

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

House Bill 1328
Judiciary

(Delegate Vallario)

Firearms - Knowing Violation of Specified Prohibitions - Penalty

This bill specifies that it is a misdemeanor to knowingly violate the State's restrictions on the possession of a regulated firearm by a person under 21 years old or the State's restrictions on the removal or alteration of an identification mark or number on a firearm. A violator is subject to maximum penalties of imprisonment for five years and/or a fine of \$10,000.

Fiscal Summary

State Effect: Because the bill's changes will affect sentencing outcomes in a limited number of cases, they are not expected to significantly affect State finances or operations, including State correctional costs.

Local Effect: The bill's changes are not expected to significantly affect local finances or operations, including correctional costs.

Small Business Effect: None.

Analysis

Current Law: Title 5 of the Public Safety Article regulates firearms and handguns in the State. A regulated firearm is any handgun or any of the 45 assault weapons (or copies) identified in that article. Among other restrictions, a person may not possess a regulated firearm in the State if the person was convicted of a crime of violence or a violation of specified controlled dangerous substances offenses. A violator is guilty of a felony and subject to a nonsuspendable, nonparolable mandatory minimum sentence of five years. Each violation of this prohibition is a separate offense. Under a separate

prohibition relating to knowing participation of a violation of this title, a violator is subject to maximum penalties of five years imprisonment and/or a fine of \$10,000. Each violation of this prohibition is also a separate offense.

A person under the age of 21 may not possess a regulated firearm or ammunition solely designed for a regulated firearm. There are some circumstances under which this prohibition does not apply, including specified temporary possessions or transfers and when the person is a member of the U.S. armed forces or the National Guard while performing official duties. There is no penalty specified for a violation.

A person may not obliterate, remove, change, or alter the manufacturer's identification mark or number on a firearm. If on trial for a violation of prohibition and possession of the firearm by the defendant is established, the defendant is presumed to have obliterated, removed, changed, or altered the manufacturer's identification mark or number on the firearm.

Background: The Maryland Commission on Criminal Sentencing Policy reports that, in fiscal 2009, there were 87 convictions in the circuit courts for possession of a regulated firearm by a person under 21 years old and 10 convictions for removal or alteration of an identification mark or number on a firearm. Convictions may have also occurred in the District Court. Legislative Services advises that these cases may already have been subject to court sentencing under the existing general penalty provisions. In some instances, the bill's provisions provide a clarification of the applicable current law penalty provisions.

Although the Division of Parole and Probation believes that the bill will require the need to hire one additional supervision agent, Legislative Services advises that this is unlikely.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Kent, Washington, and Worcester counties; Baltimore City; Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Department of State Police; Department of Public Safety and Correctional Services; State's Attorneys' Association; Department of Legislative Services

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mpc/hlb

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