Public Safety

Handgun Permits – Overview of Recent Developments

During the 2023 legislative session, the General Assembly passed several laws relating to criminal prohibitions involving wearing, carrying, and transporting firearms. Since that time, there have been multiple legal challenges, and portions of the newly enacted laws are being challenged in federal court and have not taken effect. Additional legislation and lawsuits are expected.

Background

In June 2022, the U.S. Supreme Court issued its ruling in *New York State Rifle & Pistol Association, Inc. v. Bruen*, holding that the Second Amendment to the United States Constitution provides a right for a law-abiding citizen to carry a handgun outside the home for self-defense. The ruling struck down a requirement in New York that handgun permit applicants demonstrate a "proper cause" (or a particular need) before the issuance of a license to carry a handgun in public. In July 2023, Maryland's Court of Special Appeals (now the Appellate Court of Maryland) applied *Bruen* directly to *In the Matter of William Rounds* and ruled that Maryland's wear and carry handgun permit law requiring an applicant to have a "good and substantial reason" to be issued a license to carry was analogous to New York's "proper cause" requirement and was unconstitutional.

In response to the decisions, during the 2023 legislative session, the General Assembly passed several pieces of legislation relating to firearms. Chapter 680 of 2023 (the Gun Safety Act of 2023) established prohibitions on carrying firearms in certain "sensitive areas." Chapter 651 of 2023 altered the requirements and qualifications for handgun permits. Both Acts became largely effective October 1, 2023. However, portions of both laws are currently being challenged in federal court as violating the Second Amendment.

Chapter 680 of 2023

Chapter 680 of 2023, the Gun Safety Act of 2023, with certain exceptions, prohibits the wearing, carrying, or transporting of a handgun in three types of locations: (1) an "area for children and vulnerable individuals;" (2) a "government or public infrastructure area;" and (3) a "special purpose area." Chapter 680 also prohibits a person wearing, carrying, or transporting a firearm from entering or trespassing in the dwelling of another unless the owner or owner's agent has given express permission, either to the person or to the public generally to wear, carry, or transport a firearm inside the dwelling. In addition, Chapter 680 prohibits a person wearing, carrying, or transporting a firearm from (1) entering or trespassing on property unless the owner or owner's agent has posted a clear and conspicuous sign indicating that it is permissible to wear, carry, or transport a firearm on the property or (2) entering or trespassing on property unless the owner or

the owner's agent has given the person express permission to wear, carry, or transport a firearm on the property.

Chapter 651 of 2023

Chapter 651 of 2023 increases the legal age to qualify for a handgun permit from 18 to 21 years of age. The Act also modifies the requirements for issuance of a handgun permit, including prohibiting permits for (1) a person who is on supervised probation for a crime punishable by imprisonment for one year or more; (2) a person convicted of driving while impaired or under the influence of drugs/alcohol; and (3) a person who violates a protective order. In addition, Chapter 651 altered the requirements and procedures relating to the issuance and renewal of a handgun permit by expanding the background check investigation qualifications and the firearms training course curriculum. Chapter 651 also increases handgun permit fees and the maximum penalty for wearing, carrying, or transporting a handgun without a permit.

Current Status of Implementation

Legal Challenges

Two lawsuits challenging the constitutionality of Chapters 651 and 680 of 2023 were filed in the U.S. District Court for the District of Maryland against the State on May 16, 2023, the day the Governor signed the bills into law (*Kipke, et al v. Moore, et al* and *Novotny, et al v. Moore, et al*). The plaintiffs in the two lawsuits include the National Rifle Association, Maryland Second Amendment advocates, and other Maryland residents. On September 29, 2023, the Federal District Court for the District of Maryland issued a preliminary injunction enjoining portions of Chapter 680. The ruling effectively blocked the portions of the Act that would restrict the carrying of firearms (1) in locations that sell alcohol; (2) in private buildings or on private property without the owner's consent; and (3) within 1,000 feet of a public demonstration. The remainder of both laws took effect on October 1, 2023. However, as litigation continues, additional portions of both laws could be further enjoined and impacted.

Litigation in Other States

Like Maryland, other states, including New York, New Jersey, and California, are facing similar challenges to newly enacted firearm laws. Following the *Bruen* decision, in September 2022, New York enacted the Concealed Carry Improvement Act. Similar to Chapter 680 in Maryland, New York expanded the requirements for concealed carry permits and prohibited firearms in certain "sensitive places." The Act also established a website to provide the public with information about the state's firearm laws. Beginning in September 2023, New York required background checks for the purchase of ammunition and antique firearms and established new fees for firearm and ammunition transfers. The United States Supreme Court denied a request for an emergency conference to review the new law, and the New York firearm laws are currently

in effect; however, an appeal before the United States Supreme Court is expected within the next year.

In May 2023, the Federal District Court for the District of New Jersey issued a preliminary injunction blocking the state from enforcing a new law that banned firearms in certain "sensitive places" like bars and restaurants where alcohol is served, beaches, parks, theaters, casinos, and health care facilities. The State of New Jersey appealed the ruling, and in June 2023, a three-judge panel paused the preliminary injunction and reinstated the law pending further litigation.

In September 2023, California enacted legislation (1) prohibiting the carrying of a firearm in certain "sensitive places;" (2) raising the minimum age to obtain a handgun permit to 21 years of age; (3) expanding background checks; and (4) raising state taxes imposed on the purchase of firearms and ammunition. Litigation relating to the law's tax provisions is currently pending.

Conclusion

Considering recent developments and the uncertainty in the outcomes of the pending litigation in the State and across the nation, Maryland could see a broad range of firearm-related legislation during the 2024 session, including legislation seeking to implement components from newly enacted firearm laws from other states as well as legislation similar to that proposed during the 2023 session that challenges existing firearm restrictions. In addition, the United States Supreme Court has announced that it will hear its first Second Amendment case since the *Bruen* decision to decide whether federal law can prohibit firearm possession for persons subject to domestic violence orders. A decision is expected by June 2024.

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