUTY CHIEF OF A CORRECTIONAL UNIT, A
25 SHERIFF, A WARDEN, A SUPERINTENDENT, OR AN INDIVIDUAL WITH AN EQUIVALENT
26 TITLE WHO IS APPOINTED OR EMPLOYED BY A UNIT OF GOVERNMENT TO EXERCISE
27 EQUIVALENT SUPERVISORY AUTHORITY.

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

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

34 (I) SHALL HAVE SERVED FOR AT LEAST 20 YEARS IN A LAW
35 ENFORCEMENT OR CORRECTIONAL UNIT OR FOR AT LEAST 10 YEARS IF THE RETIRED
36 OFFICER RETIRED ON A MEDICAL DISABILITY OTHER THAN ONE INVOLVING A
37 PSYCHIATRIC CONDITION;

1 (II) MAY NOT HAVE BEEN CONVICTED OF A FELONY OR
2 MISDEMEANOR FOR WHICH A SENTENCE OF IMPRISONMENT FOR MORE THAN 1
3 YEAR HAS BEEN IMPOSED; AND

4 (III) MAY NOT HAVE SPENT MORE THAN 30 CONSECUTIVE DAYS IN A
5 MEDICAL INSTITUTION FOR TREATMENT OF A MENTAL DISORDER, UNLESS A
6 PHYSICIAN'S CERTIFICATE IS:

7 1. ISSUED WITHIN 30 DAYS BEFORE THE DATE OF THE
8 APPLICATION FOR THE HANDGUN PERMIT; AND

9 2. ATTACHED TO THE APPLICATION, CERTIFYING THAT THE
10 APPLICANT IS CAPABLE OF POSSESSING A HANDGUN WITHOUT UNDUE DANGER TO
11 THE APPLICANT OR TO ANOTHER.

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

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

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

18 (II) A RENEWAL OF A PERMIT SHALL BE WITHOUT CHARGE.

19 (6) (I) A RETIRED OFFICER WHO HAS BEEN ISSUED A PERMIT UNDER
20 THIS SUBSECTION SHALL NOTIFY THE SECRETARY OF:

21 1. ANY CRIMINAL CHARGES FILED AGAINST THE RETIRED
22 OFFICER INVOLVING A FELONY OR A MISDEMEANOR FOR WHICH THE PENALTY MAY
23 BE IMPRISONMENT FOR MORE THAN 1 YEAR; OR

24 2. TREATMENT OF MORE THAN 30 CONSECUTIVE DAYS IN A
25 MEDICAL INSTITUTION FOR TREATMENT OF A MENTAL DISORDER.

26 (II) A RETIRED OFFICER SHALL NOTIFY THE SECRETARY OF ANY
27 CONVICTION OF THE OFFICER OF A FELONY OR A MISDEMEANOR FOR WHICH A
28 SENTENCE OF IMPRISONMENT FOR MORE THAN 1 YEAR IS IMPOSED.

29 (III) THE SECRETARY SHALL REVOKE THE PERMIT OF A RETIRED
30 OFFICER:

31 1. AGAINST WHOM CRIMINAL CHARGES HAVE BEEN FILED
32 OR WHO HAS BEEN CONVICTED OF A FELONY OR A MISDEMEANOR FOR WHICH A
33 SENTENCE OF IMPRISONMENT FOR MORE THAN 1 YEAR HAS BEEN IMPOSED; OR

34 2. WHO HAS SPENT MORE THAN 30 CONSECUTIVE DAYS IN A
35 MEDICAL INSTITUTION FOR TREATMENT OF A MENTAL DISORDER, UNLESS A

1 PHYSICIAN CERTIFIES THAT THE RETIRED OFFICER IS CAPABLE OF POSSESSING A
2 HANDGUN WITHOUT UNDUE DANGER TO THE RETIRED OFFICER OR TO ANOTHER.

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

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

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 July 1, 2002.