

HOUSE BILL 818

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By: **Delegates Smigiel, Aumann, Cluster, Dwyer, Eckardt, Glass,
Haddaway–Riccio, Hough, McDermott, Ready, Serafini, and Szeliga**

Introduced and read first time: February 5, 2014

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Regulated Firearms – Licensed Dealer or Secondary Seller – National Instant**
3 **Criminal Background (NICS) Check**

4 FOR the purpose of authorizing a certain licensed firearms dealer or secondary seller
5 to conditionally sell, rent, or transfer a firearm to a firearm applicant under
6 certain circumstances; prohibiting a licensee or secondary seller from selling,
7 renting, or transferring a firearm under certain circumstances; requiring a
8 licensee or secondary seller to notify a firearms applicant that an application
9 has been approved or disapproved under certain circumstances; authorizing a
10 law enforcement agency to confiscate a certain firearm that is not returned to a
11 licensee or secondary seller; and generally relating to licensed firearms dealers.

12 BY repealing and reenacting, without amendments,
13 Article – Public Safety
14 Section 5–123 and 5–124
15 Annotated Code of Maryland
16 (2011 Replacement Volume and 2013 Supplement)

17 BY adding to
18 Article – Public Safety
19 Section 5–124.1
20 Annotated Code of Maryland
21 (2011 Replacement Volume and 2013 Supplement)

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

24 **Article – Public Safety**

25 5–123.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) A licensee may not sell, rent, or transfer a regulated firearm until after 7
2 days following the time a firearm application is executed by the firearm applicant, in
3 triplicate, and the original is forwarded by the prospective seller or transferor to the
4 Secretary.

5 (b) A licensee shall complete the sale, rental, or transfer of a regulated
6 firearm within 90 days after the firearm application was stamped by the Secretary as
7 not being disapproved.

8 (c) (1) If the sale, rental, or transfer of a regulated firearm is not
9 completed within 90 days after the firearm application was stamped by the Secretary
10 as not being disapproved, a licensee shall return the firearm application to the
11 Secretary within 7 days.

12 (2) The Secretary shall void a firearm application returned under
13 paragraph (1) of this subsection as an incomplete sale, rental, or transfer.

14 (d) (1) (i) A licensee who sells, rents, or transfers a regulated firearm
15 in compliance with this subtitle shall forward a copy of the written notification of the
16 completed transaction to the Secretary within 7 days after delivery of the regulated
17 firearm.

18 (ii) The notification shall contain an identifying description of
19 the regulated firearm, including its caliber, make, model, any manufacturer's serial
20 number, and any other special or peculiar characteristic or marking by which the
21 regulated firearm may be identified.

22 (2) The Secretary shall maintain a permanent record of all
23 notifications received of completed sales, rentals, and transfers of regulated firearms
24 in the State.

25 5-124.

26 (a) (1) A person who is not a licensee may not sell, rent, transfer, or
27 purchase a regulated firearm until after 7 days following the time a firearm
28 application is executed by the firearm applicant, in triplicate, and the original is
29 forwarded by a licensee to the Secretary.

30 (2) As an alternative to completing a secondary sale of a regulated
31 firearm through a licensee, a prospective seller, lessor, or transferor and a prospective
32 purchaser, lessee, or transferee may complete the transaction through a designated
33 law enforcement agency.

34 (b) A firearm applicant for a secondary sale of a regulated firearm through a
35 licensee shall pay to the licensee a processing fee not exceeding \$20.

1 (c) A person shall complete the sale, rental, or transfer of a regulated
2 firearm within 90 days after the firearm application was stamped by the Secretary as
3 not being disapproved.

4 (d) (1) If the sale, rental, or transfer of a regulated firearm is not
5 completed within 90 days after the firearm application was stamped by the Secretary
6 as not being disapproved, a person shall return the firearm application to the
7 Secretary within 7 days.

8 (2) The Secretary shall void a firearm application returned under
9 paragraph (1) of this subsection as an incomplete sale, rental, or transfer.

10 (e) (1) (i) A person who sells, rents, or transfers a regulated firearm in
11 compliance with this subtitle shall forward a copy of the written notification of the
12 completed transaction to the Secretary within 7 days after delivery of the regulated
13 firearm.

14 (ii) The notification shall contain an identifying description of
15 the regulated firearm, including its caliber, make, model, any manufacturer's serial
16 number, and any other special or peculiar characteristic or marking by which the
17 regulated firearm may be identified.

18 (2) The Secretary shall maintain a permanent record of all
19 notifications received of completed sales, rentals, and transfers of regulated firearms
20 in the State.

21 **5-124.1.**

22 **(A) A LICENSEE OR A SECONDARY SELLER THAT HAS NOT RECEIVED A**
23 **WRITTEN NOTICE FROM THE SECRETARY AS DESCRIBED IN § 5-123 OR § 5-124**
24 **OF THIS SUBTITLE WITHIN 7 DAYS OF A FIREARM APPLICATION, MAY**
25 **CONDITIONALLY SELL, RENT, OR TRANSFER A FIREARM TO THE APPLICANT IF**
26 **THE LICENSEE OR A DESIGNATED LAW ENFORCEMENT AGENCY ON BEHALF OF**
27 **THE SECONDARY SELLER HAS:**

28 **(1) REQUESTED A NATIONAL INSTANT CRIMINAL BACKGROUND**
29 **(NICS) CHECK ON THE APPLICANT BY TELEPHONE OR ELECTRONICALLY WITH**
30 **THE DESCRIPTIVE INFORMATION PROVIDED ON THE ATF FORM 4473;**

31 **(2) RECEIVED A "PROCEED" OR "NOT DISAPPROVED" RESPONSE**
32 **FROM THE NICS CHECK ON THE APPLICANT; AND**

33 **(3) RECORDED THE NICS TRANSACTION NUMBER ON THE ATF**
34 **FORM 4473.**

1 **(B) A LICENSEE OR SECONDARY SELLER THAT RECEIVES A “DELAY” OR**
2 **“DISAPPROVED” RESPONSE TO THE NICS APPLICATION MAY NOT SELL, RENT,**
3 **OR TRANSFER A FIREARM TO THE APPLICANT UNLESS THE LICENSEE OR**
4 **SECONDARY SELLER SUBSEQUENTLY RECEIVES NOTICE OF APPROVAL OF THE**
5 **APPLICATION FROM THE SECRETARY.**

6 **(C) ON RECEIPT OF NOTICE THAT THE SECRETARY HAS APPROVED THE**
7 **APPLICATION OR AFTER 90 DAYS, WHICHEVER IS SOONER, THE LICENSEE SHALL**
8 **NOTIFY THE APPLICANT THAT THE CONDITIONAL SALE, RENTAL, OR TRANSFER**
9 **IS FINAL.**

10 **(D) (1) IF, AFTER A CONDITIONAL SALE, RENTAL, OR TRANSFER OF A**
11 **FIREARM, THE LICENSEE OR SECONDARY SELLER RECEIVES NOTICE THAT THE**
12 **SECRETARY HAS DISAPPROVED THE APPLICATION, THE LICENSEE OR**
13 **SECONDARY SELLER SHALL PROMPTLY NOTIFY THE APPLICANT THAT, UNLESS**
14 **THE APPLICANT RETURNS THE FIREARM TO THE LICENSEE OR SECONDARY**
15 **SELLER WITHIN 10 DAYS, THE LICENSEE OR SECONDARY SELLER SHALL NOTIFY**
16 **THE SECRETARY.**

17 **(2) THE LICENSEE OR SECONDARY SELLER SHALL NOTIFY THE**
18 **SECRETARY OF THE FAILURE OF AN APPLICANT TO RETURN A FIREARM AFTER**
19 **THE TIME PERIOD PROVIDED IN THIS SUBSECTION.**

20 **(3) A LAW ENFORCEMENT AGENCY MAY CONFISCATE A FIREARM**
21 **THAT IS NOT RETURNED TO A LICENSEE OR SECONDARY SELLER AS DESCRIBED**
22 **IN THIS SUBSECTION.**

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 2014.