

SENATE BILL 382

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SB 220/01 - JPR

2002 Regular Session
2r1677

By: **Senators Ferguson, Colburn, DeGrange, Hafer, Haines, Harris, Hooper,
Jacobs, Jimeno, Mooney, Stoltzfus, and Stone**

Introduced and read first time: January 29, 2002

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Self-Defense Act - Rule of Law**

3 FOR the purpose of establishing a certain period of time in which the Secretary of the
4 State Police must issue a permit to carry a handgun after an application is
5 approved; requiring that an individual be certified by a qualified handgun
6 instructor before that individual may receive a permit for carrying a handgun;
7 imposing certain requirements for certification, including the successful
8 completion of certain course requirements and the achievement of at least a
9 certain score on a certain firing range test; establishing requirements that must
10 be met for issuance of a qualified handgun instructor's card; authorizing the
11 Secretary to deny a qualified handgun instructor's card to any applicant,
12 reprimand any holder of a card, or suspend or revoke a card under certain
13 circumstances; clarifying language; reducing a certain fee; increasing certain
14 periods of license renewal; allowing the Secretary to waive certain costs;
15 increasing the time to make a certain request; decreasing the amount of time
16 the Secretary shall make certain notifications; increasing the number of
17 members on the Handgun Permit Review Board; decreasing the number of days
18 the Handgun Permit Review Board has for certain acts; making stylistic
19 changes; and generally relating to permits for carrying a handgun.

20 BY repealing and reenacting, with amendments,
21 Article 27 - Crimes and Punishments
22 Section 36E
23 Annotated Code of Maryland
24 (1996 Replacement Volume and 2001 Supplement)

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

Article 27 - Crimes and Punishments

2 36E.

3 (a) A permit to carry a handgun shall be issued within [a reasonable time] 45
4 DAYS by the Secretary of the State Police, upon application under oath therefor, to
5 any person whom the Secretary finds:

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

7 (2) Has not been convicted of a felony or of a misdemeanor for which a
8 sentence of imprisonment for more than one year has been imposed or, if convicted of
9 such a crime, has been pardoned or has been granted relief pursuant to Title 18, §
10 925(c) of the United States Code; and

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

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

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

16 1. A crime of violence;

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

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

20 (4) Has not been convicted of any offense involving the possession, use,
21 or distribution of controlled dangerous substances; and is not presently an addict, an
22 habitual user of any controlled dangerous substance not under legitimate medical
23 direction, or an [alcoholic] HABITUAL DRUNKARD; and

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

27 (6) [Has, based on the results of investigation, good and substantial
28 reason to wear, carry, or transport a handgun, provided however, that the phrase
29 "good and substantial reason" as used herein shall be deemed to include a finding
30 that such permit is necessary as a reasonable precaution against apprehended
31 danger] IS NOT PROHIBITED FROM POSSESSING A PISTOL OR REVOLVER UNDER §
32 445(C) OF THIS ARTICLE; AND

33 (7) HAS MET THE HANDGUN CERTIFICATION REQUIREMENTS OF
34 SUBSECTION (B) OF THIS SECTION.

35 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, AN
36 APPLICANT SHALL SUCCESSFULLY COMPLETE A COURSE OF HANDGUN

1 INSTRUCTION, PASS A FIRING RANGE TEST, AND BE CERTIFIED BY A HOLDER OF A
2 QUALIFIED HANDGUN INSTRUCTOR'S CARD BEFORE THE APPLICANT MAY BE
3 GRANTED A PERMIT TO CARRY A HANDGUN.

4 (2) THE COURSE OF HANDGUN INSTRUCTION SHALL INCLUDE AT LEAST:

5 (I) 6 HOURS OF STUDY ON HANDGUN SAFETY ON AND OFF THE
6 FIRING RANGE, IN THE HOME, AND IN TRANSPORT;

7 (II) 6 HOURS OF STUDY ON THE LEGAL RESPONSIBILITIES OF GUN
8 OWNERS; AND

9 (III) 6 HOURS OF STUDY AND TRAINING IN NOMENCLATURE,
10 MAINTENANCE, SIGHT ALIGNMENT, POSITION SHOOTING, DRY-FIRING, AND RANGE
11 PRACTICE WITH A .38 CALIBER REVOLVER, WITH A BARREL LENGTH BETWEEN 2 AND
12 6 INCHES, OR A 9 MM PISTOL.

13 (3) AN APPLICANT IS REQUIRED TO ATTAIN A SCORE OF AT LEAST 70% IN
14 FIRING A .38 CALIBER REVOLVER WITH A BARREL LENGTH BETWEEN 2 AND 6 INCHES
15 OR A 9 MM PISTOL AT A PRACTICAL POLICE COURSE THAT DOES NOT EXCEED 25
16 FEET.

17 (4) AN APPLICANT IS REQUIRED TO ATTAIN A SCORE OF AT LEAST 70%
18 ON A WRITTEN TEST ON THE LEGAL RESPONSIBILITIES OF GUN USE OUTSIDE THE
19 HOME OR BUSINESS.

20 (5) THE SECRETARY MAY WAIVE THE COURSE AND FIRING RANGE TEST
21 REQUIREMENTS FOR AN APPLICANT WHO IS:

22 (I) A FORMER LAW ENFORCEMENT OFFICER;

23 (II) A MEMBER OF THE ARMED FORCES TRAINED IN THE USE OF
24 HANDGUNS;

25 (III) A MEMBER OF AN ACCREDITED GUN CLUB WHO IS APPROVED
26 BY A HOLDER OF A QUALIFIED HANDGUN INSTRUCTOR'S CARD; OR

27 (IV) A NATIONAL RIFLE ASSOCIATION CERTIFIED HANDGUN
28 INSTRUCTOR.

29 (C) (1) THE SECRETARY SHALL ISSUE A QUALIFIED HANDGUN
30 INSTRUCTOR'S CARD TO AN APPLICANT WHO MEETS THE REQUIREMENTS OF THIS
31 SUBSECTION.

32 (2) AN APPLICANT SHALL:

33 (I) COMPLETE AND SUBMIT AN APPLICATION FORM PROVIDED BY
34 THE LICENSING DIVISION OF THE DEPARTMENT OF STATE POLICE;

35 (II) HAVE HAD FORMAL TRAINING IN THE CARE, SAFETY, AND USE
36 OF HANDGUNS;

1 (III) HAVE ACHIEVED AT LEAST A 70% SCORE ON A FIRING RANGE
2 TEST AT A PRACTICAL POLICE COURSE AT A DISTANCE NOT TO EXCEED 25 FEET;

3 (IV) HAVE TAUGHT A COURSE IN THE CARE, SAFETY, AND USE OF
4 HANDGUNS FOR AT LEAST 1 YEAR; AND

5 (V) BE CERTIFIED AS A NATIONAL RIFLE ASSOCIATION HANDGUN
6 INSTRUCTOR.

7 (3) A HOLDER OF A QUALIFIED HANDGUN INSTRUCTOR'S CARD MAY
8 CONDUCT HANDGUN TRAINING COURSES AND FIRING RANGE TESTS FOR
9 APPLICANTS FOR PERMITS FOR CARRYING A HANDGUN.

10 (4) SUBJECT TO THE HEARING PROVISIONS OF PARAGRAPH (5) OF THIS
11 SUBSECTION, THE SECRETARY MAY DENY A QUALIFIED HANDGUN INSTRUCTOR'S
12 CARD TO ANY APPLICANT, REPRIMAND ANY HOLDER OF A CARD, OR SUSPEND OR
13 REVOKE A CARD IF THE APPLICANT OR HOLDER:

14 (I) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO
15 OBTAIN A CARD FOR THE APPLICANT OR ANOTHER INDIVIDUAL;

16 (II) FRAUDULENTLY OR DECEPTIVELY USES A CARD;

17 (III) ENGAGES IN UNSAFE RANGE PRACTICES;

18 (IV) FALSIFIES QUALIFICATION SCORES IN AN APPLICATION FOR A
19 HANDGUN PERMIT;

20 (V) DEVIATES SIGNIFICANTLY FROM THE PRESCRIBED TRAINING
21 COURSE;

22 (VI) IS CONVICTED OF A CRIMINAL OFFENSE THAT WOULD
23 PROHIBIT THE APPLICANT OR HOLDER FROM BUYING OR POSSESSING A FIREARM;
24 OR

25 (VII) IS CONVICTED OF A CRIMINAL OFFENSE THAT INVOLVES THE
26 POSSESSION, USE, OR DISTRIBUTION OF A CONTROLLED DANGEROUS SUBSTANCE AS
27 DEFINED BY § 277 OF THIS ARTICLE.

28 (5) (I) EXCEPT AS OTHERWISE PROVIDED IN TITLE 10, SUBTITLE 4 OF
29 THE STATE GOVERNMENT ARTICLE, BEFORE THE SECRETARY TAKES ANY FINAL
30 ACTION UNDER PARAGRAPH (4) OF THIS SUBSECTION, THE SECRETARY SHALL GIVE
31 THE INDIVIDUAL AGAINST WHOM THE ACTION IS CONTEMPLATED AN OPPORTUNITY
32 FOR A HEARING BEFORE THE SUPERINTENDENT.

33 (II) AN INDIVIDUAL MAY REQUEST A HEARING ONLY WITHIN 30
34 DAYS AFTER RECEIPT OF NOTICE OF THE CONTEMPLATED ACTION.

35 [(b)] (D) (1) Except as provided in paragraph (2) of this subsection, the
36 Secretary may charge a nonrefundable fee not to exceed \$75 for an initial application,

1 [\$50] \$35 for a renewal or subsequent application, and \$10 for a duplicate or modified
2 permit payable at the time an application is filed. The fee may be paid with a personal
3 check, business check, certified check, or money order.

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

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

9 (ii) A retired law enforcement officer of the State or of a county or
10 municipal corporation of the State; OR

11 (III) A NATIONAL RIFLE ASSOCIATION CERTIFIED HANDGUN
12 INSTRUCTOR.

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

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

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

18 [(c)] (E) A permit INITIALLY issued under this section shall expire on the last
19 day of the holder's birth month following two years after its issuance. [The]
20 AFTERWARD, THE permit may be renewed, upon application and payment of the
21 renewal fee, for successive periods of [three] 5 years each, if the applicant, at the time
22 of application, possesses the qualifications set forth in this section for the issuance of
23 a permit.

24 [(d)] (F) [The Secretary may, in any permit issued under this section, limit
25 the geographic area, circumstances, or times during the day, week, month, or year in
26 or during which the permit is effective.] The Secretary may WAIVE OR reduce the cost
27 of the permit accordingly, if THE APPLICANT REQUESTS the permit [is granted] for
28 one day only and at one place only.

29 [(e)] (G) Any person to whom a permit shall be issued or renewed shall carry
30 such permit in his possession every time he carries, wears, or transports a handgun.
31 A permit issued pursuant to this section shall be valid for any handgun legally in the
32 possession of the person to whom the permit was issued.

33 [(f)] (H) The Secretary may revoke any permit issued or renewed at any time
34 upon a finding that (i) the holder no longer satisfies the qualifications set forth in
35 subsection (a), or (ii) the holder of the permit has violated subsection [(e)] (G) hereof.
36 A person holding a permit which is revoked by the Secretary shall return the permit
37 to the Secretary within ten days after receipt of notice of the revocation. Any person
38 who fails to return a revoked permit in violation of this section shall be guilty of a

1 misdemeanor, and, upon conviction, shall be fined not less than \$100 or more than
2 \$1,000, or be imprisoned for not more than one year, or both.

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

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

9 (3) Pursuant to the informal review, the Secretary shall sustain, reverse,
10 or modify the initial action taken and notify the applicant of the decision in writing
11 within [30] 10 days after receipt of the request for informal review.

12 (4) Institution of proceedings under this section is within the discretion
13 of the applicant and is not a condition precedent to institution of proceedings under
14 subsection [(h)] (J) of this section.

15 [(h)] (J) (1) There is created a Handgun Permit Review Board as a separate
16 agency within the Department of Public Safety and Correctional Services. The Board
17 shall consist of [five] SEVEN members appointed from the general public by the
18 Governor with the advice and consent of the Senate of Maryland and shall hold office
19 for terms of three years. The members shall hold office for a term of one, two, and
20 three years, respectively, to be designated by the Governor. After the first
21 appointment, the Governor shall annually appoint a member of the Board in the place
22 of the member whose term shall expire. Members of the Board shall be eligible for
23 reappointment. In case of any vacancy [in] ON the Board, the Governor shall fill the
24 vacancy by the appointment of a member to serve until the expiration of the term for
25 which the person had been appointed. Each member of the Board shall receive per
26 diem compensation as provided in the budget for each day actually engaged in the
27 discharge of his official duties as well as reimbursement, in accordance with the
28 Standard State Travel Regulations, for all necessary and proper expenses.

29 (2) Any person whose application for a permit or renewal of a permit has
30 been rejected or whose permit has been revoked or limited may request the Board to
31 review the decision of the Secretary by filing a written request for review with the
32 Board within [ten] 30 days after receipt of written notice of the Secretary's final
33 action. The Board shall, within [90] 60 days after receipt of the request, either review
34 the record developed by the Secretary, or conduct a hearing. In conducting its review
35 of the decision of the Secretary, the Board may receive and consider any additional
36 evidence submitted by any party. Based upon its consideration of the record, and any
37 additional evidence, the Board shall either sustain, reverse or modify the decision of
38 the Secretary. If the action taken by the Board results in the rejection of an
39 application for a permit or renewal of a permit or the revocation or limitation of a
40 permit, the Board shall submit in writing to that person the reasons for the action
41 taken by the Board.

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

6 (4) Any person whose application for a permit or renewal of a permit has
7 not been acted upon by the Secretary within [90] 60 days after the application was
8 submitted, may request the Board for a hearing by filing a written request for such a
9 hearing with the Board.

10 [(i)] (K) Notwithstanding any other provision of this subheading, the
11 following persons may, to the extent authorized prior to March 27, 1972, and subject
12 to the conditions specified in this subsection and subsection [(j)] (L) hereof, continue
13 to wear, carry, or transport a handgun without a permit:

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

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

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

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

27 [(j)] (L) Each person referred to in subsection [(i)] (K) hereof shall, within one
28 year after March 27, 1972, make application for a permit as provided in this section.
29 Such application shall include evidence satisfactory to the Secretary of the State
30 Police that the applicant is trained and qualified in the use of handguns. The right to
31 wear, carry, or transport a handgun provided for in subsection [(i)] (K) hereof shall
32 terminate at the expiration of one year after March 27, 1972, if no such application is
33 made, or immediately upon notice to the applicant that his application for a permit
34 has not been approved.

35 [(k)] (M) As used in this section, Secretary means the Secretary of the State
36 Police, acting directly or through duly authorized officers and agents of the Secretary.

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

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