

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 1 (Senators Waldstreicher and Lee)
Judicial Proceedings

Criminal Law - Wearing, Carrying, or Transporting Firearms - Restrictions
(Gun Safety Act of 2023)

This bill prohibits, with specified exceptions, a person from knowingly wearing, carrying, or transporting a firearm onto the real property of another unless the other has given express permission, either to the person or to the public generally, to wear, carry, or transport a firearm on the real property. In addition, the bill prohibits a person from knowingly wearing, carrying, or transporting a firearm within 100 feet of a place of public accommodation. A violator of either prohibition is guilty of a misdemeanor punishable by imprisonment for up to one year.

Fiscal Summary

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

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

Small Business Effect: Potential minimal.

Analysis

Bill Summary: The bill's prohibition relating to the real property of another does not apply to:

- the wearing, carrying, or transporting of a firearm on a portion of real property subject to an easement, a right-of-way, a servitude, or any other interest that allows public access on or through the real property;

- the wearing, carrying, or transporting of a firearm on a portion of real property subject to an easement, a right-of-way, a servitude, or any other interest that allows access on or through the real property by the holder of the easement, right-of-way, servitude, or other interest or a guest or assignee of the holder of the easement, right-of-way, servitude, or other interest; or
- property owned by the State or a political subdivision of the State.

“Firearm,” as defined in the bill and in existing statute, means a handgun, rifle, shotgun, short-barreled rifle, or short-barreled shotgun, or any other firearm. “Firearm” does not include an antique firearm.

“Place of public accommodation,” as defined in the bill and existing statute, refers to several types of establishments, including inns, hotels, motels, restaurants, movie theaters, stadiums, and retail establishments.

Current Law: With specified exceptions and subject to a range of penalties, a person is generally prohibited from wearing, carrying, or transporting a handgun, whether concealed or open, on or about the person. One exception is when a person has a permit issued by the Secretary of State Police to carry, wear, or transport a handgun. The Secretary may limit the geographic area, circumstances, or times of the day, week, month, or year in which a permit is effective. Current law requirements and background relating to the issuance of handgun permits are summarized in the **Appendix – Handgun Permit Requirements – Current Law/Background**.

Additional Comments: Shortly after the U.S. Supreme Court’s decision in *New York State Rifle & Pistol Association v. Bruen*, 597 U.S. (2022), the New York legislature passed a law known as the Concealed Carry Improvement Act. Among other things, the Act included (1) a requirement that an applicant for a concealed-carry license show “good moral character”; (2) a requirement that an applicant provide the names and contact information for family members; (3) a ban on firearms in “sensitive places” such as churches and parks; and (4) a prohibition on firearms on private property unless the property owner specifically agrees to allow firearms. After multiple court challenges, which are ongoing, the U.S. Court of Appeals for the Second Circuit has issued stays on three lower court decisions that have found various aspects of the law unconstitutional. Those decisions remain on hold while an emergency request is pending before the U.S. Supreme Court.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Anne Arundel, Frederick, and Somerset counties; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State's Attorneys' Association; Department of Public Safety and Correctional Services; Department of State Police; Department of Legislative Services

Fiscal Note History: First Reader - February 5, 2023
km/aad

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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.