

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 35
Judiciary

(Delegate K. Kelly)

**Criminal Law - Wearing, Carrying, or Transporting a Handgun - Active
Assignment Exception**

This bill modifies exceptions to the prohibition against wearing, carrying, or transporting handguns without a State permit. Specifically, the bill applies the current law language requiring a person to be on active assignment engaged in law enforcement only to a sheriff or specified persons working for a sheriff. The bill eliminates 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.

Fiscal Summary

State Effect: None. The bill is corrective in nature.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: A person is prohibited from wearing, carrying, or transporting a handgun in Maryland without a permit issued by the Secretary of State Police. There are a number of specified exceptions to this prohibition, including the wearing, carrying, or transporting of a handgun by a person who is on active assignment engaged in law enforcement, is authorized at the time and under the circumstances to wear, carry, or transport the handgun as part of the person's official equipment, and is:

- a law enforcement official of the United States, the State, or a county or city of the State;
- a member of the Armed Forces of the United States or of the National Guard on duty or traveling to or from duty;
- a law enforcement official of another state or subdivision of another state temporarily in this State on official business;
- a correctional officer or warden of a correctional facility in the State;
- a sheriff or full-time assistant or deputy sheriff of the State; or
- a temporary or part-time sheriff's deputy.

Other exceptions include:

- the carrying of a handgun on the person or in a vehicle while the person is transporting it to or from the place of legal purchase or sale, or to or from a bona fide repair shop, or between bona fide residences of the person, or between the bona fide residence and place of business of the person, if the business is operated and owned substantially by the person if each handgun is unloaded and carried in an enclosed case or an enclosed holster;
- the wearing, carrying, or transporting by a person of a handgun if used in connection with an organized military activity, a target shoot, formal or informal target practice, sport shooting event, hunting, a Department of Natural Resources-sponsored firearms and hunter safety class, trapping, or a dog obedience training class or show, while the person is engaged in, on the way to, or returning from that activity if each handgun is unloaded and carried in an enclosed case or an enclosed holster
- the moving by a bona fide gun collector of part or all of the collector's gun collection from place to place for public or private exhibition if each handgun is unloaded and carried in an enclosed case or an enclosed holster;
- the wearing, carrying, or transporting of a handgun by a person on real estate that the person owns or leases or where the person resides or within the confines of a business establishment that the person owns or leases;
- the wearing, carrying, or transporting of a handgun by a supervisory employee in the course of employment, within the confines of the business establishment in which the supervisory employee is employed, and when so authorized by the owner or manager of the business establishment;

- the carrying or transporting a signal pistol or other visual distress signal approved by the U.S. Coast Guard in a vessel on Maryland’s waterways or, if the signal device is unloaded and carried in an enclosed case, in a vehicle; or
- the wearing, carrying, or transporting of a handgun by a person carrying a court order requiring the surrender of the handgun, if the handgun is unloaded; the person has notified the law enforcement unit, barracks, or station that the handgun is being transported in accordance with the court order; and the person transports the handgun directly to the law enforcement unit, barracks, or station.

Background: In response to a March 5, 2012 advisory letter from the Attorney General of Maryland, this bill clarifies the cited exception provision of the Criminal Law Article by restoring the original meaning of changes made to former Article 27 by Chapter 13 of 1972 (SB 205). The Attorney General’s advisory letter states that, based on legislative history, “the active assignment provision should not be read to apply to correctional officers” even though Chapter 26 of 2002 (HB 11) which enacted the Criminal Law Article, modified the provision during the code revision process. Accordingly, this bill is intended to clarify and restore the cited exception language to a meaning that should not have been substantively changed by Chapter 26 of 2002.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of State Police, Department of Public Safety and Correctional Services, Department of Legislative Services

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