

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1158
Judiciary

(Delegate Phillips)

Civil Actions Against Firearm Industry Members - Private Right of Action

This bill authorizes a person who sustained an injury or loss as a result of harm caused by a firearm industry member, as specified, to bring an action for damages against the firearm industry member. A person who brings an action under the bill's provisions must, within five days after filing the complaint, (1) notify the Attorney General that the person has brought the action and (2) provide the Attorney General with a copy of the complaint and any other documents or pleadings filed with the complaint. The person may also seek and be awarded injunctive relief, compensatory and punitive damages, and reasonable attorney's fees and costs.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State finances or operations.

Local Effect: The bill is not anticipated to materially affect local government finances or operations.

Small Business Effect: Potential meaningful.

Analysis

Current Law:

Harm Caused by Firearm Industry Member: Chapter 714 of 2024 prohibits a firearm industry member from knowingly creating, maintaining, or contributing to harm to the public through the sale, manufacture, distribution, importation, or marketing of a firearm-related product by engaging in conduct that is unlawful or unreasonable under the

totality of the circumstances. A firearm industry member must establish and implement reasonable controls regarding the sale, manufacture, distribution, importation, marketing, possession, and use of the firearm industry member's firearm-related products. A violation of these provisions is a public nuisance.

Enforcement: The Attorney General, a county attorney, or the Baltimore City Solicitor may bring an action against a firearm industry member for a public nuisance caused by a violation of provisions prohibiting harm by a firearm industry member under § 3-2502 of the Courts and Judicial Proceedings Article. In an action brought under this provision, the Attorney General, county attorney, or Baltimore City Solicitor may seek injunctive relief, restitution, compensatory and punitive damages, reasonable attorney's fees and costs, and any other appropriate relief.

A party seeking relief under the aforementioned provisions is not required to prove that a firearm industry member acted with the intent to violate these provisions. The provisions may also not be construed to affect (1) any other common law or statutory cause of action or (2) any other obligation or restriction imposed on a firearm industry member under State or federal law.

“Firearm industry member” means a person engaged in the sale, manufacture, distribution, importation, or marketing of a firearm-related product.

“Reasonable controls” means policies that are designed:

- to prevent the sale or distribution of a firearm-related product to a straw purchaser, a firearm trafficker, a person prohibited from possessing a firearm under State or federal law, and a person who the firearm industry member has reasonable cause to believe intends to use the firearm-related product to commit a crime or to cause harm to the person or another person;
- to prevent the loss or theft of a firearm-related product from a firearm industry member; and
- to ensure that the firearm industry member complies with all provisions of State and federal law and does not otherwise promote the unlawful sale, manufacture, alteration, importation, marketing, possession, or use of a firearm-related product.

Regulation of Firearms: The Department of State Police (DSP) regulates firearms and regulated firearms dealer licensees under provisions of the Public Safety Article. Before a person purchases, rents, or transfers a regulated firearm in the State, the person must submit to DSP or other designated law enforcement agency a firearm application that identifies the applicant and the firearm that is the subject of the transaction. Applications are investigated by DSP and are subject to a seven-day waiting period before the transaction may take place. Chapter 11 of 2021 requires that before a sale, rental, or transfer of a rifle

or shotgun is conducted, the seller, lessor, or transferor and purchaser, lessee, or transferee both request that a licensed firearms dealer facilitate the sale, rental, or transfer.

A person must lawfully possess a regulated firearms dealer's license issued by the Secretary of State Police before the person engages in the business of selling, renting, or transferring regulated firearms. One dealer's license is required for each place of business where regulated firearms are sold.

Reports of sales of all regulated firearms must be forwarded to DSP within seven days of the completed sale. A dealer must also forward all disapproved applications that are being held. A dealer must maintain the dealer's copy of the application form for a minimum of three years. The prospective seller, lessor, or transferor must keep one copy of the firearm application for at least three years. These records must be open for inspection by any law enforcement officer during normal business hours or as specifically requested by the Secretary.

State licensees must also have a federal firearms license issued by the Bureau of Alcohol, Tobacco, Firearms, and Explosives.

State/Local Fiscal Effect: The Office of the Attorney General (OAG) advises that it needs one administrative officer to accept a copy of the complaint and other documents or pleadings filed with a complaint submitted by a person who brings an action under the bill's provisions; the Department of Legislative Services (DLS) disagrees. As OAG's responsibilities under the bill are limited to accepting the required paperwork, DLS advises that the additional requirements can be handled with OAG's existing resources. Any additional storage needed due to the additional paperwork is assumed to be minimal and able to be provided with existing resources.

Although the bill may result in additional civil actions filed, the bill is not anticipated to materially impact the workloads of the circuit courts or the Judiciary.

Small Business Effect: The bill has a potential meaningful effect on small businesses that encounter additional litigation, liability, and potential increased costs for insurance coverage as a result of the bill's provisions.

Additional Information

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

Designated Cross File: None.

Information Source(s): Office of the Attorney General; Judiciary (Administrative Office of the Courts); Department of State Police; Department of Legislative Services

Fiscal Note History: First Reader - February 24, 2025
km/jkb

Analysis by: Shirleen M. E. Pilgrim

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