

Chapter 2

(House Bill 1343 of the 2019 Regular Session)

AN ACT concerning

Public Safety – Handgun Permit Review Board – Repeal

FOR the purpose of altering the process by which a person who is denied a certain handgun permit or renewal of a permit or whose permit is revoked or limited by the Secretary of State Police or the Secretary's designee may appeal the decision; repealing provisions of law relating to the Handgun Permit Review Board; providing that appeals from a certain decision by the Secretary or the Secretary's designee may be made to the Office of Administrative Hearings in a certain manner; providing that a person whose application for a certain permit or renewal of a permit is not acted on by the Secretary within a certain period of time may request a certain hearing before the Office of Administrative Hearings; requiring the Office of Administrative Hearings to make a certain annual report to the Governor and the General Assembly; making conforming changes; requiring the Department of Public Safety and Correctional Services, within a certain period of time, to provide certain notice to certain individuals; authorizing certain individuals to file a certain request for a hearing before the Office of Administrative Hearings under certain circumstances; requiring the Office of Administrative Hearings to schedule a certain hearing within a certain period of time under certain circumstances; making this Act an emergency measure; and generally relating to handgun permits.

BY repealing and reenacting, with amendments,

Article – Public Safety
 Section 5–301 and 5–312
 Annotated Code of Maryland
 (2018 Replacement Volume)

BY repealing

Article – Public Safety
 Section 5–302
 Annotated Code of Maryland
 (2018 Replacement Volume)

BY repealing and reenacting, without amendments,

Article – Public Safety
 Section 5–311
 Annotated Code of Maryland
 (2018 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 That the Laws of Maryland read as follows:

Article – Public Safety

5–301.

(a) In this subtitle the following words have the meanings indicated.

[(b) “Board” means the Handgun Permit Review Board.]

[(c) **(B)** “Handgun” has the meaning stated in § 4–201 of the Criminal Law Article.

[(d) **(C)** “Permit” means a permit issued by the Secretary to carry, wear, or transport a handgun.

[(e) **(D)** “Qualified handgun instructor” has the meaning stated in § 5–101 of this title.

[(f) **(E)** “Secretary” means the Secretary of State Police or the Secretary’s designee.

[5–302.

(a) There is a Handgun Permit Review Board in the Department of Public Safety and Correctional Services.

(b) The Board consists of five members appointed from the public by the Governor with the advice and consent of the Senate.

(c) (1) The term of a member is 3 years.

(2) The terms of the members are staggered as required by the terms provided for members of the Board on October 1, 2003.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(5) A member of the Board is eligible for reappointment.

(d) A member of the Board is entitled to:

(1) compensation in accordance with the State budget for each day that the member actually is engaged in the discharge of the member’s official duties; and

(2) reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.]

5-311.

(a) A person who is denied a permit or renewal of a permit or whose permit is revoked or limited may request the Secretary to conduct an informal review by filing a written request within 10 days after receipt of written notice of the Secretary's initial action.

(b) An informal review:

(1) may include a personal interview of the person who requested the informal review; and

(2) is not subject to Title 10, Subtitle 2 of the State Government Article.

(c) In an informal review, the Secretary shall sustain, reverse, or modify the initial action taken and notify the person who requested the informal review of the decision in writing within 30 days after receipt of the request for informal review.

(d) A person need not file a request for an informal review under this section before requesting review under § 5-312 of this subtitle.

5-312.

(a) (1) A person who is denied a permit or renewal of a permit or whose permit is revoked or limited may request [the Board to review] **TO APPEAL** the decision of the Secretary **TO THE OFFICE OF ADMINISTRATIVE HEARINGS** by filing a written request with the [Board] **SECRETARY AND THE OFFICE OF ADMINISTRATIVE HEARINGS** within 10 days after receipt of written notice of the Secretary's final action.

(2) A person whose application for a permit or renewal of a permit is not acted on by the Secretary within 90 days after submitting the application to the Secretary may request a hearing before the [Board] **OFFICE OF ADMINISTRATIVE HEARINGS** by filing a written request with the [Board] **SECRETARY AND THE OFFICE OF ADMINISTRATIVE HEARINGS**.

~~(b) Within 90 days after receiving a request to review a decision of the Secretary, the Board shall:~~

~~(1) review the record developed by the Secretary; and~~

~~(2) conduct a hearing.~~

~~(e) The Board may receive and consider additional evidence submitted by a party in conducting a review of the decision of the Secretary.~~

~~(d) (1) Based on the Board's consideration of the record and any additional evidence, the Board shall sustain, reverse, or modify the decision of the Secretary.~~

~~(2) Within 60 days after the last hearing in the matter conducted by the Board, the Board shall submit in writing to the applicant, the holder of the permit, and the Secretary the reasons for the decision of the Board.~~

~~(e) (1) The applicant, the holder of the permit, or the Secretary may appeal the decision of the Board to the Office of Administrative Hearings within 30 days after the issuance of the Board's reasons under subsection (d)(2) of this section.~~

~~(2) (B) (1)~~ Within 60 days after the receipt of a request **UNDER SUBSECTION (A) OF THIS SECTION** from the applicant, **OR** the holder of the permit, ~~or the Secretary,~~ the Office of Administrative Hearings shall schedule and conduct a de novo hearing on the ~~appeal~~ **MATTER**, at which witness testimony and other evidence may be provided.

~~(3) (2)~~ Within 90 days after the conclusion of the last hearing on the matter, the Office of Administrative Hearings shall issue a finding of facts and a decision.

~~(4) (3)~~ A party that is aggrieved by the decision of the Office of Administrative Hearings may appeal the decision to the circuit court.†

~~(f) (B) (C) (1)~~ [Subject to subsections (d) and (e) of this section, any] ~~ANY~~ **SUBJECT TO SUBSECTION (B) OF THIS SECTION, ANY** hearing and any subsequent proceedings of judicial review shall be conducted in accordance with Title 10, Subtitle 2 of the State Government Article.

(2) Notwithstanding paragraph (1) of this subsection, a court may not order the issuance or renewal of a permit or alter a limitation on a permit pending a final determination of the proceeding.

~~(g) (D)~~ On or before ~~December 1 each year~~ **JANUARY 1, 2019, 2020, 2021, AND 2022**, the ~~Board~~ **OFFICE OF ADMINISTRATIVE HEARINGS** shall report to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly:

(1) the number of appeals of decisions by the Secretary that have been filed with the ~~Board~~ **OFFICE OF ADMINISTRATIVE HEARINGS** within the previous year;

(2) the number of decisions by the Secretary that have been sustained, modified, or reversed by the ~~Board~~ **OFFICE OF ADMINISTRATIVE HEARINGS** within the previous year;

(3) the number of appeals that are pending; and

(4) the number of appeals that have been withdrawn within the previous year.

~~(h) The Board is subject to Title 3 (Open Meetings Act) of the General Provisions Article.~~

SECTION 2. AND BE IT FURTHER ENACTED, That ~~this Act shall take effect October 1, 2019:~~

(a) (1) Subject to paragraph (2) of this subsection, within 30 days after this Act takes effect, the Department of Public Safety and Correctional Services shall provide written notice to each individual whose request to review a decision of the Secretary of State Police under § 5–312 of the Public Safety Article remains pending before the Handgun Permit Review Board on the taking effect of this Act.

(2) The notice required under paragraph (1) of this subsection shall inform the individual that the individual, within 30 days of receipt of the notice, may file an amended request that the matter pending before the Handgun Permit Review Board be heard by the Office of Administrative Hearings in accordance with § 5–312(b) of the Public Safety Article, as enacted by Section 1 of this Act.

(b) Within 30 days after receiving the notice described under subsection (a) of this section, the individual may file an amended request that the matter be heard by the Office of Administrative Hearings in accordance with § 5–312(b) of the Public Safety Article, as enacted by Section 1 of this Act.

(c) Notwithstanding § 5–312(b)(1) of the Public Safety Article, as enacted by Section 1 of this Act, within 45 days after the receipt of an amended request under this section, the Office of Administrative Hearings shall schedule and conduct a de novo hearing on the matter, at which witness testimony and other evidence may be provided.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Gubernatorial Veto Override, January 30, 2020.