

HOUSE BILL 13

E4
HB 818/14 – JUD

(PRE-FILED)

5lr0411

By: **Delegate Schulz**

Requested: September 30, 2014

Introduced and read first time: January 14, 2015

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 to
5 conditionally sell, rent, or transfer a firearm to a firearm applicant under certain
6 circumstances; prohibiting a licensee or secondary seller from selling, renting, or
7 transferring a firearm under certain circumstances; requiring a licensee or
8 secondary seller to notify a firearms applicant that an application has been approved
9 or disapproved under certain circumstances; authorizing a law enforcement agency
10 to confiscate a certain firearm that is not returned to a licensee or secondary seller;
11 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 2014 Supplement)

17 BY adding to
18 Article – Public Safety
19 Section 5–124.1
20 Annotated Code of Maryland
21 (2011 Replacement Volume and 2014 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
23 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 days
2 following the time a firearm application is executed by the firearm applicant, in triplicate,
3 and the original is forwarded by the prospective seller or transferor to the Secretary.

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

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

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

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

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

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

21 5-124.

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

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

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

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

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

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

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

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

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

15 **5-124.1.**

16 (A) A LICENSEE OR A SECONDARY SELLER THAT HAS NOT RECEIVED A
17 WRITTEN NOTICE FROM THE SECRETARY AS DESCRIBED IN § 5-123 OR § 5-124 OF
18 THIS SUBTITLE WITHIN 7 DAYS OF A FIREARM APPLICATION, MAY CONDITIONALLY
19 SELL, RENT, OR TRANSFER A FIREARM TO THE APPLICANT IF THE LICENSEE OR A
20 DESIGNATED LAW ENFORCEMENT AGENCY ON BEHALF OF THE SECONDARY SELLER
21 HAS:

22 (1) REQUESTED A NATIONAL INSTANT CRIMINAL BACKGROUND
23 (NICS) CHECK ON THE APPLICANT BY TELEPHONE OR ELECTRONICALLY WITH THE
24 DESCRIPTIVE INFORMATION PROVIDED ON THE ATF FORM 4473;

25 (2) RECEIVED A "PROCEED" OR "NOT DISAPPROVED" RESPONSE
26 FROM THE NICS CHECK ON THE APPLICANT; AND

27 (3) RECORDED THE NICS TRANSACTION NUMBER ON THE ATF
28 FORM 4473.

29 (B) A LICENSEE OR SECONDARY SELLER THAT RECEIVES A "DELAY" OR
30 "DISAPPROVED" RESPONSE TO THE NICS APPLICATION MAY NOT SELL, RENT, OR
31 TRANSFER A FIREARM TO THE APPLICANT UNLESS THE LICENSEE OR SECONDARY
32 SELLER SUBSEQUENTLY RECEIVES NOTICE OF APPROVAL OF THE APPLICATION
33 FROM THE SECRETARY.

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

5 **(D) (1) IF, AFTER A CONDITIONAL SALE, RENTAL, OR TRANSFER OF A**
6 **FIREARM, THE LICENSEE OR SECONDARY SELLER RECEIVES NOTICE THAT THE**
7 **SECRETARY HAS DISAPPROVED THE APPLICATION, THE LICENSEE OR SECONDARY**
8 **SELLER SHALL PROMPTLY NOTIFY THE APPLICANT THAT, UNLESS THE APPLICANT**
9 **RETURNS THE FIREARM TO THE LICENSEE OR SECONDARY SELLER WITHIN 10 DAYS,**
10 **THE LICENSEE OR SECONDARY SELLER SHALL NOTIFY THE SECRETARY.**

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

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

17 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
18 **October 1, 2015.**