

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 736

(Senator Reilly, *et al.*)

Judicial Proceedings

Judiciary

Public Safety - Handgun Identification Requirements - Repeal

This bill repeals the requirement for (1) handgun manufacturers to provide to handgun dealers shell casings of projectiles discharged from handguns and other specified additional information; (2) handgun dealers to forward shell casings and other specified information to the Department of State Police (DSP) Crime Laboratory; and (3) DSP to enter specified information in a relevant database.

The bill also authorizes DSP to properly and lawfully dispose of any shell casings that are currently being held in storage because they were received from a dealer under the current law requirement that is repealed by the bill. The bill also expresses the intent of the General Assembly that the DSP positions that were associated with the duties under the current law requirement not be eliminated as a result of the repeal.

Fiscal Summary

State Effect: The bill's requirements can be met with the existing budgeted resources of DSP. Any DSP personnel currently assigned to the shell casing program are reassigned within the Forensic Services Division (FSD). Because the bill allows for the disposal of shell casings currently being held under the current law requirement, related storage space needs at DSP's long-term storage facility are eliminated.

Local Effect: None.

Small Business Effect: Minimal. However, the bill likely provides some operational efficiencies for some firearm dealers and manufacturers.

Analysis

Current Law: Any manufacturer that ships or transports a handgun to be sold, rented, or transferred in the State is required to include in the box with the handgun in a separate sealed container (1) a shell casing of a projectile discharged from that handgun and (2) additional information that identifies the type of handgun and shell casing as required by the Secretary of State Police.

Upon receipt of a handgun from the manufacturer, the dealer must confirm to DSP that the manufacturer complied with these requirements. Upon the sale or transfer of the handgun, the dealer is required to forward the sealed container to the State Police Crime Laboratory. Upon receipt of the shell casing and required information, the State Police Crime Laboratory, in DSP's FSD, must enter the information in all pertinent databases.

Any dealer or person who knowingly participates in the illegal sale, rental, transfer, purchase, possession, or receipt of a regulated firearm in violation of provisions governing regulated firearms is guilty of a misdemeanor and subject to maximum penalties of imprisonment for five years and/or a fine of \$10,000. Each violation must be considered a separate offense.

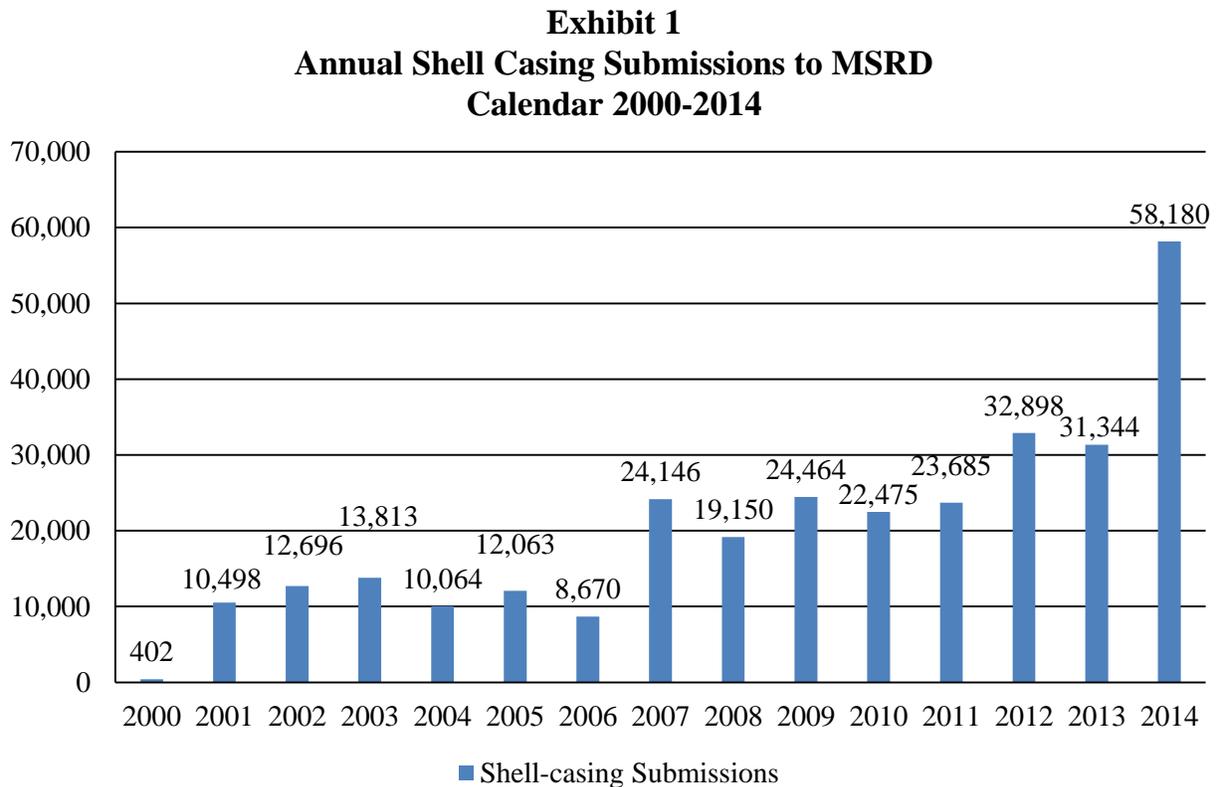
These provisions became law under Chapter 2 of 2000, the Responsible Gun Safety Act of 2000.

Background: In support of the Responsible Gun Safety Act of 2000, DSP acquired a ballistics imaging system that was intended to create digital records of shell casings from new handgun purchases in the State. The digital record was intended to capture the unique identification marks on the shell casing, which could then be compared to shell casings involved in criminal investigations in hopes of finding a match. While other imaging databases for fingerprints and DNA have been successful, the ballistics imaging database failed to function as designed. As a result, imaging was ceased in 2007 and FSD has been unable to find a replacement system. FSD does utilize the National Integrated Ballistic Information Network (NIBIN) database, which is a federal image database that compares shell casings nationwide.

The *2014 Joint Chairmen's Report* required DSP to submit a report on the effectiveness of shell casing identification requirements. A report was submitted in September 2014. According to the report, since 2000, FSD has been receiving required shell casings from handguns sold in Maryland. FSD records identifying information and assigns the shell casing a barcode number that is put into the Maryland Shell Casing Reference Database (MSRD); information identifying the purchaser or registrant of the firearm is not recorded. After data is entered, the shell casing is stored in batches at a long-term storage facility located at DSP headquarters and the forms associated with the shell casing are destroyed.

Because MSRD captures data for shell casings for all firearms sold in Maryland, these casings are not allowed to be entered into the NIBIN database; NIBIN only allows shell casings involved in criminal investigations or from a confiscated weapon.

MSRD currently has 304,548 submissions entered, packaged, and stored. More than half of these submissions have been received since calendar 2010. **Exhibit 1** shows the number of shell casings submitted to MSRD for entry each year since calendar 2000.



Source: Department of State Police

Since 2001, the database has resulted in 26 back door hits, making the hit rate for MSRD 0.0085% (26 hits from 304,548 reference samples); the DNA database in Maryland has a hit rate of 1.8%. “Back door hits” are when FSD is able to use information provided by an investigator to retrieve a shell casing that corresponds to a firearm that may have been involved in a crime, which has not been recovered yet. The shell casing can be compared to the evidence and matched to the crime. In the last four years, there have been six back door hits, of which five were involved in homicides.

In fiscal 2014, FSD received four new permanent laboratory technician positions and four temporary technician positions, which allowed FSD to eliminate the backlog of SB 736/ Page 3

approximately 50,000 shell casings that accumulated due to increased gun sales associated with the enactment of the Firearm Safety Act of 2013. The DSP Licensing Division has also received funding to automate the handgun licensing process, and intends to integrate the shell casing database, which should eliminate the need for duplicate entries and systems. FSD believes that if the MSRD program is to continue, additional storage space for shell casings will be needed in the next few years. Also, investigators will need to understand that the system is available as a tool for identifying handguns; the DSP Gun Center, which provides direction to law enforcement on the investigation of gun crimes, could play a pivotal role in outreach and education of MSRD.

DSP believes there is potential for improving the use of MSRD, even though only 26 back door hits have occurred in the last 14 years. DSP believes that eliminating the shell casing backlog, integrating the database with the automated handgun licensing system, and conducting outreach to law enforcement could improve its use. If the NIBIN system would allow DSP to input images of shell casings for reference, not just involved in criminal cases, then the original vision of the program could still potentially be met.

Additional Information

Prior Introductions: HB 715 of 2014 received a hearing in the House Judiciary Committee, but no further action was taken. Its cross file, SB 584, received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken. SB 424 of 2005 received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken. SB 662 of 2004 received a hearing in the Senate Judicial Proceedings Committee but was subsequently withdrawn. Its cross file, HB 251, received a hearing in the House Judiciary Committee but was subsequently withdrawn.

Cross File: HB 39 (Delegate Schulz – Judiciary).

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

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Analysis by: Guy G. Cherry

Direct Inquiries to:
(410) 946-5510
(301) 970-5510