



President
Mark W. Pennak

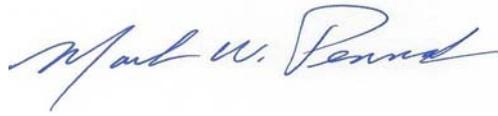
February 2, 2021

WRITTEN TESTIMONY OF MARK W. PENNAK, PRESIDENT, MSI, IN PARTIAL OPPOSITION TO HB 450

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 the District of Columbia and the Bar of Maryland. 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 and a certified NRA instructor in rifle, pistol, personal protection in the home, personal protection outside the home, muzzleloading, as well as a range safety officer. I appear today in opposition to one aspect of HB 450.

This bill would amend MD Code, Election Law, §16-904, to provide that that a person may not “CARRY OR POSSESS A FIREARM WITHIN 100 FEET OF A POLLING SITE DURING AN ELECTION.” That provisio makes no exception for persons possessing a firearm in their own home and is thus overbroad. In *District of Columbia v. Heller*, 554 U.S. 570 (2008), the Supreme Court held that citizens have the right to possess operative handguns for self-defense in the home. *Heller* also made clear that the right belongs to every “law-abiding, responsible citizen[]”. *Heller* 554 U.S. at 635. The rights guaranteed by the Second Amendment are fundamental and are, therefore, applicable to the States by incorporation under the Due Process Clause of the 14th Amendment. See *McDonald v. City of Chicago*, 561 U.S. 742, 768 (2010) (“[c]itizens must be permitted to use handguns for the core lawful purpose of self-defense”). The bill is also overbroad in that it would reach possession by persons with Maryland carry permits or persons who are simply on the way to the range or otherwise permitted location as specified in Md. Code, Criminal Law, §4-203(b), who just happen to drive by within 100 feet of a polling place. We respectfully suggest that the bill be amended to except from the bill’s coverage these types of possession.

Sincerely,

A handwritten signature in blue ink that reads "Mark W. Pennak". The signature is written in a cursive style with a large initial 'M' and a long, sweeping underline.

Mark W. Pennak
President, Maryland Shall Issue, Inc.
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