

THIS BILL HAS ALREADY BEEN AMENDED - THE TEXT WITH LINES THRU IT REPRESENT THE AMENDMENTS - THESE AMENDMENTS MAKE THIS BILL EASIER TO PASS. THEY DO NOT MAKE THE BILL BETTER, IT IS STILL AN OFFENSIVE BILL.

SENATE BILL 512

E4
SB 161/11 – JPR

2lr0837

By: **Senators Frosh, Conway, Forehand, Gladden, Kelley, Madaleno, Manno, Montgomery, Ramirez, Raskin, and Rosapepe**

Introduced and read first time: February 3, 2012

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Regulated Firearms – Database – Applications for Dealer’s License – Record**
3 **Keeping and Reporting Requirements**

AMENDMENT 1

4 FOR the purpose of ~~authorizing the Criminal Justice System Central Repository in the~~
5 ~~Department of Public Safety and Correctional Services to disseminate certain~~
6 ~~reportable events to the Department of State Police; authorizing the~~
7 ~~Department of State Police to make certain information available to local law~~
8 ~~enforcement agencies to aid the investigation of individuals who possess a~~
9 ~~firearm despite being prohibited from possessing a firearm; requiring the~~
10 Secretary of State Police or the Secretary’s designee to disapprove an
11 application for a State-regulated firearms dealer’s license if the Secretary or
12 designee determines that the applicant intends a certain person to participate
13 or hold a certain interest in the management or operation of the business for
14 which the license is sought; requiring that the Secretary or designee suspend a
15 dealer’s license if the licensee is not in compliance with certain record keeping
16 and reporting requirements; requiring that a licensed dealer keep records of all
17 receipts, sales, and other dispositions of firearms affected in connection with the
18 licensed dealer’s business; requiring the Secretary or designee to adopt certain
19 regulations specifying certain information; requiring that the records that
20 licensed dealers maintain include certain information; specifying certain record
21 keeping requirements to be met when a firearms business is discontinued;
22 requiring that a licensee respond in a certain way after receipt from the
23 Secretary or designee for certain information; authorizing the Secretary or
24 designee to implement a system by which a certain person may request certain
25 information; requiring the Secretary or designee to inspect the inventory and
26 records of a licensed dealer under certain circumstances; authorizing the
27 Secretary or designee to conduct a certain inspection during a certain time;
28 providing certain penalties; and generally relating to regulated firearms dealers
29 and applicants for a regulated firearms dealer’s license.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



AMENDMENT 1 (continued)

~~1 BY repealing and reenacting, with amendments,
2 Article – Criminal Procedure
3 Section 10–219(a)
4 Annotated Code of Maryland
5 (2008 Replacement Volume and 2011 Supplement)~~

~~6 BY adding to
7 Article – Criminal Procedure
8 Section 10–219(e)
9 Annotated Code of Maryland
10 (2008 Replacement Volume and 2011 Supplement)~~

11 BY repealing and reenacting, without amendments,
12 Article – Public Safety
13 Section 5–101(a) and (s)
14 Annotated Code of Maryland
15 (2003 Volume and 2011 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article – Public Safety
18 Section 5–110(a), 5–114(a), and 5–115
19 Annotated Code of Maryland
20 (2003 Volume and 2011 Supplement)

21 BY adding to
22 Article – Public Safety
23 Section 5–144
24 Annotated Code of Maryland
25 (2003 Volume and 2011 Supplement)

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

AMENDMENT 2

~~28 Article – Criminal Procedure~~

~~29 10–219.~~

~~30 (a) Except in accordance with applicable federal law and regulations AND
31 EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, a criminal justice unit and
32 the Central Repository may not disseminate criminal history record information.~~

~~33 (c) (1) THE CENTRAL REPOSITORY MAY DISSEMINATE REPORTABLE
34 EVENTS THAT ARE CONVICTIONS FOR DISQUALIFYING CRIMES, AS DEFINED IN §
35 5–101(C) OF THE PUBLIC SAFETY ARTICLE, TO THE DEPARTMENT OF STATE
36 POLICE.~~

~~(2) THE DEPARTMENT OF STATE POLICE MAY MAKE THE INFORMATION RECEIVED FROM THE CENTRAL REPOSITORY AVAILABLE TO LOCAL LAW ENFORCEMENT AGENCIES TO AID THE INVESTIGATION OF INDIVIDUALS WHO POSSESS A FIREARM DESPITE BEING PROHIBITED FROM POSSESSING A FIREARM.~~

Article – Public Safety

5–101.

(a) In this subtitle the following words have the meanings indicated.

(s) “Secretary” means the Secretary of State Police or the Secretary’s designee.

5–110.

(a) The Secretary shall disapprove an application for a dealer’s license if:

(1) the Secretary determines that the applicant supplied false information or made a false statement;

(2) the Secretary determines that the application is not properly completed; [or]

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

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

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

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

5–114.

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

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

1 (2) is arrested for a violation of this subtitle that prohibits the
2 purchase or possession of a regulated firearm; OR

3 **(3) IS NOT IN COMPLIANCE WITH THE RECORD KEEPING AND**
4 **REPORTING REQUIREMENTS OF § 5-144 OF THIS SUBTITLE.**

5 5-115.

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

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

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

14 **5-144.**

15 **(A) (1) A LICENSED DEALER SHALL KEEP RECORDS OF ALL**
16 **RECEIPTS, SALES, AND OTHER DISPOSITIONS OF FIREARMS AFFECTED IN**
17 **CONNECTION WITH THE LICENSED DEALER'S BUSINESS.**

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

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

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

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

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

25 **(I) THE NAME AND ADDRESS OF EACH PERSON FROM WHOM**
26 **THE DEALER ACQUIRES A FIREARM AND TO WHOM THE DEALER SELLS OR**
27 **OTHERWISE DISPOSES OF A FIREARM;**

28 **(II) A PRECISE DESCRIPTION, INCLUDING MAKE, MODEL,**
29 **CALIBER, AND SERIAL NUMBER, OF EACH FIREARM ACQUIRED, SOLD, OR**
30 **OTHERWISE DISPOSED OF; AND**

1 (III) THE DATE OF EACH ACQUISITION, SALE, OR OTHER
2 DISPOSITION.

3 (4) THE SECRETARY MAY PROVIDE THAT RECORDS MAINTAINED
4 UNDER 18 U.S.C. § 923(G)(1)(A) MAY BE USED TO SATISFY THE REQUIREMENTS
5 OF THIS SECTION.

6 (B) (1) WHEN REQUIRED BY A LETTER ISSUED BY THE SECRETARY, A
7 LICENSEE SHALL SUBMIT TO THE SECRETARY THE INFORMATION REQUIRED TO
8 BE KEPT UNDER SUBSECTION (A) OF THIS SECTION FOR THE TIME PERIODS
9 SPECIFIED BY THE SECRETARY.

10 (2) THE SECRETARY SHALL DETERMINE THE FORM AND METHOD
11 BY WHICH THE RECORDS SHALL BE MAINTAINED.

12 (C) (1) WHEN A FIREARMS BUSINESS IS DISCONTINUED AND
13 SUCCEEDED BY A NEW LICENSEE, THE RECORDS REQUIRED TO BE KEPT UNDER
14 THIS SECTION SHALL REFLECT THE BUSINESS DISCONTINUANCE AND
15 SUCCESSION AND SHALL BE DELIVERED TO THE SUCCESSOR LICENSEE.

AMENDMENT 3

16 ~~(2) WHEN A FIREARMS BUSINESS IS DISCONTINUED ABSOLUTELY,~~
17 ~~THE RECORDS REQUIRED TO BE KEPT UNDER THIS SECTION SHALL REFLECT~~
18 ~~THE BUSINESS DISCONTINUANCE AND SHALL BE DELIVERED TO THE~~
19 ~~SECRETARY WITHIN 30 DAYS AFTER THE BUSINESS DISCONTINUANCE.~~

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

25 (2) THE INFORMATION REQUESTED UNDER THIS SUBSECTION
26 SHALL BE PROVIDED ORALLY OR IN WRITING, AS REQUIRED BY THE
27 SECRETARY.

28 (3) THE SECRETARY MAY IMPLEMENT A SYSTEM BY WHICH A
29 LICENSEE CAN POSITIVELY ESTABLISH THAT A PERSON REQUESTING
30 INFORMATION BY TELEPHONE IS AUTHORIZED BY THE SECRETARY TO REQUEST
31 THE INFORMATION.

32 (E) THE SECRETARY MAY MAKE AVAILABLE TO A FEDERAL, STATE, OR
33 LOCAL LAW ENFORCEMENT AGENCY ANY INFORMATION THAT THE SECRETARY

1 OBTAINS UNDER THIS SECTION RELATING TO THE IDENTITIES OF PERSONS WHO
2 HAVE UNLAWFULLY PURCHASED OR RECEIVED FIREARMS.

3 (F) THE SECRETARY:

4 (1) SHALL INSPECT THE INVENTORY AND RECORDS OF A
5 LICENSED DEALER AT LEAST ONCE EVERY 2 YEARS; AND

6 (2) MAY INSPECT THE INVENTORY AND RECORDS AT ANY TIME
7 DURING THE NORMAL BUSINESS HOURS OF THE LICENSED DEALER'S BUSINESS.

8 (G) (1) A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO A
9 CIVIL PENALTY NOT EXCEEDING \$1,000 IMPOSED BY THE SECRETARY.

10 (2) FOR A SECOND OR SUBSEQUENT OFFENSE, A PERSON WHO
11 KNOWINGLY VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND IS
12 SUBJECT TO IMPRISONMENT NOT EXCEEDING 3 YEARS OR A FINE NOT
13 EXCEEDING \$10,000 OR BOTH.

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