

SenatorBailey_FAV_SB221.pdf

Uploaded by: Bailey, Jack

Position: FAV

JACK BAILEY
Legislative District 29
Calvert and St. Mary's Counties

Judicial Proceedings Committee



THE SENATE OF MARYLAND
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February 2, 2021

Senate Bill 221 – Handgun Qualification License – Firearms Safety Training

Dear Chairman Smith and Members of the Committee:

I am writing to introduce Senate Bill 221 – Handgun Qualification License – Firearms Safety Training. This bill repeals the requirement that a firearms safety training course for a Handgun Qualification License include a firearms orientation component that demonstrates the person's safe operation and handling of a firearm.

The State Police has interpreted the provision of law that this bill repeals to require an applicant to fire a single round with a handgun before the HQL can be issued. This single round requirement does not demonstrate proficiency or accuracy and requires an individual to travel to a gun range to discharge a handgun. This same demonstration can be performed with dummy ammunition, where the person would show safe carry, loading, and firing of a handgun without having to travel to a range.

The most significant barrier posed by this requirement is the difficulty it causes prospective HQL holders living in areas that have either few or no gun ranges for the prospective holder to carry out this live fire requirement. In these jurisdictions, it is harder particularly for residents who have lower incomes and those who rely on mass transit to fulfill this requirement and obtain the HQL.

I respectfully request a favorable report on Senate Bill 221. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Bailey".

Senator Jack Bailey
District 29
Calvert and St. Mary's Counties

DC-W_SB221_Fav.pdf

Uploaded by: Carlin-Weber, Daniel

Position: FAV

Daniel J. Carlin-Weber
SB221 – FAV
Judicial Proceedings Committee
2/2/2021

I am a firearms instructor and advocate of responsible firearms handling and ownership. Currently, I am certified by the Maryland State Police as a Qualified Handgun Instructor, Utah Concealed Firearm Permit Instructor, and NRA Range Safety Officer and Basic Pistol Instructor. Since 2016, I have instructed Marylanders from all walks of life on how to safely operate firearms and the responsibilities that come with their usage. I come before you today to urge a favorable report of Senate Bill 221.

SB221 would strike from Maryland Public Safety Article 5-117.1 (d)(3) language that in September 2013 the Maryland State Police had interpreted to mean that at least one live round of ammunition be fired to “demonstrate(s) the person’s safe operation and handling of a firearm” *AELR Hearing September 23, 2013*, Joint Committee on Administrative, Executive, and Legislative Review, <http://mgahouse.maryland.gov/mga/play/165e1c65-7553-4d81-855b-d19686855130/?catalog/03e481c7-8a42-4438-a7da-93ff74bdaa4c>. Currently, the training required to receive the Handgun Qualification License (HQL) is not complete until one live round of ammunition is fired from a handgun.

As an instructor who teaches the course necessary to acquire the HQL, I can attest that the live fire component is not necessary for a person to demonstrate that they can ably handle a firearm. All of the fundamentals of handling a firearm such as always keeping the muzzle pointed in a safe direction, keeping one's finger off of the trigger until ready to shoot, the safe loading and unloading of a firearm, proper grip, stance, and shooting technique, and operation of the firearm's mechanisms can all be done and *are all done* in the classroom without needing to go to a firing range in order to fire one live round of ammunition.

Barring the live fire requirement, the entire course can be taught in any safe, controlled environment. I have taught in VFW halls, workshops, offices, and even in students' own homes. We go through all the rules of firearms safety and then move on to the aforementioned motions of handling the gun without live ammunition being present. Instead, I use dummy rounds known as "snap-caps" that are the same shape as real ammunition, but do not contain any explosive material, are colored differently from live cartridges, and are entirely inert, making them safe to use anywhere. Additionally, I use a special cartridge that stays inside of a firearm's chamber and contains a laser. When the trigger is pulled and rear of the cartridge is struck by the gun's firing pin, a red laser is emitted through the barrel, simulating where the shot would have gone if it were an actual gunshot. These tools help students get all the basics they need to competently handle a firearm and I have yet to have a student

who learned the basics in class be unable to safely handle a firearm once at the range to actually fire the gun.

The live fire component creates the biggest obstacle for me as an instructor AND for the student as they need transportation to meet me at a range where I am able to teach. Many shooting ranges have their own instructors and do not necessarily allow outside instructors. The range I most frequently meet with students is an hour-long drive for me and sometimes even longer for the student. While I have helped some students get to the range when they lack transportation, I am not a taxi service and cannot do it for everyone. The range cannot be gotten to via public transportation and paid travel may be cost prohibitive for many.

The logistics of the range trip needed for me and my students is all for just *one* shot. One. The requirement does nothing to promote public safety, but instead creates more barriers to responsible gun ownership. The live fire component should be removed.

I request a favorable report.



Daniel J. Carlin-Weber
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SB0221 Testimony - Ebling.pdf

Uploaded by: Ebling, James

Position: FAV

James P. Ebling
18600 Gunpowder Road
Hampstead, Maryland 21074
District 42B

State of Maryland
Senate Judicial Proceedings Committee
2 East Miller Senate Office Building
11 Bladen Street
Annapolis, MD 21401

January 26, 2021

Re: Bill: **SB0221** – Handgun Qualification License - Firearms Safety License
Position: **SUPPORT**

Dear Mr. Chairman, Mr. Vice-Chairman, and Committee Members

Thank you for the opportunity to voice my opinion on this bill.

I have been a Maryland Wear and Carry Permit holder for over ten years. I have been through the state-required training class a number of times. This training is very costly and time-consuming to permit applicants.

This bill will not change the requirements to obtain a Wear and Carry Permit, but will simply save applicants time and money by allowing them to know whether they will be approved before going through the process of training. I believe it is good policy and makes logical sense.

I respectfully ask that you give a favorable vote on this bill.

If you have any questions, please feel free to contact me.

Thank you for your time and consideration.

Sincerely,

James P. Ebling
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410-746-8938

Katie_Novotny_FAV_SB221.pdf

Uploaded by: Novotny, Katie

Position: FAV

Written Testimony of Katie Novotny in support of SB221

29 January 2021

I am a member of Multiple Gun Rights organizations. Maryland Shall Issue, Associated Gun Clubs, Maryland State Rifle and Pistol Association, and the National Rifle Association. I am a certified Range Safety Officer with the NRA. I compete in multiple shooting events such as Steel Challenge, 3-gun, small bore, and vintage military rifle matches. I am an avid firearms collector. I support SB221.

This bill makes good sense. The statute referenced does not contain the requirement that an applicant fire one round during training. The Maryland State Police adding additional provisions to a bill should be alarming to all citizens. What prevents them from adding additional requirements to any number of laws simply because they wish to? That is not how our government works.

Furthermore, the requirement is discriminatory. There are no ranges located within Baltimore City, and various other areas. This requirement means that a HQL class must be held at a range or other place where discharging a firearm is legal, during a time of day where it is legal. This greatly increases the price of a class, and limits where they can be held, and at what time, making them inaccessible to some people because of cost, distance, time, or all. If the firing requirement were struck down, classes could be held nearly anywhere that was convenient for people who wish to be educated about firearms. If the purpose of FSA2013 was safety, having as many people trained in basic firearm safety should be the goal, which means classes should be accessible to as many people as is possible.

Because of these reasons above, I request a favorable report.

Katherine Novotny
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MSI Testimony on SB 221 Live Fire Final.pdf

Uploaded by: Pennak, Mark

Position: FAV



February 02, 2021

WRITTEN TESTIMONY OF MARK W. PENNAK, PRESIDENT, MSI, IN SUPPORT OF SB 221

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 SB 221.

The HQL Statute and the Bill:

This bill would amend MD Code, Public Safety, 5-117.1 (HQL statute). That Section prohibits law-abiding, responsible Maryland citizens from acquiring a handgun unless they have a Handgun Qualification License (“HQL”). Md. Code Ann., Pub. Safety, § 5-117.1(c). Subsection (d) imposes training requirements, including a (i) a minimum of 4 hours of instruction by a qualified handgun instructor” consisting of “(ii) classroom instruction on: 1. State firearm law; 2. home firearm safety; 3. handgun mechanisms and operation; and (iii) a firearms orientation component that demonstrates the person’s safe operation and handling of a firearm.” In regulations, the Maryland State Police have added a new and additional live-fire training requirement, mandating that the HQL applicant “safely fires at least one round of live ammunition.” COMAR 29.03.01.29(C)(4). That live round requirement is not found in the statute.

In the interests of full disclosure, we note that the live-fire requirement, along with the rest of the HQL statute, is presently being challenged by MSI in federal court. See *MSI v. Hogan*, 2017 WL 3891705 (D. MD. 2017) (denying the State’s motion to dismiss). The district court, in a later decision, held that the plaintiffs lacked standing without reaching the merits of the constitutionality of the HQL statute. **That decision was very recently reversed on appeal.** See *MSI v. Hogan*, 971 F.3d 199 (4th Cir. 2020). Further proceedings are now being conducted in district court on remand. On the merits, we believe that it is highly likely that the Supreme Court will, in an appropriate case, soon make clear that the “text, history and tradition” test is controlling in determining the constitutionality of gun control legislation – not tiers of scrutiny. Four members of the Supreme Court recently employed this very approach in *NY State Rifle & Pistol Ass’n, Inc. v. City of New York*, 140 S.Ct. 1525 (2020), where a majority of the Court held that the case was mooted by the repeal of the offending

City of New York ordinance, but the concurring Justice and the three dissenting Justices discussed the merits in separate opinions. See *Id.* at 1526 (Kavanaugh, J.) (concurring in judgment of mootness, but agreeing with Justice Alito’s discussion of *Heller* and *McDonald* on the merits; *Id.* at 1540-41 (Alito, J., joined by Justices Thomas and Gorsuch, dissenting from the judgment of mootness but noting further on the merits that the City’s ordinance violated the Second Amendment under *Heller* and *McDonald*). Justice Thomas made the same point very recently in another case. *Rogers, et al. v. Grewal*, 140 S.Ct.1865, 1868 (2020) (Thomas, J., dissenting from denial of certiorari). See also *Heller v. District of Columbia* (i.e. “*Heller II*”), 670 F.3d 1244, 1269 (D.C. Cir. 2016) (Kavanaugh, J., dissenting) (“In my view, *Heller* and *McDonald* leave little doubt that courts are to assess gun bans and regulations based on text, history, and tradition, not by a balancing test such as strict or intermediate scrutiny.”).

With Justice Barrett now joining the Court, we believe that a solid majority of the Court will adhere to these principles when the issue is presented. See *Kanter v. Barr*, 919 F.3d 437, 452-53 (7th Cir. 2019) (Barrett, J., dissenting). In *Wrenn v. D.C.*, 864 F.3d 650 (D.C. Cir. 2017), the D.C. Circuit applied this text, history and tradition test in striking down the carry statute enacted by the District of Columbia. The DC statute that was invalidated was materially identical to the Maryland carry statute. The HQL statute will likely fail under the text, history and tradition test, just as the D.C. carry statute failed in *Wrenn*. Ironically, eliminating the live fire requirement will simply help the State defend this statute in this ongoing litigation. A failure to enact this bill will help MSI and the other plaintiffs win the case on the merits. Should MSI and the other plaintiffs prevail, in whole or in part, the State would be liable for substantial attorneys’ fees and costs under federal law, 42 U.S.C. §1988. That cost will likely be several hundreds of thousands of dollars.

The Live-Fire Requirement Is Not Authorized By the HQL Statute and Is Discriminatory:

It is well-established in Maryland law that “[a]n agency’s authority extends only as far as the General Assembly prescribes.” *Thanner Enters., LLC v. Balt. Cty.*, 995 A.2d 257, 263 (Md. 2010). Thus, an agency’s rule or regulations cannot “contradict the language or purpose of the statute.” *Medstar Health v. Md. Health Care Comm’n*, 827 A.2d 83, 96 (Md. 2003). Here, the Maryland State Police has grafted onto Section 5-117.1(d)(3)(iii)’s requirement of a “firearms orientation component” an entirely new “practice component” under which the applicant must safely fire “at least one round of live ammunition.” COMAR 29.03.01.29C(4). Although Section 5-117.1(n) provides that “[t]he Secretary may adopt regulations to carry out the provisions of this section,” it does not allow the Maryland State Police to add new “provisions,” such as adding “a practice component” so as to mandate live-fire.

The State Police rule is directly contrary to legislative intent. As originally proposed, the HQL bill required a safety course that included “a firearms qualification component that demonstrates the person’s **proficiency** and use of the firearm.” 2013 Leg. Sess. SB 281 (First Reader) at 17.9. By common usage of these terms, a “qualification component” that demonstrates “proficiency” calls for live-fire. This “qualification component” was deleted by the General Assembly, however, and Section 5-117.1(d)(3)(iii) was changed to its current language by amendment in the House of Delegates proffered by then-Delegate McDermott. Chapter 427 of the 2013 Laws of Maryland. The debate on the floor of the House of Delegates confirms that the amendment was intended to eliminate a live-fire requirement that would have been associated with the “proficiency and use” language of the original bill. See

General Assembly of Maryland, 2013 Regular Session Proceedings – House Audio, April 2, 2013, Session 2, at 19:05 (April 2, 2013). The General Assembly’s rejection of this language in the law that passed means that live-fire training exceeds the scope of the statutory grant. This body should insist that the State Police follow the law that the General Assembly actually passed.

The live-fire requirement is not only unauthorized, it effectively discriminates against residents of the City of Baltimore and the poor populations in Maryland. This requirement is designed to erect a barrier to access for those living in urban areas like Baltimore City where no ranges can be found or reached by mass transportation. Imposition of a live fire requirement by the State is simply a means to further burden and discourage law-abiding Maryland citizens from acquiring a handgun. Specifically, training without a live-fire requirement can take place anywhere, while training that must include live-fire can only take place at a firing range, the availability of which is highly limited (there are **none** in Baltimore City). The need for a range, in turn, acts as a complete barrier to the acquisition of a HQL License by persons, especially the poor, minorities and the disadvantaged, who live in areas, such as Baltimore and most of urban Maryland, where access to a shooting range is highly limited or non-existent. Range access is also expensive and requiring it means that the cost of the training is likewise expensive. Indeed, the discharge of such live ammunition, required by the State Police regulation, is flatly banned by local law in the urban portions of Maryland, including all of the City of Baltimore, all of Prince Georges County and most of Montgomery County and the entire Metro area of Baltimore County. The sole exception is for discharges taking place on “established ranges” which are protected from local regulation by state law, MD Code, Criminal Law § 4-209(d)(2). Again, there are very few such ranges in these areas (and **none** in Baltimore City).

There is no justification for a live-fire requirement that has this sort of intentional discriminatory impact. The residents of Baltimore and the urban areas of Maryland should not be placed at such a profound disadvantage. Persons with means will be able to pay a private instructor who will have access to a range. Cost will not be a barrier for these individuals. They will be able to obtain an HQL. Poorer Marylanders are out of luck. That is intolerable. Like it or not, under the Supreme Court’s decision in *District of Columbia v. Heller*, 554 U.S. 570 (2008), all law-abiding, responsible adult citizens have a right to buy a handgun for self-defense. Period. Full stop. Not even the State Attorney General has disputed that basic premise in the *MSI* litigation. That right should be available to every law-abiding responsible citizen, regardless of whether they live in Baltimore or somewhere else in Maryland. By reversing the discriminatory requirement of live-fire, this bill will help ensure that right is available to all law-abiding citizens, just like other constitutional rights. The HQL statute will eventually fail to survive constitutional challenge. In the meantime, the law-abiding citizens of Baltimore and of the other urban portions of Maryland should enjoy the same rights as enjoyed by persons with means. We urge a favorable report.

Sincerely,



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

SB221 Opposition testimony.pdf

Uploaded by: Herren, Karen

Position: UNF



**Testimony in Opposition of Handgun Qualification License -
Firearms Safety Training
SB 221**

**Karen Herren, JD, Director of Legislative Affairs
Marylanders to Prevent Gun Violence**

February 2, 2021

Dear Chair Smith, Vice-Chair Waldstreicher, and members of the Judicial Proceedings Committee,

Marylanders to Prevent Gun Violence is a statewide grassroots organization dedicated to reducing gun deaths and injuries throughout the state of Maryland, with a particular focus on reducing urban gun violence and gun suicide. Our work ranges from addressing data-driven legislative change, leading a violence intervention and prevention coalition, and running programs for at-risk children. Our mission is to work toward ending the cycles of violence that plague our state. We do not support any attempts to weaken the safety training requirement of Maryland's Handgun Qualification License. **We urge the committee to vote UNFAVORABLY on Senate Bill 221 which seeks to eliminate the firearms orientation component of training that seeks to ensure a person's safe operation and handling of a firearm.**

SB221_MNADV_OPP.pdf

Uploaded by: Shapiro, Melanie

Position: UNF



BILL NO: Senate Bill 221
TITLE: Handgun Qualification License - Firearms Safety Training
COMMITTEE: Judicial Proceedings
HEARING DATE: February 2, 2021
POSITION: **OPPOSE**

The Maryland Network Against Domestic Violence (MNADV) is the state domestic violence coalition that brings together victim service providers, allied professionals, and concerned individuals for the common purpose of reducing intimate partner and family violence and its harmful effects on our citizens. **MNADV urges the Senate Judicial Proceedings Committee to issue an unfavorable report on SB 221.**

Senate Bill 221 seeks to remove from statute the imperative training requirement that a firearm owner demonstrate the ability to safely operate and handle a firearm. COMAR explains that the ability to safely operate and handle a firearm requirement includes “a practice component in which the applicant safely fires *at least* one round of live ammunition.”¹ The practice component is a critical training requirement that should not be removed from statute. If this training requirement is removed from statute, the sole training requirement for a handgun qualification license would be a minimum of 4 hours of classroom instruction. There would be no requirement in the State of Maryland that an individual with a handgun qualification license actually demonstrate the ability to safely operate and handle a firearm. Removing the demonstrative component for the handgun qualification license would be akin to removing the road test for a Maryland driver’s license.

Guns are used in a variety of ways by perpetrators of domestic violence. Guns are not only used by abusers to shoot their victims but are used to threaten a victim, intimidate a victim, and used to pistol-whip a victim.² Approximately 4.5 million American women alive today have been threatened by intimate partners with firearms and 1 million have been shot or shot at by their abusers.³ Women who are threatened or assaulted with a gun are 20 times more likely than other women to be murdered.⁴

For the above stated reasons, the **Maryland Network Against Domestic Violence urges an unfavorable report on SB 221.**

¹ COMAR 29.03.01.29(C)(4) (emphasis added).

² Zeoli, A.M., *Non-Fatal Firearm Uses in Domestic Violence*, The Battered Women’s Justice Project, 2017.

<https://www.preventdvgunviolence.org/nonfatal-gun-dv-zeoli-.pdf>

³ Sorenson, S. B., & Schut, R. A. (2016). Nonfatal gun use in intimate partner violence: A systematic review of the literature. *Trauma, Violence, & Abuse*

⁴ Campbell, J. C., Webster, D., Koziol-McLain, J., Block, C. R., Campbell, D., Curry, M. A., Gary, F., McFarlane, J., Sachs, C., Sharps, P., Ulrich, Y., & Wilt, S. A. (2003, November). *Assessing Risk Factors for Intimate Partner Homicide*. Washington, DC: National Institute of Justice (NIJ). p.16. <https://www.fcadv.org/sites/default/files/Campbell%2020032.pdf>