

# SENATE BILL 851

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By: **Senator Lenett**

Introduced and read first time: February 11, 2008

Assigned to: Rules

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## A BILL ENTITLED

1 AN ACT concerning

2 **Regulated Firearms – Applications for Dealer’s License – Record Keeping**  
3 **and Reporting Requirements**

4 FOR the purpose of requiring the Secretary of State Police or the Secretary’s designee  
5 to disapprove an application for a State–regulated firearms dealer’s license if  
6 the Secretary or designee determines that the applicant intends a certain  
7 person to participate or hold a certain interest in the management or operation  
8 of the business for which the license is sought; requiring that the Secretary or  
9 designee suspend a dealer’s license if the licensee is not in compliance with  
10 certain record keeping and reporting requirements; requiring that a licensed  
11 dealer keep records of all receipts, sales, and other dispositions of firearms  
12 affected in connection with the licensed dealer’s business; requiring the  
13 Secretary or designee to adopt certain regulations specifying certain  
14 information; requiring that the records that licensed dealers maintain include  
15 certain information; specifying certain record keeping requirements to be met  
16 when a firearms business is discontinued; requiring that a licensee respond in a  
17 certain way after receipt from the Secretary or designee for certain information;  
18 requiring the Secretary or designee to inspect the inventory and records of a  
19 licensed dealer without probable cause or warrant under certain circumstances;  
20 providing certain penalties; and generally relating to regulated firearms dealers  
21 and applicants for a regulated firearms dealer’s license.

22 BY repealing and reenacting, without amendments,  
23 Article – Public Safety  
24 Section 5–101(a) and (s)  
25 Annotated Code of Maryland  
26 (2003 Volume and 2007 Supplement)

27 BY repealing and reenacting, with amendments,  
28 Article – Public Safety  
29 Section 5–110(a), 5–114(a), and 5–115

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland  
2 (2003 Volume and 2007 Supplement)

3 BY adding to  
4 Article – Public Safety  
5 Section 5–144  
6 Annotated Code of Maryland  
7 (2003 Volume and 2007 Supplement)

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

10 **Article – Public Safety**

11 5–101.

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

13 (s) “Secretary” means the Secretary of State Police or the Secretary’s  
14 designee.

15 5–110.

16 (a) The Secretary shall disapprove an application for a dealer’s license if:

17 (1) the Secretary determines that the applicant supplied false  
18 information or made a false statement;

19 (2) the Secretary determines that the application is not properly  
20 completed; [or]

21 (3) the Secretary receives a written notification from the applicant’s  
22 licensed attending physician that the applicant suffers from a mental disorder and is a  
23 danger to the applicant or to another; **OR**

24 **(4) THE SECRETARY DETERMINES THAT THE APPLICANT INTENDS**  
25 **THAT A PERSON WHO IS NOT ELIGIBLE TO BE ISSUED A DEALER’S LICENSE OR**  
26 **WHOSE DEALER’S LICENSE HAS BEEN REVOKED OR SUSPENDED:**

27 **(I) WILL PARTICIPATE IN THE MANAGEMENT OR**  
28 **OPERATION OF THE BUSINESS FOR WHICH THE LICENSE IS SOUGHT; OR**

29 **(II) HOLDS A LEGAL OR EQUITABLE INTEREST IN THE**  
30 **BUSINESS FOR WHICH THE LICENSE IS SOUGHT.**

31 5–114.

1 (a) The Secretary shall suspend a dealer's license if the licensee:

2 (1) is under indictment for a crime of violence; [or]

3 (2) is arrested for a violation of this subtitle that prohibits the  
4 purchase or possession of a regulated firearm; **OR**

5 **(3) IS NOT IN COMPLIANCE WITH THE RECORD KEEPING AND**  
6 **REPORTING REQUIREMENTS OF § 5-144 OF THIS SUBTITLE.**

7 5-115.

8 (a) (1) A person whose dealer's license is suspended or revoked **OR WHO**  
9 **IS FINED FOR A VIOLATION OF THIS SUBTITLE** and who is aggrieved by the action  
10 of the Secretary may request a hearing by writing to the Secretary within 30 days  
11 after the Secretary forwards notice to the applicant under § 5-114(c) of this subtitle.

12 (2) The Secretary shall grant the hearing within 15 days after  
13 receiving the request.

14 (b) The hearing shall be held in accordance with Title 10, Subtitle 2 of the  
15 State Government Article.

16 **5-144.**

17 **(A) (1) A LICENSED DEALER SHALL KEEP RECORDS OF ALL**  
18 **RECEIPTS, SALES, AND OTHER DISPOSITIONS OF FIREARMS AFFECTED IN**  
19 **CONNECTION WITH THE LICENSED DEALER'S BUSINESS.**

20 **(2) THE SECRETARY SHALL ADOPT REGULATIONS SPECIFYING:**

21 **(I) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE**  
22 **INFORMATION THAT THE RECORDS SHALL CONTAIN;**

23 **(II) THE TIME PERIOD FOR WHICH THE RECORDS ARE TO BE**  
24 **KEPT; AND**

25 **(III) THE FORM IN WHICH THE RECORDS ARE TO BE KEPT.**

26 **(3) THE RECORDS SHALL INCLUDE:**

27 **(I) THE NAME AND ADDRESS OF EACH PERSON FROM WHOM**  
28 **THE DEALER ACQUIRES A FIREARM AND TO WHOM THE DEALER SELLS OR**  
29 **OTHERWISE DISPOSES OF A FIREARM;**

1                   (II) A PRECISE DESCRIPTION OF EACH FIREARM ACQUIRED,  
2 SOLD, OR OTHERWISE DISPOSED OF; AND

3                   (III) THE DATE OF EACH ACQUISITION, SALE, OR OTHER  
4 DISPOSITION.

5                   (4) THE SECRETARY MAY PROVIDE THAT RECORDS MAINTAINED  
6 UNDER 18 U.S.C. § 923(G)(1)(A) MAY BE USED TO SATISFY THE REQUIREMENTS  
7 OF THIS SECTION.

8                   (B) (1) WHEN REQUIRED BY A LETTER ISSUED BY THE SECRETARY, A  
9 LICENSEE SHALL SUBMIT TO THE SECRETARY THE INFORMATION REQUIRED TO  
10 BE KEPT UNDER SUBSECTION (A) OF THIS SECTION FOR THE TIME PERIODS  
11 SPECIFIED BY THE SECRETARY.

12                   (2) THE SECRETARY SHALL DETERMINE THE FORM AND METHOD  
13 BY WHICH THE RECORDS SHALL BE MAINTAINED.

14                   (C) (1) WHEN A FIREARMS BUSINESS IS DISCONTINUED AND  
15 SUCCEEDED BY A NEW LICENSEE, THE RECORDS REQUIRED TO BE KEPT UNDER  
16 THIS SECTION SHALL REFLECT THE BUSINESS DISCONTINUANCE AND  
17 SUCCESSION AND SHALL BE DELIVERED TO THE SUCCESSOR LICENSEE.

18                   (2) WHEN A FIREARMS BUSINESS IS DISCONTINUED ABSOLUTELY,  
19 THE RECORDS REQUIRED TO BE KEPT UNDER THIS SECTION SHALL REFLECT  
20 THE BUSINESS DISCONTINUANCE AND SHALL BE DELIVERED TO THE  
21 SECRETARY WITHIN 30 DAYS AFTER THE BUSINESS DISCONTINUANCE.

22                   (D) (1) A LICENSEE SHALL RESPOND WITHIN 24 HOURS AFTER  
23 RECEIPT OF A REQUEST FROM THE SECRETARY FOR INFORMATION CONTAINED  
24 IN THE RECORDS REQUIRED TO BE KEPT UNDER THIS SECTION WHEN THE  
25 INFORMATION IS REQUESTED IN CONNECTION WITH A BONA FIDE CRIMINAL  
26 INVESTIGATION.

27                   (2) THE INFORMATION REQUESTED UNDER THIS SUBSECTION  
28 SHALL BE PROVIDED ORALLY OR IN WRITING, AS REQUIRED BY THE  
29 SECRETARY.

30                   (3) THE SECRETARY SHALL IMPLEMENT A SYSTEM BY WHICH A  
31 LICENSEE CAN POSITIVELY ESTABLISH THAT A PERSON REQUESTING  
32 INFORMATION BY TELEPHONE IS AUTHORIZED BY THE SECRETARY TO REQUEST  
33 THE INFORMATION.

1           **(E) THE SECRETARY MAY MAKE AVAILABLE TO A FEDERAL, STATE, OR**  
2 **LOCAL LAW ENFORCEMENT AGENCY ANY INFORMATION THAT THE SECRETARY**  
3 **OBTAINS UNDER THIS SECTION RELATING TO THE IDENTITIES OF PERSONS WHO**  
4 **HAVE UNLAWFULLY PURCHASED OR RECEIVED FIREARMS.**

5           **(F) THE SECRETARY SHALL INSPECT THE INVENTORY AND RECORDS OF**  
6 **A LICENSED DEALER WITHOUT PROBABLE CAUSE OR WARRANT:**

7                   **(1) AT LEAST ONCE DURING ANY 12-MONTH PERIOD TO ENSURE**  
8 **COMPLIANCE WITH THE RECORD KEEPING REQUIREMENTS OF THIS SECTION;**  
9 **OR**

10                   **(2) AT ANY TIME WHEN INSPECTION IS SOUGHT IN CONNECTION**  
11 **WITH A BONA FIDE CRIMINAL INVESTIGATION.**

12           **(G) (1) A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO A**  
13 **CIVIL PENALTY NOT EXCEEDING \$1,000 IMPOSED BY THE SECRETARY.**

14                   **(2) FOR A SECOND OR SUBSEQUENT OFFENSE, A PERSON WHO**  
15 **KNOWINGLY VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND IS**  
16 **SUBJECT TO IMPRISONMENT NOT EXCEEDING 3 YEARS OR A FINE NOT**  
17 **EXCEEDING \$10,000 OR BOTH.**

18           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
19 October 1, 2008.