



Senate Bill 444
Public Safety – Gun Buyback Programs – Destruction of Firearms
UNFAVORABLE

Depending on how a person interprets the language in Senate Bill 444, it is either an entrapment scheme or a Trojan Horse.

Gun buybacks as they are generally conducted involve and encourage the violation of multiple sections of Maryland law.

Entrapment Scenario:

Citizens who transport a handgun to a buyback and who do not have a Maryland permit to wear and carry a handgun are in violation of Criminal Law §4-203 and Public Safety §5-303. Under current law a person who wears, carries or transports a handgun in violation of the above two statute sections risks becoming a prohibited person for life.

Citizens who sell a firearm or firearms at a gun buyback, and the person or entity that purchases a firearm or firearms during the buyback, are potentially in violation of one or more of the following statute sections:

- Public Safety §5-106 Dealer's license
- Public Safety §5-117 Application for regulated firearm required.
- Public Safety §5-117.1 Handgun qualification license required for purchase of handguns.
- Public Safety §5-118 Firearm application
- Public Safety §5-121 Investigation of firearm applicant
- Public Safety §5-124 Secondary transactions
- Public Safety §5-128 Purchases within 30 days -- In general
- Public Safety §5-129 Purchases within 30 days -- Multiple purchases allowed.
- Public Safety §5-130 Gun shows
- Public Safety §5-133 Restrictions on possession of regulated firearms
- Public Safety §5-134 Restrictions on sale, rental, or transfer of regulated firearms
- Public Safety §5-136 Straw purchases
- Public Safety §5-138 Sell, transfer or disposal of stolen firearm prohibited.
- Public Safety §5-144 Knowing participation in violation of subtitle
- Public Safety §5-203 Lost or stolen regulated firearms.
- Public Safety §5-204.1 Purchasers of rifles or shotguns

Trojan Horse Scenario:

Based upon the interpretation of the terms “person or entity” (the term “entity” is not defined) Senate Bill 444 creates an entirely new section of statute in which the previously listed sections of law seem no longer applicable, and the “person or entity” is empowered to purchase and possess as many firearms as their financial resources allow. The only limitation is that at some unspecified time in the future the person or entity may (emphasis on “may”) contract with law enforcement, an unspecified organization or unspecified business to destroy the firearms. Prior to that event the person or entity is free to possess and use their newly-acquired firearms. Because there are no record keeping requirements, there is no means to audit or account for the firearms purchased. This creates a state sanctioned, totally unregulated source to supply firearms to the black market.

What is not obvious is the chilling effect it will have on dealers and local law enforcement agencies. Because the firearms must be destroyed, their trade-in value is reduced to zero. Small law enforcement agencies that rely on trade-ins when upgrading their service firearms will now be forced to pay full price for each firearm.

Constitutional Issues:

Not unexpectedly, a percentage of the guns will prove to be stolen (see attachments). To mandate their destruction is a clear violation of the “takings clause” in the 5th Amendment to the United States Constitution. Senate Bill 444 contains no provisions to prevent these violations of existing laws from taking place.

We strongly urge this Committee to reject this ill-conceived bill by returning an immediate unfavorable vote.

John H. Josselyn
2A Maryland
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Attachments (3)