MARYLAND SHALL ISSUE®
SELF DEFENSE IS A CIVIL RIGHT

January 21, 2026

WRITTEN TESTIMONY OF MARK W. PENNAK, PRESIDENT, MSI, IN OPPOSITION TO SB 160 and HB 284

I am the President of Maryland Shall Issue ("MSI"). Maryland Shall Issue is a Section 501(c)(4), all-volunteer, non-partisan organization dedicated to the preservation and advancement of gun owners' rights in Maryland. It seeks to educate the community about the right of self-protection, the safe handling of firearms, and the responsibility that goes with carrying a firearm in public. I am also an attorney and an active member of the Bar of Maryland and of the Bar of the District of Columbia. I recently retired from the United States Department of Justice, where I practiced law for 33 years in the Courts of Appeals of the United States and in the Supreme Court of the United States. I am an expert in Maryland firearms law, federal firearms law and the law of self-defense. I am also a Maryland State Police certified handgun instructor for the Maryland Wear and Carry Permit and the Maryland Handgun Qualification License ("HQL") and a certified NRA instructor in rifle, pistol, personal protection in the home, personal protection outside the home and in muzzle loader. I appear today as President of MSI in OPPOSITION TO SB 160 and its cross-file, HB 284 ("the Bill").

Existing Statutory Framework:

Maryland imposes an array of security requirements on dealers through the enactment of HB 1021, 2022 Maryland Session Laws, Ch. 55, codified at MD Code, Public Safety, §§ 5-114 and 5-145.1. Specifically, HB 1021 provides: (a) A licensed dealer may not conduct business and store firearms at a location unless:
(1) the premises on which the licensed dealer operates is equipped with security features, including:
(i) equipment capable of filming and recording video footage inside and outside buildings where firearms are stored;
(ii) at least one of the following features designed to prevent unauthorized entry installed on all exterior doors and windows of all buildings where firearms are stored:
1. bars;
2. security screens;
3. commercial grade metal doors;
4. grates; or
5. other physical barriers approved by the Secretary;
(iii) a burglary alarm system that is continually monitored; and

(iv) if practicable, physical barriers designed to prevent the use of motor vehicles to breach all buildings where firearms are stored; or (iii) a room or building that meets the requirements under item (1) of this subsection.
(2) outside business hours, the licensed dealer locks all firearms stored on the premises in:
(i) a vault;
(ii) a safe; or
(iii) a room or building that meets the requirements under item (1) of this subsection.

Any violation of these requirements is punishable with a $1000.00 civil fine for the first offense, suspension of the dealer's license for the second offense and revocation of the license for a third or subsequent offense. See new Section 5-145.1(b).

This Bill adds to these provisions by providing in a new subsection (b) to Section 5-145.1 the following:

A LICENSED DEALER WHO KNOWS OR REASONABLY SHOULD KNOW THAT A BURGLARY, ATTEMPTED BURGLARY, ROBBERY, THEFT, OR ANY OTHER EVENT MAY HAVE COMPROMISED THE SECURITY FEATURES REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL NOTIFY THE SECRETARY WITHIN 24 HOURS AFTER THE DEALER FIRST DISCOVERS THAT THE SECURITY FEATURES MAY HAVE BEEN COMPROMISED. The Bill does not alter the punishment provisions and thus adds any failure to notify as an additional reason for punishment.

Discussion:

The difficulty in this Bill is that in an obvious effort to be all-encompassing it is hopelessly ambiguous. The Bill imposes a requirement to report any "event" that "may have compromised" any of the multiple security features imposed by Section 5-141.1. The Bill does not define "compromise" or even require that the "compromise" be substantial or even meaningful. Any "compromise," no matter how slight, qualifies. If a customer dents a "physical barrier" with a car does that constitute a "compromise"? Does a dent in the "security screen" qualify? The Bill does not even require an **actual** "compromising" effect on security features. Rather, it imposes a reporting requirement merely if the "event" "**may have**" compromised any one of these features. It gets worse. **Actual** knowledge of a "compromise" is not required. Rather, dealers are subject to fines and license suspension and revocation merely if the dealer "should" have known of the compromise. The Bill thus imposes one vague term on top of another: It requires the dealer to report an "event" (undefined) that the dealer "should" have known (undefined) "**may** have" (undefined and hopeless broad) "compromised" (undefined but apparently to any degree, no matter how slight or insignificant) any **one** of the **multitude** of security requirements imposed by Section

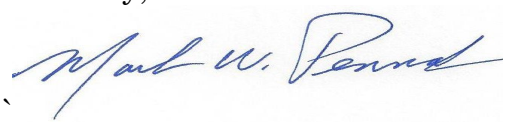
5-145.1(a). And it punishes the dealer with a $1,000.00 fine for the first failure to report and license suspension or revocation for subsequent failures to report.

These requirements essentially accord the Maryland State Police unbridled enforcement discretion and fail to provide reasonable notice to dealers. That is a violation of the Due Process Clause of the 14th Amendment and Article 24 of the Maryland Declaration of Rights. See *Grayned v. City of Rockford*, 408 U.S. 104, 108-109 (1972) ("A vague law impermissibly delegates basic policy matters to policemen, judges, and juries for resolution on an ad hoc and subjective basis"): *Giovani Carandola, Ltd. v. Fox,* 470 F.3d 1074, 1079 (4th Cir. 2006) (recognizing that "[a] statute is impermissibly vague if it either (1) fails to provide people of ordinary intelligence a reasonable opportunity to understand what conduct it prohibits or (2) authorizes or even encourages arbitrary and discriminatory enforcement" (internal quotations omitted)); *Galloway v. State*, 365 Md. 599, 614, 781 A.2d 851 (2001) (same).

While the void-for-vagueness doctrine applies most vigorously to penal statutes, it also applies to laws imposing only civil penalties. *Neutron Products, Inc. v. Department Of The Environment*, 166 Md.App. 549, 609, 890 A.2d 858 (2006) ("Maryland courts have applied the void for vagueness doctrine to civil penalties") (citing *Finucan v. Md. Bd. of Physician Quality Assurance*, 380 Md. 577, 591, 846 A.2d 377, *cert. denied*, 543 U.S. 862 (2004) (applying the void for vagueness analysis to regulations imposing sanctions on physicians); *Blaker v. State Bd. Of Chiropractic Examiners*, 123 Md.App. 243, 257 n.3, 717 A.2d 964 (1998) (applying void for vagueness analysis to regulations imposing sanctions on licensed chiropractors); *Tidewater/Havre De Grace, Inc. v. Mayor and City Council of Havre de Grace*, 337 Md. 338, 653 A.2d 468 (1995) (applying void for vagueness analysis to a local tax ordinance). Full application of the void-for-vagueness doctrine is appropriate where the challenged statute, though technically civil, imposes remedies that can be viewed as punitive. See *McDonnell v. Comm'n on Medical Discipline*, 301 Md. 426, 436, 483 A.2d 76 (1984). The fines and suspension/revocation provisions imposed by Section 5-145.1 obviously are punitive in nature.

The Bill as written is gross regulatory overreach. We urge an unfavorable report.

Sincerely,



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Mark W. Pennak
President, Maryland Shall Issue, Inc.
mpennak@marylandshallissue.org