

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1104
Judiciary

(Delegate Lopez, *et al.*)

Public Safety - Regulated Firearms - Transfer

This bill defines the term “transfer” as it relates to a secondary transaction of a regulated firearm. “Transfer” means a sale, a rental, a furnishing, a gift, a loan, or any other delivery, with or without consideration. “Transfer” does not include (1) a change in possession that is temporary and occurs under circumstances in which the transferor has no reason to believe that the transferee intends to use the regulated firearm in the commission of a crime or (2) a change in possession to allow another person to use the regulated firearm exclusively and in the actual presence of the transferor.

Fiscal Summary

State Effect: State government finances are not materially affected.

Local Effect: Local government 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 a \$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.

Designated Cross File: None.

Information Source(s): Department of State Police; Department of Legislative Services

Fiscal Note History: First Reader - March 2, 2020
mr/lgc

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