

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

Senate Bill 768 (Senator Getty, *et al.*)
Judicial Proceedings

Regulated Firearms - License Issued by Another State - Reciprocity

This bill specifies that a license issued by another state to an individual to carry a regulated firearm, including a concealed regulated firearm, is valid in Maryland.

Fiscal Summary

State Effect: None. The bill's requirements do not impose any additional responsibilities on the State.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Federal law does not regulate the carrying of firearms, concealed or otherwise. All 50 states allow the carrying of firearms to some extent. Currently, the District of Columbia does not permit citizens to carry concealed firearms under any circumstances. Details of concealed weapons laws vary greatly among jurisdictions, but most approaches fall into two categories. One of these categories is a discretionary system called "may issue" licensing, where legal authorities grant licenses only to those citizens who can establish a compelling need for carrying a concealed handgun. The other system is a nondiscretionary one called "shall issue" licensing. Under this system, legal authorities must provide a license to any applicant who meets specific criteria.

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.

Maryland’s permit to carry a handgun does not make reference to concealed carry and does not extend to all regulated firearms. A regulated firearm means a handgun or any one of 45 specific assault weapons, or their copies, regardless of which company produced and manufactured the weapon.

Chapter 427 of 2013 (the Firearm Safety Act of 2013) created a new licensing scheme for handguns under the licensing authority of the Department of State Police (DSP). DSP recently adopted regulations to implement the Act’s provisions related to this new license. A “handgun qualification license” authorizes a person to purchase, rent, or receive a handgun. 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.

Background: The number of states allowing concealed carry permits is increasing, and states broadly differ in eligibility requirements and the extent to which reciprocity agreements are applied or recognized. Some agreements apply to firearms in general, while others apply to certain types of weapons (such as handguns or pistols).

According to a July 2012 report by the U.S. Government Accountability Office, “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.” Maryland is a may-issue state.

Additional Information: 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 the DSP would be unable to process the new handgun qualification licenses (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: Similar bills granting reciprocity for carry permits generally or with neighboring states were introduced in the 2013, 2012, 2011, and 2010 sessions. SB 660 of 2013 received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken. HB 1421 of 2013 received a hearing in the House Judiciary Committee, but no further action was taken. HB 256 of 2012 received a hearing in the House Judiciary Committee, but no further action was taken. HB 9 of 2011 received a hearing in the House Judiciary Committee, but no further action was taken. HB 52 of 2010 received an unfavorable report from the House Judiciary Committee.

Cross File: None.

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

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