

Department of Legislative Services
 Maryland General Assembly
 2014 Session

FISCAL AND POLICY NOTE

House Bill 1005 (Delegate Bromwell, *et al.*)
 Judiciary

Firearms - Handgun Permit Requirements - Retired Military

This bill requires the Secretary of State Police to issue a handgun permit to a person who is a retired member of the U.S. Armed Forces or the National Guard.

Fiscal Summary

State Effect: General fund revenues increase by \$1.2 million in FY 2015 from the issuance of additional handgun permits and the payment of associated fees. General fund expenditures for the Department of State Police (DSP) increase by \$827,500 in FY 2015 to process additional handgun permit applications. Future years reflect annualization, inflation, automobile replacement in FY 2018, and the licensure issuance and renewal cycle.

(in dollars)	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
GF Revenue	\$1,241,300	\$1,241,300	\$902,500	\$902,500	\$125,000
GF Expenditure	\$827,500	\$899,500	\$954,800	\$1,043,500	\$1,010,100
Net Effect	\$413,700	\$341,800	(\$52,300)	(\$141,000)	(\$885,100)

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

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: Generally, with certain exceptions, 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.

Background: There are about 14,000 active handgun permits in Maryland. Since 2009, DSP has received an average of about 1,800 initial and 2,100 renewal nonpolice-related applications per year, including renewal applications from retired law enforcement personnel. It generally takes DSP less than two days to receive the results of a national criminal history records check from the Federal Bureau of Investigation and approximately 135 days to process, investigate, and issue a permit. DSP has denied an average of less than 6% of nonpolice-related applications annually, on the basis of a finding that the person did not have a "good and substantial reason" for the permit.

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, the number of states allowing concealed carry permits is increasing, and states broadly differ in eligibility requirements. For example, until 2011, Wisconsin did not issue carry permits. In that year, Wisconsin became a shall-issue state and 65,921 permit applications were received in the first two months. For calendar 2012, the first full year of operation, Wisconsin received an additional 98,867 applications. By population, Maryland and Wisconsin are similar.

The fiscal 2014 budget included \$4.2 million to implement Chapter 427 and cover related costs, which included 35 new positions, contractual services, and supplies and materials. The Governor's proposed fiscal 2015 budget carries over costs for the 35 new positions and 31 contractual employees, but one-time start-up funding for technology and equipment is eliminated. DSP also received a \$400,000 general fund deficiency in

fiscal 2013 and \$450,000 in general funds in the fiscal 2014 budget to automate and streamline the current and new firearm application processes.

During and after the 2013 legislative session, the DSP Licensing Division was overwhelmed with new applications for firearm purchases, including assault weapons and handguns, which resulted in a backlog of applications to be processed. During the first nine months of 2013, 115,012 firearms transfer applications were received by DSP; more than 15,000 of those applications came in the final 10 days of September. Handgun sales alone peaked in September 2013, with 27,840 reported sales. In October 2013, handgun sales dropped dramatically, down to 3,654. Since the October 1, 2013 effective date of Chapter 427, a total of 5,133 handgun qualification license (HQL) applications have been received and 4,943, or 96.3%, have been approved.

According to the most recent Department of Defense *Statistical Report on the Military Retirement System* (fiscal 2012), there are about 55,136 military retirees residing in Maryland, which includes all branches of service and the Department of Defense.

State Revenues: DSP estimates that approximately 60% of military retirees (33,100) seek a handgun permit under the bill. It is assumed that half of that number (16,550) submit an initial handgun permit application in fiscal 2015 and the remainder (16,550) in fiscal 2016. Assuming that all retirees are not otherwise exempt from handgun permit fees (such as retired police officers from a Maryland jurisdiction), **Exhibit 1** shows the estimated increase in general fund revenues from additional handgun permit fees through fiscal 2019. The estimated number of new retirees per year is not readily available, but for purposes of this analysis, it is assumed that an additional 1,000 seek an initial permit annually after fiscal 2016.

Exhibit 1
Estimated Handgun Permit Fee Revenue under the Bill

	<u>FY 2015</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>
New Apps.	16,550	16,550	1,000	1,000	1,000
Fee Revenue	\$1,241,250	\$1,241,250	\$75,000	\$75,000	\$75,000
Renewals	-	-	16,550	16,550	1,000
Fee Revenue	-	-	827,500	827,500	50,000
Total Revenue	\$1,241,250	\$1,241,250	\$902,500	\$902,500	\$125,000

Source: Department of Legislative Services

State Expenditures: General fund expenditures for DSP increase by an estimated \$827,533 in fiscal 2015, which reflects the bill’s October 1, 2014 effective date. This estimate reflects the cost to hire 2 full-time troopers, 3 office services clerks, and 11 contractual background check investigators to process and issue the additional handgun permit applications, review and issue renewal permits, and prepare information relating to hearings. It includes salaries and fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions (Permanent)	5
Positions (Contractual)	11
Salaries and Fringe Benefits (Permanent)	\$308,987
Salaries and Fringe Benefits (Contractual)	326,709
Motor Vehicle Purchases and Operations	70,906
Additional Police and Civilian Equipment	80,003
Other Operating Expenses	<u>40,928</u>
Total FY 2015 State Expenditures	\$827,533

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses and automobile replacement costs in fiscal 2018. Although DSP also projects considerable trooper and civilian overtime costs in fiscal 2015 (\$928,580), the Department of Legislative Services believes that such needs are unclear going forward due to the new resources, including personnel, for the Licensing Division provided in both the fiscal 2014 budget and the Governor’s proposed fiscal 2015 budget (as discussed above). Should overtime or additional personnel costs emerge, it could be handled through the annual budget process.

This estimate does not include any health insurance costs that could be incurred for specified contractual employees under the State’s implementation of the federal Patient Protection and Affordable Care Act.

Additional Comments: In *Woollard v. Gallagher* (No. 12-1437), the U.S. Court of Appeals for the Fourth Circuit considered the constitutionality of Maryland’s “good and substantial reason” handgun permit requirement. On March 21, 2013, the Fourth Circuit reversed the District Court opinion and Maryland’s “good and substantial” requirement was upheld as constitutional.

Two cases relating to Maryland firearms law are pending:

Kolbe v. O’Malley: This case, originally filed under the name *Tardy v. O’Malley*, is pending in the U.S. District Court for the District of Maryland. The suit seeks to have the assault weapon and high-capacity magazine bans included in Chapter 427 of 2013

declared unconstitutional under the Second Amendment and the Equal Protection and Due Process clauses of the Fourteenth Amendment. Judge Blake denied plaintiffs' request for a temporary restraining order to prevent those aspects of the law from going into effect on October 1, 2013. The case is currently in the discovery phase, with motions for summary judgment due on February 14, 2014.

Doe v. O'Malley: This case anticipated that DSP would be unable to process the HQL mandated for handgun transactions under Chapter 427 in a timely manner and that the result would be a *de facto* moratorium on handgun sales in Maryland. Judge Catherine Blake denied plaintiffs' request for a temporary restraining order to delay the effective date of the HQL requirement for 90 days. Although the case remains active on the court's docket, plaintiffs have entered an agreement deferring the State's obligation to respond to the complaint unless and until it is amended.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Military Department, Department of State Police, U.S. Government Accountability Office, Department of Defense, Department of Legislative Services

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ncs/lgc

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