

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 908

(Senator Waugh, *et al.*)

Judicial Proceedings

Partial Repeal of Firearms Safety Act of 2013

This bill partially repeals provisions of the Firearm Safety Act of 2013 (Chapter 427) relating to the regulation of firearms, firearms dealers, and ammunition in the State and Handgun Qualification License (HQL) requirements. **The bill takes effect June 1, 2018.**

Fiscal Summary

State Effect: General fund revenues decrease by \$1.2 million in FY 2019 due to the termination of HQLs and specified registrations and associated fees. Future years reflect anticipated decreases in HQLs that would otherwise be issued. Reprogramming costs for the Department of State Police (DSP) increase by \$10,000 in FY 2019 only. Changes to penalty provisions are not expected to have a significant impact. It is assumed that State finances are not affected in FY 2018, despite the bill's June 1, 2018 effective date.

(in dollars)	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
GF Revenue	(\$1,209,800)	(\$1,089,800)	(\$981,800)	(\$884,600)	(\$797,100)
GF Expenditure	\$10,000	\$0	\$0	\$0	\$0
Net Effect	(\$1,219,800)	(\$1,089,800)	(\$981,800)	(\$884,600)	(\$797,100)

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

Local Effect: Changes to civil and criminal penalty provisions are not expected to have a significant operational or fiscal impact on local governments.

Small Business Effect: Meaningful.

Analysis

Current Law: The relevant provisions of Chapter 427 of 2013 are described below.

Assault Weapons and Detachable Magazines

With specified exceptions, Chapter 427 prohibits the transporting, possessing, selling, offering for sale, transferring, purchasing, or receiving of any assault weapon. An “assault weapon” is defined as an assault long gun, an assault pistol, or a copycat weapon. An “assault long gun” is defined as any of the 45 regulated firearms that are not handguns under current law provisions of the Public Safety Article. A “copycat weapon” is defined as specified semiautomatic rifles, pistols, and shotguns, as well as shotguns with a revolving cylinder. A “copycat weapon” does not include an assault long gun or assault pistol.

Chapter 427 allows a person who lawfully possessed, had a purchase order for, or completed an application to purchase an assault long gun or a copycat weapon before October 1, 2013, to continue to possess and transport the assault long gun or copycat weapon or, if carrying a court order requiring surrender of the weapon, transport the unloaded weapon directly to a law enforcement unit, having notified the unit of the transport. A number of specified persons and circumstances are exempt from the prohibitions related to the possession of assault weapons and detachable magazines. Among other things, the Act clarified that certain assault weapon possession prohibitions do not apply to those received by inheritance, if the inheriting person is not otherwise disqualified from possessing a regulated firearm.

Ammunition

Chapter 427 prohibits a person, during and in relation to the commission of a crime of violence, from possessing or using “restricted firearm ammunition,” sometimes called “cop killer bullets.” “Restricted firearm ammunition” is defined as a cartridge, shell, or any other device that (1) contains explosive or incendiary material designed and intended for use in a firearm and (2) has a core constructed, excluding traces of other substances, entirely from one or a combination of tungsten alloys, steel, iron, brass, beryllium copper, depleted uranium, or an equivalent material of similar density or hardness. A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for five years and/or a fine of \$5,000.

The Act also prohibits possession of “ammunition” by a person prohibited from possessing a regulated firearm. “Ammunition” is defined as a cartridge, shell, or any other device containing explosive or incendiary material designed and intended for use in a firearm. A

violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for one year and/or a fine of \$1,000.

Handgun Qualification Licenses

Chapter 427 also created a new licensing scheme for handguns under the licensing authority of DSP. An HQL authorizes a person to purchase, rent, or receive a handgun. A licensed firearms manufacturer, a specified active or retired law enforcement officer, a member or retired member of the U.S. Armed Forces or the National Guard, and a person purchasing, renting, or receiving an antique, curio, or relic firearm (as defined under federal law) are exempt from the requirements of the licensing provisions. 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.

An individual whose fingerprints have been submitted pursuant to a license application, but whose application has been denied, may request that the record of the fingerprints be expunged by obliteration, in accordance with specified current law provisions. The individual may not be charged a fee for such an expungement.

The application fee for an HQL is specified to be for the purpose of covering administrative costs and may be up to \$50; current regulations set the fee at \$50. The term of the license is 10 years. The Act delineates the identifying information and documentation that are required for the issuance of the license. Among other things, the application must also have a signed statement from the applicant, under penalty of perjury, that the applicant is not prohibited under federal or State law from possessing a handgun. The applicant must also show proof of completion of an approved firearms safety training course, as specified. An applicant is not required to complete an approved firearms safety training course if the applicant has previously completed a certified firearms training course, has completed a hunting safety course prescribed by the Department of Natural Resources, is currently a qualified handgun instructor, is an honorably discharged member of the U.S. Armed Forces or the National Guard, is a certain employee of an armored car company, or lawfully owns a regulated firearm.

The Act requires written approval or denial by DSP, as specified, within 30 days. A denial must specify the reason that the application was denied. Chapter 427 details the required approval and denial processes and provides specified license renewal and revocation procedures. Renewal applicants are not required to complete the firearms safety training course or submit to a State and national criminal history records check but are required to pay a renewal fee of up to \$20; current regulations set the renewal fee at \$20.

Unless the applicant is otherwise disqualified, the Secretary is required to replace a lost or stolen HQL on receipt of a written request and nonrefundable fee of up to \$20.

The Secretary may issue an HQL without an additional application or fee to a person who meets the requirements for the issuance of a handgun permit who does not already have an HQL.

Firearms Dealers – License Recordkeeping

Chapter 427 requires that a licensed dealer keep records of all receipts, sales, and other dispositions of firearms affected in connection with the dealer's business. The Secretary must adopt regulations governing the form in which the records are to be kept, the time period for keeping the records, and the contents of the records, which must include specified information. Among other things, the records must include the name and address of each person from whom the dealer acquires a firearm and to whom the dealer sells or disposes of a firearm. Records maintained under federal law may be used to satisfy the requirements of Chapter 427, provided that the Secretary is granted access to those records.

Chapter 427 provides for the transfer of records to successor licensees. It also provides for requests for information from the records to be provided orally or in writing to DSP upon request.

The Act requires the Secretary to inspect the inventory and records of a licensed dealer at least once every two years and authorizes the Secretary to inspect the inventory and records at any time during the normal business hours of the licensed dealer's business.

A violator of the recordkeeping and reporting requirements is subject to a civil penalty not exceeding \$1,000. For a second or subsequent offense, a violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for three years and/or a fine of \$10,000. These penalties are not intended to apply to inconsequential or inadvertent errors. In addition, a dealer's license may be suspended if the licensee is not in compliance with the recordkeeping and reporting requirements. The Secretary may lift a suspension after the licensee provides evidence that the recordkeeping violation has been corrected.

Moving into the State

A person who moves into the State with the intent of residency must register all regulated firearms with DSP within 90 days of establishing residency, using application forms prepared and provided by DSP. The Act requires that an application for registration under this provision must contain (1) the make, model, manufacturer's serial number, caliber, type, barrel length, finish, and country of origin of each regulated firearm and (2) the firearm applicant's name, address, Social Security number, place and date of birth, height,

weight, race, eye and hair color, signature, driver's or photographic identification Soundex number, and occupation. The total registration fee is \$15, regardless of the number of firearms registered. The registration data is not open to public inspection.

Lost or Stolen Firearms

A dealer or any other person who sells or transfers a regulated firearm must notify the purchaser or recipient of the firearm at the time of purchase or transfer that the purchaser or recipient is required to report a lost or stolen firearm to the local law enforcement agency. If a regulated firearm is lost or stolen, the owner of the firearm must report the loss or theft to the local law enforcement agency within 72 hours after the owner first discovers the loss or theft. On receipt of a report of a lost or stolen firearm, a local law enforcement agency must report to the Secretary and enter into the National Crime Information Center database, to the extent known, the caliber, make, model, manufacturer, and serial number of the firearm and any other distinguishing number or identification mark on the firearm. A knowing and willful first time violation is a civil offense punishable by a fine not exceeding \$500. A second or subsequent violation is a misdemeanor punishable by imprisonment not exceeding 90 days and/or a fine not exceeding \$500.

State Revenues: In 2015, DSP received 20,160 HQL applications; in 2016, 28,039 applications; and in 2017, 23,888 applications. Since 2013, DSP has received 2,824 new resident regulated firearm registrations, with an average of approximately 650 each year.

Beginning in fiscal 2019, this bill results in the loss of all revenues from initial HQL licensing fees (\$50) and new resident registrations (\$15). Assuming an average of 24,000 initial HQL applications per year and an average of 650 new resident registrations per year, general fund revenues decrease by an estimated \$1,209,750 beginning in fiscal 2019. Assuming that, over time, initial HQL applications decline by 10% per year and that the total number of new resident registrations remains constant, by fiscal 2023, the decrease in fee revenues declines to \$797,070. However, this estimate does not account for any possible exemptions from the license or fee requirements. Under current law, there is no revenue from license renewals until fiscal 2025; thus, the repeal of the HQL does not affect renewal fee revenue over the five-year period addressed in this fiscal and policy note.

The repeal of various monetary penalty provisions is not anticipated to significantly affect State revenues.

State Expenditures:

Department of State Police

The fiscal 2014 State budget included \$4.2 million in general funds to implement Chapter 427 and cover related costs, which included 35 new positions, contractual services, and supplies and materials. The Governor's proposed fiscal 2019 budget continues to carry over costs for the new regular employees; however, contractual employees are no longer used for processing HQL or firearm applications. It is assumed that under this bill, DSP retains and reassigns all 35 regular positions. As a surge in the purchase of assault weapons likely results from the bill, the regular employees are redirected to assist with the surge in firearm applications that are anticipated to result from the bill.

In fiscal 2013, DSP received a \$400,000 general fund deficiency appropriation and an additional \$450,000 in general funds to automate and streamline the new firearm application process. Since that time, DSP developed an electronic process relating to the sale of regulated firearms. As a result of the bill, coding changes may be required at a one-time cost of \$10,000 in fiscal 2019 only. Otherwise, the bill does not materially affect DSP expenditures.

Other State Agencies

The Administrative Office of the Courts (AOC) reports that data on the number of violations of Chapter 427 that have occurred since its effective date is not readily available from the circuit courts or the District Court. As a result, the exact impact that this bill has on court caseloads is unknown. However, AOC does not anticipate that bill has a significant fiscal or operational impact on the trial courts.

The bill likely results in a decrease in caseload for the Office of the Public Defender (OPD); however, any such decrease cannot be reliably determined at this time. Any caseload decrease aids OPD in meeting its caseload standards.

The repeal of various incarceration penalty provisions is not anticipated to significantly affect State expenditures.

Small Business Effect: The partial repeal of Chapter 427 likely leads to an increase in firearm and ammunition sales in the State. However, such an effect cannot be readily quantified at this time. The bill's changes could also lead to a decrease in the demand for any small businesses that provide firearms training or electronic fingerprint services.

Additional Information

Prior Introductions: Similar bills have been introduced in prior legislative sessions. HB 306 of 2015 received a hearing in the House Judiciary Committee, but no further action was taken. HB 60 of 2014 received a hearing in the House Judiciary and the House Health and Government Operations committees, but no further action was taken.

Cross File: None.

Information Source(s): Baltimore City; Baltimore, Montgomery, and Prince George's counties; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Department of Natural Resources; Department of State Police; Department of Legislative Services

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