

# HOUSE BILL 1135

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By: **Delegate Vitale**

Introduced and read first time: February 10, 2012

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Public Safety – Handgun Permits – Qualifications**

3 FOR the purpose of altering a certain provision of law so as to require the Secretary of  
4 State Police to issue a certain handgun permit to a certain person within a  
5 certain number of days, instead of within a reasonable time; prohibiting the  
6 Secretary of State Police from issuing a certain handgun permit to a person who  
7 the Secretary finds is prohibited from possessing a certain regulated firearm  
8 under a certain provision of law, is an illegal alien, has been discharged from  
9 the armed forces of the United States under dishonorable conditions, has a  
10 pending charge for a felony or a misdemeanor for which a sentence of  
11 imprisonment for more than a certain amount of time may be imposed, or has  
12 not completed a certain firearms safety training course, unless a certain ground  
13 for exemption applies; repealing the requirement that the Secretary find that a  
14 person has a good and substantial reason to wear, carry, or transport a handgun  
15 before issuing a handgun permit to the person; and generally relating to the  
16 issuing of handgun permits by the Secretary of State Police.

17 BY repealing and reenacting, without amendments,  
18 Article – Public Safety  
19 Section 5–133  
20 Annotated Code of Maryland  
21 (2011 Replacement Volume)

22 BY repealing and reenacting, with amendments,  
23 Article – Public Safety  
24 Section 5–306  
25 Annotated Code of Maryland  
26 (2011 Replacement Volume)

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



**Article – Public Safety**

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5–133.

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

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

(1) has been convicted of a disqualifying crime;

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

(3) is a fugitive from justice;

(4) is a habitual drunkard;

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

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

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

(8) except as provided in subsection (e) of this section, is a respondent against whom a current non ex parte civil protective order has been entered under § 4–506 of the Family Law Article; or

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

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

(i) a crime of violence; or

1 (ii) a violation of § 5-602, § 5-603, § 5-604, § 5-605, § 5-612, §  
2 5-613, or § 5-614 of the Criminal Law Article.

3 (2) (i) Subject to paragraph (3) of this subsection, a person who  
4 violates this subsection is guilty of a felony and on conviction is subject to  
5 imprisonment for not less than 5 years and not exceeding 15 years.

6 (ii) The court may not suspend any part of the mandatory  
7 minimum sentence of 5 years.

8 (iii) Except as otherwise provided in § 4-305 of the Correctional  
9 Services Article, the person is not eligible for parole during the mandatory minimum  
10 sentence.

11 (3) At the time of the commission of the offense, if a period of more  
12 than 5 years has elapsed since the person completed serving the sentence for the most  
13 recent conviction under paragraph (1)(i) or (ii) of this subsection, including all  
14 imprisonment, mandatory supervision, probation, and parole:

15 (i) the imposition of the mandatory minimum sentence is  
16 within the discretion of the court; and

17 (ii) the mandatory minimum sentence may not be imposed  
18 unless the State's Attorney notifies the person in writing at least 30 days before trial  
19 of the State's intention to seek the mandatory minimum sentence.

20 (4) Each violation of this subsection is a separate crime.

21 (d) (1) Except as provided in paragraph (2) of this subsection, a person  
22 who is under the age of 21 years may not possess a regulated firearm.

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

25 (i) the temporary transfer or possession of a regulated firearm  
26 if the person is:

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

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

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

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

3 (iv) the temporary transfer or possession of a regulated firearm  
4 if the person is:

5 1. participating in marksmanship training of a  
6 recognized organization; and

7 2. under the supervision of a qualified instructor;

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

10 (vi) the possession of a firearm for self-defense or the defense of  
11 others against a trespasser into the residence of the person in possession or into a  
12 residence in which the person in possession is an invited guest.

13 (e) This section does not apply to a respondent transporting a regulated  
14 firearm if the respondent is carrying a civil protective order requiring the surrender of  
15 the regulated firearm and:

16 (1) the regulated firearm is unloaded;

17 (2) the respondent has notified the law enforcement unit, barracks, or  
18 station that the regulated firearm is being transported in accordance with the civil  
19 protective order; and

20 (3) the respondent transports the regulated firearm directly to the law  
21 enforcement unit, barracks, or station.

22 5-306.

23 (a) Subject to subsection (b) of this section, the Secretary shall issue a permit  
24 within [a reasonable time] **45 DAYS** to a person who the Secretary finds:

25 (1) is an adult;

26 (2) (i) has not been convicted of a felony or of a misdemeanor for  
27 which a sentence of imprisonment for more than 1 year has been imposed; or

28 (ii) if convicted of a crime described in item (i) of this item, has  
29 been pardoned or has been granted relief under 18 U.S.C. § 925(c);

30 (3) has not been convicted of a crime involving the possession, use, or  
31 distribution of a controlled dangerous substance;

1           (4) is not presently an alcoholic, addict, or habitual user of a controlled  
2 dangerous substance unless the habitual use of the controlled dangerous substance is  
3 under legitimate medical direction; [and]

4           **(5) IS NOT PROHIBITED FROM POSSESSING A REGULATED**  
5 **FIREARM UNDER § 5-133 OF THIS TITLE;**

6           **(6) IS NOT AN ILLEGAL ALIEN;**

7           **(7) HAS NOT BEEN DISCHARGED FROM THE ARMED FORCES OF**  
8 **THE UNITED STATES UNDER DISHONORABLE CONDITIONS;**

9           **(8) DOES NOT HAVE A PENDING CHARGE FOR A FELONY OR A**  
10 **MISDEMEANOR FOR WHICH A SENTENCE OF IMPRISONMENT FOR MORE THAN 1**  
11 **YEAR MAY BE IMPOSED;**

12           **(9) HAS COMPLETED A CERTIFIED FIREARMS SAFETY TRAINING**  
13 **COURSE THAT THE POLICE TRAINING COMMISSION CONDUCTS WITHOUT**  
14 **CHARGE OR THAT MEETS THE STANDARDS THAT THE POLICE TRAINING**  
15 **COMMISSION ESTABLISHES UNDER § 3-207 OF THIS ARTICLE, UNLESS A**  
16 **GROUND FOR EXEMPTION SET FORTH IN ITEMS (1) THROUGH (4) OF § 5-119 OF**  
17 **THIS TITLE APPLIES.**

18           **[(5)] (10)** based on an investigation[:

19                   (i)], has not exhibited a propensity for violence or instability that  
20 may reasonably render the person's possession of a handgun a danger to the person or  
21 to another[; and

22                   (ii) has good and substantial reason to wear, carry, or transport  
23 a handgun, such as a finding that the permit is necessary as a reasonable precaution  
24 against apprehended danger].

25           (b) An applicant under the age of 30 years is qualified only if the Secretary  
26 finds that the applicant has not been:

27                   (1) committed to a detention, training, or correctional institution for  
28 juveniles for longer than 1 year after an adjudication of delinquency by a juvenile  
29 court; or

30                   (2) adjudicated delinquent by a juvenile court for:

31                           (i) an act that would be a crime of violence if committed by an  
32 adult;

1                                   (ii)    an act that would be a felony in this State if committed by  
2 an adult; or

3                                   (iii) an act that would be a misdemeanor in this State that  
4 carries a statutory penalty of more than 2 years if committed by an adult.

5           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
6 October 1, 2012.