

Department of Legislative Services
 Maryland General Assembly
 2015 Session

FISCAL AND POLICY NOTE
 Revised

House Bill 432 (Delegate Impallaria, *et al.*)
 Judiciary

Public Safety - Handgun Permit - Applicant Qualifications

This bill repeals the requirement that an applicant have a “good and substantial reason” to wear, carry, or transport a handgun before the Secretary of State Police may issue a handgun permit to the person.

Fiscal Summary

State Effect: General fund revenues increase by \$7.5 million in FY 2016 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 \$3.4 million in FY 2016 to process additional handgun permit applications. Future years reflect annualization, inflation, automobile replacement in FY 2019, and the licensure issuance and renewal cycle; future years also reflect a decrease in new permit applications and renewals over time.

(in dollars)	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
GF Revenue	\$7,500,000	\$6,375,000	\$9,918,800	\$8,655,800	\$6,525,100
GF Expenditure	\$3,425,800	\$3,450,000	\$3,791,900	\$4,129,200	\$3,975,300
Net Effect	\$4,074,200	\$2,925,000	\$6,126,800	\$4,526,600	\$2,549,900

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

Local Effect: None.

Small Business Effect: Meaningful. It is assumed that the bill leads to an increase in the number of handgun carry permits sought in the State. Small businesses that provide firearm instruction may benefit from an increase in the demand for their services. The extent to which more or fewer handgun purchases are sought cannot be reliably estimated.

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. A permit expires on the last day of the holder’s birth month following two years after the date the permit is issued. A permit may be renewed for successive periods of three years each if, at the time of an application for renewal, the applicant possesses the qualifications for the issuance of a permit and pays the renewal fee.

Chapter 427 of 2013 (the Firearm Safety Act of 2013) requires a handgun permit applicant to successfully complete prior to the application and each renewal, a firearms training course approved by the Secretary that includes (1) for an initial application, a minimum of 16 hours of instruction by a qualified handgun instructor, or 8 hours of instruction for a renewal application; (2) classroom instruction on State firearm law, home firearm safety, and handgun mechanisms and operation; and (3) a firearms qualification component that demonstrates the applicant’s proficiency and use of the firearm.

An applicant for a permit is not required to complete a certified firearms training course if the applicant:

- is a law enforcement officer or a person who is retired in good standing from service with a law enforcement agency of the United States, 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 qualified handgun instructor; or
- has completed a firearms training course approved by the Secretary.

Chapter 427 also created a new licensing scheme for handguns under the authority of DSP. A handgun qualification license (HQL) authorized a person to purchase, rent, or receive a handgun. Some entities are exempt from the licensing requirement.

Background: There are about 14,000 active handgun permits in Maryland. From 2012 through 2014, DSP received between 2,000 and 2,800 new permit applications annually and between 2,700 and 3,500 renewal applications annually. It generally takes less than two days to receive the results of a national criminal history records check from the Federal Bureau of Investigation and approximately 90 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. For the succeeding years, Wisconsin received 68,759 applications in 2013 and 37,550 additional applications in 2014. 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 fiscal 2015 budget carried over costs for the 35 new positions and 31 contractual employees. The Governor’s proposed fiscal 2016 budget continues funding for all of these positions. DSP also received a \$400,000 general fund deficiency appropriation 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. The anticipated completion date for an Automated Licensing and Registration Tracking System is June 2017. Automation for HQLs began in October 2013.

State Revenues: The Department of Legislative Services (DLS) estimates that this bill increases new handgun permit applications by about 100,000 in fiscal 2016, and thus imposes an operational burden on DSP to issue additional handgun permits. This is due in part to the surge in sales during recent years, and assumes a similar experience to that which was experienced in Wisconsin in 2012 when nearly 99,000 additional carry permit

applications were received. As is stated above, it takes about 135 days to process, investigate, and issue a permit.

Accordingly, assuming an increase of about 100,000 permit applications in fiscal 2016, general fund revenues from handgun permit fees increase by an estimated \$7.5 million in fiscal 2016. By fiscal 2020, the increase in general fund revenues for initial applications and renewals decreases to \$6.5 million; this estimate assumes that, over time, initial handgun permit applications decline by 15% per year, and that the total number of permits renewed decreases by 10% annually. **Exhibit 1** shows the estimated increase in general fund revenues from additional handgun permit fees through fiscal 2020.

Exhibit 1
Estimated Handgun Permit Fee Revenue under the Bill

	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
New Apps.	100,000	85,000	72,250	61,413	52,201
Fee Revenue	\$7,500,000	\$6,375,000	\$5,418,750	\$4,605,975	\$3,915,075
Renewals	-	-	90,000	81,000	72,900
Fee Revenue	-	-	4,500,000	4,050,000	2,610,050
Total Revenue	\$7,500,000	\$6,375,000	\$9,918,750	\$8,655,975	\$6,525,125

Source: Department of Legislative Services

State Expenditures: General fund expenditures for DSP increase by an estimated \$3,425,756 in fiscal 2016, which reflects the bill's October 1, 2015 effective date. This estimate reflects the cost to hire 10 full-time troopers, 18 office services clerks, and 44 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)	28
Positions (Contractual)	44
Salaries and Fringe Benefits (Permanent)	\$1,202,713
Salaries and Fringe Benefits (Contractual)	1,224,822
Motor Vehicle Purchases and Operations	354,530
Additional Police and Civilian Equipment	377,955
Other Operating Expenses	<u>265,736</u>
Total FY 2016 DSP Expenditures	\$3,425,756

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 2019. Although DSP also projects considerable trooper and civilian overtime costs in fiscal 2016 (\$6.5 million), as well as 33 more contractual positions, DLS believes that such needs are unclear going forward due to the new resources for automation and additional personnel for the Licensing Division provided in the State budget since fiscal 2014 and continued in the Governor's proposed fiscal 2016 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.

During and after the 2013 session, the Licensing Division of DSP was overwhelmed with new applications for firearm purchases, including assault weapons and handguns. The backlog was not eliminated by the October 1, 2013 effective date of the new law, but was fully eliminated by June 2014. Two separate suits challenging Maryland's new law on a variety of grounds were filed in federal District Court shortly before the law went into effect. On October 1, 2013, a District Court judge denied the plaintiffs' request to enjoin implementation of the Firearm Safety Act pending the outcome of the litigation.

Doe v. O'Malley, 13-cv-2861, U.S. District Court, Maryland (Baltimore), anticipated that DSP would be unable to process the new HQLs in a timely manner and that the result would be a de facto moratorium on handgun sales in Maryland. Plaintiffs' request for a temporary restraining order to delay the effective date of the HQL requirement for 90 days was denied. The case was voluntarily dismissed without prejudice.

In *Kolbe v. O'Malley*, 13-cv-2841, U.S. District Court, Maryland (Baltimore), a group of individual and organizational plaintiffs challenged the assault weapons and large-capacity magazine bans enacted as part of the Act. The plaintiffs contended that the bans violate the Second Amendment by precluding the plaintiffs from possessing commonly owned firearms for self-defense purposes. The plaintiffs also contended that the bans violate their due process rights because the definition of assault long guns is imprecise and vague, and that the exemption in the law applicable to retired law enforcement officers violates the equal protection clause. On August 12, 2014, the court

awarded summary judgment in favor of the defendants on all of the plaintiffs' claims. On September 9, 2014, the plaintiffs filed a notice of appeal. Oral arguments in the case have been scheduled for March 2015 by the U.S. Court of Appeals for the Fourth Circuit (*Kolbe et al. v. O'Malley et al., No. 14-1945*). According to published news accounts in November 2014, 21 states have filed briefs in support of overturning the Firearm Safety Act on grounds that the Maryland statute was written too broadly and violates the Second Amendment rights of their citizens.

Additional Information

Prior Introductions: Many bills have been introduced in prior years to repeal or alter the “good and substantial reason” standard for the issuance of a handgun permit. HB 36 of 2014 received a hearing in the House Judiciary Committee, but no further action was taken. In 2013, both HB 38 and HB 211 received a hearing in the House Judiciary Committee, but no further action was taken on either bill. In 2012, both HB 45 and HB 1135 received a hearing in the House Judiciary Committee, but no further action was taken on either bill.

Cross File: None.

Information Source(s): Department of State Police, Department of Legislative Services

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