

HOUSE BILL 819

E4

(8lr2424)

ENROLLED BILL

— Judiciary/Judicial Proceedings —

Introduced by **Delegates Atterbeary, Rosenberg, Ali, Anderson, Angel, Barkley, B. Barnes, D. Barnes, Barron, Barve, Branch, Brooks, Busch, Carr, Clippinger, Cullison, Davis, Dumais, Ebersole, Fennell, Frick, Frush, Gibson, Glenn, Gutierrez, Hayes, Haynes, Healey, Hettleman, Hill, Hixson, Holmes, C. Howard, Jones, Kaiser, Kelly, Knotts, Korman, Kramer, Krimm, Lafferty, Lam, J. Lewis, R. Lewis, Lierman, Luedtke, McCray, McIntosh, A. Miller, Moon, Morales, Mosby, Patterson, Pena-Melnyk, Pendergrass, Proctor, Queen, Reznik, Robinson, Sanchez, Sydnor, Tarlau, Turner, Valderrama, Valentino-Smith, Vallario, Waldstreicher, A. Washington, M. Washington, Wilkins, Wilson, and K. Young**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Public Safety – Handgun Permit Review Board – ~~Repeal~~ Appeals**

3 FOR the purpose of altering the process by which a person who is denied a certain handgun
4 permit or renewal of a permit or whose permit is revoked or limited by the Secretary
5 of State Police or the Secretary’s designee may appeal the decision; ~~repealing~~
6 ~~provisions of law relating to the Handgun Permit Review Board;~~ providing that

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 appeals from a certain decision by the Secretary or the Secretary's designee may be
 2 made to the ~~Office of Administrative Hearings~~ Handgun Permit Review Board in a
 3 certain manner; ~~providing that a person whose application for a certain permit or~~
 4 ~~renewal of a permit is not acted on by the Secretary within a certain period may~~
 5 ~~request a certain hearing before the Office of Administrative Hearings; making~~
 6 ~~conforming changes; requiring the Board to review a certain record and hold a certain~~
 7 ~~hearing within a certain period of time; requiring the Board to submit certain~~
 8 ~~information to certain persons in writing within a certain period of time; providing~~
 9 ~~for a de novo appeal of a certain decision by the Board to the Office of Administrative~~
 10 ~~Hearings within a certain period of time; requiring the Office of Administrative~~
 11 ~~Hearings to issue a certain finding of facts and a decision within a certain period of~~
 12 ~~time; authorizing a certain person to appeal a certain decision to the circuit court;~~
 13 ~~requiring the Board to make a certain annual report to the Governor and the General~~
 14 ~~Assembly; providing that the Board is subject to a certain provision of law; and~~
 15 generally relating to handgun permits.

16 BY repealing and reenacting, ~~with~~ without amendments,
 17 Article – Public Safety
 18 Section ~~5–301 and 5–312~~, 5–302, and 5–311
 19 Annotated Code of Maryland
 20 (2011 Replacement Volume and 2017 Supplement)

21 BY repealing and reenacting, with amendments,
 22 Article – Public Safety
 23 Section ~~5–302~~ 5–312
 24 Annotated Code of Maryland
 25 (2011 Replacement Volume and 2017 Supplement)

26 ~~BY repealing and reenacting, without amendments,~~
 27 ~~Article – Public Safety~~
 28 ~~Section 5–311~~
 29 ~~Annotated Code of Maryland~~
 30 ~~(2011 Replacement Volume and 2017 Supplement)~~

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

33 Article – Public Safety

34 5–301.

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

36 ~~[(b) “Board” means the Handgun Permit Review Board.]~~

37 ~~[(c) (B) “Handgun” has the meaning stated in § 4–201 of the Criminal Law~~
 38 Article.

1 ~~[(d)]~~ ~~(c)~~ “Permit” means a permit issued by the Secretary to carry, wear, or
2 transport a handgun.

3 ~~[(e)]~~ ~~(d)~~ “Qualified handgun instructor” has the meaning stated in § 5–101 of
4 this title.

5 ~~[(f)]~~ ~~(e)~~ “Secretary” means the Secretary of State Police or the Secretary’s
6 designee.

7 ~~§~~5–302.

8 (a) There is a Handgun Permit Review Board in the Department of Public Safety
9 and Correctional Services.

10 (b) The Board consists of five members appointed from the public by the Governor
11 with the advice and consent of the Senate.

12 (c) (1) The term of a member is 3 years.

13 (2) The terms of the members are staggered as required by the terms
14 provided for members of the Board on October 1, 2003.

15 (3) At the end of a term, a member continues to serve until a successor is
16 appointed and qualifies.

17 (4) A member who is appointed after a term has begun serves only for the
18 rest of the term and until a successor is appointed and qualifies.

19 (5) A member of the Board is eligible for reappointment.

20 (d) A member of the Board is entitled to:

21 (1) compensation in accordance with the State budget for each day that the
22 member actually is engaged in the discharge of the member’s official duties; and

23 (2) reimbursement for expenses under the Standard State Travel
24 Regulations, as provided in the State budget.†

25 5–311.

26 (a) A person who is denied a permit or renewal of a permit or whose permit is
27 revoked or limited may request the Secretary to conduct an informal review by filing a
28 written request within 10 days after receipt of written notice of the Secretary’s initial
29 action.

(b) An informal review:

(1) may include a personal interview of the person who requested the informal review; and

(2) is not subject to Title 10, Subtitle 2 of the State Government Article.

(c) In an informal review, the Secretary shall sustain, reverse, or modify the initial action taken and notify the person who requested the informal review of the decision in writing within 30 days after receipt of the request for informal review.

(d) A person need not file a request for an informal review under this section before requesting review under § 5–312 of this subtitle.

5–312.

(a) (1) A person who is denied a permit or renewal of a permit or whose permit is revoked or limited may request ~~the Board to review~~ ~~TO APPEAL~~ the decision of the Secretary ~~TO THE OFFICE OF ADMINISTRATIVE HEARINGS~~ by filing a written request with the ~~Board~~ ~~SECRETARY~~ within 10 days after receipt of written notice of the Secretary's final action.

(2) A person whose application for a permit or renewal of a permit is not acted on by the Secretary within 90 days after submitting the application to the Secretary may request a hearing before the ~~Board~~ ~~OFFICE OF ADMINISTRATIVE HEARINGS~~ by filing a written request with the ~~Board~~ ~~SECRETARY~~.

~~(b)~~ Within 90 days after receiving a request to review a decision of the Secretary, the Board shall:

(1) review the record developed by the Secretary; ~~or~~ AND

(2) conduct a hearing.

(c) The Board may receive and consider additional evidence submitted by a party in conducting a review of the decision of the Secretary.

(d) (1) Based on the Board's consideration of the record and any additional evidence, the Board shall sustain, reverse, or modify the decision of the Secretary.

(2) ~~If the action by the Board results in the denial of a permit or renewal of a permit or the revocation or limitation of a permit,~~ WITHIN 60 DAYS AFTER THE LAST HEARING IN THE MATTER CONDUCTED BY THE BOARD, the Board shall submit in writing to the applicant ~~or,~~ the holder of the permit, AND THE SECRETARY the reasons for the ~~action taken by~~ DECISION OF the Board.

1 (E) (1) THE APPLICANT, THE HOLDER OF THE PERMIT, OR THE
2 SECRETARY MAY APPEAL THE DECISION OF THE BOARD TO THE OFFICE OF
3 ADMINISTRATIVE HEARINGS WITHIN 30 DAYS AFTER THE ISSUANCE OF THE
4 BOARD'S REASONS UNDER SUBSECTION (D)(2) OF THIS SECTION.

5 (2) WITHIN 60 DAYS AFTER THE RECEIPT OF A REQUEST FROM THE
6 APPLICANT, THE HOLDER OF THE PERMIT, OR THE SECRETARY, THE OFFICE OF
7 ADMINISTRATIVE HEARINGS SHALL SCHEDULE AND CONDUCT A DE NOVO HEARING
8 ON THE APPEAL, AT WHICH WITNESS TESTIMONY AND OTHER EVIDENCE MAY BE
9 PROVIDED.

10 (3) WITHIN 90 DAYS AFTER THE CONCLUSION OF THE LAST HEARING
11 ON THE MATTER, THE OFFICE OF ADMINISTRATIVE HEARINGS SHALL ISSUE A
12 FINDING OF FACTS AND A DECISION.

13 (4) A PARTY THAT IS AGGRIEVED BY THE DECISION OF THE OFFICE OF
14 ADMINISTRATIVE HEARINGS MAY APPEAL THE DECISION TO THE CIRCUIT COURT.

15 [(e)] ~~(F)~~ (1) ~~Any~~ SUBJECT TO SUBSECTIONS (D) AND (E) OF THIS
16 SECTION, ANY hearing and any subsequent proceedings of judicial review shall be
17 conducted in accordance with Title 10, Subtitle 2 of the State Government Article.

18 (2) Notwithstanding paragraph (1) of this subsection, a court may not order
19 the issuance or renewal of a permit or alter a limitation on a permit pending a final
20 determination of the proceeding.

21 (G) ON OR BEFORE DECEMBER 1 EACH YEAR, THE BOARD SHALL REPORT TO
22 THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT
23 ARTICLE, THE GENERAL ASSEMBLY:

24 (1) THE NUMBER OF APPEALS OF DECISIONS BY THE SECRETARY THAT
25 HAVE BEEN FILED WITH THE BOARD WITHIN THE PREVIOUS YEAR;

26 (2) THE NUMBER OF DECISIONS BY THE SECRETARY THAT HAVE BEEN
27 SUSTAINED, MODIFIED, OR REVERSED BY THE BOARD WITHIN THE PREVIOUS YEAR;

28 (3) THE NUMBER OF APPEALS THAT ARE PENDING; AND

29 (4) THE NUMBER OF APPEALS THAT HAVE BEEN WITHDRAWN WITHIN
30 THE PREVIOUS YEAR.

31 (H) THE BOARD IS SUBJECT TO TITLE 3 (OPEN MEETINGS ACT) OF THE
32 GENERAL PROVISIONS ARTICLE.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2018.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.