

Department of Legislative Services
2012 Session

FISCAL AND POLICY NOTE

House Bill 45 (Delegate Smigiel)
Judiciary

Handgun Permits - Qualifications - Presumption and Burden of Proof

This bill alters one current law finding that must be made by the Secretary of State Police for the issuance of a State handgun permit, *i.e.*, that the applicant has a good and substantial reason to wear, carry, or transport a handgun, such as a finding that the permit is necessary as a reasonable precaution against apprehended danger. The bill eliminates the example of an acceptable finding and establishes that a permit applicant is presumed to have a good and substantial reason to wear, carry, or transport a handgun. The Secretary of State Police is given the burden of proving that an applicant does not have a good and substantial reason to wear, carry, or transport a handgun.

Fiscal Summary

State Effect: General fund revenues increase by \$101,300 in FY 2013 and general fund expenditures increase by \$376,300. Future years reflect annualization, inflation, renewal automobile purchases, and the licensure issuance and renewal cycle.

(in dollars)	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
GF Revenue	\$101,300	\$135,000	\$202,500	\$225,000	\$225,000
GF Expenditure	\$376,300	\$312,600	\$333,100	\$408,100	\$363,800
Net Effect	(\$275,000)	(\$177,600)	(\$130,600)	(\$183,100)	(\$138,800)

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

Local Effect: None.

Small Business Effect: Meaningful. It is assumed that the bill would lead to increased handgun sales in the State.

Analysis

Current Law: To be issued a permit to carry a handgun by the Secretary of State Police, an applicant (1) must be 18 or older; (2) must not have been convicted of a felony or misdemeanor for which a sentence of imprisonment for more than one year has been imposed or, if convicted, must have been pardoned or been granted relief under federal law; (3) if the person is younger than 30, must not have been committed to a facility for juveniles for longer than one year or adjudicated delinquent for a crime of violence, a felony, or misdemeanor that carries a statutory penalty of more than two years; (4) must not have been convicted of a controlled dangerous substance violation and must not presently be an addict, a habitual user of a controlled dangerous substance, or an alcoholic; (5) must not exhibit a propensity for violence or instability which may reasonably render possession of a handgun a danger to the applicant or another; and (6) must have a good and substantial reason to wear, carry, or transport a handgun. “Good and substantial reason” includes a finding that the permit is necessary as a reasonable precaution against apprehended danger.

A handgun permit application costs \$75; two years after the initial permit, a \$50 renewal fee is due and every three years thereafter. In addition, the applicant must pay for fingerprint-based federal and State criminal history background checks for initial applications and renewals.

Background: There are about 14,000 active handgun permits in Maryland. The Maryland State Police (MSP) has denied on average 214 applications each year since 2009 on the basis of a finding that the person did not have a good and substantial reason to wear, carry, or transport a handgun. Maryland’s Criminal Justice Information System Central Repository must collect the fee from the applicant, or other payer, and reimburse the Federal Bureau of Investigation (FBI) through that agency’s monthly billing.

Since 2009, MSP received an average of 1,786 initial applications and 2,082 renewal applications per year. Renewal applications from retired law enforcement personnel are included in those totals. It currently takes on average less than two days to receive the results of a national criminal history records check from the FBI.

State Revenues: Because the State Police advise that the department does not know how it would disprove a presumption that an applicant has a good and substantial reason to have a handgun permit, it is assumed that the bill effectively eliminates the finding requirement from practical use. Legislative Services also assumes that this bill will double initial applications annually. Accordingly, assuming an increase of about 1,800 permit applications per year beginning in fiscal 2013, general fund revenues attributable to MSP for handgun permits will increase by \$101,250 in fiscal 2013, accounting for the bill’s October 1, 2012 effective date (1,350 permits). In fiscal 2014,

the increase will be \$135,000 due to annualization. In fiscal 2015, the additional revenue will be \$202,500, reflecting 1,800 initial applications and 1,350 renewal applications. After fiscal 2015, the additional annual permit application revenue (including renewals) will be \$225,000.

The State Police have estimated that the bill would increase initial applications to at least 15,000 in fiscal 2013 and by an annual average increase of 10,000 initial applications and renewals annually, thereafter. However, MSP has not provided a credible explanation for such a sizable increase. Legislative Services advises that, since 2008, MSP has overestimated the potential increase in applications resulting from the bill.

State Expenditures: General fund expenditures may increase by an estimated \$376,285 in fiscal 2013, which accounts for the bill's October 1, 2012 effective date. This estimate reflects the cost to hire two full-time troopers and one administrative officer/investigator to process and issue the additional handgun permit applications, review and issue renewal permits, and prepare information relating to hearings. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Salaries and Fringe Benefits	\$212,409
Motor Vehicle Purchases and Operations	119,935
Additional Police and Civilian Equipment	35,679
Other Operating Expenses	<u>8,262</u>
Total FY 2013 State Police Expenditures	\$376,285

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses and automobile replacement costs in fiscal 2016.

MSP has advised that the bill will result in 15,000 additional handgun permit applications in fiscal 2013, and 10,000 new and renewal applications annually, thereafter. Based on those numbers, MSP believes the bill will necessitate the hiring of three additional troopers, one corporal/supervisor, four civilian background investigators, and two civilian administrative aides (at a total cost, including equipment, of about \$1.3 million in fiscal 2013). Legislative Services advises that such an increase of new handgun permit applications in year one from current levels of about 1,800 per year to 15,000 is unlikely. All other requirements for handgun permits must still be met. Fewer than 6% of applications are denied on the basis of the finding eliminated under the bill.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - February 16, 2012
mc/hlb

Analysis by: Guy G. Cherry

Direct Inquiries to:
(410) 946-5510
(301) 970-5510