

March 4, 2020

## WRITTEN TESTIMONY OF MARK W. PENNAK, PRESIDENT, MSI, IN SUPPORT OF HB 1502

I am the President of Maryland Shall Issue (“MSI”). Maryland Shall Issue is an 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 SUPPORT of HB 1502

### Current Law and This Bill

This bill would amend MD Code, Public Safety, § 5-306(b)(6)(ii). That provision provides that a person who demonstrated that he or she has a “good and substantial reason” may be issued a wear and carry permit by the State Police to carry a handgun. In administering this provision, the State Police uses various categories for judging whether an applicant has demonstrated a “good and substantial reason.” See Maryland State Police, Standard Operating Procedure, *Processing of Handgun Permit Applications*, SOP 29-19-004 at page 4 (Aug. 5, 2019) (attached). One of those categories is “Assumed Risk Positions.” (Id.). An “assumed risk position” is defined as a position “where, by virtue of the positions duties and responsibilities, the employee voluntarily and knowingly assumes the risks that those duties will place their lives in imminent danger and subject them to be targeted by individuals or entities seeking to do them harm as a result of performing those duties or responsibilities. (Id. at page 1).

This bill would amend Section 5-306(b)(6)(ii) to provide essentially that the following groups of persons should be designated as occupying “assumed risk positions” under Section 5-306: Persons employed as A. A CORRECTIONAL OFFICER; B. A PAROLE AND PROBATION OFFICER; C. A FIREFIGHTER; D. AN EMERGENCY MEDICAL TECHNICIAN; E. A RESCUE SQUAD MEMBER; F. A SECURITY GUARD FOR A CHURCH OR RELIGIOUS ORGANIZATION; G. A PHYSICIAN; H. A PHYSICIAN’S ASSISTANT; I. A NURSE; OR J. A NURSE PRACTITIONER.

Nothing in the bill would change any of the requirements for obtaining a permit, including leaving unchanged the rigorous training requirements of 16 hours of instruction that includes a live fire component that “demonstrates the applicant’s proficiency and use of the

firearm.” See Section 5-306(b)(5). Also unchanged is the requirement that the State Police conduct a deep background investigation using the applicant’s finger prints. All initial applicants for permits are interviewed face-to-face by a State Police investigator. That investigator not only checks out all listed references, but often contacts others as well, including spouses, ex-spouses, neighbors and employers. The investigator conducts a NICS check of the applicant as well as doing a background check using 17 different Maryland state databases. It is a highly intrusive investigation. Unchanged as well is the requirement that the State Police find that the applicant “has not exhibited a propensity for violence or instability that may reasonably render the person’s possession of a handgun a danger to the person or to another.” See Section 5-306(b)(6)(i).

### **These Bills Are Necessary For the Safety of Persons in the Listed Occupations:**

In our view, each of the newly listed occupations set forth in this bill fully satisfy the State Police’s existing requirements for an “assumed risk” position, *viz.*, the person “voluntarily and knowingly assumes the risks that those duties will place their lives in imminent danger and subject them to be targeted by individuals or entities seeking to do them harm as a result of performing those duties or responsibilities.” And it does not take any imagination to understand why.

A “correctional officer” faces daily risk of retaliation by ex-convicts or the families or “associates” of current inmates. The same is true of a parole and probation officer. Similarly, the first responders listed in the bill wear a uniform that is closely similar to that of police officers with whom they quite often seen in connection with their official duties. These individuals are targets of threats. <https://www.firefighterclosecalls.com/first-responders-become-targets-of-threats/>. The risk to security guards for a church or religious organization is too obvious to require discussion. <https://www.cnn.com/2019/12/29/us/church-shooting-texas/index.html>. Physicians and their assistants often carry narcotics and other dangerous controlled substances and are threatened and attacked. <https://thedo.osteopathic.org/2018/09/violence-against-physicians-facing-an-elevated-risk/>. The **prescription pad** alone is of priceless value to drug gangs. These individuals all have elevated risks of attack. They are entitled to be able to protect themselves. We urge a favorable report.

Sincerely,



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



# MARYLAND STATE POLICE

## STANDARD OPERATING PROCEDURE



### Processing of Handgun Permit Applications

**Distribution:** Licensing Division Personnel

**Index:** **SOP 29-19-004**

**DLI Reference:** N/A

**Rescinds:** 29-15-007

**Issued:** 08/05/2019

**Revised:** N/A

#### .01 Purpose

To establish guidelines for the approval and denial of wear and carry handgun permit applications and applying the appropriate restriction on issued permits.

#### .02 Policy

It is the policy of the Licensing Division to properly investigate every application for a wear and carry handgun permit, and apply an appropriate restriction to issued permits in conformance with: 18 U.S.C. §922(g) (1-9), Annotated Code of Maryland, Public Safety Article, Title 5, Sub-Title 3, Annotated Code of Maryland, Public Safety Article, §5-133 and the Code of Maryland Regulations, Title 29.03.02.

#### .03 Definitions

**ADMINISTRATIVE HEARING:** a fair, impartial and independent opportunity to be heard by an Administrative Law Judge (ALJ), within the Office of Administrative Hearings (OAH), on the issue(s) regarding the denial of, or restriction(s) placed on a wear and carry permit. The ALJ assigned to hear the case determines facts, based on the evidence and argument presented at the hearing, reviews the relevant law and gives a decision on the issue(s) in question.

**ADMINISTRATIVE LAW JUDGE (ALJ):** is an attorney appointed by the Chief ALJ to conduct administrative hearings. The ALJ is an employee of the OAH, not an employee of the agency involved in the aggrieved case.

**APPREHENDED DANGER/FEAR:** an objectively established concern that the applicant's life is in danger or that the applicant is being targeted by individuals wishing to do him or her harm.

**ARMORED CAR DRIVER:** an individual who is employed by a legitimate armored services company and conducts business as described in Public Law, §103-55, "Armored Car Industry Reciprocity Act of 1993."

**ASSUMED RISK POSITION:** a position, as determined by the Secretary, of the Department of State Police (Secretary), of government/public safety/criminal justice employment where, by virtue of the positions duties and responsibilities, the employee voluntarily and knowingly assumes the risks that those duties will place their lives in imminent danger and subject them to be targeted by individuals or entities seeking to do them harm as a result of performing those duties or responsibilities.

**BACKGROUND CHECKS:** criminal history and mental health record checks conducted via the submission of CJIS and/or FBI fingerprint cards and/or criminal history checks conducted by Licensing Division personnel via authorized certifications and CJIS/NICS query capable terminals.

**BAIL BONDSMEN:** an individual who owns or is employed by a licensed bail bond agency and acts in accordance with the common law authority of United States Code Service, Title 15, Commerce and Trade, Chapter 83, U.S. 366 (1872) or possesses a valid private detective license.

**SOP 29-19-004**  
**Processing of Handgun Permit Applications**

---

**BUSINESS:** a person's regular occupation, profession or trade.

**BUSINESS ACTIVITIES:** any activity engaged in by the owner or employee to further or benefit the business entity.

**BUSINESS OWNER:** an individual who has verifiable documentation, such as, a business/trader's license, articles of incorporation or other legal documents legitimizing ownership of an active and in good standing business.

**BUSINESS EMPLOYEE:** an individual who has verifiable documentation of employment by an active and in good standing business.

**CORRECTIONAL OFFICER:** an individual who is employed or contracted by a governmental agency whose primary function is to safeguard, transport or secure individuals who have been incarcerated.

**GOOD AND SUBSTANTIAL REASON:** an objective determination, arrived at by the Secretary, or designee, based upon an investigation that the wearing, carrying or transporting of a handgun by the applicant is necessary.

**HANDGUN PERMIT REVIEW BOARD:** a panel of five individuals, appointed by the Governor, who serve under the Department of Public Safety and Correctional Services and fulfill the obligations established in the Annotated Code of Maryland, Public Safety Article, §5-312.

**INFORMAL REVIEW:** a meeting with an applicant, who disagrees with the decision to either deny, revoke or limit their permit, to discuss and review documents and information, submitted on behalf of the applicant. Reviews are conducted by a member of Licensing Division Command Staff in order to sustain, reverse or modify the initial action taken.

**LAW ENFORCEMENT OFFICER:** an individual, who in an official capacity, is authorized by law to make arrests and is a member of a recognized law enforcement agency (Annotated Code of Maryland, Public Safety Article, §3-101), including Federal law enforcement officer (Annotated Code of Maryland, Criminal Procedure Article, §2-104).

**MODIFICATION REQUEST:** the filing for change or alteration of an already existing wear and carry permit in accordance with Annotated Code of Maryland 29.03.02.11. A modified permit is issued with the same expiration date as the previously issued permit.

**OFFICE OF ADMINISTRATIVE HEARINGS (OAH):** is an independent, central panel agency, within the executive branch, that holds administrative hearings on behalf of certain agencies of the executive branch of the State government.

**ORIGINAL APPLICATION:** The initial filing for a wear and carry permit from an individual. An original permit expires on the last day of the holder's birth month, following two years after the date the permit is issued.

**PERSONAL PROTECTION:** a good and substantial reason for the wearing, carrying or transporting of a handgun for an individual who is at significant risk of danger from another individual(s) and where the individual's apprehended fear of reprisal is based on more than his/her personal anxiety and beyond that of the average citizen that he/she is being targeted by individuals wishing to cause him/her harm.

**PRIVATE DETECTIVE:** a certified individual who is employed by and provides private investigative services on behalf of any licensed private detective agency, pursuant to the Business Occupation and Professions, Annotated Code of Maryland, Title 13.

**PRIVATE SECURITY OFFICER:** an individual who is employed by any company, business or organization whose responsibilities are providing security services exclusively for that company, business or organization.



**SOP 29-19-004**  
**Processing of Handgun Permit Applications**

---

**PRIVATE ORGANIZATION SECURITY TEAM MEMBER:** an individual who is a member of any organization whose responsibilities are providing security services exclusively for that organization on a volunteer basis.

**RENEWAL APPLICATION:** the filing for re-issue of an existing wear and carry permit that has not expired. A renewed permit expires on the last day of the holder's birth month, following three years after the date the permit is issued.

**REPLACEMENT REQUEST:** a request made by a wear and carry permit holder to replace an existing wear and carry permit, due to loss or theft, in accordance with the Annotated Code of Maryland 29.03.02.10 and 29.03.02.11. The replacement permit will be issued with the same expiration date as the permit being replaced.

**SUBSEQUENT APPLICATION:** the filing for a different wear and carry permit type, in addition to an already existing wear and carry permit. A subsequent permit expires on the last day of the holder's birth month, following two years after the date the permit is issued.

**SECURITY GUARD:** a certified individual who is employed by and provides security guard services on behalf of any licensed security guard agency, pursuant to the Annotated Code of Maryland, Business Occupation and Professions, Title 19.

**SPECIAL POLICE OFFICER:** an individual who holds a valid special police officer commission, issued under the Annotated Code of Maryland, Public Safety Article, Title 3.

---

**.04 References**

18 USC §922(g)(1-9)

MD. CODE ANN., PUB. LAW §103-55

MD. CODE ANN., PUB. SAFETY §3-101

MD. CODE ANN., PUB. SAFETY §3-301

MD. CODE ANN., PUB. SAFETY §5-133

MD. CODE ANN., PUB. SAFETY §5-301, *et seq.*

MD. CODE ANN., BUSINESS OCCUPATIONS AND PROFESSIONS §13-101

MD. CODE ANN., BUSINESS OCCUPATIONS AND PROFESSIONS §19-101

COMAR 29.03.02, *et seq.*

COMAR 28.02.01

---

**.05 Procedures**

**A. Responsibilities**

1. The Commander of Licensing Division, or designee, is authorized to act on behalf of the Secretary, of the Maryland State Police, when administering the laws and regulations established for the processing and issuance of handgun permits.
2. The Commander of the Licensing Division, or designee, will conduct an Informal Review when properly requested, by any person who is denied a permit or renewal of a permit or whose permit is revoked or limited, and notify the person who requested the informal review of the

**SOP 29-19-004**  
**Processing of Handgun Permit Applications**

---

decision, in writing, within 30 days after receipt of the request for informal review, pursuant to the Annotated Code of Maryland, Public Safety Article, §5-311.

**3. The Handgun Permit Unit personnel will:**

- a. ensure all permits are issued in accordance with: 18 U.S.C. §922(g) (1-9), Annotated Code of Maryland, Public Safety Article, Title 5, Sub-Title 3, Annotated Code of Maryland, Public Safety Article §5-133 and the Code of Maryland Regulations, Title 29.03.02.
- b. within three business days of receipt, applicable applications will be forwarded to the Administrative Investigation Unit, to conduct a background investigation, as required in the Annotated Code of Maryland, Public Safety Article, §5-306.
- c. ensure all applicants meet the requirements outlined in the Annotated Code of Maryland, Public Safety Article, §5-306.
- d. ensure approval or denial of all initial applications within 90 days of the receipt of an accepted application.
- e. ensure approval or denial of all renewal applications within 45 days of the receipt of an accepted application.
- f. track all applications, initial and renewal, to ensure issuance within 90 days or 45 days respectively.
- g. act as the liaison between the Licensing Division, the Handgun Permit Review Board and the Office of Administrative Hearings.
- h. maintain all records, and track all decisions issued by the Handgun Permit Review Board and the Office of the Administrative Hearings.

**B. The Processing of Handgun Permit Applications and Requests**

1. Applications include original, renewal and subsequent. Requests include modifications and replacement permits
2. For processing procedures for each application type and request, see the Handgun Permit Unit Wear and Carry Permit Desktop Procedure.

**C. Required Language on all Issued Permits**

1. "Not Valid Where Firearms are Prohibited by Law."
2. "MD Only," except armored car drivers/guards.
3. "Contact MD Gun Center, Prior to Law Enforcement Action."

**D. Handgun Permit Categories**

1. Personal Protection
2. Assumed Risk Positions
3. Federal Employees or Contractors who possess an active "Top Secret" or higher security clearance

**SOP 29-19-004**  
**Processing of Handgun Permit Applications**

---

4. Business Activities
5. Private Security Officer
6. Private Organization Security Team Member
7. Regulated Profession
  - a. Licensed Security Guard
  - b. Licensed Private Detective
  - c. Armored Car Driver
  - d. Special Police Officer

**E. Handgun Permit Restrictions**

The Secretary may limit the geographic area, circumstances or times of the day, week, month or year in which a permit is effective. (Annotated Code of Maryland, Public Safety Article, §5-307) Handgun permit restrictions may include, but may not be limited to the following:

1. Personal Protection: NONE (MD ONLY) (Not VALID where firearms are prohibited by law.)
2. Law Enforcement Officers: NONE (MD ONLY) (Not VALID where firearms are prohibited by law.)
3. Assumed Risk Positions: NONE (MD ONLY) (Not VALID where firearms are prohibited by law.)
4. Federal Employees or Contractors who possess an active "Top Secret" or higher security clearance: Valid while maintaining employment as an active, reserve, civilian or contractor employee for (name of federal agency) (MD ONLY) (Not VALID where firearms are prohibited by law.)
5. Business Owners: NONE (MD ONLY) (Not VALID where firearms are prohibited by law.)
6. Business Employees: Valid between residence and work, and while engaged in any on-site or off-site business activity for (Name of Business) (MD ONLY) (Not VALID where firearms are prohibited by law.)
7. Private SECURITY OFFICER: Valid between residence and work, and while engaged in any on-site or off-site private security activity for (Name of Business) (MD ONLY) (Not VALID where firearms are prohibited by law.)
8. PRIVATE ORGANIZATION SECURITY TEAM MEMBER: Valid to and from residence, while actively engaged as a Security Team Member for (name of organization) (MD ONLY) (Not VALID where firearms are prohibited by law.) or; Valid to and from residence, making off-site financial transactions, while actively engaged as a Security Team Member for (name of organization) (MD ONLY) (Not VALID where firearms are prohibited by law.)
9. Licensed Security Guard: Between residence and (or) armed on any Maryland Licensed Security Guard (or) Private Detective agency job assignment or property only, and while actively engaged as a certified Armed Security Guard (or) Private Detective for same. (ON DUTY IN MD ONLY) (Not VALID where firearms are prohibited by law.)
10. Licensed Private Detective: Between residence and (or) armed on any Maryland Licensed Security Guard (or) Private Detective agency job assignment or property only, and while actively

**SOP 29-19-004**  
**Processing of Handgun Permit Applications**

---

engaged as a certified Armed Security Guard (or) Private Detective for same. (ON DUTY IN MD ONLY) (Not VALID where firearms are prohibited by law.)

11. Armored Car Driver: Between residence and (or) armed on, (name of agency job assignment or property) only, and while actively engaged as an Armored Car Driver/Guard for same (ON DUTY ONLY) (Not VALID where firearms are prohibited by law.)
12. Special Police Officer: Between residence and (or) armed on, (name of agency job assignment or property) only, and while actively engaged as a Special Police Officer for same (ON DUTY IN MD ONLY) (Not VALID where firearms are prohibited by law.)
13. Bail Bondsman: Between residence and while acting as an employee or agent of a licensed bail bondsman (ON DUTY IN MD ONLY) (Not VALID where firearms are prohibited by law.)

**F. Required Fees**

1. Original handgun permit: \$75.00
2. Renewal and/or subsequent handgun permit: \$50.00
3. Modified and/or replacement handgun permit: \$10.00
4. In accordance with the Annotated Code of Maryland, Public Safety, §5-304, the Secretary may not charge an application fee to a State, county or municipal public safety employee who is required to carry, wear or transport a handgun as a condition of governmental employment; or a retired law enforcement officer of the State or county or municipal corporation of the State.

**G. Required Documents**

In addition to documents required for submission (completed and signed application, photograph, training requirements and fees), each handgun permit category, identified below, will require specific documentation to sufficiently authenticate and support the applicant's good and substantial reason for a handgun permit.

1. Personal Protection: Copies of documented evidence that the applicant's life is in imminent danger or is currently being targeted by individuals wishing to do the applicant harm. Documents may include, but may not be limited to: police reports, court documents, orders of protection or other documentation.
2. Law Enforcement / Correctional Officer: Whether retired or active, the applicant is required to submit a copy of their identification card/retirement credentials and a letter from their department stating they retired or are employed in good standing. Former law enforcement / correctional officers are required to submit a letter from their department stating they resigned in good standing.
3. Assumed Risk Positions: Whether active, retired or separated, the applicant is required to submit verification of their employment in an assumed risk position.
4. Active, reserve, civilian or contractual Federal employee with a top-secret government clearance: Written verification from the employee's security manager confirming employment and active clearance level.
5. Business Owner: A copy of verifiable documentation, such as a business or traders license, articles of incorporation / organization, licenses or other legal documents legitimizing an active business entity. A business owner must provide documentation of business activities that



**SOP 29-19-004**  
**Processing of Handgun Permit Applications**

---


would justify carrying a handgun. Examples of acceptable business activity documentation can be found in the instructional portion of the permit application.

6. **Business Employee:** A copy of verifiable documentation, such as a business or traders license, articles of incorporation / organization, licenses or other legal documents legitimizing an active business entity. An employee of the business must provide a letter from the owner, verifying employment and the duties and responsibilities performed for that business. A business employee must provide documentation of business activities that would justify carrying a handgun. Examples of acceptable business activity documentation can be found in the instructional portion of the permit application.
7. **Private Security Officer:** A copy of certificates, licenses or articles of incorporation recognizing the legal existence of the business. The security officer must provide a letter from the business, verifying their duties and responsibilities and a specific request for the issuance of a wear and carry permit. If the security officer is involved in off-site activity for the business, verifiable documentation of that activity is required.
8. **Private Organization Security Team Member:** A copy of certificates, licenses or articles of incorporation recognizing the legal existence of the organization. The security team member must provide a letter from the organization, verifying their duties and responsibilities and a specific request for the issuance of a wear and carry permit. If the security team member is involved in the transportation of finances, verifiable documentation of that activity is required.
9. **Security Guard:** All armed security guards must provide the following:
  - a. A certified firearms score sheet (MSP Form 29-14) with a minimum 70% passing score, having qualified within one year from the date of submitting the application;
  - b. A letter from the licensed security guard agency, verifying employment and the purpose for which the employee is required to be armed;
  - c. Ownership of the firearm to be carried in the performance of duties; and
  - d. The location of where the firearm will be stored during off-duty hours.
10. **Private Detective:** All private detectives must provide the following:
  - a. A certified firearm score sheet (MSP Form 29-14) with a minimum 70% passing score, having qualified within one year from the date of submitting the application;
  - b. A letter from the licensed private detective agency, verifying employment and the purpose for which the employee is required to be armed;
  - c. Ownership of the firearm to be carried in the performance of duties; and
  - d. The location of where the firearm will be stored during off-duty hours.
11. **Armored Car Driver:** All armored car drivers must provide the following:
  - a. A certified firearm score sheet (MSP Form 29-14) with a minimum 70% passing score, having qualified within one year from the date of submitting the application;
  - b. A letter from the licensed security services agency, verifying employment and the purpose for which the employee is required to be armed;
  - c. Ownership of the firearm to be carried in the performance of duties; and
  - d. The location of where the firearm will be stored during off-duty hours.

**SOP 29-19-004**  
**Processing of Handgun Permit Applications**

---

12. Special Police Officer: All special police officers must provide the following:
- a. A certified firearm score sheet (MSP Form 29-14) with a minimum 70% passing score, having qualified within one year from the date of submitting the application;
  - b. A letter from the employer, verifying employment and the purpose for which the employee is required to be armed;
  - c. Ownership of the firearm to be carried in the performance of duties; and
  - d. The location of where the firearm will be stored during off-duty hours.
13. Bail Bondsmen: All bail bondsmen must submit the following:
- a. A letter from a licensed agency, verifying employment and describing the employee's job functions;
  - b. Ownership of the weapon to be carried and the agency's request for the employee to be armed; and
  - c. Owners of a bail bondsman company are required to submit a copy of their Maryland Insurance Commission Certificate.

Approved:   
Captain A. J. Rossignol  
Captain A. J. Rossignol  
Division Commander 08/05/19