

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 948
Judiciary

(Delegate Quinter, *et al.*)

Maryland Assault Weapons Ban of 2005

This bill generally prohibits assault weapons in the State.

Fiscal Summary

State Effect: None. The requirements of this bill could be handled with the existing budgeted resources of the Department of State Police.

Local Effect: None.

Small Business Effect: Minimal. Most of the State's 269 licensed gun dealers are believed to be small businesses. Since the number or percentage of gun sales in the State involving assault weapons is unknown, the extent to which this bill's ban may limit or decrease sales by gun dealers, or at lawful gun shows in Maryland, cannot be reliably estimated. However, these weapons are generally regarded in gun shops to be somewhat "exotic" and do not represent a significant segment of sales.

Analysis

Bill Summary: This bill designates 45 specified firearms as "assault weapons" and, with certain exceptions, prohibits a person from transporting an assault weapon into the State or possessing, selling, offering to sell, transferring, purchasing, or receiving an assault weapon. A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for three years and/or a fine of \$5,000.

The bill requires the Handgun Roster Board to compile and maintain a roster of prohibited assault weapons, publish the roster in the *Maryland Register* every six months (beginning no later than July 1, 2006), and send copies of the roster to all licensed firearms dealers.

The bill designates “assault long guns” and “copycat weapons” as types of assault weapons. A licensed firearms dealer may continue to possess, sell, offer for sale, or transfer an assault long gun or copycat weapon that the dealer lawfully possessed on or before October 1, 2005. A person who lawfully possessed an assault long gun or copycat weapon before October 1, 2005, and who registers the gun or weapon with the Secretary of State Police before December 1, 2005, may continue to possess the gun or weapon.

The bill authorizes a procedure by which a person may petition the board to remove a copycat weapon from the roster of prohibited assault weapons. If the board denies such a petition, or takes no action on it, the petitioner may request a hearing before the board within 15 days after the date that the denial letter is received. The board must hold a hearing and make a final decision within 90 days.

The bill prohibits a person from using an assault long gun or copycat weapon in the commission of a felony or crime of violence. A violator is guilty of a misdemeanor and, in addition to any other sentence imposed for the felony or crime of violence, is subject to a maximum imprisonment penalty of 20 years for a first offense. For each subsequent violation, the person must be sentenced to a maximum imprisonment of 20 years. The bill requires sentencing for such offenses to be consecutive rather than concurrent with any other sentence imposed for the felony or crime of violence.

In addition, the bill provides that a firearm must be lawfully possessed on or before October 1, 2005 by a licensed firearms dealer, and must meet other specified provisions of this bill, in order for it to qualify as a regulated firearm under the definition of “regulated firearm” in the Public Safety Article.

Current Law: In 1994, Maryland prohibited the sale and possession of “assault pistols” (defined as 15 specific semiautomatic pistols or their copies). The State also maintains a registration system for the possession of machine guns (fully automatic weapons) in Maryland. However, the lawful possession of a machine gun is limited (for military, law enforcement, or scientific purposes, or as a “curiosity” as long as it cannot be operated as a weapon). Simple possession of a machine gun with either spent or unused ammunition in the “immediate vicinity” is itself a crime.

The State regulates the possession and sale of assault weapons in the same manner as the possession and sale of handguns, both of which are defined together as “regulated

firearms.” “Assault weapons” are defined as a list of 45 specific semiautomatic weapons and their copies (mostly types of semiautomatic rifles and shotguns). Before a person purchases, rents, or transfers a regulated firearm in the State, the person must submit to the State Police or other designated law enforcement agency a firearm application that identifies the applicant and the firearm that is the subject of the transaction. Applications are investigated by the State Police and are subject to a seven-day waiting period before the transaction may take place.

An applicant must be at least 21 years old; have never been convicted of a felony, crime of violence, or misdemeanor that carries a penalty of more than two years imprisonment; and must not be addicted to drugs or alcohol or have a history of mental disorder. An applicant is required to complete a certified firearms safety course through the Police Training Commission. An application may be denied by the Secretary of State Police if the Secretary determines that the application contained false information or was not properly completed, or if the Secretary receives notice from a physician that the applicant suffers from a mental disorder and is a danger to the applicant or others.

Background: A federal assault weapons ban was enacted in 1994 (Title XI of the Federal Violent Crime Control and Law Enforcement Act of 1994) that prohibited the manufacture, transfer, or possession of specific models of semiautomatic assault weapons or their copies, as well as assault weapons that have a combination of certain military characteristics (such as large capacity ammunition magazines, flash suppressors, pistol grips on a rifle or shotgun, and barrel shrouds to cool gun barrels during multiround firings). Lawful possession and transfers prior to the law’s enactment date of September 13, 1994, were still authorized.

The federal ban also restricted the manufacture and sale of ammunition magazines capable of holding more than 10 rounds. Prior to the law, many firearms were sold standard with 30 round magazines. The law exempted assault weapons and large capacity magazines that were manufactured prior to the law’s enactment date.

The federal ban terminated on September 13, 2004, meaning that the 19 specific semiautomatic assault weapons previously prohibited under the federal ban may now be lawfully manufactured and possessed. Most of the weapons previously prohibited under federal law are listed as “regulated firearms” under Maryland law. Although under Maryland’s statute those weapons can be transferred and possessed subject to certain conditions, the effect of the 1994 federal ban was to prohibit their sale and possession in Maryland. With the federal ban lifted, these specific weapons may once again be lawfully transferred and possessed as regulated firearms in Maryland.

Additional Information

Prior Introductions: HB 1298 of 2004 had a hearing before the Judiciary Committee and had no further action taken on it. Its cross file, SB 288, received an unfavorable report from the Judicial Proceedings Committee.

Cross File: None.

Information Source(s): Department of State Police, Department of Legislative Services

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