

Department of Legislative Services

Maryland General Assembly

2018 Session

FISCAL AND POLICY NOTE

First Reader

House Bill 1031

(Delegate Dumais, *et al.*)

Judiciary

Public Safety - Regulated Firearms - Transfer

This bill defines “transfer,” as it relates to regulated firearms, to include a loan other than a temporary gratuitous exchange of a regulated firearm between two individuals who remain in the same location for the duration of the exchange.

Fiscal Summary

State Effect: Since it is assumed that this bill applies in a limited number of cases, State finances are not materially affected.

Local Effect: Since it is assumed that this bill applies in a limited number of cases, local finances are not materially affected.

Small Business Effect: None.

Analysis

Current Law: A person who is not a licensee may not sell, rent, or transfer a regulated firearm until after seven days following the time a firearm application is executed by the firearm applicant, in triplicate, and the original is forwarded by the prospective seller or transferor to the Secretary of State Police. As an alternative to completing a secondary sale of a regulated firearm through a licensee, a prospective seller, lessor, or transferor and a prospective purchaser, lessee, or transferee are authorized to complete the transaction through a designated law enforcement agency. A firearm applicant for a secondary sale of a regulated firearm through a licensee must pay to the licensee a processing fee not exceeding \$20.

A person must complete the sale, rental, or transfer of a regulated firearm within 90 days after the firearm application was stamped by the Secretary as not being disapproved. If the sale, rental, or transfer of a regulated firearm is not completed within 90 days after the firearm application was stamped by the Secretary as not being disapproved, a person must return the firearm application to the Secretary within 7 days. The Secretary must void a firearm application returned under this provision.

A person who sells, rents, or transfers a regulated firearm in compliance with these provisions must forward a copy of the written notification of the completed transaction to the Secretary of State Police within seven days after delivery of the regulated firearm. The notification must contain an identifying description of the regulated firearm, including its caliber, make, model, any manufacturer's serial number, and any other special or peculiar characteristic or marking by which the regulated firearm may be identified.

The Secretary of State Police is required to maintain a permanent record of all notifications received of completed sales, rentals, and transfers of regulated firearms in the State.

A person who knowingly participates in the illegal sale, rental, transfer, purchase, possession, or receipt of a regulated firearm in violation of these provisions is guilty of a misdemeanor and on conviction subject to maximum penalties of five years imprisonment and/or \$10,000 fine.

Background: In *Chow v. State*, 393 Md. 431, the Court of Appeals of Maryland considered whether the word "transfer," as used in State statutes relating to handguns, encompasses only permanent exchanges of handguns between individuals or whether it refers more broadly to all exchanges of handguns, permanent or temporary. The court held that the word "transfer" in the relevant statute refers only to permanent exchanges and, thus, a temporary handgun exchange was not a violation of the statute. As a result, State prosecutors seeking to prove a transfer of a firearm must show that the firearm was given permanently and not lent temporarily.

Additional Information

Prior Introductions: None.

Cross File: SB 860 (Senator Ferguson, *et al.*) - Judicial Proceedings.

Information Source(s): Harford and Montgomery counties; Judiciary (Administrative Office of the Courts); Department of Public Safety and Correctional Services; Department of State Police; Department of Legislative Services

Fiscal Note History: First Reader - February 25, 2018
md/lgc

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