

Department of Legislative Services
 Maryland General Assembly
 2023 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 860 (Delegate Hartman, *et al.*)
 Judiciary

Public Safety - Permit to Wear, Carry, or Transport a Handgun Denial - Refund of Application Fee

This bill requires the Secretary of State Police to refund the nonrefundable fee paid for an initial application or renewal application for a permit to wear, carry, or transport a handgun (handgun permit) if the applicant (1) between July 5, 2019, and July 5, 2022, both inclusive, was denied a permit or renewal of a permit for failing to satisfy the good and substantial reason requirement for the permit and (2) files a claim in a form and containing the information and supporting documents required by the Secretary.

Fiscal Summary

State Effect: General fund expenditures increase by \$581,000 in FY 2024 only, under the assumptions discussed below. Revenues are not affected.

(in dollars)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	581,000	0	0	0	0
Net Effect	(\$581,000)	\$0	\$0	\$0	\$0

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Current statutory language requires an applicant for a handgun permit, among other requirements, to have a good and substantial reason to wear, carry, or transport

a handgun. “Good and substantial reason” includes a finding that the permit is necessary as a reasonable precaution against apprehended danger. However, on June 23, 2022, the U.S. Supreme Court, in *New York State Rifle & Pistol Association, Inc. v. Bruen*, 597 U.S. (2022), held unconstitutional a New York law that required applicants for a concealed carry handgun permit to demonstrate a “proper cause” (or a special need for self-defense) before issuance of a license to carry a handgun in public. Following the U.S. Supreme Court’s decision, Maryland’s Court of Special Appeals (now the Appellate Court of Maryland) applied *Bruen* directly to *In the Matter of William Rounds*, 255 Md. App. 205 (2022), ruling that Maryland’s wear and carry handgun permit law requiring an applicant to have a “good and substantial reason” to be issued a license to carry was analogous to New York’s “proper cause” requirement and was unconstitutional. On July 5, 2022, then Governor Lawrence J. Hogan, Jr., responded to the ruling by directing the Department of State Police (DSP) to immediately stop using the “good and substantial reason” requirement when reviewing handgun permits in the State. On July 6, 2022, the Office of the Attorney General issued a similar letter advising on the constitutionality and severability of the “good and substantial reason” from the State’s handgun permit statute while affirming all other requirements for a handgun permit remain in effect.

Existing statutory requirements and background relating to the issuance of handgun permits are summarized in the **Appendix – Handgun Permit Requirements – Current Law/Background**.

State Expenditures: General fund expenditures increase by \$581,016 in fiscal 2024 only, which accounts for the bill’s October 1, 2023 effective date. This estimate reflects costs for DSP to hire contractual staff to process claims for refunds as well as the costs of the refunds themselves, as discussed below.

Refunds of Application Fees

Under one set of assumptions, general fund expenditures increase by \$233,475 in fiscal 2024 for refunds. Under the bill, DSP must refund the application fee to an applicant who (1) between July 5, 2019, and July 5, 2022, both inclusive, was denied a permit or renewal of a permit for failing to satisfy the good and substantial reason requirement for issuance of a permit or renewal of a permit and (2) files a claim in a form and containing the information and supporting documents required by the Secretary of State Police.

DSP’s electronic portal for processing handgun permits went live on October 1, 2019. Before October 1, 2019, all applications were submitted on paper. See **Exhibit 1** for the number of initial applications, renewal applications, and application denials for handgun permits between calendar 2019 and 2022.

Exhibit 1
Handgun Permit Application and Denials
Calendar 2019-2022

	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>
Initial Applications	5,283	11,512	12,189	85,266
Renewal Applications	7,945	4,886	6,242	8,891
Total Denials	569	974	2,017	1,787

Source: Department of State Police; Department of Legislative Services

According to DSP’s electronic portal, between October 1, 2019, and July 5, 2022, DSP denied a total 2,568 initial applications and 246 renewal applications for a reason that included failure to meet the “good and substantial” requirement. The number of applications denied between July 5, 2019, and September 30, 2019, is not readily available, as applications submitted during that time period were submitted on paper. Based on the monthly average of denials between October 1, 2019, and July 5, 2022, however, this analysis assumes that 233 initial applications and 22 renewal applications were denied between July 5, 2019, and September 30, 2019. Thus, this analysis assumes that a total of 2,801 initial applications and 268 renewal applications were denied between July 5, 2019, and July 5, 2022. Assuming all eligible applicants submit a claim for a refund, a total of \$233,475 in refunds must be issued (reflecting the initial application fee of \$75 and the renewal application fee of \$50). To the extent that some individuals whose applications were denied do not file a claim, or any claims are denied because the application was denied for other reasons in addition to failure to meet the “good and substantial” requirement, costs to provide refunds are lower.

Administrative Costs to Process Claims for Refunds

To process the claims anticipated under the bill, general fund expenditures increase by \$347,541 in fiscal 2024, which accounts for the bill’s October 1, 2023 effective date. This estimate reflects the cost of hiring one contractual management associate, five contractual administrative specialists, and two contractual fiscal associates to process claims and issue refunds. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. The information and assumptions used in calculating the estimate are stated below:

- DSP advises, and the Department of Legislative Services concurs, that individuals who are not eligible for a refund still file claims under the bill; therefore, this

analysis assumes that DSP receives at least 10,000 claims that need to be researched and responded to in writing;

- before October 1, 2019, all handgun permit applications were submitted on paper, so DSP needs to review all denied applications submitted between July 5, 2019, and September 30, 2019, to determine the reason for denial;
- although DSP has an electronic record of the number of denials between October 1, 2019, and July 5, 2022, DSP still needs to review all denied applications to determine that the “good and substantial” requirement was the *only* reason for the denial;
- due to the substantial increase in the number of initial handgun permit applications since July 2022, DSP does not have sufficient staff to process the claims submitted under the bill; and
- to preserve any appeal rights under current law, DSP needs to send a written response for all claims.

Contractual Positions	8.0
Salaries and Fringe Benefits	\$273,069
Other Operating Expenses/Equipment	<u>74,472</u>
Total FY 2024 DSP Admin. Expenditures	\$347,541

This analysis assumes that the eight positions terminate June 30, 2024, so no costs are incurred beyond fiscal 2024.

This estimate does not include any health insurance costs that could be incurred for specified contractual employees under the State’s implementation of the federal Patient Protection and Affordable Care Act.

Timing of Claims and Issuance of Refunds

This analysis assumes that all claims for refunds are processed – and all refunds are issued – during fiscal 2024; however, the bill does not establish a deadline for the submission of claims. Therefore, to the extent that claims are submitted beyond fiscal 2024, general fund expenditures for refunds decrease in fiscal 2024 and increase in future years. In addition, to the extent that DSP processes claims beyond fiscal 2024, general fund expenditures for staff may continue beyond fiscal 2024.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 463 (Senator Folden, *et al.*) - Judicial Proceedings.

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

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js/lgc

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Appendix

Handgun Permit Requirements – Current Law/Background

Generally, with certain exceptions, to be issued a handgun permit by the Secretary of State Police, an applicant (1) must be 18 or older; (2) must not have been convicted of a felony or misdemeanor for which a sentence of imprisonment for more than one year has been imposed or, if convicted, must have been pardoned or been granted relief under federal law; (3) must not have been convicted of a controlled dangerous substance violation and must not presently be an addict, a habitual user of a controlled dangerous substance, or an alcoholic; (4) must not exhibit a propensity for violence or instability, which may reasonably render possession of a handgun a danger to the applicant or another; (5) must have successfully completed, prior to application and each renewal, a specified firearms training course approved by the Secretary; (6) if younger than 30, must not have been committed to a facility for juveniles for longer than one year or adjudicated delinquent for a crime of violence, a felony, or misdemeanor that carries a statutory penalty of more than two years; and (7) must have a good and substantial reason to wear, carry, or transport a handgun. “Good and substantial reason” includes a finding that the permit is necessary as a reasonable precaution against apprehended danger. The Secretary may limit the geographic area, circumstances, or times of day, week, month, or year in which a permit is effective.

A handgun permit applicant must successfully complete, prior to the application and each renewal, a firearms training course approved by the Secretary that includes (1) for an initial application, a minimum of 16 hours of instruction by a qualified handgun instructor, or 8 hours of instruction for a renewal application; (2) classroom instruction on State firearm law, home firearm safety, and handgun mechanisms and operation; and (3) a firearms qualification component that demonstrates the applicant’s proficiency and use of the firearm.

An applicant for a permit is not required to complete a certified firearms training course if the applicant:

- is a law enforcement officer or a person who is retired in good standing from service with a law enforcement agency of the United States, the State, or any local law enforcement agency in the State;
- is a member, retired member, or honorably discharged member of the U.S. Armed Forces or the National Guard;
- is a qualified handgun instructor; or
- has completed a firearms training course approved by the Secretary.

A handgun permit application costs \$75; two years after the initial permit and every three years thereafter, a \$50 renewal fee is due. In addition, the applicant must pay for

fingerprint-based federal and State criminal history background checks for an initial application. A person who applies for a renewal of a handgun permit is not required to be fingerprinted unless the Secretary requires a set of the person's fingerprints to resolve a question of the person's identity.

Generally, a handgun permit expires on the last day of the holder's birth month following two years after the date the permit is issued; however, the Secretary may establish an alternative expiration date for a permit to coincide with the expiration of a private detective license, a security guard certification, or a special police officer commission. A permit may be renewed for successive periods of three years each if, at the time of an application for renewal, the applicant possesses the qualifications for the issuance of a permit and pays the renewal fee.

On June 23, 2022, the U.S. Supreme Court, in *New York State Rifle & Pistol Association, Inc. v. Bruen*, 597 U.S. (2022), held unconstitutional a New York law that required applicants for a concealed carry handgun permit to demonstrate a "proper cause" (or a special need for self-defense) before issuance of a license to carry a handgun in public. In a 6-3 ruling, the Supreme Court held for the first time that the Second Amendment provides a constitutionally protected right for a law-abiding citizen to carry a handgun outside the home for self-defense.

Following the U.S. Supreme Court's decision, Maryland's Court of Special Appeals (now the Appellate Court of Maryland) applied *Bruen* directly to *In the Matter of William Rounds*, 255 Md. App. 205 (2022), ruling that Maryland's wear and carry handgun permit law requiring an applicant to have a "good and substantial reason" to be issued a license to carry was analogous to New York's "proper cause" requirement and was unconstitutional. On July 5, 2022, then Governor Lawrence J. Hogan, Jr., responded to the ruling by directing the Department of State Police (DSP) to immediately stop using the "good and substantial reason" requirement when reviewing handgun permits in the State. On July 6, 2022, the Office of the Attorney General issued a similar letter advising on the constitutionality and severability of the "good and substantial reason" from the State's handgun permit statute while affirming all other requirements for a handgun permit remain in effect.

According to DSP, there has been a substantial increase in handgun permit applications in Maryland since the *Bruen* ruling. In 2022, DSP received 85,266 new applications for handgun permits (up from a total of 12,189 in 2021) and 8,891 handgun permit renewal applications. DSP denied 1,787 applications in the same year. As of January 20, 2023, there are approximately 113,964 active handgun permits in the State (up from 26,119 active handgun permits in the State at the end of 2021). It generally takes less than 2 days to receive the results of a national criminal history records check from the FBI and approximately 90 days to process, investigate, and issue a permit.