

SENATE BILL 816

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CF 0lr2111

By: **Senator Waldstreicher**

Introduced and read first time: February 3, 2020

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Public Safety – Licensed Firearms Dealers**
3 **(Firearms Dealers’ Safety Act)**

4 FOR the purpose of requiring a certain licensed firearms dealer to keep certain electronic
5 records; requiring a licensed dealer to update certain records at a certain time;
6 requiring a licensed dealer to create a certain video and audio recording and to keep
7 the recording for a certain period of time; requiring a licensed dealer to provide a
8 certain video and audio recording to certain persons under certain circumstances;
9 authorizing a licensed dealer to use a certain video and audio recording for a certain
10 purpose; providing that a person may not be found to have violated a certain
11 provision of law prohibiting certain audio recordings for complying with certain
12 requirements established by this Act; requiring a licensed dealer to develop and keep
13 a certain standard operating procedure to protect inventory at a certain location;
14 requiring a licensed dealer to provide certain information in an electronic format to
15 the Secretary of State Police; prohibiting a licensed dealer from employing a certain
16 person who is prohibited from possessing a regulated firearm or a rifle or shotgun,
17 or a person for whom the licensed dealer has not obtained a certain criminal history
18 records check; requiring a licensed dealer to obtain a certain criminal history records
19 check for certain persons; requiring a licensed dealer to apply to the Criminal Justice
20 Information System Central Repository of the Department of Public Safety and
21 Correctional Services to obtain a certain criminal history records check, annually, on
22 or before a certain day; providing for an application for a criminal history records
23 check made under this Act; requiring the Central Repository to forward certain
24 information to a licensed dealer and the employee of the licensed dealer; providing
25 that certain information is confidential and may be used only for a certain purpose;
26 authorizing a certain person to contest the contents of a certain statement issued by
27 the Central Repository in a certain manner; requiring a licensed dealer to maintain
28 certain liability insurance for certain acts; requiring a licensed dealer to report any
29 theft of a firearm from a certain location to a law enforcement agency immediately
30 upon discovering the theft; requiring a licensed dealer to store and secure firearms
31 in a certain manner under certain circumstances; establishing penalties for

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 violations of certain provisions of this Act; defining certain terms; making
2 conforming changes; and generally relating to licensed firearms dealers.

3 BY repealing and reenacting, with amendments,
4 Article – Public Safety
5 Section 5–145
6 Annotated Code of Maryland
7 (2018 Replacement Volume and 2019 Supplement)

8 BY adding to
9 Article – Public Safety
10 Section 5–147 through 5–150
11 Annotated Code of Maryland
12 (2018 Replacement Volume and 2019 Supplement)

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

15 **Article – Public Safety**

16 5–145.

17 (a) (1) A licensed dealer shall keep **ELECTRONIC** records of all receipts, sales,
18 and other dispositions of firearms affected in connection with the licensed dealer’s business.

19 (2) The Secretary shall adopt regulations specifying:

20 (i) subject to paragraph (3) of this subsection, the information that
21 the records shall contain;

22 (ii) the time period for which the records are to be 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 the dealer
26 acquires a firearm and to whom the dealer sells or otherwise disposes of a firearm;

27 (ii) a precise description, including make, model, caliber, and serial
28 number of each firearm acquired, sold, or otherwise disposed of; and

29 (iii) the date of each acquisition, sale, or other disposition.

30 (4) Records maintained under 18 U.S.C. § 923(g)(1)(a) may be used to
31 satisfy the requirements of this section, if the Secretary is granted access to those records.

1 **(5) THE RECORDS SHALL BE UPDATED WITHIN:**

2 **(I) 1 BUSINESS DAY AFTER THE ACQUISITION OF A FIREARM TO**
3 **REFLECT THE ACQUISITION; AND**

4 **(II) 7 DAYS AFTER THE SALE OR OTHER DISPOSITION OF A**
5 **FIREARM TO REFLECT THE SALE OR OTHER DISPOSITION OF THE FIREARM.**

6 **(6) (I) A LICENSED DEALER SHALL CREATE A VIDEO AND AUDIO**
7 **RECORDING OF ALL RECEIPTS, SALES, AND OTHER DISPOSITIONS OF FIREARMS**
8 **CONDUCTED AT THE DEALER'S BUSINESS.**

9 **(II) A LICENSED DEALER SHALL KEEP EACH VIDEO AND AUDIO**
10 **RECORDING CREATED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH FOR AT**
11 **LEAST 1 YEAR AFTER THE RECEIPT, SALE, OR DISPOSITION.**

12 **(III) NOTWITHSTANDING ANY OTHER PROVISION OF THIS**
13 **SECTION, A LICENSED DEALER SHALL PROVIDE THE VIDEO AND AUDIO RECORDING:**

14 **1. TO THE SECRETARY, AFTER RECEIVING A LETTER IN**
15 **ACCORDANCE WITH SUBSECTION (B)(1) OF THIS SECTION;**

16 **2. TO A FEDERAL AGENCY, IN CONNECTION WITH AN**
17 **INVESTIGATION OF A VIOLATION OF A FEDERAL LAW OR REGULATION REGULATING**
18 **THE SALE OR POSSESSION OF FIREARMS; OR**

19 **3. TO THE PARTY TO A CIVIL ACTION, AFTER RECEIVING**
20 **A VALID SUBPOENA OR DISCOVERY REQUEST IN CONNECTION WITH THE CIVIL**
21 **ACTION.**

22 **(IV) A LICENSED DEALER MAY USE ANY VIDEO AND AUDIO**
23 **RECORDING UNDER THIS SECTION FOR THE PURPOSE OF TRAINING THE LICENSED**
24 **DEALER'S EMPLOYEES.**

25 **(V) A PERSON MAY NOT BE FOUND TO HAVE VIOLATED § 10-402**
26 **OF THE COURTS ARTICLE FOR COMPLYING WITH THE REQUIREMENTS OF THIS**
27 **PARAGRAPH.**

28 **(7) A LICENSED DEALER SHALL DEVELOP AND KEEP A WRITTEN**
29 **STANDARD OPERATING PROCEDURE TO PROTECT INVENTORY FROM THEFT OR**
30 **UNAUTHORIZED ACCESS AT EACH PLACE OF BUSINESS OWNED OR OPERATED BY THE**
31 **LICENSED DEALER, WHICH SHALL INCLUDE:**

- 1 (I) LOCKS;
- 2 (II) EXTERIOR LIGHTING;
- 3 (III) SURVEILLANCE CAMERAS; AND
- 4 (IV) AN ALARM SYSTEM.

5 (b) (1) When required by a letter issued by the Secretary, a licensee shall
6 submit to the Secretary [the information] **A RECORD OR RECORDING** required to be kept
7 under subsection (a) of this section for the time periods specified by the Secretary.

8 (2) The Secretary shall determine the form and method by which the
9 records shall be maintained.

10 (c) When a firearms business is discontinued and succeeded by a new licensee,
11 the records required to be kept under this section shall reflect the business discontinuance
12 and succession and shall be delivered to the successor licensee.

13 (d) (1) A licensee shall respond within 48 hours after receipt of a request from
14 the Secretary for information contained in the records required to be kept under this section
15 when the information is requested in connection with a bona fide criminal investigation.

16 (2) The information requested under this subsection shall be provided
17 orally [or], in writing, **OR ELECTRONICALLY**, as required by the Secretary.

18 (3) The Secretary may implement a system by which a licensee can
19 positively establish that a person requesting information by telephone is authorized by the
20 Secretary to request the information.

21 (e) The Secretary may make available to a federal, State, or local law enforcement
22 agency any information that the Secretary obtains under this section relating to the
23 identities of persons who have unlawfully purchased or received firearms.

24 (f) The Secretary:

25 (1) shall inspect the inventory and records of a licensed dealer at least once
26 every 2 years; and

27 (2) may inspect the inventory and records at any time during the normal
28 business hours of the licensed dealer's business.

29 (g) (1) A person who violates this section is subject to a civil penalty not
30 exceeding \$1,000 imposed by the Secretary.

31 (2) For a second or subsequent offense, a person who knowingly violates

1 this section is guilty of a misdemeanor and is subject to imprisonment not exceeding 3 years
2 or a fine not exceeding \$10,000 or both.

3 (3) The penalties provided in this subsection are not intended to apply to
4 inconsequential or inadvertent errors.

5 **5-147.**

6 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
7 INDICATED.

8 (2) "CENTRAL REPOSITORY" MEANS THE CRIMINAL JUSTICE
9 INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC
10 SAFETY AND CORRECTIONAL SERVICES.

11 (3) "EMPLOYEE" MEANS A PERSON EMPLOYED BY A LICENSED
12 DEALER.

13 (B) A LICENSED DEALER MAY NOT EMPLOY A PERSON:

14 (1) WHO IS PROHIBITED FROM POSSESSING:

15 (I) A REGULATED FIREARM UNDER § 5-133 OF THIS SUBTITLE;
16 OR

17 (II) A RIFLE OR SHOTGUN UNDER § 5-205 OF THIS TITLE; OR

18 (2) FOR WHOM THE LICENSED DEALER HAS NOT OBTAINED A STATE
19 AND NATIONAL CRIMINAL HISTORY RECORDS CHECK AS REQUIRED BY THIS
20 SECTION.

21 (C) ON OR BEFORE JUNE 30 EACH YEAR, AND BEFORE HIRING AN
22 EMPLOYEE, A LICENSED DEALER SHALL, FOR EACH EMPLOYEE, APPLY TO THE
23 CENTRAL REPOSITORY FOR A STATE AND NATIONAL CRIMINAL HISTORY RECORDS
24 CHECK BY SUBMITTING TO THE CENTRAL REPOSITORY:

25 (1) TWO COMPLETE SETS OF THE EMPLOYEE'S LEGIBLE
26 FINGERPRINTS TAKEN ON FORMS APPROVED BY THE DIRECTOR OF THE CENTRAL
27 REPOSITORY AND THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION;

28 (2) THE FEE AUTHORIZED UNDER § 10-221(B)(7) OF THE CRIMINAL
29 PROCEDURE ARTICLE FOR ACCESS TO STATE CRIMINAL HISTORY RECORDS; AND

30 (3) THE PROCESSING FEE REQUIRED BY THE FEDERAL BUREAU OF

1 INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORDS CHECK.

2 (D) IN ACCORDANCE WITH §§ 10-201 THROUGH 10-228 OF THE CRIMINAL
3 PROCEDURE ARTICLE, THE CENTRAL REPOSITORY SHALL FORWARD TO THE
4 LICENSED DEALER AND TO THE EMPLOYEE WHO IS THE SUBJECT OF THE STATE AND
5 NATIONAL CRIMINAL HISTORY RECORDS CHECK THE CRIMINAL HISTORY RECORD
6 INFORMATION OF THE EMPLOYEE.

7 (E) IF AN EMPLOYEE HAS MADE TWO OR MORE UNSUCCESSFUL ATTEMPTS
8 AT SECURING LEGIBLE FINGERPRINTS, THE LICENSED DEALER MAY APPLY TO
9 OBTAIN THE STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK BY AN
10 ALTERNATE METHOD AS PERMITTED BY THE DIRECTOR OF THE CENTRAL
11 REPOSITORY AND THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION.

12 (F) INFORMATION OBTAINED FROM THE CENTRAL REPOSITORY UNDER
13 THIS SECTION SHALL BE:

14 (1) CONFIDENTIAL AND MAY NOT BE REDISSEMINATED; AND

15 (2) USED ONLY FOR THE PURPOSE OF THE LICENSED DEALER'S
16 COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION.

17 (G) THE SUBJECT OF A CRIMINAL HISTORY RECORDS CHECK UNDER THIS
18 SECTION MAY CONTEST THE CONTENTS OF THE PRINTED STATEMENT ISSUED BY
19 THE CENTRAL REPOSITORY, AS PROVIDED IN § 10-223 OF THE CRIMINAL
20 PROCEDURE ARTICLE.

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

23 (2) FOR A SECOND OR SUBSEQUENT OFFENSE, A PERSON WHO
24 KNOWINGLY VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND IS
25 SUBJECT TO IMPRISONMENT NOT EXCEEDING 3 YEARS OR A FINE NOT EXCEEDING
26 \$10,000 OR BOTH.

27 5-148.

28 (A) A LICENSED DEALER SHALL AT ALL TIMES MAINTAIN LIABILITY
29 INSURANCE FOR THE ACTS OF ANOTHER USING A FIREARM SOLD, RENTED, OR
30 TRANSFERRED BY THE LICENSED DEALER IN THE AMOUNT OF AT LEAST \$2,000,000.

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

1 **(2) FOR A SECOND OR SUBSEQUENT OFFENSE, A PERSON WHO**
2 **KNOWINGLY VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND IS**
3 **SUBJECT TO IMPRISONMENT NOT EXCEEDING 3 YEARS OR A FINE NOT EXCEEDING**
4 **\$10,000 OR BOTH.**

5 **5-149.**

6 **(A) A LICENSED DEALER SHALL REPORT ANY THEFT OF A FIREARM FROM**
7 **THE LICENSED DEALER'S PLACE OF BUSINESS TO A LAW ENFORCEMENT AGENCY, AS**
8 **DEFINED IN § 3-201 OF THIS ARTICLE, IMMEDIATELY UPON DISCOVERING THE**
9 **THEFT.**

10 **(B) (1) A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO A CIVIL**
11 **PENALTY NOT EXCEEDING \$1,000 IMPOSED BY THE SECRETARY.**

12 **(2) FOR A SECOND OR SUBSEQUENT OFFENSE, A PERSON WHO**
13 **KNOWINGLY VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND IS**
14 **SUBJECT TO IMPRISONMENT NOT EXCEEDING 3 YEARS OR A FINE NOT EXCEEDING**
15 **\$10,000 OR BOTH.**

16 **5-150.**

17 **(A) (1) DURING BUSINESS HOURS, A LICENSED DEALER SHALL:**

18 **(I) STORE EACH FIREARM IN A LOCKING DISPLAY CASE OR**
19 **ANOTHER SECURE LOCATION THAT IS INACCESSIBLE TO CUSTOMERS; AND**

20 **(II) ENSURE THAT EACH FIREARM THAT IS DISPLAYED TO A**
21 **CUSTOMER IS RENDERED INOPERABLE WITH A TRIGGER LOCK OR ANOTHER**
22 **MECHANISM.**

23 **(2) OUTSIDE BUSINESS HOURS, A LICENSED DEALER SHALL LOCK ALL**
24 **FIREARMS IN:**

25 **(I) A VAULT;**

26 **(II) A SAFE; OR**

27 **(III) A REINFORCED DISPLAY CASE WITH SHATTERPROOF GLASS.**

28 **(B) (1) A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO A CIVIL**
29 **PENALTY NOT EXCEEDING \$1,000 IMPOSED BY THE SECRETARY.**

1 **(2) FOR A SECOND OR SUBSEQUENT OFFENSE, A PERSON WHO**
2 **KNOWINGLY VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND IS**
3 **SUBJECT TO IMPRISONMENT NOT EXCEEDING 3 YEARS OR A FINE NOT EXCEEDING**
4 **\$10,000 OR BOTH.**

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2020.