

SENATE BILL 645

E4, E1, E2

0lr0590
CF HB 820

By: **Senator Frosh**

Introduced and read first time: February 5, 2010

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Firearm Safety Act of 2010**

3 FOR the purpose of authorizing an investigative or law enforcement officer acting in a
4 criminal investigation or another person acting at the prior direction and under
5 the supervision of an investigative or law enforcement officer to intercept a
6 wire, oral, or electronic communication in order to provide evidence of the
7 commission of certain offenses relating to the sale, rental, purchase, or transfer
8 of a regulated firearm under certain circumstances; requiring the Secretary of
9 State Police or the Secretary's designee to disapprove an application of a
10 State-regulated firearms dealer's license if the Secretary or the Secretary's
11 designee determines that the applicant intends a certain person to participate
12 or hold a certain interest in the management or operation of the business for
13 which the license is sought; requiring that the Secretary or the Secretary's
14 designee suspend a dealer's license if the licensee is not in compliance with
15 certain record-keeping and reporting requirements; authorizing a certain
16 person to request a hearing under certain circumstances; prohibiting a person
17 who has previously been convicted of certain crimes from possessing a firearm;
18 requiring a valid Maryland handgun purchase permit for the purchase or
19 receipt of a regulated firearm; establishing requirements and procedures for the
20 issuance and renewal of a handgun purchase permit; authorizing the Secretary
21 or the Secretary's designee to revoke a handgun purchase permit under certain
22 circumstances; requiring that a hearing be granted to certain aggrieved persons
23 under certain circumstances; requiring that a licensed dealer keep records of all
24 receipts, sales, and other dispositions of firearms affected in connection with the
25 licensed dealer's business; requiring the Secretary or the Secretary's designee to
26 adopt certain regulations specifying certain information; requiring that the
27 records that licensed dealers maintain include certain information; specifying
28 certain record-keeping requirements to be met when a firearms business is
29 discontinued; requiring that a licensee respond in a certain manner after receipt
30 of a letter from the Secretary or the Secretary's designee requesting certain
31 information; prohibiting a licensee from using an unreported loss or theft of a

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 firearm as a defense in certain proceedings except under certain circumstances;
2 allowing the Secretary or the Secretary's designee to inspect the inventory and
3 records of a licensed dealer under certain circumstances; providing certain
4 penalties; altering certain penalties; altering a certain definition; defining
5 certain terms; and generally relating to firearms.

6 BY repealing and reenacting, with amendments,
7 Article – Courts and Judicial Proceedings
8 Section 10–402(c)
9 Annotated Code of Maryland
10 (2006 Replacement Volume and 2009 Supplement)

11 BY repealing and reenacting, without amendments,
12 Article – Public Safety
13 Section 5–101(a), (m), and (s)
14 Annotated Code of Maryland
15 (2003 Volume and 2009 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article – Public Safety
18 Section 5–101(l), 5–110(a), 5–114, 5–115, 5–133, 5–134(d), 5–141, and 5–143
19 Annotated Code of Maryland
20 (2003 Volume and 2009 Supplement)

21 BY adding to
22 Article – Public Safety
23 Section 5–133.1 and 5–144
24 Annotated Code of Maryland
25 (2003 Volume and 2009 Supplement)

26 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
27 MARYLAND, That the Laws of Maryland read as follows:

28 **Article – Courts and Judicial Proceedings**

29 10–402.

30 (c) (1) (i) It is lawful under this subtitle for an operator of a
31 switchboard, or an officer, employee, or agent of a provider of wire or electronic
32 communication service, whose facilities are used in the transmission of a wire or
33 electronic communication to intercept, disclose, or use that communication in the
34 normal course of his employment while engaged in any activity which is a necessary
35 incident to the rendition of his service or to the protection of the rights or property of
36 the provider of that service, except that a provider of wire communications service to
37 the public may not utilize service observing or random monitoring except for
38 mechanical or service quality control checks.

1 (ii) 1. It is lawful under this subtitle for a provider of wire or
2 electronic communication service, its officers, employees, and agents, landlords,
3 custodians or other persons to provide information, facilities, or technical assistance to
4 persons authorized by federal or State law to intercept wire, oral, or electronic
5 communications or to conduct electronic surveillance, if the provider, its officers,
6 employees, or agents, landlord, custodian, or other specified person has been provided
7 with a court order signed by the authorizing judge directing the provision of
8 information, facilities, or technical assistance.

9 2. The order shall set forth the period of time during
10 which the provision of the information, facilities, or technical assistance is authorized
11 and specify the information, facilities, or technical assistance required. A provider of
12 wire or electronic communication service, its officers, employees, or agents, or
13 landlord, custodian, or other specified person may not disclose the existence of any
14 interception or surveillance or the device used to accomplish the interception or
15 surveillance with respect to which the person has been furnished an order under this
16 subparagraph, except as may otherwise be required by legal process and then only
17 after prior notification to the judge who granted the order, if appropriate, or the
18 State's Attorney of the county where the device was used. Any such disclosure shall
19 render the person liable for compensatory damages. No cause of action shall lie in any
20 court against any provider of wire or electronic communication service, its officers,
21 employees, or agents, landlord, custodian, or other specified person for providing
22 information, facilities, or assistance in accordance with the terms of a court order
23 under this subtitle.

24 (2) (i) This paragraph applies to an interception in which:

25 1. The investigative or law enforcement officer or other
26 person is a party to the communication; or

27 2. One of the parties to the communication has given
28 prior consent to the interception.

29 (ii) It is lawful under this subtitle for an investigative or law
30 enforcement officer acting in a criminal investigation or any other person acting at the
31 prior direction and under the supervision of an investigative or law enforcement officer
32 to intercept a wire, oral, or electronic communication in order to provide evidence:

33 1. Of the commission of:

34 A. Murder;

35 B. Kidnapping;

36 C. Rape;

37 D. A sexual offense in the first or second degree;

- 1 E. Child abuse in the first or second degree;
- 2 F. Child pornography under § 11–207, § 11–208, or §
3 11–208.1 of the Criminal Law Article;
- 4 G. Gambling;
- 5 H. Robbery under § 3–402 or § 3–403 of the Criminal
6 Law Article;
- 7 I. A felony under Title 6, Subtitle 1 of the Criminal Law
8 Article;
- 9 J. Bribery;
- 10 K. Extortion;
- 11 L. Dealing in a controlled dangerous substance,
12 including a violation of § 5–617 or § 5–619 of the Criminal Law Article;
- 13 M. A fraudulent insurance act, as defined in Title 27,
14 Subtitle 4 of the Insurance Article;
- 15 N. An offense relating to destructive devices under §
16 4–503 of the Criminal Law Article;
- 17 O. Sexual solicitation of a minor under § 3–324 of the
18 Criminal Law Article;
- 19 P. An offense relating to obstructing justice under §
20 9–302, § 9–303, or § 9–305 of the Criminal Law Article;
- 21 Q. Sexual abuse of a minor under § 3–602 of the
22 Criminal Law Article; [or]
- 23 R. **SELLING, RENTING, PURCHASING, OR**
24 **TRANSFERRING A FIREARM IN VIOLATION OF §§ 5–133 THROUGH 5–143 OF THE**
25 **PUBLIC SAFETY ARTICLE; OR**
- 26 S. A conspiracy or solicitation to commit an offense listed
27 in items A through [Q] R of this item; or
- 28 2. If:
- 29 A. A person has created a barricade situation; and

1 B. Probable cause exists for the investigative or law
2 enforcement officer to believe a hostage or hostages may be involved.

3 (3) It is lawful under this subtitle for a person to intercept a wire, oral,
4 or electronic communication where the person is a party to the communication and
5 where all of the parties to the communication have given prior consent to the
6 interception unless the communication is intercepted for the purpose of committing
7 any criminal or tortious act in violation of the Constitution or laws of the United
8 States or of this State.

9 (4) (i) It is lawful under this subtitle for a law enforcement officer
10 in the course of the officer's regular duty to intercept an oral communication if:

11 1. The law enforcement officer initially lawfully detained
12 a vehicle during a criminal investigation or for a traffic violation;

13 2. The law enforcement officer is a party to the oral
14 communication;

15 3. The law enforcement officer has been identified as a
16 law enforcement officer to the other parties to the oral communication prior to any
17 interception;

18 4. The law enforcement officer informs all other parties
19 to the communication of the interception at the beginning of the communication; and

20 5. The oral interception is being made as part of a video
21 tape recording.

22 (ii) If all of the requirements of subparagraph (i) of this
23 paragraph are met, an interception is lawful even if a person becomes a party to the
24 communication following:

25 1. The identification required under subparagraph (i)3 of
26 this paragraph; or

27 2. The informing of the parties required under
28 subparagraph (i)4 of this paragraph.

29 (5) It is lawful under this subtitle for an officer, employee, or agent of
30 a governmental emergency communications center to intercept a wire, oral, or
31 electronic communication where the officer, agent, or employee is a party to a
32 conversation concerning an emergency.

33 (6) (i) It is lawful under this subtitle for law enforcement
34 personnel to utilize body wires to intercept oral communications in the course of a
35 criminal investigation if there is reasonable cause to believe that a law enforcement
36 officer's safety may be in jeopardy.

1 (ii) Communications intercepted under this paragraph may not
2 be recorded, and may not be used against the defendant in a criminal proceeding.

3 (7) It is lawful under this subtitle for a person:

4 (i) To intercept or access an electronic communication made
5 through an electronic communication system that is configured so that the electronic
6 communication is readily accessible to the general public;

7 (ii) To intercept any radio communication that is transmitted:

8 1. By any station for the use of the general public, or
9 that relates to ships, aircraft, vehicles, or persons in distress;

10 2. By any governmental, law enforcement, civil defense,
11 private land mobile, or public safety communications system, including police and fire,
12 readily accessible to the general public;

13 3. By a station operating on an authorized frequency
14 within the bands allocated to the amateur, citizens band, or general mobile radio
15 services; or

16 4. By any marine or aeronautical communications
17 system;

18 (iii) To intercept any wire or electronic communication the
19 transmission of which is causing harmful interference to any lawfully operating
20 station or consumer electronic equipment, to the extent necessary to identify the
21 source of the interference; or

22 (iv) For other users of the same frequency to intercept any radio
23 communication made through a system that utilizes frequencies monitored by
24 individuals engaged in the provision or the use of the system, if the communication is
25 not scrambled or encrypted.

26 (8) It is lawful under this subtitle:

27 (i) To use a pen register or trap and trace device as defined
28 under § 10-4B-01 of this title; or

29 (ii) For a provider of electronic communication service to record
30 the fact that a wire or electronic communication was initiated or completed in order to
31 protect the provider, another provider furnishing service toward the completion of the
32 wire or electronic communication, or a user of that service, from fraudulent, unlawful,
33 or abusive use of the service.

1 (3) the Secretary receives a written notification from the applicant's
2 licensed attending physician that the applicant suffers from a mental disorder and is a
3 danger to the applicant or to another; OR

4 **(4) THE SECRETARY DETERMINES THAT THE APPLICANT INTENDS**
5 **THAT A PERSON WHO IS NOT ELIGIBLE TO BE ISSUED A DEALER'S LICENSE OR**
6 **WHOSE DEALER'S LICENSE HAS BEEN REVOKED OR SUSPENDED:**

7 **(I) WILL PARTICIPATE IN THE MANAGEMENT OR**
8 **OPERATION OF THE BUSINESS FOR WHICH THE LICENSE IS SOUGHT; OR**

9 **(II) HOLDS A LEGAL OR EQUITABLE INTEREST IN THE**
10 **BUSINESS FOR WHICH THE LICENSE IS SOUGHT.**

11 5-114.

12 (a) The Secretary shall suspend a dealer's license if the licensee:

13 (1) is under indictment for a crime of violence; or

14 (2) is arrested for a violation of this subtitle that prohibits the
15 purchase or possession of a regulated firearm.

16 **(B) THE SECRETARY MAY SUSPEND A DEALER'S LICENSE IF THE**
17 **LICENSEE HAS COMMITTED MORE THAN TWO VIOLATIONS OF THE**
18 **RECORD-KEEPING AND REPORTING REQUIREMENTS OF § 5-144 OF THIS**
19 **SUBTITLE WITHIN A 3-YEAR PERIOD.**

20 **[(b)] (C)** The Secretary shall revoke a dealer's license if:

21 (1) it is discovered that false information has been supplied or false
22 statements have been made in an application required by this subtitle; or

23 (2) the licensee:

24 (i) is convicted of a disqualifying crime;

25 (ii) is convicted of a violation classified as a common law crime
26 and receives a term of imprisonment of more than 2 years;

27 (iii) is a fugitive from justice;

28 (iv) is a habitual drunkard;

29 (v) is addicted to a controlled dangerous substance or is a
30 habitual user;

1 (vi) has spent more than 30 consecutive days in a medical
2 institution for treatment of a mental disorder, unless the licensee produces a
3 physician's certificate, issued after the last institutionalization and certifying that the
4 licensee is capable of possessing a regulated firearm without undue danger to the
5 licensee or to another;

6 (vii) has knowingly or willfully manufactured, offered to sell, or
7 sold a handgun not on the handgun roster in violation of § 5-406 of this title; or

8 (viii) has knowingly or willfully participated in a straw purchase
9 of a regulated firearm.

10 **[(c)] (D)** If the Secretary suspends or revokes a dealer's license, the
11 Secretary shall notify the licensee in writing of the suspension or revocation.

12 **[(d)] (E)** A person whose dealer's license is suspended or revoked may not
13 engage in the business of selling, renting, or transferring regulated firearms, unless
14 the suspension or revocation has been subsequently withdrawn by the Secretary or
15 overruled by a court in accordance with § 5-116 of this subtitle.

16 5-115.

17 (a) (1) A person whose dealer's license is suspended or revoked **OR WHO**
18 **IS FINED FOR A VIOLATION OF THIS SUBTITLE** and who is aggrieved by the action of
19 the Secretary may request a hearing by writing to the Secretary within 30 days after
20 the Secretary forwards notice to the applicant under § **[(5-114(c))] 5-114(D)** of this
21 subtitle.

22 (2) The Secretary shall grant the hearing within 15 days after
23 receiving the request.

24 (b) The hearing shall be held in accordance with Title 10, Subtitle 2 of the
25 State Government Article.

26 5-133.

27 (a) This section supersedes any restriction that a local jurisdiction in the
28 State imposes on the possession by a private party of a regulated firearm, and the
29 State preempts the right of any local jurisdiction to regulate the possession of a
30 regulated firearm.

31 (b) A person may not possess a regulated firearm if the person:

32 (1) has been convicted of a disqualifying crime;

1 (2) has been convicted of a violation classified as a common law crime
2 and received a term of imprisonment of more than 2 years;

3 (3) is a fugitive from justice;

4 (4) is a habitual drunkard;

5 (5) is addicted to a controlled dangerous substance or is a habitual
6 user;

7 (6) suffers from a mental disorder as defined in § 10–101(f)(2) of the
8 Health – General Article and has a history of violent behavior against the person or
9 another, unless the person has a physician’s certificate that the person is capable of
10 possessing a regulated firearm without undue danger to the person or to another;

11 (7) has been confined for more than 30 consecutive days to a facility as
12 defined in § 10–101 of the Health – General Article, unless the person has a
13 physician’s certificate that the person is capable of possessing a regulated firearm
14 without undue danger to the person or to another;

15 (8) is a respondent against whom a current non ex parte civil
16 protective order has been entered under § 4–506 of the Family Law Article; or

17 (9) if under the age of 30 years at the time of possession, has been
18 adjudicated delinquent by a juvenile court for an act that would be a disqualifying
19 crime if committed by an adult.

20 (c) (1) A person may not possess a [regulated] firearm if the person was
21 previously convicted of:

22 (i) a crime of violence; or

23 (ii) a violation of § 5–602, § 5–603, § 5–604, § 5–605, § 5–606, §
24 5–607, § 5–608, § 5–609, § 5–612, § 5–613, or § 5–614 of the Criminal Law Article.

25 (2) **(I)** A person who violates this subsection is guilty of a felony
26 and on conviction is subject to imprisonment for not less than 5 years[, no part of
27 which may be suspended] **AND NOT EXCEEDING 15 YEARS.**

28 **(II) A COURT MAY NOT SUSPEND ANY PART OF THE**
29 **MANDATORY MINIMUM SENTENCE OF 5 YEARS.**

30 **(III) THE PERSON IS NOT ELIGIBLE FOR PAROLE DURING**
31 **THE MANDATORY MINIMUM SENTENCE.**

32 [(3) A person sentenced under paragraph (1) of this subsection may not
33 be eligible for parole.]

1 **[(4)] (3)** Each violation of this subsection is a separate crime.

2 (d) (1) Except as provided in paragraph (2) of this subsection, a person
3 who is under the age of 21 years may not possess a regulated firearm or ammunition
4 solely designed for a regulated firearm.

5 (2) Unless a person is otherwise prohibited from possessing a
6 regulated firearm, this subsection does not apply to:

7 (i) the temporary transfer or possession of a regulated firearm
8 or ammunition solely designed for a regulated firearm if the person is:

9 1. under the supervision of another who is at least 21
10 years old and who is not prohibited by State or federal law from possessing a firearm;
11 and

12 2. acting with the permission of the parent or legal
13 guardian of the transferee or person in possession;

14 (ii) the transfer by inheritance of title, and not of possession, of
15 a regulated firearm;

16 (iii) a member of the armed forces of the United States or the
17 National Guard while performing official duties;

18 (iv) the temporary transfer or possession of a regulated firearm
19 or ammunition solely designed for a regulated firearm if the person is:

20 1. participating in marksmanship training of a
21 recognized organization; and

22 2. under the supervision of a qualified instructor;

23 (v) a person who is required to possess a regulated firearm for
24 employment and who holds a permit under Subtitle 3 of this title; or

25 (vi) the possession of a firearm or ammunition for self-defense
26 or the defense of others against a trespasser into the residence of the person in
27 possession or into a residence in which the person in possession is an invited guest.

28 **5-133.1.**

29 **(A) A PERSON MAY SELL OR TRANSFER A HANDGUN TO ANOTHER**
30 **PERSON ONLY IF THE PURCHASER OR TRANSFEREE PRESENTS TO THE SELLER**
31 **OR TRANSFEROR A VALID MARYLAND HANDGUN PURCHASE PERMIT ISSUED TO**

1 THE PURCHASER OR TRANSFEREE BY THE STATE POLICE IN ACCORDANCE WITH
2 THE PROVISIONS OF THIS SECTION.

3 (B) A PERSON MAY PURCHASE OR RECEIVE A HANDGUN ONLY IF THE
4 PERSON:

5 (1) POSSESSES A VALID MARYLAND HANDGUN PURCHASE PERMIT
6 ISSUED TO THE PERSON BY THE STATE POLICE IN ACCORDANCE WITH THE
7 PROVISIONS OF THIS SECTION; AND

8 (2) COMPLIES WITH THE REQUIREMENTS OF AND IS NOT
9 PROHIBITED FROM PURCHASING OR POSSESSING A HANDGUN UNDER THIS
10 SUBTITLE.

11 (C) THE STATE POLICE SHALL ISSUE A HANDGUN PURCHASE PERMIT
12 ON CERTIFICATION BY THE SECRETARY THAT THE APPLICANT:

13 (1) IS AT LEAST 21 YEARS OLD;

14 (2) IS A RESIDENT OF THE STATE;

15 (3) HAS DEMONSTRATED SATISFACTORY COMPLETION OF A
16 FIREARMS SAFETY TRAINING COURSE APPROVED BY THE SECRETARY; AND

17 (4) BASED ON A CRIMINAL HISTORY RECORDS CHECK AND OTHER
18 PERMISSIBLE RECORDS CHECK:

19 (I) IS NOT PROHIBITED BY FEDERAL OR STATE LAW FROM
20 PURCHASING OR POSSESSING A HANDGUN; AND

21 (II) HAS NOT EXHIBITED A PROPENSITY FOR VIOLENCE OR
22 INSTABILITY THAT MAY REASONABLY RENDER THE APPLICANT'S POSSESSION
23 OF A HANDGUN A DANGER TO THE APPLICANT OR OTHERS.

24 (D) IN ORDER TO OBTAIN A HANDGUN PURCHASE PERMIT, AN
25 APPLICANT SHALL:

26 (1) APPLY TO THE CRIMINAL JUSTICE INFORMATION SYSTEM
27 CENTRAL REPOSITORY FOR A NATIONAL AND STATE CRIMINAL HISTORY
28 RECORDS CHECK; AND

29 (2) SUBMIT THE FOLLOWING TO THE SECRETARY:

1 (I) A COMPLETE APPLICATION ON A FORM PROVIDED BY
2 THE SECRETARY;

3 (II) A NONREFUNDABLE FEE SET BY THE SECRETARY AT AN
4 AMOUNT SUFFICIENT TO COVER THE COST OF PROCESSING THE APPLICATION;

5 (III) PROOF OF SATISFACTORY COMPLETION OF A FIREARMS
6 SAFETY TRAINING COURSE APPROVED BY THE SECRETARY;

7 (IV) ANY OTHER IDENTIFYING INFORMATION OR
8 DOCUMENTATION REQUIRED BY THE SECRETARY; AND

9 (V) A STATEMENT MADE BY THE APPLICANT UNDER THE
10 PENALTY OF PERJURY THAT THE APPLICANT IS NOT PROHIBITED UNDER
11 FEDERAL OR STATE LAW FROM POSSESSING A HANDGUN.

12 (E) WITHIN 30 DAYS AFTER RECEIVING A PROPERLY COMPLETED
13 APPLICATION, THE SECRETARY SHALL ISSUE TO THE APPLICANT:

14 (1) A HANDGUN PURCHASE PERMIT TO AN APPROVED APPLICANT;
15 OR

16 (2) A WRITTEN DENIAL OF THE APPLICATION THAT CONTAINS A
17 STATEMENT OF THE APPLICANT'S APPEAL RIGHTS UNDER SUBSECTION (H) OF
18 THIS SECTION.

19 (F) (1) A HANDGUN PURCHASE PERMIT ISSUED UNDER THIS SECTION
20 SHALL EXPIRE 5 YEARS FROM THE DATE OF ISSUANCE.

21 (2) THE HANDGUN PURCHASE PERMIT MAY BE RENEWED ON
22 APPLICATION AND PAYMENT OF A RENEWAL FEE SET BY THE SECRETARY AT AN
23 AMOUNT SUFFICIENT TO COVER THE COSTS OF PROCESSING THE RENEWAL
24 APPLICATION.

25 (3) THE SECRETARY SHALL RENEW THE HANDGUN PURCHASE
26 PERMIT IF, BASED ON A CRIMINAL HISTORY RECORDS CHECK AND OTHER
27 PERMISSIBLE RECORDS CHECK, THE SECRETARY DETERMINES THAT AT THE
28 TIME OF THE APPLICATION THE APPLICANT MEETS THE REQUIREMENTS OF
29 THIS SECTION.

30 (4) THE SECRETARY MAY NOT REQUIRE, AS A CONDITION OF
31 RENEWAL, THE APPLICANT TO RETAKE THE FIREARMS SAFETY TRAINING
32 COURSE DESCRIBED IN SUBSECTION (C)(3) OF THIS SECTION.

1 **(G) (1) THE SECRETARY MAY REVOKE THE HANDGUN PURCHASE**
2 **PERMIT ISSUED OR RENEWED UNDER THIS SECTION ON A FINDING THAT THE**
3 **PERMIT HOLDER NO LONGER SATISFIES THE QUALIFICATIONS SET FORTH IN**
4 **SUBSECTION (C) OF THIS SECTION.**

5 **(2) A PERSON HOLDING A HANDGUN PURCHASE PERMIT THAT**
6 **HAS BEEN REVOKED BY THE SECRETARY SHALL RETURN THE PERMIT TO THE**
7 **SECRETARY WITHIN 45 DAYS AFTER THE RECEIPT OF THE NOTICE OF THE**
8 **REVOCATION.**

9 **(H) (1) A PERSON WHOSE APPLICATION FOR A HANDGUN PURCHASE**
10 **PERMIT OR RENEWAL OF A HANDGUN PURCHASE PERMIT IS DISAPPROVED OR**
11 **WHOSE HANDGUN PURCHASE PERMIT HAS BEEN REVOKED MAY SUBMIT A**
12 **WRITTEN REQUEST TO THE SECRETARY FOR A HEARING WITHIN 30 DAYS AFTER**
13 **THE DATE THE WRITTEN NOTICE OF THE DENIAL OR REVOCATION WAS SENT TO**
14 **THE AGGRIEVED PERSON.**

15 **(2) A HEARING UNDER THIS SECTION SHALL BE GRANTED BY THE**
16 **SECRETARY WITHIN 15 DAYS AFTER THE REQUEST.**

17 **(3) THE HEARING AND ANY SUBSEQUENT PROCEEDINGS OF**
18 **JUDICIAL REVIEW SHALL BE CONDUCTED IN ACCORDANCE WITH TITLE 10,**
19 **SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.**

20 **(4) THE HEARING SHALL BE HELD IN THE COUNTY OF THE LEGAL**
21 **RESIDENCE OF THE AGGRIEVED PERSON.**

22 5-134.

23 **(d) (1) A person may not sell, rent, or transfer:**

24 **(i) ammunition solely designed for a regulated firearm to a**
25 **person who is under the age of 21 years; or**

26 **(ii) 1. a firearm other than a regulated firearm to a minor;**

27 **2. ammunition for a firearm to a minor;**

28 **3. pepper mace, which is an aerosol propelled**
29 **combination of highly disabling irritant based products and is also known as**
30 **oleo-resin capsicum (O.C.) spray, to a minor; or**

31 **4. another deadly weapon to a minor.**

1 (2) (I) A person who violates PARAGRAPH (1)(II)3 OF this
2 subsection is guilty of a misdemeanor and on conviction is subject to imprisonment not
3 exceeding 1 year or a fine not exceeding \$1,000 or both.

4 (II) A PERSON WHO VIOLATES PARAGRAPH (1)(I) OR (II)1, 2,
5 OR 4 OF THIS SUBSECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION
6 IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 5 YEARS OR A FINE NOT
7 EXCEEDING \$10,000 OR BOTH.

8 (3) EACH VIOLATION OF THIS SUBSECTION IS A SEPARATE CRIME.

9 5-141.

10 (a) IN THIS SECTION, "KNOWING" MEANS THAT THE DEALER OR OTHER
11 PERSON KNOWS OR UNDER THE CIRCUMSTANCES SHOULD KNOW THAT THE
12 PURCHASER OF THE REGULATED FIREARM IS NOT THE INTENDED POSSESSOR
13 OF THE REGULATED FIREARM.

14 (B) A dealer or other person may not be a knowing participant in a straw
15 purchase of a regulated firearm to a minor or to a person prohibited by law from
16 possessing a regulated firearm.

17 [(b)] (C) A person who violates this section is guilty of a misdemeanor and
18 on conviction is subject to imprisonment not exceeding [10] 15 years or a fine not
19 exceeding \$25,000 or both.

20 [(c)] (D) Each violation of this section is a separate crime.

21 5-143.

22 (a) Except as otherwise provided in this subtitle, a dealer or other person
23 may not knowingly participate in the illegal sale, rental, transfer, purchase,
24 possession, or receipt of a regulated firearm in violation of this subtitle.

25 (b) A person who violates this section is guilty of a misdemeanor and on
26 conviction is subject to imprisonment not exceeding [5] 10 years or a fine not
27 exceeding [\$10,000] \$15,000 or both.

28 (c) Each violation of this section is a separate crime.

29 5-144.

30 (A) (1) A LICENSED DEALER SHALL KEEP RECORDS OF ALL
31 RECEIPTS, SALES, AND OTHER DISPOSITIONS OF FIREARMS AFFECTED IN
32 CONNECTION WITH THE LICENSED DEALER'S BUSINESS.

1 **(2) THE SECRETARY SHALL ADOPT REGULATIONS SPECIFYING:**

2 **(I) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE**
3 **INFORMATION THAT THE RECORDS SHALL CONTAIN;**

4 **(II) THE TIME PERIOD FOR WHICH THE RECORDS ARE TO BE**
5 **KEPT; AND**

6 **(III) THE FORM IN WHICH THE RECORDS ARE TO BE KEPT.**

7 **(3) THE RECORDS SHALL INCLUDE:**

8 **(I) THE NAME AND ADDRESS OF EACH PERSON FROM WHOM**
9 **THE DEALER ACQUIRES A FIREARM AND TO WHOM THE DEALER SELLS OR**
10 **OTHERWISE DISPOSES OF A FIREARM;**

11 **(II) A PRECISE DESCRIPTION TO INCLUDE THE MAKE,**
12 **MODEL, CALIBER, AND SERIAL NUMBER OF EACH FIREARM ACQUIRED, SOLD, OR**
13 **OTHERWISE DISPOSED OF; AND**

14 **(III) THE DATE OF EACH ACQUISITION, SALE, OR OTHER**
15 **DISPOSITION.**

16 **(B) (1) WHEN REQUIRED BY A LETTER ISSUED BY THE SECRETARY**
17 **OR THE SECRETARY'S DESIGNEE, A LICENSEE SHALL SUBMIT TO THE**
18 **SECRETARY THE INFORMATION REQUIRED TO BE KEPT UNDER SUBSECTION (A)**
19 **OF THIS SECTION FOR THE TIME PERIODS SPECIFIED BY THE SECRETARY.**

20 **(2) THE SECRETARY SHALL DETERMINE THE FORM AND METHOD**
21 **BY WHICH THE RECORDS SHALL BE MAINTAINED.**

22 **(C) WHEN A FIREARMS BUSINESS IS DISCONTINUED AND SUCCEEDED**
23 **BY A NEW LICENSEE, THE RECORDS REQUIRED TO BE KEPT UNDER THIS**
24 **SECTION SHALL REFLECT THE BUSINESS DISCONTINUANCE AND SUCCESSION**
25 **AND SHALL BE DELIVERED TO THE SUCCESSOR LICENSEE.**

26 **(D) (1) A LICENSEE SHALL RESPOND WITHIN 24 HOURS AFTER**
27 **RECEIPT OF A REQUEST FROM THE SECRETARY FOR INFORMATION CONTAINED**
28 **IN THE RECORDS REQUIRED TO BE KEPT UNDER THIS SECTION WHEN THE**
29 **INFORMATION IS REQUESTED IN CONNECTION WITH A BONA FIDE CRIMINAL**
30 **INVESTIGATION.**

31 **(2) THE INFORMATION REQUESTED UNDER THIS SUBSECTION**
32 **SHALL BE PROVIDED IN WRITING, AS REQUIRED BY THE SECRETARY.**

1 **(E) (1) WITHIN 72 HOURS AFTER A LICENSEE DISCOVERS THAT A**
2 **FIREARM IN THE LICENSEE'S INVENTORY HAS BEEN LOST OR STOLEN, THE**
3 **LICENSEE SHALL REPORT THAT THE FIREARM HAS BEEN LOST OR STOLEN TO A**
4 **LAW ENFORCEMENT AGENCY.**

5 **(2) IF A LICENSEE FAILS TO COMPLY WITH PARAGRAPH (1) OF**
6 **THIS SUBSECTION, THE LICENSEE MAY NOT RAISE THE FACT THAT THE FIREARM**
7 **WAS LOST OR STOLEN AS A DEFENSE IN ANY CRIMINAL PROCEEDING OR**
8 **LICENSE REVOCATION OR DENIAL HEARING OR IN ANY JUDICIAL REVIEW.**

9 **(F) THE SECRETARY MAY MAKE AVAILABLE TO A FEDERAL, STATE, OR**
10 **LOCAL LAW ENFORCEMENT AGENCY ANY INFORMATION THAT THE SECRETARY**
11 **OBTAINS UNDER THIS SECTION RELATING TO THE IDENTITIES OF PERSONS WHO**
12 **HAVE UNLAWFULLY PURCHASED OR RECEIVED FIREARMS.**

13 **(G) THE SECRETARY MAY INSPECT THE INVENTORY AND RECORDS OF A**
14 **LICENSED DEALER AT ANY TIME DURING THE NORMAL BUSINESS HOURS FOR**
15 **THE BUSINESS.**

16 **(H) THE SECRETARY SHALL INSPECT THE INVENTORY AND RECORDS OF**
17 **A LICENSED DEALER AT LEAST ONCE EVERY 2 YEARS.**

18 **(I) (1) THIS SUBSECTION DOES NOT APPLY TO A VIOLATION OF**
19 **SUBSECTION (E) OF THIS SECTION.**

20 **(2) A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO A**
21 **CIVIL PENALTY NOT EXCEEDING \$1,000 IMPOSED BY THE SECRETARY.**

22 **(3) FOR A SECOND OR SUBSEQUENT OFFENSE, A PERSON WHO**
23 **KNOWINGLY VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON**
24 **CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 3 YEARS OR A**
25 **FINE NOT EXCEEDING \$10,000 OR BOTH.**

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 October 1, 2010.