

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 816 (Senator Waldstreicher)
Judicial Proceedings

Public Safety - Licensed Firearms Dealers (Firearms Dealers' Safety Act)

This bill establishes requirements for licensed firearms dealers relating to recordkeeping, operating procedures, hiring and background checks of employees, maintaining liability insurance, storage of firearms, and reports regarding thefts of firearms. The bill applies existing statutory penalties and establishes new penalties for violations of the bill.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues and expenditures due to the bill's penalty provisions. Any costs for the Criminal Justice Information System Central Repository (CJIS-CR) are offset by criminal history records check fees.

Local Effect: Potential minimal increase in local revenues and expenditures due to the bill's penalty provisions.

Small Business Effect: Meaningful.

Analysis

Bill Summary:

Recordkeeping Requirements and Operating Procedures: A licensed dealer must keep *electronic* records and create a video and audio recording of all receipts, sales, and other dispositions of firearms conducted at the licensed dealer's business. The electronic records must be updated within one business day after the acquisition of a firearm to reflect the acquisition and seven days after the sale or other disposition of a firearm to reflect the sale

or other disposition of the firearm. Each video and audio recording must be kept for at least one year after the receipt, sale, or disposition.

The required video and audio recording must be provided to the Secretary of State Police, a federal agency, or the party to a civil action, as specified. A licensed dealer may use the required video and audio recording for the purpose of training employees.

A person complying with the bill's requirements may not be found to have violated the State's wiretapping and electronic surveillance laws.

After receipt of a request from the Secretary for specified records, the licensed dealer must provide the information requested orally, in writing, or electronically, as required by the Secretary.

A licensed dealer must develop and keep a written standard operating procedure to protect inventory from theft or unauthorized access at each place of business owned or operated by the licensed dealer, as specified.

Hiring and Background Checks of Employees: By June 30 each year, and before hiring an employee, a licensed dealer must, for each employee, apply to CJIS-CR for State and national criminal history records, as specified. A licensed dealer may not employ a person (1) who is prohibited from possessing a regulated firearm, rifle, or shotgun or (2) for whom the licensed dealer has not obtained a State and national criminal history records check.

Liability Insurance: A licensed dealer, at all times, must maintain liability insurance for the acts of another using a firearm sold, rented, or transferred by the licensed dealer in the amount of at least \$2 million.

Theft report: A licensed dealer must report any theft of a firearm from the licensed dealer's place of business to a law enforcement agency, as specified, immediately upon discovering the theft.

Firearm storage: During business hours, a licensed dealer must (1) store each firearm in a locking display case or another secure location that is inaccessible to customers and (2) ensure that each firearm that is displayed to a customer is rendered inoperable with a trigger lock or another mechanism. Outside business hours, a licensed dealer must lock all firearms in a vault, a safe, or a reinforced display case with shatterproof glass.

Penalties: A violator of any of the bill's provisions is subject to a civil penalty of up to \$1,000 imposed by the Secretary. For a second or subsequent offense, a violator is guilty of a misdemeanor and is subject to imprisonment for up to three years and/or a maximum

fine of \$10,000. For recordkeeping, the penalties are not intended to apply to inconsequential or inadvertent errors.

Current Law: Chapter 427 of 2013 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 of State Police 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 the Department of State Police 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.

The Department of Public Safety and Correctional Services' CJIS-CR collects, manages, and disseminates Maryland's criminal history record information for criminal justice and noncriminal justice (*e.g.*, employment and licensing) purposes. CJIS-CR is a fingerprint-supported system for positive identification. When a state mandates a national check, the Federal Bureau of Investigation (FBI) requires that the national check be set in statute. CJIS-CR is authorized by law to collect a fee for providing criminal history record information for purposes other than criminal justice. Each individual subject to a criminal history records check is required to pay \$51.25 for a State and national criminal history records check, which includes a \$20 fingerprinting fee, a \$13.25 FBI fee, and an \$18 fee to CJIS-CR.

Small Business Effect: The bill has a meaningful impact on small business owners who are licensed dealers to the extent they must acquire equipment or additional liability

insurance to comply with the bill. In addition, the bill may have a meaningful impact on small business owners who facilitate background checks for employees. There are 353 licensed firearms dealers in the State.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 1257 (Delegate Korman, *et al.*) - Judiciary.

Information Source(s): Baltimore City; Harford and Wicomico counties; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Department of Public Safety and Correctional Services; Department of State Police; Department of Legislative Services

Fiscal Note History: First Reader - February 19, 2020
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