

# HOUSE BILL 45

E4

2lr0526

(PRE-FILED)

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By: **Delegate Smigiel**

Requested: September 14, 2011

Introduced and read first time: January 11, 2012

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Handgun Permits – Qualifications – Presumption and Burden of Proof**

3 FOR the purpose of repealing the requirement that the Secretary of State Police base  
4 a finding that an applicant for a handgun permit has a good and substantial  
5 reason to wear, carry, or transport a handgun on an investigation; establishing  
6 a presumption that an applicant for a handgun permit has a good and  
7 substantial reason to wear, carry, or transport a handgun for the purposes of  
8 qualifying for a handgun permit; establishing that the Secretary has the burden  
9 of proving that an applicant for a handgun permit does not have a good and  
10 substantial reason to wear, carry, or transport a handgun; and generally  
11 relating to the burden of proof for qualifications for a handgun permit.

12 BY repealing and reenacting, with amendments,  
13 Article – Public Safety  
14 Section 5–306(a)  
15 Annotated Code of Maryland  
16 (2003 Volume and 2011 Supplement)

17 BY adding to  
18 Article – Public Safety  
19 Section 5–306(c)  
20 Annotated Code of Maryland  
21 (2003 Volume and 2011 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 5–306.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1           (a) Subject to [subsection (b)] **SUBSECTIONS (B) AND (C)** of this section, the  
2 Secretary shall issue a permit within a reasonable time to a person who the Secretary  
3 finds:

4                   (1) is an adult;

5                   (2) (i) has not been convicted of a felony or of a misdemeanor for  
6 which a sentence of imprisonment for more than 1 year has been imposed; or

7                               (ii) if convicted of a crime described in item (i) of this item, has  
8 been pardoned or has been granted relief under 18 U.S.C. § 925(c);

9                   (3) has not been convicted of a crime involving the possession, use, or  
10 distribution of a controlled dangerous substance;

11                   (4) is not presently an alcoholic, addict, or habitual user of a controlled  
12 dangerous substance unless the habitual use of the controlled dangerous substance is  
13 under legitimate medical direction; [and]

14                   (5) based on an investigation[:

15                               (i)] has not exhibited a propensity for violence or instability that  
16 may reasonably render the person's possession of a handgun a danger to the person or  
17 to another[; and

18                               (ii) has good and substantial reason to wear, carry, or transport  
19 a handgun, such as a finding that the permit is necessary as a reasonable precaution  
20 against apprehended danger]; **AND**

21                   **(6) HAS A GOOD AND SUBSTANTIAL REASON TO WEAR, CARRY, OR**  
22 **TRANSPORT A HANDGUN.**

23           **(C) (1) AN APPLICANT FOR A HANDGUN PERMIT IS PRESUMED TO**  
24 **HAVE A GOOD AND SUBSTANTIAL REASON TO WEAR, CARRY, OR TRANSPORT A**  
25 **HANDGUN.**

26                   **(2) THE SECRETARY HAS THE BURDEN OF PROVING THAT AN**  
27 **APPLICANT FOR A HANDGUN PERMIT DOES NOT HAVE A GOOD AND**  
28 **SUBSTANTIAL REASON TO WEAR, CARRY, OR TRANSPORT A HANDGUN.**

29           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
30 October 1, 2012.