

Department of Legislative Services

Maryland General Assembly

2002 Session

FISCAL NOTE

Senate Bill 223

(Senator Frosh, *et al.*)

Judicial Proceedings

Gun Safety Act of 2002

This bill makes various changes to current law provisions relating to regulated firearms.

Fiscal Summary

State Effect: General fund revenue increase of about \$1,000,000 and general fund expenditure increase of \$971,300 in FY 2003. Future years reflect annualization, inflation, and diminishing need for firearm safety instruction classes. The criminal penalty provisions of this bill are not expected to significantly affect State finances or operations.

(in dollars)	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
GF Revenue	\$1,000,000	\$900,000	\$810,000	\$729,000	\$656,100
GF Expenditure	971,300	758,300	705,300	657,600	615,000
Net Effect	\$28,700	\$141,700	\$104,700	\$71,400	\$41,100

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

Local Effect: The criminal penalty provisions of the bill are not expected to significantly affect local finances or operations.

Small Business Effect: Potential meaningful. Lease agreements for firing ranges and increased sales of regulated firearms and ammunition to the State could measurably impact current or future small businesses offering related goods and services. Small businesses that offer certified firearms training could also be significantly positively affected.

Analysis

Bill Summary: This bill provides that, on or after January 1, 2004, an applicant to purchase, rent, or transfer a regulated firearm must demonstrate competency by completing a certified firearms safety training course containing instruction in “firearm safety, firearm safety around children, firearm law, and firearm marksmanship.” The bill also eliminates an exemption from the requirement that a person complete a certified firearms training course currently applicable to persons issued a permit to carry a handgun.

The Police Training Commission must adopt applicable regulations before January 1, 2003, for a certified firearms safety training course required for a regulated firearms purchase, rental, or transfer made on or after January 1, 2004.

The bill expands information that must be contained on an application to purchase, rent, or transfer a regulated firearm in the State by requiring: (1) documentation indicating that the applicant is a Maryland resident, such as a utility bill from within the last three months, a residential lease, a property deed, or military permanent duty station orders indicating assignment within this State; (2) a thumbprint applied directly on the application that will be retained as a permanent record of the transaction; and (3) for an application made on or after January 1, 2004, documentation that the applicant has demonstrated competency in handling firearms while completing a certified firearms safety training course that is offered by the Maryland Police Training Commission.

The bill requires an applicant who enrolls in a certified firearms safety training course to pay to the person or unit of government conducting the course an enrollment fee to cover the costs of the course. The person or unit of government conducting the course shall submit, no later than one business day after the course ends, a report to the Department of State Police that contains the name, birthdate, and address of each individual who successfully completes the course. The bill provides a certain immunity for local government employees or State Police officers from civil liability for damages arising out of any injury incurred by a participant during the course.

The bill requires that an application to purchase, rent, or transfer a regulated firearm must contain a statement by the applicant under penalty of perjury as to the date the application was delivered in completed form to the prospective seller or transferor by the prospective purchaser, lessee, or transferee. The bill eliminates the need for the hour of the application delivery to also be included. If the applicant is a corporation, the application must be completed and executed by a corporate officer who is a resident of the State.

If a regulated firearm is lost or stolen, the owner of the firearm must report the theft to the State Police within 48 hours after becoming aware of the loss or theft. A violator of this provision is guilty of a misdemeanor and subject to maximum penalties of a fine of \$5,000 and/or imprisonment for three years.

The required certified firearms safety training course must: (1) be offered by the commission; (2) be conducted or offered at least once each week in all geographic areas of the State and be available after regular business hours; (3) be open to any individual required by law to complete the certified firearms safety training course, within two weeks of the request of the individual; (4) have its costs covered by an enrollment fee payable to the person or State unit that conducts the course; and (5) contain instruction in general firearm safety, firearm safety around children, firearm law, and firearm marksmanship and be conducted by a certified individual or organization.

The bill increases, from \$1,000 to \$5,000, the maximum monetary penalty applicable to the current law misdemeanor prohibiting a person from storing or leaving a loaded firearm in a location where the person knew or should have known that an unsupervised child would gain access to the firearm. In addition, the bill provides that, if the firearm was obtained unlawfully or if the violation was committed with criminal negligence, the violator is subject to maximum penalties of a fine of \$10,000 and/or imprisonment for three years. The bill eliminates current law provisions disallowing such a violation to be considered evidence of negligence and limiting the related liability of a party or insurer.

The bill requires that, on or before October 1, 2003, the Secretary of Public Safety and Correctional Services, in consultation with the Criminal Justice Information Advisory Board, must implement a system for reporting felony and misdemeanor convictions to the State Police to determine if those convicted are disqualified from possessing a regulated firearm. A State Police officer has a certain immunity relating to carrying out this provision, unless it is proven that the officer acted with gross negligence or in bad faith.

Current Law: A regulated firearm is any handgun or assault weapon defined as such under the Annotated Code of Maryland. The application to purchase, rent, or transfer a regulated firearm must contain the following information:

- applicant's name, address, Maryland driver's or photographic identification soundex number;
- Social Security number, occupation, place and date of birth, height, weight, race, eye and hair color, and signature and regulated firearm information for each firearm to be purchased, rented, or transferred. In the event the applicant is a corporation, the application must be completed and executed by a corporate officer who is a resident of the State; and

- because any of the following disallow a person from possessing a regulated firearm, a statement by the applicant under the penalty of perjury that he or she:
 - A. has never been convicted of: (1) a crime of violence; (2) any violation classified as a felony in this State; (3) any violation classified as a misdemeanor in this State that carries a statutory penalty of more than two years; or (4) any violation classified as a common law offense where the person received a term of imprisonment of more than two years;
 - B. is not a habitual drunkard, is not an addict or habitual user of any controlled dangerous substances, has never spent more than 30 consecutive days in any medical institution for treatment of a mental disorder or disorders (unless there is attached to the application a physician's certificate, issued within 30 days prior to the date of application, certifying that the applicant is capable of possessing a regulated firearm without undue danger to himself or herself, or to others), is at least 21 years of age, and is not a respondent against whom a current non ex parte civil protective order has been entered; and
 - C. if less than 30 years of age at the time of application, has not been adjudicated delinquent by a juvenile court for: (1) a crime of violence; (2) any violation classified as a felony in this State; or (3) any violation classified as a misdemeanor in this State that carries a statutory penalty of more than two years.

For an application made on or after January 1, 2002, an applicant must have completed a certified firearms safety training course conducted free of charge by the Maryland Police Training Commission or one that meets standards established by the training commission.

An application must contain information as to the date and hour the application was delivered in completed form to the prospective seller or transferor by the prospective purchaser, lessee, or transferee.

A person is not required to complete a certified firearms training course if the person: (1) has already completed a required certified firearms training course; (2) is a law enforcement officer of the State or any local law enforcement agency in the State; (3) is a member, retired member, or honorably discharged member of the armed forces of the United States or the National Guard; (4) is a member of an organization that is required by federal law or regulations governing their specific business or activity to maintain handguns and applicable ammunition; or (5) has been issued a permit to carry a handgun.

The Police Training Commission has regulatory authority over certified firearms training courses. The required certified firearms safety training course for regulated firearms must be offered by the commission and: (1) be offered free of charge or fee; (2) be no more than two hours in length; (3) be conducted or offered at least once each week in all

geographic areas of the State and be available after regular business hours; (4) be open to any individual required by law to complete the firearms safety training course, within two weeks of the request of the individual; (5) may not require any skills or knowledge testing in the use of a regulated firearm in order to successfully complete the course; and (6) must only require attendance throughout the duration of the course in order to successfully complete the course, or contain a handgun safety component and be conducted by a certified individual or organization.

A person is prohibited from storing or leaving a loaded firearm in a location where the person knew or should have known that an unsupervised child would gain access to the firearm. A violator is guilty of a misdemeanor and subject to a maximum fine of \$1,000. A violation of this provision may not: (1) be considered evidence of negligence; (2) be considered evidence of contributory negligence; (3) limit liability of a party or an insurer; or (4) diminish recovery for damages arising out of the ownership, maintenance, or operation of a firearm or ammunition. A party witness or lawyer may not refer to a violation of this provision during a trial of a civil action that involves property damage, personal injury, or death.

State Fiscal Effect: There are about 31,000 applications to purchase firearms annually in the State. This bill would require firearms purchasers to complete the training course, including marksmanship, before being able to purchase, rent, or transfer a firearm. The training would not have to be repeated for future purchases.

The Police Training Commission anticipates that this bill will result in two-thirds of those applicants (20,000 applicants) having to take the bill's training course in fiscal 2003. The full 31,000 purchasers would not need the course due to current law exemptions (e.g., military personnel), multiple gun purchases by individuals, and the ability of a person to receive the training from an approved private sector operator. Because a person is only required to take the training course one time, in future years the number of persons needing the firearm course is expected to fall off by about 10% a year for the next five years, and then is likely to begin leveling out. Based on similar course offerings in the private sector, the Police Training Commission would charge \$50 per participant for a five-hour course.

Accordingly, general fund revenues for fiscal 2003 could increase by \$1,000,000 (20,000 training course participants x \$50). In the out-years, this amount decreases by 10% annually.

The Police Training Commission bases its estimate of costs on the following assumptions:

- the marksmanship feature to the training course requirements means that actual use of the weapon at a field range will be necessary to comply with the bill's training requirements;
- the commission would have to purchase about 1,000 regulated firearms for training course marksmanship purposes because the training is required to occur prior to purchase and the applicant would not be able to bring the regulated firearm to the training course site;
- the commission would have to contractually engage qualified instructors in firearm use rather than classroom instructors;
- the commission would have to rent or lease firing range space at 16 sites statewide; and
- about \$60 of ammunition would be needed weekly at each range site.

Accordingly, general fund expenditures could increase by an estimated \$971,314 in fiscal 2003, which accounts for the bill's October 1, 2002 effective date. This estimate reflects the cost of hiring one office secretary, one office clerk, and three part-time contractual persons including two firearms training course instructors to conduct one weekly firearms training in regulated firearms safety and use for regulated firearms purchasers. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. The information and assumptions used in calculating the estimate are stated below:

- 20,000 persons will need to complete the firearm training course in fiscal 2003;
- 2 contractual firearm instructors, and 1 clerical person, would be needed for the 5-hour course at each of 16 sites for 52 weeks; and
- leasing costs for each range at 16 sites would cost \$500 per week.

Salaries and Fringe Benefits	\$52,599
Contractual Firearm Instruction	97,355
Firing Range Leases	283,685
Regulated Firearms Purchases	500,000
Operating Expenses	<u>37,675</u>
Total FY 2003 State Expenditures	\$971,314

Future year expenditures reflect: (1) full salaries with 3.5% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses. Over time, regulated firearms purchased for instructional purposes would have to be replaced and/or updated. However, because the firearm training course is only required to be taken once, at some future date beyond fiscal 2007 revenues and expenditures will significantly diminish.

Legislative Services notes that it is the marksmanship feature to the training course requirements that account for almost all of the costs projected by the Police Training Commission. All other course features could be handled largely in a classroom setting and almost all of the above cited costs would be obviated.

In addition, to the extent that private operators of firearms training courses who are certified under the bill's provisions successfully market their offerings, the number of persons who take the training course from the Police Training Commission could be significantly reduced. Should such a scenario unfold, both revenues and expenditures cited above would decrease proportionally.

Any of the bill's requirements affecting other State agencies, including the certification of individuals or organizations to conduct firearms training courses, could be handled with existing budgeted resources.

Additional Information

Prior Introductions: None.

Cross File: HB 542 (Delegate Shriver, *et al.*) – Judiciary.

Information Source(s): Somerset County, Montgomery County, Prince George's County, Charles County, Department of State Police, Frederick County, Baltimore City, Department of Public Safety and Correctional Services, Department of Legislative Services

Fiscal Note History: First Reader - March 11, 2002
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