

Department of Legislative Services

Maryland General Assembly

2019 Session

FISCAL AND POLICY NOTE

Enrolled - Revised

Senate Bill 346

(Senator Ferguson, *et al.*)

Judicial Proceedings

Judiciary

Public Safety – Regulated Firearms – Prohibition of Loans

This bill expands and alters prohibitions against a firearms dealer or other person selling, renting, or transferring a regulated firearm to a purchaser, lessee, or transferee who the dealer or other person knows or has reasonable cause to believe is not able to possess a regulated firearm, to include a loan of a regulated firearm, as specified. A borrower of a firearm is not required to complete a specified certified firearms safety training course.

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

Bill Summary: A firearms dealer or other person is prohibited from loaning a regulated firearm to a purchaser, lessee, borrower, or transferee who the dealer or other person knows or has reasonable cause to believe is not able to possess a regulated firearm, as specified. The prohibition is expanded to include circumstances when the dealer or other person knows or has reasonable cause to believe that the purchaser, lessee, borrower, or transferee intends to use the regulated firearm to commit a crime or cause harm to his/herself or another person. In addition, the bill provides an exception to the prohibition for a dealer or

other person to loan a regulated firearm to a person younger than age 21 when the borrower who is younger than age 21 may otherwise possess the regulated firearm under current law.

Current Law: A dealer or other person is prohibited from selling, renting, or transferring a regulated firearm to a purchaser, lessee, or transferee who the dealer or other person knows or has reasonable cause to believe:

- is younger than age 21;
- has been convicted of a disqualifying crime;
- has been convicted of a conspiracy to commit a felony;
- has been convicted of a violation classified as a common law crime and received a term of imprisonment of more than two years;
- is a fugitive from justice;
- is a habitual drunkard;
- is addicted to a controlled dangerous substance or is a habitual user;
- suffers from a mental disorder and has a history of violent behavior, as specified;
- has been confined for more than 30 consecutive days to a mental health facility, as specified;
- is a respondent against whom a current non ex parte civil protective order has been entered;
- if younger than age 30 at the time of the transaction, has been adjudicated delinquent by a juvenile court for an act that would be a disqualifying crime if committed by an adult;
- is visibly under the influence of alcohol;
- is a participant in a straw purchase; or
- has not completed a specified certified firearms safety training course.

A violator is guilty of a misdemeanor and on conviction subject to maximum penalties of imprisonment for five years and/or a \$10,000 fine. Each violation is a separate crime.

A person who is younger than age 21 may not possess a regulated firearm, unless:

- the temporary transfer to or possession by the person is under the supervision of another who is at least age 21, not prohibited under State or federal law from possessing a firearm, and acting with the permission of the parent or legal guardian of the transferee or person in possession;
- the transfer is by inheritance of title, and not of possession, of a regulated firearm;
- the person is a member of the U.S. Armed Forces or the National Guard while performing official duties;

- the person is participating in marksmanship training of a recognized organization and is under the supervision of a qualified instructor, as specified;
- the person is required to possess a regulated firearm for employment and holds a handgun permit; or
- the person possesses the firearm for self-defense or the defense of others against a trespasser into the residence of the person or into a residence in which the person is an invited guest.

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: None.

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

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