

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE
Revised

House Bill 193

(Chairman, Judiciary Committee)

(By Request – Departmental – State Police)

Judiciary

Judicial Proceedings

**State Fire Marshal - Issuance of Explosives Licenses and Blaster's Permits -
Criminal History Records Checks**

This departmental bill requires an applicant for a license dealing with explosives to be subject to fingerprint-based State and national criminal history records checks, and to pay all associated fees. The bill requires all explosives license applications to be made to the Office of the State Fire Marshal. Application fees for all related licenses (including for manufacturing, possession, dealing, use – whether for firearms or not, storage, and blasters permits) are not altered. The bill also expands the grounds for which the State Fire Marshal is required to deny an application for a license or permit.

Fiscal Summary

State Effect: None. Because criminal history records check costs will be borne by license applicants, the bill's requirements could be handled with the existing budgeted resources of Maryland's Criminal Justice Information System (CJIS) Central Repository in the Department of Public Safety and Correctional Services. Application and permit processes will continue to be handled with the existing budgeted resources of the State Fire Marshal with no change in general fund revenues attributable to fees.

Local Effect: None.

Small Business Effect: The Department of State Police has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Current Law: The Office of the State Fire Marshal issues licenses for the manufacture, dealing, or possession of explosives. When the explosives are used in firearms, application must also be made to the sheriff's department or other local authority. An explosives license must be issued unless the applicant has been convicted of a felony or violent crime, is disloyal to the United States, or will use the explosives for an illegal purpose.

In Maryland, criminal history records checks are performed by CJIS in the Department of Public Safety and Correctional Services.

Background: The State Fire Marshal has been conducting criminal history records checks via the use of the National Crime Information Center (NCIC), a computerized database operated by the FBI. It contains data from the issuance of warrants, and is not fingerprint-based. The State Fire Marshal has been advised that federal law prohibits the use of NCIC for nonlaw enforcement purposes. In order for the FBI to conduct a fingerprint-based national criminal history records check, the state making the request must have the requirement and authority for that records check in statute. Currently, the State Fire Marshal does not have that specific statutory authority.

Various provisions of State law require State and national criminal history records checks for licensing or employment purposes. As a condition of performing a national criminal history records check for a noncriminal justice purpose, Public Law 92-544 provides that each state statute requiring a national check must be approved by the U.S. Attorney General. Under provisions of the Code of Federal Regulations (Title 28), this authority has been delegated to the FBI.

The currently established criteria for a state provision to be in compliance are as follows:

- the provision must result from a legislative enactment;
- it must require the fingerprinting of applicants who are subjected to a national criminal history background check;
- it must expressly or implicitly authorize the use of FBI records for the screening of applicants;
- it must identify the specific category of licensees/employees falling within its purview (avoiding too broad a coverage);
- it must not be against established public policy; and
- it may not authorize receipt of the criminal history records information by a private entity.

In Maryland, the total maximum cost of each criminal history records check is \$52, which includes State and national background checks plus fingerprinting. CJIS Central Repository is authorized by law to collect an \$18 fee established for Maryland criminal history records checks. This fee represents cost recovery for processing and administration and is revenue/cost neutral. The FBI charges a fee of \$24 for a national criminal history records check. There is also normally a \$10 fee for two fingerprint cards (\$5 for the State card; \$5 for the separate FBI card). The CJIS Central Repository must collect the fees from the applicant, or other payer, and reimburse the FBI through that agency's monthly billing.

Local governments have abandoned the process of issuing explosives licenses.

State Revenues: The fees associated with various explosives applications and permits are not changed by this bill. For fiscal 2001 and 2002, the State Fire Marshal issued:

- 73 explosives permits to retail businesses (\$25 each);
- 70 explosives permits to individual users (\$50 each);
- 10 explosives permits to manufacturers (\$100 each); and
- 600 blaster permits (\$20 each).

Total general fund revenue over the two-year period was \$18,325.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of State Police (Office of the State Fire Marshal), Department of Public Safety and Correctional Services, Department of Legislative Services

Fiscal Note History: First Reader - February 10, 2003
ncs/cer Revised - House Third Reader - March 17, 2003

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