

Department of Legislative Services
 Maryland General Assembly
 2024 Session

FISCAL AND POLICY NOTE
 Third Reader

Senate Bill 348

(Senator McKay)

Judicial Proceedings

Judiciary

Firearms - Right to Purchase, Own, Possess, and Carry

This bill specifies that a person may not be denied the right to purchase, own, possess, or carry a firearm solely on the basis that the person is authorized to use medical cannabis under Title 36, Subtitle 3 of the Alcoholic Beverages and Cannabis Article.

Fiscal Summary

State Effect: General fund expenditures increase by at least \$100,000 in FY 2025 only for one-time computer programming changes. Revenues are not affected.

| (in dollars) | FY 2025 | FY 2026 | FY 2027 | FY 2028 | FY 2029 |
|----------------|-------------|---------|---------|---------|---------|
| Revenues | \$0 | \$0 | \$0 | \$0 | \$0 |
| GF Expenditure | 100,000 | 0 | 0 | 0 | 0 |
| Net Effect | (\$100,000) | \$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:

Legalization of Cannabis

The sale of adult-use cannabis in the State began on July 1, 2023. Pursuant to Chapter 26 of 2022 and the passage of the associated constitutional amendment, a person at least

age 21 may use and possess the personal use amount of cannabis, while the possession of the personal use amount of cannabis by a person younger than age 21, as well as the possession of the civil use amount of cannabis, are subject to civil penalties. Possession of more than the civil use amount of cannabis by anyone is subject to a criminal penalty.

“Personal use amount” means (1) up to 1.5 ounces of usable cannabis; (2) up to 12 grams of concentrated cannabis; (3) cannabis products containing up to 750 milligrams of delta-9-tetrahydrocannabinol (THC); or (4) up to two cannabis plants. “Civil use amount” means (1) more than 1.5 ounces but not more than 2.5 ounces of usable cannabis; (2) more than 12 grams but not more than 20 grams of concentrated cannabis; or (3) cannabis products containing more than 750 milligrams but not more than 1,250 milligrams of delta-9-THC.

Medical Cannabis

Pursuant to Chapters 254 and 255 of 2023, the Maryland Cannabis Administration is responsible for the State’s medical cannabis program, which is intended to make medical cannabis available to qualifying patients in a safe and effective manner. There is a framework to certify health care providers (including physicians, physician assistants, dentists, podiatrists, nurse practitioners, and nurse midwives), qualifying patients, and their caregivers to provide qualifying patients with medical cannabis legally under State law via written certification. Qualifying patients may possess (1) up to 120 grams of usable cannabis; (2) cannabis-infused products containing up to 36 grams of delta-9-THC; or (3) for a qualifying patient who is at least age 21, no more than four cannabis plants.

Possession of cannabis and medical cannabis remains illegal under federal law.

Firearm – Disqualification

Generally under State law, a person may not possess a regulated firearm, a rifle, or a shotgun if the person:

- has been convicted of a disqualifying crime;
- has been convicted of a violation classified as a common law crime and received a term of imprisonment of more than two years;
- is a fugitive from justice;
- is a habitual drunkard;
- *is addicted to a controlled dangerous substance or is a habitual user;*
- suffers from a mental disorder and has a history of violent behavior against the person or another;
- has been found incompetent to stand trial;

- has been found not criminally responsible;
- has been voluntarily admitted for more than 30 consecutive days to a facility that provides treatment or other services for mental disorders;
- has been involuntarily committed to a facility that provides treatment or other services for mental disorders;
- is under the protection of a guardian of the person or property of a disabled person appointed by a court, except for cases in which the appointment of a guardian is solely a result of a physical disability;
- is a respondent against whom a current non *ex parte* civil protective order has been entered in this State or an order for protection has been issued by a court of another state or a Native American tribe and is in effect; or
- if younger than age 30 at the time of possession, has been adjudicated delinquent by a juvenile court for an act that would be a disqualifying crime if committed by an adult.

In addition, a person is prohibited from possessing a regulated firearm, a rifle, or a shotgun if the person was previously convicted of (1) a crime of violence; (2) a violation of specified controlled dangerous substances laws; or (3) an offense under the laws of another state or the United States that would constitute one of these crimes if committed in this State.

Generally, a violator is guilty of a misdemeanor and subject to maximum penalties of five years imprisonment and/or \$10,000 fine.

Under federal law, a person is prohibited from possession of a firearm if the person:

- has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year (this does not include a State offense classified as a misdemeanor that is punishable by a term of imprisonment of less than two years);
- is a fugitive from justice;
- *is an unlawful user of or addicted to any controlled dangerous substance;*
- has been adjudicated as a mental defective or has been committed to a mental institution;
- is an alien that is illegally or unlawfully in the United States, or has been admitted to the United States under a nonimmigrant visa (with exceptions);
- has been dishonorably discharged from the Armed Forces;
- has, as a citizen of the United States, renounced citizenship;
- is, after a hearing, subject to a court order restraining that person from harassing, stalking, or threatening an intimate partner or child; or
- has been convicted in any court of a misdemeanor crime of domestic violence.

On conviction, a prohibited person who possesses a firearm is subject to imprisonment not exceeding 10 years or a \$250,000 fine or both.

Handgun Permit

Generally, with certain exceptions, to be issued a handgun permit by the Secretary of State Police, an applicant (1) must be at least age 21 years or a member of the U.S. Armed Forces, the National Guard, or the uniformed services; (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 be on supervised probation for conviction of a crime punishable by imprisonment for one year or more, a violation of § 21-902(b) or (c) of the Transportation Article (driving while under the influence or driving while impaired), or violating a protective order under § 4-509 of the Family Law Article (failure to comply with interim or final protective order); (5) must not suffer from a mental disorder and have a history of violent behavior against the person or another; (6) must not have been involuntarily admitted for more than 30 consecutive days to a facility that provides treatment or other services for mental disorders; (7) must not be a respondent against whom a current non *ex parte* civil protective order has been entered under § 4-506 of the Family Law Article, a current extreme risk protective order has been entered under § 5-601 of the Public Safety Article, or any other type of current court order has been entered prohibiting the person from purchasing or possessing firearms; (8) must not exhibit a propensity for violence or instability, which may reasonably render possession of a handgun a danger to the applicant or another; (9) must have successfully completed, prior to application and each renewal, a specified firearms training course approved by the Secretary; (10) 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 (11) must not otherwise be prohibited by State or federal law from possessing a handgun.

State Expenditures: The Department of State Police advises that the firearm application, which is now automated, includes a question regarding the use of cannabis. As a result, the system needs to be reprogrammed as a result of the bill. Accordingly, general fund expenditures increase by at least \$100,000 in fiscal 2025 only for programming changes.

Additional Comments: The bill's changes are inconsistent with provisions of State law and may result in a violation of federal law.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See HB 413 of 2023; SB 286 of 2022; and SB 190 and HB 543 of 2021.

Designated Cross File: HB 296 (Delegate Grammer) - Judiciary.

Information Source(s): Alcohol, Tobacco, and Cannabis Commission; Maryland Cannabis Administration; Department of State Police; Department of Legislative Services

Fiscal Note History: First Reader - January 30, 2024
km/lgc Third Reader - February 21, 2024

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