

HB 1866 -- TRANSFER OF A CONCEALABLE FIREARM

SPONSOR: Plank

This bill repeals the Second Amendment Preservation Act; the General Assembly's preemption of all firearm laws; justification as an absolute defense; and statutes authorizing concealed carry permits. The bill also repeals certain provisions dealing with the use of force: that the use of deadly force can be justified if used against a person who unlawfully enters private property; and that a person does not have a duty to retreat before using deadly force if the person is in a location he or she has a right to be.

The bill establishes that a person commits the offense of transfer of a concealable firearm if such person receives or delivers any concealable firearm without a valid permit; or such person violates the federal code listed in the bill.

A permit to acquire a concealable firearm is valid for 30 days.

A person does not commit the offense of transfer of a concealable firearm if the acquisition or transfer of the firearm is between manufacturers, wholesalers, or retailers of firearms for commercial purposes. Antique firearms or curio or relic firearms are not considered under this offense. The offense of transfer of a concealable results in a class A misdemeanor.

Violation of any of the following constitutes a class A misdemeanor.

The bill establishes that a permit to acquire a concealable firearm shall be issued by the sheriff of the county where the applicant resides if the statements made within the permit application are true and the applicant is over 21, a U.S. Citizen, and has been a resident of the State for at least six months; has not plead guilty to or been convicted of a crime other than a misdemeanor punishable as listed in the bill; is not a fugitive or charged with the commission of a crime punishable as listed in the bill; has not been dishonorably discharged; is not mentally incompetent and has not been committed to a mental health facility.

Permit applications shall be made to the applicant's county sheriff. The permit shall be in writing, signed and verified by the applicant, and shall state the required personal information as listed in the bill.

The sheriff shall verify the application only when necessary. The permit is to be issued within a period not to exceed seven days after submission. The sheriff may refuse to issue the permit for

any violation of the stated requirements or for any false statements made by the applicant. If approved, the permit will be issued to the applicant by the sheriff. The bill specifies the content of the permit.

The sheriff shall be notified, and will keep a record of, when the permit is used as well as the details of the transaction for which the permit was used. No person shall misuse a permit in any of the ways specified in the bill.

The charge for processing the permit will not exceed \$15 and will go to the treasury of the county or city.

The sheriff's refusal to act on an application for a permit must be in writing and shall explain the reason for denial and shall give the applicant the right to appeal.

An appeal shall be filed with the clerk of the small claims court and shall include a copy of the sheriff's refusal as well as a form that is similar to the one provided in the bill. Such appeals shall be heard in small claims court.

The notice of appeal shall be given to the sheriff. If, at the hearing, the applicant is able to show that he or she is entitled to the denied permit, the permit shall be granted. Any person aggrieved by a permit denial judgment is entitled to a trial de novo.