

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 383

(Delegate Niemann)

Judiciary

Gun Shops - Security Requirements for Regulated Firearms

This bill requires an applicant for a State regulated firearms dealer's license to provide evidence satisfactory to the Secretary of State Police that the applicant's proposed place of business has (1) a vault or safe with certain minimum dimensions and other specified features; (2) specified braided cables sufficient to secure all of the regulated firearms, other than handguns, offered for sale at that place of business; and (3) a specified monitored security system capable of immediately notifying police of an intrusion, via a security monitoring service. The licensee must (1) store all handguns in the vault or safe; (2) secure all other firearms with a cable lock or in the vault or safe; and (3) activate the monitored security system when the structure is unoccupied. The bill requires licensees (as of the bill's effective date) to comply with these provisions by July 1, 2014.

Fiscal Summary

State Effect: None. Enforcement can be handled with the existing budgeted resources of the Department of State Police (DSP). Any additional hearings can be handled with the existing budgeted resources of the Office of Administrative Hearings and the courts.

Local Effect: Minimal.

Small Business Effect: Potential meaningful. It is likely that this bill increases costs for the State's 296 licensed gun dealers. It is unknown how many of the current licensees already have storage facilities that meet the standards required under this bill; costs increase for any licensees that need to purchase vaults, safes, and/or braided cables, install monitored security systems, and/or procure security monitoring services.

Analysis

Bill Summary: The Secretary is authorized to deny a dealer's license to any applicant or suspend or revoke a dealer's license, as specified, if the applicant or licensee violates the bill's provisions. Under provisions relating to required revocations of a license, the bill requires the Secretary to revoke the license of a licensee who has spent more than 7 consecutive days, rather than 30 consecutive days, in a medical institution for treatment of a mental disorder, except under specified conditions.

Current Law: A person must lawfully possess a dealer's license issued by the Secretary 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.

An applicant for a dealer's license must submit an application, pay an application fee of \$50 (payable to the Comptroller), and submit to a State and national criminal history records check. The Secretary must conduct an investigation to determine the truth or falsity of the information provided by the applicant. A refund or proration of the application fee is prohibited. An application for a dealer's license must contain the following information:

- the applicant's name, address, Social Security number, place and date of birth, height, weight, race, eye and hair color, and signature;
- a clear and recognizable photograph of the applicant, unless the photograph has been submitted with a prior year's application;
- a set of the applicant's fingerprints, unless the fingerprints have been submitted with a prior year's application; and
- a statement by the applicant that the applicant is a citizen of the United States, is at least age 21, has never been convicted of a disqualifying crime, has never been convicted of a common law crime and received a term of imprisonment of more than two years, is not a fugitive from justice, is not a habitual drunkard, is not addicted to a controlled dangerous substance or is not a habitual user, and has never spent more than 30 consecutive days in a medical institution for treatment of a mental disorder, unless a physician's certificate issued within 30 days before the date of application is attached to the application, certifying that the applicant is capable of possessing a regulated firearm without undue danger to the applicant or to another.

Each application for a dealer's license must contain the following statement:

“Any false information supplied or statement made in this application is a crime which may be punished by imprisonment for a period of not more than three years, or a fine of not more than \$5,000 or both.”

If an applicant is a corporation, a corporate officer who is a resident of the State must complete and execute the application.

State law requires the disapproval of an application or the suspension or revocation of a license under specified circumstances. A person whose license has been suspended or revoked or is aggrieved by the action of the Secretary may request a hearing under provisions of the Administrative Procedure Act, which may be subject to judicial review. A dealer's license is not transferable.

A person may not possess, sell, transfer, or otherwise dispose of a stolen regulated firearm if the person knows or has reasonable cause to believe that the firearm has been stolen.

A dealer or other person may not knowingly participate in the illegal sale, rental, transfer, purchase, possession, or receipt of a regulated firearm. A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for five years and/or a fine of \$10,000. Each violation is a separate crime.

Reports of sales of all regulated firearms must be forwarded to the Firearms Registration Section of DSP within seven days of the completed sale. An application to purchase or transfer a regulated firearm that is not disapproved is valid for a period of 90 days from the date the application was stamped by the Secretary as not being disapproved. After the 90 days has expired, the application is void and the dealer must return the application to the Firearms Registration Section with a notation that the sale was not made. After expiration of the 90-day limit, the prospective purchaser may submit another application.

A dealer must forward to the Firearms Registration Section, with the proper notation, all disapproved applications which are being held. A dealer must maintain the dealer's copy of the application form in an alphabetical or chronological file 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.

Federal licensees are regulated under provisions of the Gun Control Act of 1968 and the McClure-Volkmer Act of 1986 (also known as the Firearms Owners' Protection Act). Federal firearms licensees must maintain records of all gun sales, make those records

available to law enforcement for inspection, report multiple sales, and report the theft or loss of a firearm from a licensee's inventory.

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

Additional Information

Prior Introductions: HB 405 of 2006 received a hearing by the House Judiciary Committee, but no further action was taken. HB 278 of 2005 received an unfavorable report from the House Judiciary Committee. HB 592 of 2005, a bill that would have created a tax credit for licensed firearms dealers that purchase firearms storage safes or vaults, and which was contingent on the passage of HB 278, received an unfavorable report from the House Ways and Means Committee. HB 392 of 2004, a similar bill, received a hearing by the House Judiciary Committee, but no further action was taken.

Cross File: None.

Information Source(s): Department of Health and Mental Hygiene, Judiciary (Administrative Office of the Courts), Department of State Police, Office of Administrative Hearings, Department of Legislative Services

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