

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 638
Judiciary

(Delegate Lopez)

Public Safety - Untraceable and Undetectable Firearms

This bill (1) establishes various requirements and prohibitions relating to manufacturing, assembling, owning, possessing, or transferring firearms, “covert firearms,” “undetectable firearms,” unfinished frames, and receivers; (2) establishes penalties for violations of the bill’s provisions relating to untraceable and undetectable firearms; (3) requires the Secretary of State Police to suspend or revoke a dealer’s license under specified conditions relating to such violations; and (4) with specified exceptions, requires a handgun qualification license (HQL) before a dealer or other person is authorized to sell, rent, or transfer an unfinished frame or receiver or a person is authorized to purchase, rent, or receive an unfinished frame or receiver. **The bill’s provisions relating to HQL requirements take effect January 1, 2022.**

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues and expenditures due to the bill’s penalty provisions and the bill’s HQL requirements.

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

Small Business Effect: Minimal.

Analysis

Bill Summary:

Identification Marks – Alterations

In addition to the manufacturer's identification mark or number addressed by an existing prohibition, a person is prohibited from obliterating, removing, changing, or altering any other mark of identification on a firearm or an "unfinished frame or receiver." If on trial for such a violation and possession of the firearm by the defendant is established, the defendant is presumed to have obliterated, removed, changed or altered the other mark of identification on the firearm or unfinished frame or receiver.

Untraceable and Undetectable Firearms

A person may not manufacture or assemble a covert firearm or an undetectable firearm or possess, sell, offer to sell, transfer, purchase, or receive a covert firearm or an undetectable firearm.

Beginning January 1, 2022:

- a person may continue to possess a firearm or an unfinished frame or receiver that the person manufactured or assembled and lawfully possessed before January 1, 2022, if (1) the firearm or unfinished frame or receiver is marked with a unique serial number, as specified and (2) the person maintains a record log that includes specified information;
- a person is prohibited from transferring the ownership of a firearm or unfinished frame or receiver that the person manufactured or assembled and lawfully possessed before January 1, 2022, that is marked in accordance with the above requirements, unless the transfer of ownership is made to another family member who possesses a valid HQL or to a law enforcement agency;
- a firearm or an unfinished frame or receiver must be marked, as specified, by a federally licensed firearms manufacturer or federally licensed firearms importer before being (1) sold, offered for sale, or transferred in the State; (2) imported or otherwise brought into the State; or (3) possessed in the State; and
- a federally licensed firearms dealer, federally licensed firearms manufacturer, and federally licensed firearms importer must maintain a record log of any sale or transfer of a firearm or an unfinished frame or receiver as required by federal law and regulation.

For a first violation, a violator is guilty of a civil offense and on conviction must be fined a minimum of \$1,000 up to a maximum of \$2,500. For a subsequent violation, a violator is guilty of a misdemeanor and on conviction is subject to maximum penalties of up to two years imprisonment and/or a \$5,000 fine. A court may order a suspension of prosecution if the court finds that (1) the violation is not of a serious nature and (2) the person charged with the violation is not likely to offend in the future, has not previously been convicted of a violation of these provisions, and has not previously had a prosecution for a violation of these provisions suspended.

A person who is prohibited by law from manufacturing, assembling, owning, or possessing a firearm may not knowingly solicit, request, compel, coerce, conspire, facilitate, aid, or abet the manufacturing or assembling of a firearm or an unfinished frame or receiver. In addition, a person may not knowingly conspire, facilitate, aid, or abet the manufacturing or assembling of a firearm or an unfinished frame or receiver for a person who is prohibited by law from manufacturing, assembling, owning, or possessing a firearm. A violator is guilty of a misdemeanor and on conviction is subject to maximum penalties of up to two years imprisonment and/or a \$5,000 fine. Each violation is a separate crime.

The provisions relating to untraceable and undetectable firearms do not apply to (1) a firearm manufactured before 1968, an antique firearm, a firearm or an unfinished frame or receiver that is required by federal law and regulation to be engraved, cast, or stamped with a serial number and has been engraved, cast, or stamped with a serial number in accordance with all federal laws and regulations; (2) sales, offers to sell, transfers, or possession of firearms or unfinished frames or receivers by or between federally licensed firearms dealers, federally licensed firearms manufacturers, or federally licensed firearms importers; or (3) the transferring or surrendering of a firearm or an unfinished frame or receiver to a law enforcement agency.

The Secretary of State Police must suspend a dealer's license if the licensee is convicted of a first violation under the bill's provisions relating to untraceable and undetectable firearms. The Secretary must revoke a dealer's license if the licensee is convicted of a second or subsequent violation not stemming from the same sale or transfer as the first violation.

Unfinished Frame or Receiver – Handgun Qualification License Required

A dealer or any other person may not sell, rent, or transfer an unfinished frame or receiver to a purchaser, lessee, or transferee unless the purchaser, lessee, or transferee presents to the dealer or other person an HQL issued to the purchaser, lessee, or transferee by the Secretary of State Police. In addition, unless exempt as specified, a person must possess a valid HQL in order to purchase, rent, or receive an unfinished frame or receiver.

Definitions

“Covert firearm” means a firearm that is constructed in a shape or configuration that a reasonable person would not immediately recognize to be a firearm.

“Undetectable firearm” means a firearm (1) that, after removal of grips, stocks, and magazines, is not detectable by a metal detector calibrated and operated to detect a security exemplar or (2) of which the slide, cylinder, frame, receiver, or barrel, when subjected to inspection by an x-ray machine that is of a type commonly used at airports, does not generate an image that accurately depicts the shape of the slide, cylinder, frame, receiver, or barrel.

“Unfinished frame or receiver” means a product that is intended or designed to serve as the frame or receiver, including the lower receiver, of a firearm but is in an unfinished state of manufacture. “Unfinished frame or receiver” includes a blank, casting, or machined body that requires modification, such as machining, drilling, filing, or molding, to be used as part of a functional firearm, if it does not include a piece of material that has (1) been altered in size or external shape solely to facilitate transportation or storage or (2) undergone an alteration in chemical composition.

The bill alters the definition of “regulated firearm” to include an unfinished frame or receiver.

Current Law: Generally, State law prohibits a person from manufacturing for distribution or sale a handgun that is not included on the handgun roster in the State. However, law enforcement may not be aware of firearms manufactured within a person’s home for personal use until the firearm is used or transferred. The federal Undetectable Firearms Act prohibits a person from manufacturing, importing, selling, shipping, delivering, possessing, transferring, or receiving any firearm that is not as detectable by a walk-through metal detection as a security exemplar containing 3.7 ounces of steel, or any firearm with major components that do not generate an accurate image before standard airport imaging technology. The federal prohibition was first enacted in 1988 and was renewed for 10 years in December 2013.

An HQL authorizes a person to purchase, rent, or receive a handgun. Generally, the Secretary of State Police must issue an HQL to a person who (1) is at least age 21; (2) is a State resident; (3) has completed a firearms safety training course; and (4) is not prohibited by federal or State law from purchasing or possessing a handgun. Current law requirements and background relating to the issuance of an HQL is summarized in the **Appendix – Handgun Qualification License Requirements – Current Law/Background**.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 624 (Senator Lee) - Judicial Proceedings.

Information Source(s): Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State's Attorneys' Association; Department of Public Safety and Correctional Services; Department of State Police; Department of Legislative Services

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rh/lgc

Analysis by: Shirleen M. E. Pilgrim

Direct Inquiries to:
(410) 946-5510
(301) 970-5510

Appendix

Handgun Qualification License Requirements – Current Law/Background

A handgun qualification license (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 must 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.

The application fee for an HQL is to cover administrative costs and may be up to \$50. The term of the license is 10 years. License renewal fees are set at up to \$20. Generally, the Secretary of State Police must issue an HQL to a person who (1) is at least 21 years old; (2) is a State resident; (3) has completed a firearms safety training course; and (4) is not prohibited by federal or State law from purchasing or possessing a handgun.

The firearms safety training course must include (1) a minimum of four hours of instruction by a qualified handgun instructor; (2) classroom instruction on State firearm law, home firearm safety, and handgun mechanisms and operation; and (3) a firearms orientation that demonstrates that the person can safely operate and handle a firearm. 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. Renewal applicants are not required to complete the firearms safety training course or submit to a State and national criminal history records check.

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.

Within 30 days after receiving a properly completed HQL application, the Secretary must provide (1) an HQL, if approved, or (2) a written denial of the application, including the reason the application was denied and a statement of the applicant's appeal rights regarding the decision.

In 2020, the Department of State Police (DSP) received 66,526 new applications for HQLs. DSP denied 2,118 applications in the same year. There are currently approximately 192,506 active HQLs in the State (issued since October 1, 2013).