

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

Senate Bill 758 (Senator Jacobs, *et al.*)
Judicial Proceedings

Assault Weapons - Firearms Collector - Possession

This bill extends the exemptions to prohibitions against the possession of assault weapons (or detachable magazines) to the possession of up to four assault weapons by a person who (1) has been granted the status of “designated firearms collector” by the Maryland State Police or (2) has a federal collector’s license (curio and relics).

Fiscal Summary

State Effect: None. Any enforcement responsibilities for the Department of State Police (DSP) can be handled with existing budgeted resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Chapter 427 of 2013 (The Firearms Safety Act of 2013) applies the scope of assault weapon prohibitions to all assault weapons, rather than just assault pistols. Thus, with specified exceptions, the Act prohibits the transporting, possessing, selling, offering for sale, transferring, purchasing, or receiving any assault weapon. An “assault weapon” is defined as an assault long gun, an assault pistol, or a copycat weapon. An “assault long gun” is defined as any of the 45 regulated firearms that are not handguns under the former provisions of the Public Safety Article. A “copycat weapon” is defined as specified semiautomatic rifles, pistols, and shotguns, as well as shotguns with a revolving cylinder. A “copycat weapon” does not include an assault long gun or assault pistol.

Chapter 427 allows a person who lawfully possessed, has a purchase order for, or completed an application to purchase an assault long gun or a copycat weapon before October 1, 2013, to continue to possess and transport the assault long gun or copycat weapon or, if carrying a court order requiring surrender of the weapon, transport the unloaded weapon directly to a law enforcement unit, having notified the unit of the transport. A number of specified persons and circumstances are exempted from the prohibitions related to the possession of assault weapons and detachable magazines. Among other things, the Act clarified that certain assault weapon possession prohibitions do not apply to those received by inheritance, if the inheriting person is not otherwise disqualified from possessing a regulated firearm.

Chapter 427 reduced the allowable detachable magazine capacity that may be manufactured, sold, purchased, received, or transferred in the State from 20 to 10 rounds of ammunition for a firearm. The Act similarly reduced referenced limits on magazine capacities under penalty provisions applicable to use of an assault weapon in the commission of a felony or crime of violence.

By regulation, a designated firearms collector is a status granted and approved by DSP upon submission of an application. It is granted to an individual who devotes time and attention to acquiring certain types of regulated firearms for the enhancement of the collector's personal collection, or possesses a federal collector's license (curio and relics). A designated firearms collector is not authorized to act as a firearms dealer.

Under federal provisions, firearm curios or relics include firearms that have special value to collectors because they possess some qualities not ordinarily associated with firearms intended for sporting use or as offensive or defensive weapons. To be recognized as curios or relics, firearms must fall within one of the following categories: (1) have been manufactured at least 50 years prior to the current date, but not including replicas thereof; (2) be certified by the curator of a municipal, state, or federal museum which exhibits firearms to be curios or relics of museum interest; or (3) derive a substantial part of their monetary value from the fact that they are novel, rare, bizarre, or from the fact of their association with some historical figure, period, or event. The principal advantage of a federal collector's license is that a licensed collector can acquire curios or relics in interstate commerce.

Additional Comments: Two cases relating to Maryland firearms law are pending:

Kolbe v. O'Malley: This case, originally filed under the name *Tardy v. O'Malley*, is pending in the U.S. District Court for the District of Maryland. The suit seeks to have the assault weapon and high-capacity magazine bans included in Chapter 427 of 2013 declared unconstitutional under the Second Amendment and the Equal Protection and

Due Process clauses of the Fourteenth Amendment. Judge Blake denied plaintiffs' request for a temporary restraining order to prevent those aspects of the law from going into effect on October 1, 2013. The case is currently in the discovery phase with motions for summary judgment due on February 14, 2014.

Doe v. O'Malley: This case anticipated that DSP would be unable to process the new handgun qualification licenses (HQL) mandated for handgun transactions under Chapter 427 in a timely manner and that the result would be a *de facto* moratorium on handgun sales in Maryland. Judge Catherine Blake denied plaintiffs' request for a temporary restraining order to delay the effective date of the HQL requirement for 90 days. Although the case remains active on the court's docket, plaintiffs have entered an agreement deferring the State's obligation to respond to the complaint unless and until it is amended.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of State Police, U.S. Department of Justice, Department of Legislative Services

Fiscal Note History: First Reader - February 24, 2014
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