

HOUSE BILL 1343

E4

9lr3260

By: **Delegates Atterbeary and Rosenberg**

Introduced and read first time: February 18, 2019

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

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

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
7 appeals from a certain decision by the Secretary or the Secretary's designee may be
8 made to the Office of Administrative Hearings in a certain manner; providing that a
9 person whose application for a certain permit or renewal of a permit is not acted on
10 by the Secretary within a certain period of time may request a certain hearing before
11 the Office of Administrative Hearings; making conforming changes; and generally
12 relating to handgun permits.

13 BY repealing and reenacting, with amendments,
14 Article – Public Safety
15 Section 5–301 and 5–312
16 Annotated Code of Maryland
17 (2018 Replacement Volume)

18 BY repealing
19 Article – Public Safety
20 Section 5–302
21 Annotated Code of Maryland
22 (2018 Replacement Volume)

23 BY repealing and reenacting, without amendments,
24 Article – Public Safety
25 Section 5–311
26 Annotated Code of Maryland
27 (2018 Replacement Volume)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Public Safety**

4 5–301.

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

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

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

9 [(d) (C) “Permit” means a permit issued by the Secretary to carry, wear, or
10 transport a handgun.

11 [(e) (D) “Qualified handgun instructor” has the meaning stated in § 5–101 of
12 this title.

13 [(f) (E) “Secretary” means the Secretary of State Police or the Secretary’s
14 designee.

15 [5–302.

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

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

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

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

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

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

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

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

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

3 (2) reimbursement for expenses under the Standard State Travel
4 Regulations, as provided in the State budget.]

5 5-311.

6 (a) A person who is denied a permit or renewal of a permit or whose permit is
7 revoked or limited may request the Secretary to conduct an informal review by filing a
8 written request within 10 days after receipt of written notice of the Secretary's initial
9 action.

10 (b) An informal review:

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

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

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

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

19 5-312.

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

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

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

31 (1) review the record developed by the Secretary; and

32 (2) conduct a hearing.

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

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

5 (2) Within 60 days after the last hearing in the matter conducted by the
6 Board, the Board shall submit in writing to the applicant, the holder of the permit, and the
7 Secretary the reasons for the decision of the Board.

8 (e) (1) The applicant, the holder of the permit, or the Secretary may appeal
9 the decision of the Board to the Office of Administrative Hearings within 30 days after the
10 issuance of the Board's reasons under subsection (d)(2) of this section.

11 (2) Within 60 days after the receipt of a request from the applicant, the
12 holder of the permit, or the Secretary, the Office of Administrative Hearings shall schedule
13 and conduct a de novo hearing on the appeal, at which witness testimony and other
14 evidence may be provided.

15 (3) Within 90 days after the conclusion of the last hearing on the matter,
16 the Office of Administrative Hearings shall issue a finding of facts and a decision.

17 (4) A party that is aggrieved by the decision of the Office of Administrative
18 Hearings may appeal the decision to the circuit court.]

19 [(f) (B) (1) [Subject to subsections (d) and (e) of this section, any] ANY
20 hearing and any subsequent proceedings of judicial review shall be conducted in accordance
21 with Title 10, Subtitle 2 of the State Government Article.

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

25 [(g) On or before December 1 each year, the Board shall report to the Governor
26 and, in accordance with § 2-1246 of the State Government Article, the General Assembly:

27 (1) the number of appeals of decisions by the Secretary that have been filed
28 with the Board within the previous year;

29 (2) the number of decisions by the Secretary that have been sustained,
30 modified, or reversed by the Board within the previous year;

31 (3) the number of appeals that are pending; and

32 (4) the number of appeals that have been withdrawn within the previous
33 year.

1 (h) The Board is subject to Title 3 (Open Meetings Act) of the General Provisions
2 Article.]

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2019.