

Department of Legislative Services
 Maryland General Assembly
 2013 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 281 (The President, *et al.*) (By Request - Administration)
 Judicial Proceedings Judiciary and Health and Government
 Operations

Firearm Safety Act of 2013

This Administration bill significantly modifies and expands the regulation of firearms, firearms dealers, and ammunition in the State and makes significant changes to related mental health restrictions on the possession of firearms.

Fiscal Summary

State Effect: General fund revenues increase by \$3.4 million in FY 2014 from handgun qualification licensing fees and registrations of other firearms. Out-year revenues reflect the anticipated growth in handgun licenses issued. General fund expenditures increase by \$3.4 million for licensing and registration, programming, and other activities within several agencies. Out-year costs reflect annualization and inflation. The FY 2014 State budget includes \$4.2 million in general funds, contingent upon the enactment of this bill, for the Department of State Police (DSP) to implement the bill. The FY 2014 State budget also includes \$450,000 in general funds to support the Gun Center, which is also contingent upon the enactment of this bill. The criminal and civil penalty provisions of this bill should not have a significant impact on State finances or operations.

(in dollars)	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
GF Revenue	\$3,374,000	\$3,670,700	\$3,967,400	\$4,264,100	\$4,560,800
GF Expenditure	\$3,370,600	\$2,338,800	\$2,442,500	\$2,749,600	\$2,664,600
Net Effect	\$3,400	\$1,331,900	\$1,524,900	\$1,514,500	\$1,896,100

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

Local Effect: Minimal. Primary responsibility for enforcement is with DSP. Any coordination with local government police agencies is assumed to be handled with existing local resources.

Small Business Effect: The Administration has determined that this bill has a meaningful impact on small business (attached). The Department of Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary:

Assault Weapons and Detachable Magazines

The bill applies the scope of current assault pistol prohibitions to all assault weapons. Thus, with specified exceptions, the bill prohibits the transporting, possessing, selling, offering for sale, transferring, purchasing, or receiving any assault weapon. The bill defines “assault weapon” as an assault long gun, an assault pistol, or a copycat weapon. An “assault long gun” is defined as any of the 45 regulated firearms that are not handguns under current law provisions of the Public Safety Article. A “copycat weapon” is defined as specified semiautomatic rifles, pistols, and shotguns, as well as shotguns with a revolving cylinder. A “copycat weapon” does not include an assault long gun or assault pistol.

The bill allows a person who lawfully possessed, has a purchase order for, or completed an application to purchase an assault long gun or a copycat weapon before October 1, 2013, to continue to possess and transport the assault long gun or copycat weapon or, if carrying a court order requiring surrender of the weapon, transport the unloaded weapon directly to a law enforcement unit, having notified the unit of the transport. A number of specified persons and circumstances are exempted from the prohibitions related to the possession of assault weapons and detachable magazines. Among other things, the bill clarifies that certain assault weapon possession prohibitions do not apply to those received by inheritance, if the inheriting person is not otherwise disqualified from possessing a regulated firearm.

The bill also includes within the definition of “convicted of a disqualifying crime” a case in which a person received probation before judgment for a crime of violence or a domestically related crime. “Convicted of a disqualifying crime” does not include a case in which a person received a probation before judgment for an assault in the second degree or that was expunged.

The bill reduces the allowable detachable magazine capacity that may be manufactured, sold, purchased, received, or transferred in the State from 20 to 10 rounds of ammunition for a firearm. The bill similarly reduces referenced limits on magazine capacities under

penalty provisions applicable to use of an assault weapon in the commission of a felony or crime of violence.

Ammunition

The bill prohibits a person, during and in relation to the commission of a crime of violence, from possessing or using “restricted firearm ammunition,” sometimes called “cop killer bullets.” “Restricted firearm ammunition” is defined as a cartridge, shell, or any other device that (1) contains explosive or incendiary material designed and intended for use in a firearm and (2) has a core constructed, excluding traces of other substances, entirely from one or a combination of tungsten alloys, steel, iron, brass, beryllium copper, depleted uranium, or an equivalent material of similar density or hardness. A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for five years and/or a fine of \$5,000.

The bill also prohibits possession of “ammunition” by a person prohibited from possessing a regulated firearm. “Ammunition” is defined as a cartridge, shell, or any other device containing explosive or incendiary material designed and intended for use in a firearm. A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for one year and/or a fine of \$1,000.

Handguns

The bill modifies exceptions to the prohibition against wearing, carrying, or transporting handguns without a State permit by eliminating the active assignment requirement from being applicable to federal, State, or local law enforcement personnel; certain military personnel; out-of-state law enforcement personnel temporarily in Maryland on official business; and State correctional officers and wardens.

The bill also creates a new licensing scheme for handguns under the licensing authority of DSP. DSP is authorized to adopt regulations to carry out the bill’s provisions related to this new license. A “handgun qualification license” authorizes a person to purchase, rent, or receive a handgun. A licensed firearms manufacturer, a specified active or retired law enforcement officer, a member or retired member of the U.S. Armed Forces or the National Guard, and a person purchasing, renting, or receiving an antique, curio, or relic firearm (as defined under federal law) are exempt from the requirements of the licensing provisions. The Secretary of State Police is required to apply for a State and national criminal history records check for each applicant. As part of the application for a criminal history records check, the Secretary must submit one complete set of fingerprints of the applicant.

An individual whose fingerprints have been submitted pursuant to a license application, but whose application has been denied, may request that the record of the fingerprints be expunged by obliteration, in accordance with specified current law provisions. The individual may not be charged a fee for such an expungement.

The application fee for a handgun qualification license is to cover administrative costs and may be up to \$50. The term of the license is 10 years. License renewal fees are set at up to \$20. The bill delineates the identifying information and documentation that are required for the issuance of the license. Among other things, the application must also have a signed statement from the applicant, under penalty of perjury, that the applicant is not prohibited under federal or State law from possessing a handgun. The applicant must also show proof of completion of an approved firearms safety training course, as specified. An applicant is not required to complete an approved firearms safety training course if the applicant has previously completed a certified firearms training course, has completed a hunting safety course prescribed by the Department of Natural Resources, is currently a qualified handgun instructor, is an honorably discharged member of the U.S. Armed Forces or the National Guard, is a certain employee of an armored car company, or lawfully owns a regulated firearm. Renewal applicants are not required to complete the firearms safety training course or submit to a State and national criminal history records check.

The bill requires written approval or denial by DSP, as specified, within 30 days. A denial must specify the reason that the application was denied. The bill details the required approval and denial processes, and provides specified license renewal and revocation procedures. The bill repeals certain current law provisions regarding certified firearms training course requirements in order to conform to the handgun qualification requirements of the bill.

Unless the applicant is otherwise disqualified, the Secretary is required to replace a lost or stolen handgun qualification license on receipt of a written request and nonrefundable fee of up to \$20.

The Secretary may issue a handgun qualification license without an additional application or fee to a person who meets the requirements for the issuance of a handgun permit who does not already have a handgun qualification license.

The bill requires transmission of a firearms application by any electronic means approved by the Secretary.

Firearms Dealers – License Qualifications and Recordkeeping

The bill requires the Secretary of State Police to disapprove an application for a State-regulated firearms dealer's license if it is determined that the applicant intends that a person not qualified for a license or whose license has been revoked or suspended will participate in the management or operation of the business or holds an interest in the business. If the Secretary disapproves an application for a dealer's license, the Secretary must notify the applicant of the reason the application was denied.

The bill requires that a licensed dealer keep records of all receipts, sales, and other dispositions of firearms affected in connection with the dealer's business. The Secretary must adopt regulations governing the form in which the records are to be kept, the time period for keeping the records, and the contents of the records, which must include specified information. Among other things, the records must include the name and address of each person from whom the dealer acquires a firearm and to whom the dealer sells or disposes of a firearm. Records maintained under federal law may be used to satisfy the requirements of the bill, provided that the Secretary is granted access to those records.

The bill provides for the transfer of records to successor licensees. The bill also provides for requests for information from the records to be provided orally or in writing to DSP upon request.

The bill requires the Secretary to inspect the inventory and records of a licensed dealer at least once every two years and authorizes the Secretary to inspect the inventory and records at any time during the normal business hours of the licensed dealer's business.

A violator of the recordkeeping and reporting requirements is subject to a civil penalty not exceeding \$1,000. For a second or subsequent offense, a violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for three years and/or a fine of \$10,000. These penalties are not intended to apply to inconsequential or inadvertent errors. In addition, a dealer's license may be suspended if the licensee is not in compliance with the recordkeeping and reporting requirements. The Secretary may lift a suspension after the licensee provides evidence that the recordkeeping violation has been corrected.

Mental Health Provisions

A person may not possess a regulated firearm, rifle, or shotgun if the person:

- suffers from a mental disorder as defined in § 10-101(f)(2) of the Health-General Article and has a history of violent behavior against the person or another;

- has been found incompetent to stand trial or not criminally responsible in a criminal case;
- has been voluntarily admitted for more than 30 consecutive days to a facility as defined in § 10-101 of the Health-General Article;
- has been involuntarily committed to a facility as defined in § 10-101 of the Health-General Article; or
- is under the protection of a court-appointed guardian of the property or guardian of the person, except for cases in which the appointment of a guardian is solely a result of a physical disability.

If a hearing officer enters an order for involuntary commitment to a facility and the hearing officer determines that the individual cannot safely possess a firearm based on credible evidence of dangerousness to others, the hearing officer must order the individual who is subject to the involuntary commitment to surrender to law enforcement authorities any firearms in the individual's possession and refrain from possessing a firearm unless the individual is granted relief from firearms disqualification in accordance with § 5-133.3 of the Public Safety Article.

The bill requires a court to promptly report to the National Instant Criminal Background Check System (NICS), through a secure portal approved by the Department of Public Safety and Correctional Services (DPSCS), the date of the court determination or finding, and the name and identifying information of a person:

- determined to be not criminally responsible;
- found to be incompetent to stand trial; or
- found to be in need of the protection of a guardian under specified provisions of the Estates and Trusts Article relating to the protection of minors and disabled persons, except for cases in which the appointment of a guardian is solely a result of a physical disability.

A mental health care facility must similarly report to NICS the name and identifying information of a person admitted or committed to the facility, the date of admission or commitment, and the name of the facility to which the person was voluntarily admitted, if the person has been admitted to a facility for 30 consecutive days or more, or if the person has been involuntarily committed.

The bill authorizes a person seeking relief from firearms disqualification to file an application with the Department of Health and Mental Hygiene (DHMH). An application for relief from a firearms disqualification must include, along with any other information required by DHMH, (1) a statement explaining why the applicant is prohibited from possessing a regulated firearm, rifle, or shotgun; (2) a statement why the applicant should

be relieved from that prohibition; (3) a signed authorization allowing DHMH to access specified health and criminal records; (4) three statements related to the applicant's reputation and character; and (5) if the applicant is prohibited from possessing a firearm for certain mental health reasons, a certificate issued within 30 days of the submission of the application on a form signed by an individual licensed in the State as a physician who is board certified in psychiatry or as a psychologist stating:

- the length of time that the applicant has not had symptoms that cause the applicant to be a danger to self or others;
- the length of time that the applicant has been compliant with the treatment plan for the applicant's mental illness; and
- an opinion as to whether the applicant, because of mental illness, would be a danger to the applicant or to another person if allowed to possess a firearm.

Additional information is required to be included in the application for individuals who are prohibited on the basis of guardianship orders.

DHMH may not approve an application if a determination is made that (1) the applicant supplied incomplete or false information; (2) the application is not properly completed; or (3) the applicant has not shown by a preponderance of the evidence that the applicant will be unlikely to act in a manner dangerous to self or public safety and that granting a permit to possess a regulated firearm or authorizing the possession of a rifle or shotgun would be contrary to the public interest.

Within 60 days from the receipt of a completed application, DHMH must provide the applicant with a certificate affirming the applicant's mental competence to possess a regulated firearm or a written statement that the applicant is not mentally competent to possess a firearm. An aggrieved applicant may request a hearing in accordance with the Administrative Procedure Act, and judicial review may be sought.

A physician or psychologist who acts in good faith and with reasonable grounds in providing the statements and opinions required by the restoration process may not be held civilly or criminally liable for those actions.

DHMH may adopt regulations establishing fees to cover its administrative costs associated with the bill's provisions.

Moving into the State

A person who moves into the State with the intent of residency must register all regulated firearms with DSP within 90 days of establishing residency, using application forms prepared and provided by DSP. The bill requires that an application for registration

under this provision must contain (1) the make, model, manufacturer's serial number, caliber, type, barrel length, finish, and country of origin of each regulated firearm and (2) the firearm applicant's name, address, Social Security number, place and date of birth, height, weight, race, eye and hair color, signature, driver's or photographic identification Soundex number, and occupation. The total registration fee is \$15, regardless of the number of firearms registered. The registration data is not open to public inspection.

Rifles and Shotguns – Prohibited Ownership

Under provisions relating to the possession of rifles and shotguns, with the exception of an antique firearm, the bill prohibits a person from possessing a rifle or a shotgun if the person:

- has been convicted of a disqualifying crime;
- has been convicted of a violation classified as a common law crime and received an imprisonment term of more than two years;
- is a fugitive from justice;
- is a habitual drunkard;
- is addicted to a controlled dangerous substance or is a habitual user;
- suffers from a mental disorder and has a history of violent behavior against the person or another;
- has been found incompetent to stand trial or has been found not criminally responsible in a criminal case;
- has been voluntarily admitted for more than 30 consecutive days to a facility;
- has been involuntarily committed to a facility;
- is under the protection of a guardian appointed by a court under specified provisions of the Estates and Trusts Article relating to the protection of minors and disabled persons, except for cases in which the appointment of a guardian is solely a result of a physical disability;
- is a respondent against whom (1) a current non ex parte civil protective order has been entered or (2) a protective order has been issued by a court of another state or a Native American tribe and is in effect; or
- if younger than age 30 at the time of possession, has been adjudicated delinquent by a juvenile court for an act that would be a disqualifying crime if committed by an adult.

Any statutory restrictions on the possession of rifles or shotguns do not apply to a person transporting a rifle or shotgun if the person is carrying a civil protective order requiring the surrender of the weapon and (1) the rifle or shotgun is unloaded; (2) the person has notified a law enforcement unit that it is being transported in accordance with the

protective order; and (3) the person transports it directly to the law enforcement unit. A person who is disqualified from owning a rifle or shotgun for mental health reasons may seek relief under the restoration provisions of the bill.

Lost or Stolen Firearms

A dealer or any other person who sells or transfers a regulated firearm must notify the purchaser or recipient of the firearm at the time of purchase or transfer that the purchaser or recipient is required to report a lost or stolen firearm to the local law enforcement agency. If a regulated firearm is lost or stolen, the owner of the firearm must report the loss or theft to the local law enforcement agency within 72 hours after the owner first discovers the loss or theft. On receipt of a report of a lost or stolen firearm, a local law enforcement agency must report to the Secretary and enter into the National Crime Information Center database, to the extent known, the caliber, make, model, manufacturer, and serial number of the firearm and any other distinguishing number or identification mark on the firearm. A knowing and willful first time violation is a civil offense punishable by a fine not exceeding \$500. A second or subsequent violation is a misdemeanor punishable by imprisonment not exceeding 90 days and/or a fine not exceeding \$500.

Carrying a Firearm on School Property

The bill exempts from the prohibition against carrying a firearm, knife, or other deadly weapon on public school property an off-duty law enforcement officer who is a parent, guardian, or visitor of a student attending the school, provided that the officer is displaying the officer's badge or credential and the weapon is concealed.

Hunting Near Schools

A person, while hunting for any wild bird or mammal, may not shoot or discharge any firearm within 300 yards of any school during school hours or at a time when a school-approved activity is taking place.

Access to Public Records

A custodian must deny inspection of all records of a person authorized to (1) sell, purchase, rent, or transfer a regulated firearm or (2) carry, wear, or transport a handgun. However, a custodian must allow inspection of firearm or handgun records by the individual named in the record or the individual's attorney. These provisions may not be construed to prohibit DSP or DPSCS from accessing firearm or handgun records in the performance of that department's official duty.

Investigation and Reporting

DSP must investigate illegal transfers, possession, and transport of firearms within the State, including the number and types of firearms seized by DSP and the best information available as to the source of the seized firearms. DSP must report its findings to the Governor and General Assembly by December 31, 2015. These provisions terminate September 30, 2016.

Current Law:

Firearms Regulation, Generally

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.

A regulated firearm means any handgun or 45 specified assault weapons. The provisions of Subtitle 1 – Regulated Firearms of Title 5 do not apply to:

- the transfer or possession of a regulated firearm or detachable magazine for testing or experimentation authorized by the Secretary and by a federally licensed gun manufacturer, dealer, or importer;
- the sale, transfer, or possession of an antique firearm;
- an unserviceable firearm sold, transferred, or possessed as a curio or museum piece;
- law enforcement personnel of any unit of the federal government, members of the U.S. Armed Forces or the National Guard, or law enforcement personnel of the State or any local agency in the State, while those personnel or members are acting within the scope of their official duties;
- a regulated firearm modified to render it permanently inoperative;
- purchases, sales, and transportation to or by a federally licensed gun manufacturer, dealer, or importer;
- an organization that is required or authorized by federal law governing its specific business or activity to maintain firearms;
- the receipt of a regulated firearm by inheritance, if the heir forwards to the Secretary a completed application to purchase or transfer that regulated firearm; or
- a signal pistol or other visual distress signal that the U.S. Coast Guard approves as a marine safety device.

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.

A person may not possess a regulated firearm if the person was convicted of a crime of violence or a violation of specified controlled dangerous substances offenses. A violator is guilty of a felony and subject to a nonsuspendable, nonparolable mandatory minimum sentence of five years. Each violation of this prohibition is a separate offense. Chapter 164 of 2011 (SB 174) similarly prohibits the possession of a rifle or a shotgun if a person was previously convicted of a crime of violence or drug-related felony. A violator is guilty of a felony and subject to a maximum sentence of 15 years. Each violation must be considered a separate offense.

Other disqualifying criteria for possession of a regulated firearm, or a rifle or shotgun, include (1) suffering from a mental disorder as defined in § 10-101(f)(2) of the Health-General Article and having a history of violent behavior against the person or another, unless the person has a physician’s certificate that the person is capable of possessing a regulated firearm without undue danger to the person or to another or (2) confinement for more than 30 consecutive days to a mental health “facility,” as defined in the Health-General Article, unless the person has a physician’s certificate that the person is capable of possessing such a weapon without undue danger to the person or to another.

Firearms Dealers

A person must lawfully possess a dealer’s license issued by the Secretary of State Police before the person engages in the business of selling, renting, or transferring regulated firearms. An applicant for a firearms dealer’s license must submit an application, pay an

application fee of \$50 (payable to the Comptroller), and submit to a State and national criminal history records check. The Secretary must conduct an investigation to determine the truth or falsity of the information provided by the applicant. A refund or proration of the application fee is prohibited. An application for a dealer's license must contain the following information:

- the applicant's name, address, Social Security number, place and date of birth, height, weight, race, eye and hair color, and signature;
- a clear and recognizable photograph of the applicant, unless the photograph has been submitted with a prior year's application;
- a set of the applicant's fingerprints, unless the fingerprints have been submitted with a prior year's application; and
- a statement by the applicant that the applicant is a citizen of the United States, is at least age 21, has never been convicted of a disqualifying crime, has never been convicted of a common law crime and received a term of imprisonment of more than two years, is not a fugitive from justice, is not a habitual drunkard, is not addicted to a controlled dangerous substance or is not a habitual user, and has never spent more than 30 consecutive days in a medical institution for treatment of a mental disorder, unless a physician's certificate issued within 30 days before the date of application is attached to the application, certifying that the applicant is capable of possessing a regulated firearm without undue danger to the applicant or to another.

Each application for a dealer's license must contain the following statement:

Any false information supplied or statement made in this application is a crime which may be punished by imprisonment for a period of not more than three years, or a fine of not more than \$5,000 or both."

If an applicant is a corporation, a corporate officer who is a resident of the State must complete and execute the application.

State law requires the disapproval of an application or the suspension or revocation of a license under specified circumstances. A person whose license has been suspended or revoked or is aggrieved by the action of the Secretary may request a hearing under provisions of the Administrative Procedure Act, which may be subject to judicial review. A dealer's license is not transferable.

A person may not possess, sell, transfer, or otherwise dispose of a stolen regulated firearm if the person knows or has reasonable cause to believe that the firearm has been stolen.

A dealer or other person may not knowingly participate in the illegal sale, rental, transfer, purchase, possession, or receipt of a regulated firearm. A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for five years and/or a fine of \$10,000. Each violation is a separate crime.

Reports of sales of all regulated firearms must be forwarded to the Firearms Registration Section of DSP within seven days of the completed sale. An application to purchase or transfer a regulated firearm that is not disapproved is valid for a period of 90 days from the date the application was stamped by the Secretary as not being disapproved. After the 90 days has expired, the application is void and the dealer must return the application to the Firearms Registration Section with a notation that the sale was not made. After expiration of the 90-day limit, the prospective purchaser may submit another application. A dealer must forward to the Firearms Registration Section, with the proper notation, all disapproved applications which are being held. A dealer must maintain the dealer's copy of the application form in an alphabetical or chronological file for a minimum of three years. The prospective seller, lessor, or transferor must keep one copy of the firearm application for at least three years. These records must be open for inspection by any law enforcement officer during normal business hours or as specifically requested by the Secretary.

State licensees must also have a federal firearms license issued by the Bureau of Alcohol, Tobacco, Firearms, and Explosives. Federal licensees are regulated under provisions of the Gun Control Act of 1968 and the McClure-Volkmer Act of 1986 (also known as the Firearms Owners' Protection Act). Federal firearms licensees must maintain records of all gun sales, make those records available to law enforcement for inspection, report multiple sales, and report the theft or loss of a firearm from a licensee's inventory.

Handgun Permits

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. The Secretary may limit the geographic area; circumstances; or times of day, week, month, or year in which a permit is effective.

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

Although Maryland law requires a person to be issued a permit to wear, carry, or transport a handgun, whether concealed or not, there are several exceptions to that requirement. For example, two of the exceptions include authorizing a person to wear, carry, or transport a handgun, provided that the handgun is unloaded and in an enclosed case or enclosed holster when being transported, if the person is (1) transporting the handgun to or from a legal place of sale or a repair shop or between the person's home or business or (2) wearing, carrying, or transporting the handgun in connection with an organized military activity, target practice, sport shooting event, hunting, or trapping. Further, a person may wear, carry, or transport a handgun if the person is in the person's home, place of business, or other property that the person owns or is a supervisory employee who is wearing, carrying, or transporting the handgun under specified circumstances.

Firearms Safety Training

Among other requirements that apply to an applicant to purchase, rent, or receive a regulated firearm (after January 1, 2002), the individual must have completed a certified firearms safety training course that the Police Training Commission conducts without charge or that meets the standards of the Police Training Commission. An individual is not required to complete a certified firearms training course if such a training course has already been completed or if the individual:

- has already completed a certified firearms safety training course;
- is a law enforcement officer of the State or any local law enforcement agency in the State;
- is a member, retired member, or honorably discharged member of the U.S. Armed Forces or the National Guard;
- is a member of an organization that is required by federal law governing its specific business or activity to maintain handguns and applicable ammunition; or
- holds a permit to carry a handgun.

Federal Law

The Brady Handgun Violence Prevention Act went into effect in 1994. The Brady Act requires that background checks be conducted on individuals before a firearm may be purchased from a federally licensed dealer, manufacturer, or importer – unless an exception applies. It does not apply to private transactions, including those which occur at gun shows. If there are no additional state restrictions, a firearm may be transferred to an individual upon approval by NICS. In some states, proof of a previous background check can be used to bypass the NICS check.

NICS was launched by the Federal Bureau of Investigation (FBI) on November 30, 1998. It is used to quickly determine whether a prospective buyer is eligible to buy firearms or explosives from a licensee. Before a sale may be made, cashiers must call in a criminal history records check to the FBI (or other designated agency) to nationally check criminal records or other ineligibility criteria (such as mental health records). According to the FBI, over the last decade, more than 100 million such checks have been made, leading to more than 700,000 denials.

Nationally, states' laws and requirements governing carry and concealed carry permits vary. According to a July 2012 report by the U.S. Government Accountability Office (<http://www.gao.gov/assets/600/592552.pdf>):

The number of states allowing concealed carry permits is increasing, and states broadly differ in eligibility requirements and the extent to which they have reciprocity agreements. In June 2002, 7 states and the District of Columbia prohibited the concealed carry of handguns. As of March 2012, individuals can carry concealed handguns in all but 1 state (Illinois) and the District of Columbia. “Shall-issue” states – in which issuing authorities are required to issue a permit to an applicant that fulfills the objective statutory criteria – generally issue more permits than states with greater discretion in granting permits (“may-issue” states). Because of differing eligibility requirements, some states would issue a permit to an applicant, while others would not. For example, some states define what constitutes a disqualifying felony differently or have different firearms training requirements. As of March 2012, 39 states that issue permits and Vermont (permits not required) recognize concealed carry permits from other states. Of the 9 states that do not grant reciprocity, 8 are may-issue states.

Mental Health Provisions

Under federal law, it is unlawful for any person to sell or otherwise dispose of any firearm or ammunition to any person knowing or having reasonable cause to believe that

such person has been adjudicated as a mental defective or has been committed to any mental institution.

For more information on federal and state laws relating to the possession of a firearm by the mentally ill, see **Appendix – Laws Relating to Possession of a Firearm by the Mentally Ill**.

Background:

Firearms Regulation in the United States

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 (NCSL), 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.

In January 2013, New York enacted the more stringent Secure Ammunition and Firearms Enforcement Act (or SAFE Act). The Act mandates the registration of assault rifles, lowers legal magazine capacities from 10 to 7 rounds, extends required background checks to include private sales, authorizes the monitoring of ammunition sales, and requires gun license recertification every five years. In addition, the Act includes

provisions to keep firearms out of the hands of the mentally ill. It allows the revocation of gun licenses for those who are a danger to themselves and others and gives mental health case workers the ability to more readily report mentally ill persons to law enforcement.

According to NCSL, five states, including Maryland, have or had some training requirements related to the purchase of firearms. California, Connecticut, and Rhode Island require training prior to the purchase of a handgun. Michigan had a firearms training requirement, but it was removed by an act of the legislature in 2012. According to the Department of Natural Resources (DNR), there are at least 46 private and public shooting ranges throughout Maryland, which could presumably be available as locations for approved firearms safety training.

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>.

Firearms Statistics

Data on the total number of gun owners in the United States varies widely, but is generally considered to be greater than in most developed countries and growing. Gun ownership in the United States is usually determined through surveys, proxy variables, and sometimes with domestic production and importation data. Based on 1997 survey data, it was believed that at that time, there were approximately 44 million gun owners in the United States. In 2006, the General Social Survey of the National Data Program for the Sciences at the University of Chicago found that about 55% of households reported having a gun in the household and 44% reported that there was no gun in the household. Whether the surveyed households truthfully reported or not, by 2007, GunPolicy.org estimated the number of guns in circulation in the United States to be 270 million.

Governing Magazine has reported that 36 states recorded a year-over-year monthly increase in firearm background checks exceeding 50% in December 2012. According to DSP, the purchase of regulated firearms and new applications for handgun permits continue to rise in Maryland. In calendar 2012, applications to transfer regulated firearms – primarily via sales from licensed dealers – rose significantly over prior years. In December 2012 alone, there were 11,362 applications received by DSP to transfer firearms (which includes sales by licensed dealers, secondary/private sales, gifts, and

other voluntary transfers). The monthly average in 2012 prior to December was 5,295. **Exhibit 1** shows Maryland firearm statistics from 2010 to 2012.

Exhibit 1
Maryland Firearms Statistics
Calendar 2010-2012

	<u>2010</u>	<u>2011</u>	<u>2012</u>
Firearm Transfers			
Firearm Transfer Applications	38,712	46,339	69,606
Approved Transfers	36,762	39,682	53,444
Handgun Permits			
New Handgun Permit Applications	1,932	2,020	2,503
Handgun Permit Renewal Applications	2,785	3,196	2,980
All Handgun Permits Approved	4,762	4,693	4,736

Source: Maryland Department of State Police

The Center for Gun Policy and Research at the Johns Hopkins Bloomberg School of Public Health estimates that more than 31,000 people a year in the United States die from gunshot wounds. In addition, in 2010, approximately 337,960 nonfatal violent crimes were committed with guns, with 73,505 persons treated in hospital emergency rooms for nonfatal gunshot wounds. A two-day, January 2013 *Gun Policy Summit* at the Bloomberg, with participation from scientists and researchers from several disciplines, was held in Baltimore City. A report of this symposium is scheduled to be released in early 2013.

The total number of firearm background checks via NICS have also steadily increased nationally and in Maryland. Noting that the number of NICS checks do not represent the number of firearm sales, FBI data show 88,162 NICS checks from Maryland in 2010, 103,020 in 2011, and 136,604 in 2012.

Mental Health Issues

Chapter 131 of 2012 (HB 618) established a Task Force to Study Access of Individuals with Mental Illness to Regulated Firearms, with three specified areas of concern to consider. The task force is staffed by the Governor's Office of Crime Control and Prevention and filed its report of findings and recommendations on December 31, 2012. The task force established three workgroups and assigned them specified tasks.

- The first workgroup studied the adequacy of State laws and policies relating to the access of law enforcement officers to mental health records and whether, and to what extent, the State should expand access of law enforcement officers to certain mental health records.
- The second workgroup studied whether existing statutory and regulatory provisions adequately protect the public, as well as the civil rights of individuals with mental illness.
- The third workgroup studied the adequacy of State laws and policies relating to the access of individuals with a history of mental illness to all regulated firearms.

The task force report has seven findings, with nine recommendations. The recommendations include the need for: additional research; additional mandated reporting by mental health professionals and law enforcement; mandatory firearm seizures under certain circumstances; additional training for law enforcement personnel and mental health professionals; expansion of crisis intervention teams; changes in funding allocations for continuing education and local jurisdictions; and the establishment of a process for full restoration of firearms possession and purchasing rights in accordance with specified federal standards. The detailed findings and recommendations of the task force are contained in the full task force report which can be found online at: <http://www.goccp.maryland.gov/legislation/guns-mental-illness-task-force.php>.

State Fiscal Effect:

Department of State Police

According to DSP, the Licensing Division – Firearms Section is currently understaffed and responsibilities are met by obtaining additional assistance within the department via staff overtime for both sworn and civilian personnel. DSP reports that the Firearms Section has expenditures of approximately \$20,000 in overtime during each 14-day pay period or \$520,000, annually. DSP asserts that the Firearms Section has a current shortfall of two troopers and 31 office services clerks.

However, a fiscal 2013 general fund deficiency appropriation of \$400,000 is contained in the Governor’s proposed fiscal 2014 budget bill for DSP to automate the gun licensing processes and improve the efficiency of required background checks for the Licensing Division. While the Department of Legislative Services agrees that there is a current significant shortfall of personnel in the division, this bill alone does not generate that personnel need, and the automation deficiency appropriation for fiscal 2013, if approved, should address those needs – at least in part.

DSP estimates a total of 85,051 firearms sales in the State in fiscal 2014; 92,798 in fiscal 2015; 100,544 in fiscal 2016; 108,291 in fiscal 2017; and 116,038 in fiscal 2018. DSP also assumes a similar growth rate in sales through fiscal 2023 at an annual growth rate of about 9%. Of the total, the number of sales expected to be handguns is as follows:

- fiscal 2014: 65,980
- fiscal 2015: 71,914
- fiscal 2016: 77,848
- fiscal 2017: 83,781
- fiscal 2018: 89,715

Under the bill, DSP must establish a new firearms registration system that interfaces with current systems and that can handle handgun licensing responsibilities as well as registrations for persons moving into the State. Beginning in fiscal 2024, when first year licensees will need to renew, DSP projects that only about 20% will renew their licenses. However, any actual fall off of licensees cannot be reliably predicted without some actual experience under the bill.

According to the Migration Policy Institute's *Maryland Fact Sheet*, between 2010 and 2011, 26,724 immigrants moved to Maryland from abroad and 23,139 persons moved into the State from other states and the District of Columbia. While the number of those persons who are adults is not readily available, it is assumed that about 75% are 21 or older. It is also not known how many of these adults are moving to the State with the intent of becoming a resident of Maryland, or how many may have regulated firearms requiring registration of firearms within 90 days of the move. In any case, of the total of about 50,000 persons migrating into Maryland annually, it is assumed that about 10% may be required to pay the bill's \$15 registration fee. Accordingly, it is estimated that the out-of-state regulated firearms registration fee will generate about \$75,000 annually (50,000 x .10 x \$15).

Based upon the information provided by DSP, in fiscal 2014, general fund revenues increase as shown in **Exhibit 2**. These estimates assume that the maximum license fee of \$50 is assessed and do not account for any possible exemptions from the license or fee requirements. There is no revenue from license renewals until fiscal 2024.

Exhibit 2
Estimated General Fund Revenues under the Bill

	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018</u>
Handgun Qualification Licenses (\$50)	\$3,299,000	\$3,595,700	\$3,892,400	\$4,189,050	\$4,485,750
New Resident Registrations (\$15)	75,000	75,000	75,000	75,000	75,000
Total	\$3,374,000	\$3,670,700	\$3,967,400	\$4,264,050	\$4,560,750

Source: Department of Legislative Services

It is noted that the fiscal 2014 State budget assumes new general fund revenues resulting from the bill in fiscal 2014 of only \$2,221,300 from the handgun qualification license fees. However, this amount, which is \$1,152,700 less than the total revenue estimate above, assumed a license fee of \$25 from an earlier version of the bill, rather than \$50 license fee under the bill as passed, and did not reflect any revenue from new resident registration fees.

General fund expenditures increase by \$2,357,726 in fiscal 2014, which accounts for the bill's October 1, 2013 effective date. This estimate reflects the cost of hiring seven State troopers, 11 office services clerks, and two computer services technicians to handle new handgun licensing and firearms registrations under the bill. It includes salaries and fringe benefits for sworn and civilian personnel, one-time start-up costs, police vehicles, license printing services, and ongoing operating expenses.

Positions	20
Salaries and Fringe Benefits	\$1,183,693
Automobiles and Operations	486,591
Printing Hardware and Costs	456,790
Other Operating Expenses	<u>230,652</u>
Total FY 2014 DSP Expenditures	\$2,357,726

Future year DSP expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses, including replacement police vehicles in fiscal 2017.

DSP advises that it needs to hire a total of 57 new staff in fiscal 2014, and that total costs range from \$4.5 million in fiscal 2014 to \$4.9 million by fiscal 2018. As noted above, however, DSP is including costs to hire personnel to cover an existing staffing shortfall, not just the incremental needs resulting from this bill.

The fiscal 2014 State budget includes \$4,182,561 in general funds for fiscal 2014, contingent upon the enactment of this bill, for DSP to implement the bill. That amount, which is \$1,824,835 more than the estimate above, covers salaries, fringe benefits, and operating expenses for the hiring of 35 uniformed and civilian positions, and contractual services, in DSP's Licensing Division. An additional \$450,000 in general funds is included in the fiscal 2014 State budget, contingent upon the enactment of this bill, to support the Gun Center.

The bill's requirements relating to firearms dealers can be handled with existing budgeted resources.

Department of Public Safety and Correctional Services

This bill impacts the workload of the State's Criminal Justice Information System as operated by the Information Technology and Communication Division (ITCD) of DPSCS in several ways. First, the bill expands the category of persons required to obtain State and national criminal history records checks. However, any new criminal history records check expenditures are offset by the costs of the checks (\$54.50 for State and federal).

Second, DPSCS through ITCD is also impacted by reprogramming needs, including secure data storage costs. The bill requires that a court and mental health care facilities report certain information via a secure data portal approved by DPSCS. Costs to establish such portals are estimated at \$145,000 (for programming and the purchase of a secure server). This estimate assumes a vendor contract for 700 hours to provide programming services at a rate of \$150 per hour.

Finally, additional DPSCS costs of \$276,000 are estimated in order to support DSP in its efforts to interface a new gun registry system with the current Maryland Automated Firearms System. This estimate assumes a vendor contract for 1,040 hours to provide reprogramming services at a rate of \$150 per hour, plus an additional \$120,000 for system enhancements.

Accordingly, assuming all programming, reprogramming, and related costs for DPSCS occur in fiscal 2014, total one-time costs for DPSCS are estimated at \$421,000 in fiscal 2014.

Department of Health and Mental Hygiene

General fund expenditures increase for the Mental Health Administration (MHA) within DHMH by \$432,593 in fiscal 2014, which accounts for the bill's October 1, 2013 effective date. This estimate reflects the cost of hiring one senior program manager, one administrator, one computer specialist, one office secretary, and two contractual

evaluators to maintain a database of mental health care patients affected under the bill, process information, attend evaluation hearings and challenges, work with DSP, and provide staff training. It includes salaries, fringe benefits, contractual salaries and benefits, one-time start-up costs, and ongoing operating expenses.

Positions (Permanent and Contractual)	6
Salaries and Fringe Benefits	\$304,435
Contractual Salaries and Benefits	81,945
Additional Equipment	19,775
Fixed Charges	12,600
Other Operating Expenses	<u>13,838</u>
Total DHMH FY 2014 State Expenditures	\$432,593

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

Although the bill authorizes the Secretary of Health and Mental Hygiene to adopt regulations establishing fees to cover administrative costs associated with implementation, the agency advises that any cost recovery resulting from the establishment of fees would not likely occur until fiscal 2016. Any impact on State revenues depends on the adoption of regulations and cannot be reliably estimated at this time.

The Department of Legislative Services notes that State-run adult psychiatric facilities that continue to operate under MHA include Clifton T. Perkins Hospital Center, Eastern Shore Hospital Center, Springfield Hospital Center, Spring Grove Hospital Center, and Thomas B. Finan Hospital Center, plus two child/juvenile facilities. There are fewer than 3,800 admissions to State and private mental health care facilities statewide annually. Of that number, there are about 1,000 who are admitted to State operated facilities, many of which have been referred to the facility via a court proceeding.

Judiciary

Under the bill, a court is required to report the name and identifying information of specified persons and the date of the applicable determination or finding promptly to NICS through a secure data portal approved by DPSCS. It is estimated that implementing appropriate programming changes will require at least 2,368.8 hours at an approximate cost of \$159,260 for the Judiciary, not including costs to create and maintain the secure portal, which are assumed by DPSCS.

In any case, the Administrative Office of the Courts advises that the bill's requirements significantly impact project schedules for the Judicial Information Systems Department.

In addition, any increase in the courts' caseload will result in additional commissioner, court, and judicial time necessary for the adjudication of those cases. The circuit courts have jurisdiction for the majority of felonies and crimes of violence. The District Court has jurisdiction for some crimes of violence, the bail reviews, and preliminary hearings necessary for the processing of misdemeanors. However, such impacts cannot be reliably quantified.

Office of Administrative Hearings

The Office of Administrative Hearings advises that any additional hearings resulting from the bill can likely be handled with existing budgeted resources, including any potential additional travel costs.

Programming Costs, Generally

Finally, the Department of Legislative Services advises that, if other legislation is passed requiring computer reprogramming changes, economies of scale could be realized, thereby reducing the costs associated with this bill and other legislation affecting any or all of the agencies mentioned above.

Additional Comments: On January 1, 2013, DSP opened a Maryland Gun Center as a component of the department's firearms enforcement program. The center operates around the clock, seven days per week. It is designed to provide immediate substantive assistance and guidance to local law enforcement agencies on a variety of cases where firearms may be an issue. The center's responsibilities include real-time background checks, tracking and coordinating cross-jurisdictional cases, evidence coordination, guidance on the removal of firearms from a crime scene, forensic recommendations, and case tracking, among other activities.

Additional Information

Prior Introductions: None.

Cross File: HB 294 (The Speaker, *et al.*) (By Request - Administration) - Judiciary and Health and Government Operations.

Information Source(s): Montgomery, Washington, and Worcester counties; Baltimore City; Department of Health and Mental Hygiene; Judiciary (Administrative Office of the Courts); Department of State Police; Office of Administrative Hearings; Department of Public Safety and Correctional Services; Department of Natural Resources; National Conference of State Legislatures; Federal Bureau of Investigation; U.S. Government Accountability Office; whitehouse.gov; University of Chicago;

National Academy of Sciences; University of Pennsylvania; Johns Hopkins University; *Governing Magazine*; Migration Policy Institute; U.S. Census Bureau; Department of Legislative Services

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Appendix – Laws Relating to Possession of a Firearm by the Mentally Ill

Federal Law

Under 18 U.S.C. § 922(d), it is unlawful for any person to sell or otherwise dispose of any firearm or ammunition to any person knowing or having reasonable cause to believe that such person has been adjudicated as a mental defective or has been committed to any mental institution.

State Laws

Arizona	Ariz. Rev. Stat. §§ 13-3101 - 02, 13-925	A person may not possess a firearm if found to constitute a danger to themselves or others pursuant to court order under § 36-540, and whose right to possess a firearm has not been restored pursuant to § 13-925.
Arkansas	Ark. Code § 5-73-103	A person may not possess or own any firearm if the person has been: <ul style="list-style-type: none"> • adjudicated mentally ill; or • committed involuntarily to any mental institution.
California	Cal. Welfare and Inst. Code §§ 8100 - 8108	A person may not possess, purchase, receive, attempt to purchase or receive, or have control or custody of any firearm if the person: <ul style="list-style-type: none"> • is receiving in-patient treatment for a mental illness at a mental health facility and the attending professional opines that the patient is a danger to self or others. The prohibition applies even if the person has consented to the treatment, and ends when the patient is discharged; • has been adjudicated to be a danger to others as a result of a mental disorder or mental illness or has been adjudicated to be a mentally disordered sex offender. The prohibition does not apply, if the court issues, upon release, a certificate stating that the person may possess a firearm without endangering others; • has been found not guilty by reason of insanity of enumerated violent felonies. A person who is found not guilty by reason of insanity of other crimes is barred from possessing firearms unless a court finds that the person has recovered sanity;

		<ul style="list-style-type: none"> • has been found mentally incompetent to stand trial, unless there is a subsequent finding that the person has become competent; or • is currently under a court-ordered conservatorship because the person is gravely disabled as a result of a mental disorder or impaired by chronic alcoholism. <p>A person may not possess, have custody or control, or purchase or receive, or attempt to purchase or receive, any firearms or any other deadly weapon for a period of six months whenever the person communicates to a licensed psychotherapist a serious threat of physical violence against a reasonably identifiable victim(s). Licensed psychotherapists are required to immediately report to a local law enforcement agency the identity of such a person [see § 8105(c)].</p>
Connecticut	Conn. Gen. Stat. § 53a-217c	<p>A person may not obtain a handgun eligibility certificate if the person:</p> <ul style="list-style-type: none"> • has been discharged from custody within the preceding 20 years after having been found not guilty of a crime due to mental disease or defect pursuant to § 53a-13; • has been confined in a mental hospital for persons with psychiatric disabilities within the preceding 12 months by order of a probate court.
Delaware	Del. Code Title 11, § 1448	<p>A person may not purchase, own, possess, or control a firearm or ammunition if the person was ever committed for a mental disorder to any hospital, mental institution, or sanitarium, unless the person possesses a certificate from a medical doctor or psychiatrist licensed in Delaware stating that the person is no longer suffering from a mental disorder which interferes or handicaps the person from handling deadly weapons.</p>
District of Columbia	D.C. Code § 7-2502.03	<p>An applicant for a firearms registration certificate must pass a background check conducted by the Chief of Police (in addition to the NICS check required under <i>Brady</i> when purchasing from a federally licensed dealer). Section 7-2502.03 requires that the chief confirm that the applicant within the five years immediately preceding the application:</p>

		<ul style="list-style-type: none"> • has not been acquitted of any criminal charge by reason of insanity or has not been adjudicated a chronic alcoholic by any court; or • has not been voluntarily or involuntarily committed to any mental hospital or institution.
Florida	Fla. Stat. § 790.065 and § 790.06	Florida follows federal law regarding gun sales, but will not issue a license to carry a concealed weapon if the applicant has been committed to a mental institution under Chapter 394, or similar laws of any other state, unless the applicant produces a certificate from a licensed psychiatrist stating that the person has not suffered from disability for at least five years prior to the date of the application.
Georgia	Ga. Code § 16-11-129	A person may not be issued a license to carry a firearm if the person has been hospitalized as an inpatient in any mental hospital or alcohol or drug treatment center within five years of the application date.
Hawaii	Haw. Rev. Stat. § 134-7	<p>A person may not own, possess, or control any firearm or ammunition if the person:</p> <ul style="list-style-type: none"> • has been acquitted of a crime on the grounds of mental disease, disorder, or defect; or is or has been diagnosed as having a significant behavioral, emotional, or mental disorder, or for treatment for organic brain syndromes; • is a minor who (1) is or has been under treatment for addiction to any dangerous drug, intoxicating compound, or intoxicating liquor or (2) has been determined not to have been responsible for a criminal act or has been committed to any institution on account of a mental disease, disorder, or defect; or • is or has been diagnosed as having a significant behavioral, emotional, or mental disorder as defined by the most current diagnostic manual of the American Psychiatric Association or for treatment for organic brain syndromes. <p>An exception exists if the person has been medically documented to be no longer adversely affected by the addiction, abuse, dependence, mental disease, disorder, or defect.</p>
Idaho	Idaho Code § 18-3302(1)	A license to carry a concealed weapon <u>must</u> be issued to an applicant <i>unless</i> the person is currently suffering, or

		<p>has been adjudicated as, based on substantial evidence as:</p> <ul style="list-style-type: none"> • lacking mental capacity, per Idaho Code Ann. § 18-210; • mentally ill, per § 66-317; • gravely disabled, per § 66-317; or • an incapacitated person, per § 15-5-101(a).
Illinois	Ill. Rev. Stat. Ch. 720, § 5/24-3.1	<p>A person commits the offense of unlawful possession of firearms or firearm ammunition when the person:</p> <ul style="list-style-type: none"> • has been a patient in a mental hospital within the past five years and possesses any firearms or firearm ammunition; or • is mentally retarded and possesses any firearms or firearm ammunition.
Indiana	Ind. Code § 35-47-2-7	<p>A person may not transfer a handgun to an individual who the person has reasonable cause to believe is mentally incompetent.</p>
Iowa	Iowa Code § 724.15	<p>Any person who acquires ownership of any pistol or revolver must first obtain an annual permit. An annual permit must be issued to any person unless prohibited by federal law from shipping, transporting, possessing, or receiving a firearm.</p>
Kansas	Kans. Stat. § 21-4204	<p>A person may not possess a firearm if the person is or has been a mentally ill person subject to involuntary commitment for care and treatment as defined in § 59-2946, or a person with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment as defined in § 59-29B46, unless the person has received a “certificate of restoration.”</p>
Louisiana	La. Rev. Stat. § 40:1379.3	<p>A carry permit may not be issued to a person who:</p> <ul style="list-style-type: none"> • suffers from “mental or physical infirmity due to disease, illness, or retardation” which prevents the safe handling of a handgun; • has been adjudicated to be mentally deficient or has been committed to a mental institution.
Maine	Me. Rev. Stat. Title 15, § 393	<p>A person may not own, possess, or have under that person’s control a firearm if the person has been convicted of committing, or found not criminally responsible by reason of insanity of committing certain enumerated crimes.</p>
Maryland	Md. Pub. Safety Code § 5-133	<p>A person may not possess a regulated firearm if the person:</p>

		<ul style="list-style-type: none"> • suffers from a mental disorder as defined in § 10-101(f)(2) of the Health-General Article and has a history of violent behavior against the person or another, unless the person has a physician's certificate that the person is capable of possessing a regulated firearm without undue danger to the person or to another; or • has been confined for more than 30 consecutive days to a facility as defined in § 10-101 of the Health-General Article, unless the person has a physician's certificate that the person is capable of possessing a regulated firearm without undue danger to the person or to another.
Massachusetts	Mass. Gen. Laws Ch. 140, § 131	A Class A or B license to carry a firearm may be issued if the applicant has been confined to any hospital or institution for mental illness, unless the applicant submits a physician's affidavit attesting that the person is familiar with the applicant and that the applicant is not disabled by such an illness in a manner that would prevent the person from possessing a firearm.
Michigan	Mich. Comp. Laws § 28.422	A person may not purchase, carry, possess, or transport a pistol without a license to do so. A person may qualify for a license if the person has not been adjudged insane or legally incapacitated and is not under an order of involuntary commitment in an inpatient or outpatient setting due to mental illness.
Minnesota	Minn. Stat. § 624.713	A person may not possess a firearm if the person: <ul style="list-style-type: none"> • is, or has ever been, confined to a treatment facility as a person who is mentally ill, mentally retarded, or mentally ill and dangerous to the public; or • has ever been found incompetent to stand trial or not guilty by reason of mental illness, unless there is satisfactory proof that the person no longer suffers from this disability.
Mississippi	Miss. Stat. Rev. § 45-9-101	A license to carry concealed handguns <u>must</u> be issued by the Department of Public Safety, pursuant to § 45-9-101(2), if the applicant: <ul style="list-style-type: none"> • has not been adjudicated mentally incompetent, or has waited five years from the date of restoration of mental capacity by court order;

		<ul style="list-style-type: none"> has not been voluntarily or involuntarily committed to a mental institution or mental health treatment facility unless the person possesses a certificate from a psychiatrist licensed in Mississippi stating that the person has not suffered from disability for a period of five years.
Missouri	Mo. Rev. Stat. § 571.070	A person commits the crime of unlawful possession of a firearm if such person knowingly has any firearm in his or her possession and is currently adjudged as mentally incompetent.
Montana	Mont. Code § 45-8-321	A permit to carry a concealed weapon may be denied to a person who has been adjudicated in any state or federal court to be mentally ill, defective, or disabled, and remains subject to a disposition order.
Nebraska	Neb. Rev. Stat. § 69-2433	An applicant for a permit to carry a concealed handgun must not have been found in the previous 10 years to be a mentally ill and dangerous person and not be currently adjudged mentally incompetent.
Nevada	Nev. Rev. Stat. § 202.360	A person may not own or possess a firearm if the person has been adjudicated mentally ill or has been committed to any mental health facility.
New Jersey	N.J. Rev. Stat. § 2c:58-3	<p>A person may not be issued a handgun purchase permit or firearms purchaser identification card if the person:</p> <ul style="list-style-type: none"> is confined for a mental disorder to a hospital, mental institution or sanitarium, or is presently an habitual drunkard; has ever been confined for a mental disorder, or is an alcoholic unless producing a certificate of a medical doctor or psychiatrist licensed in New Jersey, or other satisfactory proof, that the person is no longer suffering from that particular disability in such a manner that would interfere with or handicap the person in the handling of firearms.
New Mexico	N.M. Stat. § 29-19-4	The New Mexico Department of Public Safety must issue a license to an applicant who has not been adjudicated mentally incompetent or committed to a mental institution.
New York	N.Y. Pen. Law § 400.00; Mental Health Law Art. 9, 10 & 15; Crim. Proc. Law Art. 730,	<p>No person may be issued a license to carry, possess, or dispose of a firearm unless the person:</p> <ul style="list-style-type: none"> has stated whether they have ever suffered any mental illness;

	§ 330.20; Corr. Law §§ 402 & 508; Fam. Ct. Act §§ 322.2 & 353.4	<ul style="list-style-type: none"> • has not been involuntarily committed to a facility under the jurisdiction of an office of the Department of Mental Hygiene in accordance with state law; or • has not been civilly confined in a secure treatment facility.
North Carolina	N.C. Gen. Stat. § 14-404	A person may not obtain a permit to purchase a handgun if the person has been adjudicated mentally incompetent or has been committed to a mental institution.
North Dakota	N.D. Cent. Code § 62.1-02	A person who is or has ever been diagnosed and confined or committed to a hospital or other institution in North Dakota or elsewhere by a court of competent jurisdiction, other than a person who has had the petition that provided the basis for the diagnosis, confinement, or commitment dismissed under § 25-03.1-17, 25-03.1-18, or 25-03.1-19, or equivalent statutes of another jurisdiction, as a mentally ill person as defined in § 25 03.1-02, or as a mentally deficient person as defined in § 25-01-01, is prohibited from purchasing a firearm or having one in possession or under control. This limitation does not apply to a person who has not suffered from the disability for the previous three years.
Ohio	Ohio Rev. Stat. § 2923.125	A person may not acquire, possess, carry, or use any firearm if the person is under adjudication for mental incompetence, has been adjudicated as a mental defective, is committed to a mental institution, has been found to be mentally ill subject to hospitalization by court order, or is an involuntary mentally ill patient.
Oklahoma	Okla. Stat. § 21-1289.10	A person may not knowingly transfer a firearm to a mentally or emotionally unbalanced person.
Oregon	O.R.S. § 166.250	A person may not possess a firearm if the person: <ul style="list-style-type: none"> • was committed to the Oregon Health Authority under ORS 426.130; • was found to be mentally ill and subject to an order under ORS 426.130 that the person be prohibited from purchasing or possessing a firearm as a result of that mental illness; or • has been found guilty except for insanity under ORS 161.295 of a felony.

Pennsylvania	Pa. Con Stat. Title 18, § 6105(c)	A person may not possess a firearm if ever having been adjudicated as incompetent or involuntarily committed to a mental institution.
Rhode Island	R.I. Gen. Laws § 11-47-6	A person who is under guardianship or treatment or confinement by virtue of being a mental incompetent, ...may not purchase, own, carry, transport, or possess or personally control any firearm. Any person affected by these provisions, other than a person who has been pronounced criminally insane by competent medical authority, after the lapse of a period of five years from the date of being pronounced cured by competent medical authority, may, upon presentation of an affidavit issued by competent medical authority to the effect that the person is a mentally stable person and a proper person to possess firearms, make application for the purchase of the firearm(s).
South Carolina	S.C. Code §§ 16-23-30, 44-23-1080	A person may not possess or acquire a handgun if the person has been adjudicated mentally incompetent. In addition, patients and prisoners under the jurisdiction of the South Carolina Department of Mental Health may not have access to firearms.
South Dakota	S.D. Codified Laws § 23-7-7.1	The sheriff of the county in which the applicant resides <u>must</u> issue a permit to carry a concealed weapon if the applicant has not been found in the previous 10 years to be a “danger to others” or a “danger to self” as defined in § 27A-1-1, or is not currently adjudged mentally incompetent.
Tennessee	Tenn. Code Ann. § 39-17-1351	A carry permit may not be issued to any person who has been adjudicated as a mental defective; has not been judicially committed to or hospitalized in a mental institution pursuant to Title 33; has not had a court appoint a conservator for the applicant by reason of a mental defect; has not been judicially determined to be disabled by reason of mental illness, developmental disability, or other mental incapacity; and has not, within seven years from the date of application, been found by a court to pose an immediate substantial likelihood of serious harm, as defined in Title 33, Chapter 6, Part 5, because of mental illness.
Texas	Tex. Gov’t Code § 411.172	A person is ineligible for a license to carry a concealed weapon if the person:

		<ul style="list-style-type: none"> • has been diagnosed by a licensed physician as suffering from a psychiatric disorder or condition that causes or is likely to cause substantial impairment in judgment, mood, perception, impulse control, or intellectual ability; • suffers from a psychiatric disorder or condition described above that (1) is in remission but is reasonably likely to redevelop at a future time or (2) requires continuous medical treatment to avoid redevelopment; • has been diagnosed by a licensed physician, determined by a review board or similar authority, or declared by a court to be incompetent to manage the person’s own affairs; or • has entered in a criminal proceeding a plea of not guilty by reason of insanity. <p>The following constitutes evidence that a person has a psychiatric disorder or condition described above:</p> <p>(1) involuntary psychiatric hospitalization;</p> <p>(2) psychiatric hospitalization;</p> <p>(3) inpatient or residential substance abuse treatment in the preceding five-year period;</p> <p>(4) diagnosis in the preceding five-year period by a licensed physician that the person is dependent on alcohol, a controlled substance, or a similar substance;</p> <p>or</p> <p>(5) diagnosis at any time by a licensed physician that the person suffers or has suffered from a psychiatric disorder or condition consisting of or relating to:</p> <p>(a) schizophrenia or delusional disorder;</p> <p>(b) bipolar disorder;</p> <p>(c) chronic dementia, whether caused by illness, brain defect, or brain injury;</p> <p>(d) dissociative identity disorder;</p> <p>(e) intermittent explosive disorder; or</p> <p>(f) antisocial personality disorder.</p>
Utah	Utah Code § 53-5-704	A person 21 or older may be issued a permit to carry a concealed firearm for lawful self defense, unless the person has been adjudicated by a state or federal court as mentally incompetent (unless the adjudication has been withdrawn or reversed).

Virginia	Va. Code §§ 18.2-308.1:2-:3	A person is prohibited from the: <ul style="list-style-type: none"> • purchase, possession, or transportation of any firearm by any person adjudicated “legally incompetent,” “mentally incapacitated,” or “incapacitated,” whose competency or capacity has not been restored; and • purchase, possession, or transportation of a firearm by a person who has been involuntarily committed, during the period of commitment.
Washington	Wash. Rev. Code § 9.41.040	A person may not own, possess, or have in their control any firearm, if that person has been involuntarily committed for mental health treatment and their right to own a firearm has not been restored.
West Virginia	W. Va. Code § 61-7-7	A person may not possess a firearm if the person has been adjudicated as a mental defective or has been involuntarily committed to a mental institution.
Wisconsin	Wis. Stat. § 941.29	Any handgun transfer may not be approved if the recipient has been: <ul style="list-style-type: none"> • found not guilty of a felony in Wisconsin by reason of mental disease or defect; • found not guilty or not responsible for a crime elsewhere that would be a felony in Wisconsin by reason of insanity or mental disease, defect, or illness; or • committed to a treatment facility (because the individual is mentally ill, drug dependent, or developmentally disabled) and ordered not to possess a firearm.
Wyoming	Wyo. Stat. § 6-8-404	To possess a personal firearm, a firearm accessory, or ammunition that is manufactured commercially or privately in Wyoming and that remains exclusively within the borders of Wyoming, a person must not: <ul style="list-style-type: none"> • currently be adjudicated to be legally incompetent; and • have been committed to a mental institution.

Source: National Conference of State Legislatures, January 2013

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Firearm Safety Act of 2013

BILL NUMBER: SB 281/ HB 294

PREPARED BY: Maryland State Police

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The bill proposes to eliminate assault weapons for sale by licensed dealers. The loss of a product for sale does reduce the amount of sales and income based on those sales.

Additionally, the bill requires fingerprints and an identification card issued by MSP to be in possession for the sale of a handgun to occur. MSP has 30 days to issue the card.

Presumably the person waiting for the card will have to wait to purchase a gun also slowing down the amount of sales allowed by the dealer. With the current volume of gun sales today that could be a significant impact.

The bill also requires training before the issuance of the card or a handgun permit.

Currently there is no government entity which provides training to the private sector.

Last year there were approximately 65,000 gun sales where the purchaser would have been required to get the firearms training. The private sector will have to provide the space and personnel to conduct the training as well as collect the fees associated with the training. The training will require materials, ammunition and a licensed and properly zoned facility.

According to recent numbers provided by a private gun club, the cost to a person to receive the training required by the bill would cost approximately \$150 per person to qualify for a handgun purchase and \$250 per person for handgun permit training. According to the DNR website there are at least 42 firearms ranges on file with DNR. The industry reports there are many more private ranges not on the list. MSP estimates over 85,000 people will want training in the first year at \$150 per person. The income will be significant for a small business that provides this type of training.

DPSCS also licenses small businesses to provide electronic fingerprint services on behalf of the state. These businesses are allowed to charge a fee for the service of taking one's prints for a background check. Assuming 85,000 people want to purchase a firearm they will need their prints taken and submitted to the state. The business keeps the administrative fee.