

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

Senate Bill 944

(Senator Mooney, *et al.*)

Judicial Proceedings

Governor's Emergency Powers - Seizure of Firearms and Ammunition

This bill provides that, under provisions governing the Governor's emergency powers during a public emergency, the Governor may not authorize the seizure of a firearm or ammunition from an individual lawfully carrying or possessing the firearm or ammunition. A police officer acting in an official capacity may disarm an individual during a public emergency if the police officer reasonably believes it to be immediately necessary for the protection of the officer or another individual. In such a circumstance, unless the officer arrests the individual or seizes the firearm or ammunition as evidence in an investigation for the commission of a crime, the firearm or ammunition must be returned to the individual.

Fiscal Summary

State Effect: The bill would not materially affect State finances.

Local Effect: The bill's provisions are not expected to affect local finances.

Small Business Effect: None.

Analysis

Current Law: Under the Maryland Emergency Management Agency Act, if the Governor finds that an emergency has developed or is impending due to any cause, the Governor must declare a state of emergency by executive order or proclamation. The state of emergency continues until the Governor: (1) finds that the threat or danger has passed or the emergency has been dealt with to the extent that emergency conditions no

longer exist; and (2) terminates the state of emergency by executive order or proclamation.

A state of emergency may not continue for longer than 30 days unless renewed by the Governor. The General Assembly by joint resolution may terminate a state of emergency at any time.

Under the Act, the Governor may: (1) authorize use in another state of personnel, equipment, supplies, or materials of this State, or of a political subdivision with the consent of the executive officer or governing body of the political subdivision; and (2) suspend the effect of any statute or rule or regulation of an agency of the State or, after consulting with the executive officer or governing body of a political subdivision, suspend a rule or regulation of an agency of a political subdivision if the Governor finds that the suspension is necessary to aid the State with its emergency management functions.

Under provisions relating to the Governor's emergency powers, during a public emergency in the State, the Governor may, under certain circumstances, proclaim a state of emergency and designate the emergency area if public safety is endangered or on reasonable apprehension of immediate danger to public safety. After proclaiming the state of emergency, the Governor may promulgate reasonable orders, rules, or regulations considered necessary to protect life and property or to control and terminate the emergency, including orders, rules, or regulations to control the possession, sale, carrying, and use of firearms, other dangerous weapons, and ammunition.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of State Police, Department of Legislative Services

Fiscal Note History: First Reader - March 14, 2008
ncs/jr

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