

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 1191
Judiciary

(Delegate Rosenberg, *et al.*)

Maryland Assault Weapons Ban of 2013

This bill generally prohibits assault weapons in the State.

Fiscal Summary

State Effect: Enforcement can be handled with the existing budgeted resources of the Department of State Police (DSP). The criminal penalty provisions are not expected to significantly affect State finances or operations.

Local Effect: The criminal penalty provisions of this bill are not expected to significantly affect local finances or operations.

Small Business Effect: Potential meaningful. Most of the State's 250 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. These weapons do not typically represent a significant segment of sales. However, to the extent that any licensed dealer specializes in the sale of such firearms, this bill could have a negative effect on overall sales.

Analysis

Bill Summary: The bill designates 45 specified assault long guns, 15 specified assault pistols, and copycat weapons 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, 2014), 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, 2013. A person who lawfully possessed an assault long gun or copycat weapon before October 1, 2013, and who registers the gun or weapon with the Secretary of State Police before December 1, 2013, 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 after receipt of a request for a hearing.

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, must be sentenced 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, 2013, by a licensed firearms dealer, and must meet other specified requirements, in order for it to qualify as a regulated firearm under the definition of “regulated firearm” in the Public Safety Article.

Current Law: Generally, the State regulates firearms and crimes related to firearms under Title 5 of the Public Safety Article and Title 4 of the Criminal Law Article, respectively. The State preempts the right of any local jurisdiction to regulate the sale of firearms. The primary enforcement of the State’s firearms laws and any licensing requirements are handled by DSP and its Licensing Division.

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 DSP 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 DSP 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.

The Handgun Roster Board is an entity within DSP. The Secretary of State Police serves as chairman. The board is required to review the status of personalized handgun technology and report its findings to the Governor and the General Assembly on an annual basis.

Background: A federal assault weapons ban was also enacted in 1994. It included a prohibition on the manufacture for civilian use of certain semiautomatic firearms. The ban only applied to weapons manufactured after the date of the ban’s enactment. The ban prohibited the manufacture, transfer, or possession of 19 specific models of semiautomatic weapons, and their copies, as well as 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 multi-round firings. Some of these characteristics used to define an assault weapon are considered more cosmetic than operational or functional.

The federal ban also applied to the manufacture and sale of ammunition magazines capable of holding more than 10 rounds. It did not extend to weapons and magazines that were manufactured before the ban.

The federal ban expired in 2004 via a sunset provision. Subsequent attempts to renew the ban since 2004 have failed. However, subsequent to several high-profile shootings with semiautomatic weapons in 2012, especially the December event in Connecticut, several bills to reinstate and expand a federal assault weapons ban have been introduced in Congress in 2013.

In addition to Maryland, according to the National Conference of State Legislatures, only Washington, DC and six states (California, Connecticut, Hawaii, Massachusetts, New Jersey, and New York) currently have bans in place that address some of these weapons. It has been reported that the weapons used in the December school shooting in Connecticut were not covered under that state's ban.

On January 16, 2013, President Obama signed 23 executive actions to strengthen existing gun laws and to take related steps addressing mental health and school safety. The President also asked Congress to reinstate and strengthen the assault weapons ban that expired in 2004, to restrict ammunition magazines to no more than 10 rounds, and to expand background checks to virtually all gun transactions. All of these Presidential Actions can be found online at: <http://www.whitehouse.gov/briefing-room/presidential-actions>.

Additional Information

Prior Introductions: SB 516 of 2010 was referred to the Senate Judicial Proceedings Committee but was subsequently withdrawn. SB 43 of 2007 received an unfavorable report by the Senate Judicial Proceedings Committee. HB 1367 of 2006 received a hearing in the House Judiciary Committee and had no further action taken on it. Similar bills were introduced in the 2005 and 2004 sessions.

Cross File: SB 623 (Senator Raskin, *et al.*) - Judicial Proceedings.

Information Source(s): Baltimore, Cecil, Harford, Montgomery, Queen Anne's, and St. Mary's counties; Maryland State Commission on Criminal Sentencing Policy; Office of the Public Defender; State's Attorneys' Association; Department of Public Safety and Correctional Services; Department of State Police; Judiciary (Administrative Office of the Courts); National Conference of State Legislatures; www.whitehouse.gov; Department of Legislative Services

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