

February 8, 2022

WRITTEN TESTIMONY OF MARK W. PENNAK, PRESIDENT, MSI, IN SUPPORT OF HB 871

I am the President of Maryland Shall Issue (“MSI”). Maryland Shall Issue is a Section 501(c)(4), non-profit, 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 871.

Firearms Safety Act of 2013 requires that a person complete a 16 hour training course, taught by a State certified instructor, “prior to application” for a carry permit. MD Code, Public Safety, § 5-306(a)(5). Senate Bill 338 would amend Section 5-306 to delete the requirement that the training be completed “prior to application.” It then provides that a person may file an initial application for a wear and carry permit without completing the training and directs that the State Police to issue a preliminary approval if the person is otherwise qualified for the permit. The person then has 120 days after receipt of the preliminary approval to furnish the State Police the certificate of training otherwise required by the regulations. A permit does not issue until that training certificate is provided. If no certificate of training is provided, the State Police are directed to revoke the preliminary approval and deny the permit application.

This bill makes sense. Indeed, this same bill passed the House of Delegates in 2017 as HB 1036 and that bill was reported out this Committee with a favorable report. The bill only failed to become law that year because time ran out at *sine die*. In 2020, the same bill (SB 506) was favorably reported out by the Senate Judicial Proceedings Committee and unanimously passed the Senate, only to die in the House with the shortened legislative session due to COVID 19. Last Session, this same preliminary approval legislation (SB 309) was passed by the Senate, but died in the House. This bill, HB 871, is not materially different than these bills that have passed the Senate and the House in years past.

To be clear, the existing, very rigorous training requirements are not relaxed in the slightest under this bill and no permit may be issued without a person satisfying those requirements. That training, however, is relatively hard to find and can be quite expensive, running from around \$300 up to \$600 for each person in a class. This high cost reflects the number of hours required and the mandatory live-fire course mandated by the State Police. That live-

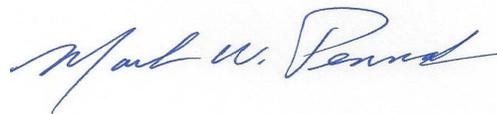
fire requirement necessitates access to a range, which are relatively few in number in Maryland and most commonly privately owned and operated. Many, if not most, instructors require a minimum number of persons in a class, typically ten, and classes are not held until that minimum number of persons actually sign up for the class. For these reasons, a person will need at least 120 days to find the course and secure training. This bill allows a person to apply without undergoing that initial and substantial expense, which would be completely wasted if the State Police were to determine that the person is not otherwise qualified for the permit.

Other jurisdictions follow this same approach. For example, California imposes a “good cause” requirement for a carry permit. See CA Penal Code 26202. That “good cause” requirement is quite similar to the Maryland “good and substantial reason” requirement imposed by MD Code Public Safety §5-306(a)(6)(ii). California, like Maryland, likewise imposes a 16 hour training requirement. CA Penal Code § 26165. Yet, that same provision also provides that “[t]he applicant shall not be required to pay for any training courses prior to the determination of good cause being made pursuant to Section 26202.” See also Section 26202 (“If the licensing authority determines that good cause exists, the notice shall inform the applicants to proceed with the training requirements specified in Section 26165.”).

The District of Columbia and Delaware also follow this approach. See D.C. Mun. Regs. Tit. 24, § 2336.4 (“An applicant may submit to the Chief the application required under § 2337 without including the certificate of completion of training required by this section; provided that if the Chief preliminarily approves the application pursuant to §2339, the applicant has forty-five (45) days to submit the certificate of completion and successfully complete the range training”); 2 DE Code § 1441(e) (allowing a permit to be issued on an approved application after submission of a certificate of completion of the required training, but not establishing any firm deadline for such submission).

There is no good reason why Maryland cannot give preliminary approval as contemplated by this bill. In 2017, the representative of the Maryland State Police testified that the State Police can accommodate this approach without a problem. See Video of Testimony by State Police on HB 162 before the House Judiciary Committee (Feb. 7, 2017), available at <http://mgahouse.maryland.gov/mga/play/421c69fc-fd71-4351-bb1a-f78440aa18f4/?catalog/03e481c7-8a42-4438-a7da-93ff74bdaa4c&playfrom=1499000> (exchange with Del. Anderson, starting at 29.00 minutes). This is just good government. We urge a favorable report.

Sincerely,



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