
By: **Senators Mooney, Brinkley, Colburn, Greenip, Haines, Harris, Hooper,
Jacobs, Jimeno, Klausmeier, Stoltzfus, and Stone**

Introduced and read first time: January 22, 2004

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

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

3 FOR the purpose of altering certain requirements for the issuance of handgun
4 permits; repealing the requirement that the Secretary of State Police find that
5 an applicant seeking a permit has a good and substantial reason to wear, carry,
6 or transport a handgun; reducing a certain fee; authorizing the Secretary to
7 waive a certain fee; prohibiting a certain fee from being charged to a National
8 Rifle Association certified handgun instructor; establishing a certain period of
9 time within which the Secretary must issue a permit to carry a handgun after
10 an application is approved; requiring that an individual be certified by a
11 qualified handgun instructor before that individual may receive a permit;
12 requiring the successful completion of certain course requirements and the
13 achievement of at least a certain score on a certain firing range test;
14 establishing requirements for issuance of a qualified handgun instructor's card;
15 authorizing the Secretary to deny a qualified handgun instructor's card to any
16 applicant, reprimand any holder of a card, or suspend or revoke a card under
17 certain circumstances; repealing the authority of the Secretary to limit certain
18 circumstances under which a permit is effective; increasing certain periods of
19 permit renewal; decreasing the time in which the Secretary must make certain
20 notifications; increasing the time to make a certain request; decreasing the time
21 in which the Secretary may request a certain hearing and the time in which the
22 Handgun Permit Review Board must take certain actions; making certain
23 stylistic changes; and generally relating to permits for carrying a handgun.

24 BY repealing and reenacting, without amendments,
25 Article - Public Safety
26 Section 5-301 and 5-303
27 Annotated Code of Maryland
28 (2003 Volume)

29 BY repealing and reenacting, with amendments,
30 Article - Public Safety
31 Section 5-304, 5-306, 5-307, 5-309, 5-311, and 5-312

1 Annotated Code of Maryland
2 (2003 Volume)

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

5 **Article - Public Safety**

6 5-301.

7 (a) In this subtitle the following words have the meanings indicated.

8 (b) "Board" means the Handgun Permit Review Board.

9 (c) "Handgun" has the meaning stated in § 4-201 of the Criminal Law Article.

10 (d) "Permit" means a permit issued by the Secretary to carry, wear, or
11 transport a handgun.

12 (e) "Secretary" means the Secretary of State Police or the Secretary's
13 designee.

14 5-303.

15 A person shall have a permit issued under this subtitle before the person carries,
16 wears, or transports a handgun.

17 5-304.

18 (a) An application for a permit shall be made under oath.

19 (b) (1) Subject to subsections (c) and (d) of this section, the Secretary may
20 charge a nonrefundable fee payable when an application is filed for a permit.

21 (2) The fee may not exceed:

22 (i) \$75 for an initial application;

23 (ii) [~~\$50~~] \$35 for a renewal or subsequent application; and

24 (iii) \$10 for a duplicate or modified permit.

25 (3) The fees under this subsection are in addition to the fees authorized
26 under § 5-305 of this subtitle.

27 (c) The Secretary may WAIVE OR reduce the fee under subsection (b) of this
28 section accordingly [for a], IF THE APPLICANT REQUESTS THE permit [that is
29 granted] for one day only and at one place only.

30 (d) The Secretary may not charge a fee under subsection (b) of this section to:

1 (1) a State, county, or municipal public safety employee who is required
2 to carry, wear, or transport a handgun as a condition of governmental employment;
3 [or]

4 (2) a retired law enforcement officer of the State or a county or municipal
5 corporation of the State; OR

6 (3) A NATIONAL RIFLE ASSOCIATION CERTIFIED HANDGUN
7 INSTRUCTOR.

8 (e) The applicant may pay a fee under this section by a personal check,
9 business check, certified check, or money order.

10 5-306.

11 (a) Subject to subsection (b) of this section, the Secretary shall issue a permit
12 within [a reasonable time] 45 DAYS to a person who the Secretary finds:

13 (1) is an adult;

14 (2) (i) has not been convicted of a felony or of a misdemeanor for which
15 a sentence of imprisonment for more than 1 year has been imposed; or

16 (ii) if convicted of a crime described in item (i) of this item, has been
17 pardoned or has been granted relief under 18 U.S.C. § 925(c);

18 (3) has not been convicted of a crime involving the possession, use, or
19 distribution of a controlled dangerous substance;

20 (4) is not presently [an alcoholic] A HABITUAL DRUNKARD, addict, or
21 habitual user of a controlled dangerous substance unless the habitual use of the
22 controlled dangerous substance is under legitimate medical direction; and

23 (5) [based on an investigation:

24 (i) has not exhibited a propensity for violence or instability that
25 may reasonably render the person's possession of a handgun a danger to the person or
26 to another; and

27 (ii) has good and substantial reason to wear, carry, or transport a
28 handgun, such as a finding that the permit is necessary as a reasonable precaution
29 against apprehended danger] IS NOT PROHIBITED FROM POSSESSING A REGULATED
30 FIREARM UNDER § 5-133(B) OF THIS TITLE; AND

31 (6) HAS MET THE HANDGUN CERTIFICATION REQUIREMENTS OF
32 SUBSECTION (C) OF THIS SECTION.

33 (b) An applicant under the age of 30 years is qualified only if the Secretary
34 finds that the applicant [has not been]:

1 (1) HAS NOT BEEN committed to a detention, training, or correctional
2 institution for juveniles for longer than 1 year after an adjudication of delinquency by
3 a juvenile court; [or]

4 (2) HAS NOT BEEN adjudicated delinquent by a juvenile court for:

5 (i) an act that would be a crime of violence if committed by an
6 adult;

7 (ii) an act that would be a felony in this State if committed by an
8 adult; or

9 (iii) an act that would be a misdemeanor in this State that carries a
10 statutory penalty of more than 2 years if committed by an adult; AND

11 (3) HAS MET THE HANDGUN CERTIFICATION REQUIREMENTS OF
12 SUBSECTION (C) OF THIS SECTION.

13 (C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION,
14 BEFORE AN APPLICANT MAY BE GRANTED A PERMIT TO CARRY A HANDGUN, THE
15 APPLICANT SHALL SUCCESSFULLY:

16 (I) COMPLETE A COURSE OF HANDGUN INSTRUCTION;

17 (II) PASS A FIRING RANGE TEST; AND

18 (III) BE CERTIFIED BY A HOLDER OF A QUALIFIED HANDGUN
19 INSTRUCTOR'S CARD.

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

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

23 (II) 6 HOURS OF STUDY ON THE LEGAL RESPONSIBILITIES OF GUN
24 OWNERS; AND

25 (III) 6 HOURS OF STUDY AND TRAINING IN NOMENCLATURE,
26 MAINTENANCE, SIGHT ALIGNMENT, POSITION SHOOTING, DRY-FIRING, AND RANGE
27 PRACTICE WITH A HANDGUN OF THE OWNER'S CHOICE WITH A BARREL LENGTH
28 BETWEEN 2 AND 6 INCHES.

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

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

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

3 (I) A FORMER LAW ENFORCEMENT OFFICER;

4 (II) A MEMBER OF THE ARMED FORCES TRAINED IN THE USE OF
5 HANDGUNS;

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

8 (IV) A NATIONAL RIFLE ASSOCIATION CERTIFIED HANDGUN
9 INSTRUCTOR.

10 (D) (1) THE SECRETARY SHALL ISSUE A QUALIFIED HANDGUN
11 INSTRUCTOR'S CARD TO AN APPLICANT WHO:

12 (I) COMPLETES AND SUBMITS AN APPLICATION FORM PROVIDED
13 BY THE LICENSING DIVISION OF THE DEPARTMENT OF STATE POLICE;

14 (II) DOCUMENTS THE SUCCESSFUL COMPLETION OF FORMAL
15 TRAINING IN THE CARE, SAFETY, AND USE OF HANDGUNS;

16 (III) DOCUMENTS ACHIEVEMENT OF AT LEAST A 70% SCORE ON A
17 FIRING RANGE TEST AT A PRACTICAL POLICE COURSE AT A DISTANCE NOT TO
18 EXCEED 25 FEET;

19 (IV) ESTABLISHES THAT THE APPLICANT HAS BEEN AN
20 INSTRUCTOR IN THE CARE, SAFETY, AND USE OF HANDGUNS FOR AT LEAST 1 YEAR;
21 AND

22 (V) IS CERTIFIED AS A NATIONAL RIFLE ASSOCIATION HANDGUN
23 INSTRUCTOR.

24 (2) A HOLDER OF A QUALIFIED HANDGUN INSTRUCTOR'S CARD MAY
25 CONDUCT A HANDGUN TRAINING COURSE AND FIRING RANGE TEST FOR AN
26 APPLICANT FOR A PERMIT TO CARRY A HANDGUN.

27 (3) SUBJECT TO THE NOTICE AND HEARING PROVISIONS OF PARAGRAPH
28 (4) OF THIS SUBSECTION, THE SECRETARY MAY DENY A QUALIFIED HANDGUN
29 INSTRUCTOR'S CARD TO ANY APPLICANT, REPRIMAND ANY HOLDER OF A CARD, OR
30 SUSPEND OR REVOKE A CARD IF THE APPLICANT OR HOLDER:

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

33 (II) FRAUDULENTLY OR DECEPTIVELY USES A CARD;

34 (III) ENGAGES IN UNSAFE RANGE PRACTICES;

1 (IV) FALSIFIES QUALIFICATION SCORES IN AN APPLICATION FOR A
2 HANDGUN PERMIT;

3 (V) DEVIATES SIGNIFICANTLY FROM THE PRESCRIBED TRAINING
4 COURSE;

5 (VI) IS CONVICTED OF A CRIME THAT WOULD PROHIBIT THE
6 APPLICANT OR HOLDER FROM BUYING OR POSSESSING A FIREARM; OR

7 (VII) IS CONVICTED OF A CRIME THAT INVOLVES THE POSSESSION
8 OR DISTRIBUTION OF A CONTROLLED DANGEROUS SUBSTANCE AS DEFINED UNDER §
9 5-101 OF THE CRIMINAL LAW ARTICLE.

10 (4) (I) EXCEPT AS OTHERWISE PROVIDED IN TITLE 10, SUBTITLE 4 OF
11 THE STATE GOVERNMENT ARTICLE, BEFORE THE SECRETARY TAKES ANY FINAL
12 ACTION UNDER PARAGRAPH (3) OF THIS SUBSECTION, THE SECRETARY SHALL
13 PROVIDE NOTICE TO THE APPLICANT OR HOLDER OF THE DECISION OF THE
14 SECRETARY UNDER PARAGRAPH (3) OF THIS SUBSECTION AND PROVIDE THE
15 APPLICANT OR HOLDER WITH AN OPPORTUNITY FOR A HEARING ON THE DECISION
16 OF THE SECRETARY.

17 (II) AN INDIVIDUAL MAY REQUEST A HEARING ONLY WITHIN 30
18 DAYS AFTER RECEIPT OF NOTICE OF THE SECRETARY'S ACTION.

19 5-307.

20 [(a)] A permit is valid for each handgun legally in the possession of the person
21 to whom the permit is issued.

22 [(b)] The Secretary may limit the geographic area, circumstances, or times of
23 the day, week, month, or year in which a permit is effective.]

24 5-309.

25 (a) A permit expires on the last day of the holder's birth month following 2
26 years after the date the permit is issued.

27 (b) A permit may be renewed for successive periods of [3] 5 years each if, at
28 the time of an application for renewal, the applicant possesses the qualifications for
29 the issuance of a permit and pays the renewal fee stated in this subtitle.

30 5-311.

31 (a) A person who is denied a permit or renewal of a permit or whose permit is
32 revoked or limited may request the Secretary to conduct an informal review by filing
33 a written request within [10] 30 days after receipt of written notice of the Secretary's
34 initial action.

35 (b) An informal review:

1 (1) may include a personal interview of the person who requested the
2 informal review; and

3 (2) is not subject to Title 10, Subtitle 2 of the State Government Article.

4 (c) In an informal review, the Secretary shall sustain, reverse, or modify the
5 initial action taken and notify the person who requested the informal review of the
6 decision in writing within [30] 10 days after receipt of the request for informal
7 review.

8 (d) A person need not file a request for an informal review under this section
9 before requesting review under § 5-312 of this subtitle.

10 5-312.

11 (a) (1) A person who is denied a permit or renewal of a permit or whose
12 permit is revoked or limited may request the Board to review the decision of the
13 Secretary by filing a written request with the Board within [10] 30 days after receipt
14 of written notice of the Secretary's final action.

15 (2) A person whose application for a permit or renewal of a permit is not
16 acted on by the Secretary within [90] 60 days after submitting the application to the
17 Secretary may request a hearing before the Board by filing a written request with the
18 Board.

19 (b) Within [90] 60 days after receiving a request to review a decision of the
20 Secretary, the Board shall:

21 (1) review the record developed by the Secretary; or

22 (2) conduct a hearing.

23 (c) The Board may receive and consider additional evidence submitted by a
24 party in conducting a review of the decision of the Secretary.

25 (d) (1) Based on the Board's consideration of the record and any additional
26 evidence, the Board shall sustain, reverse, or modify the decision of the Secretary.

27 (2) If the action by the Board results in the denial of a permit or renewal
28 of a permit or the revocation or limitation of a permit, the Board shall submit in
29 writing to the applicant or the holder of the permit the reasons for the action taken by
30 the Board.

31 (e) (1) Any hearing and any subsequent proceedings of judicial review shall
32 be conducted in accordance with Title 10, Subtitle 2 of the State Government Article.

33 (2) Notwithstanding paragraph (1) of this subsection, a court may not
34 order the issuance or renewal of a permit or alter a limitation on a permit pending a
35 final determination of the proceeding.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2004.