

Daniel J. Carlin-Weber
 HB 824
 Unfavorable
 2/22/2023

I am a professional firearms instructor and advocate of responsible firearms handling and ownership. I teach through my Baltimore City-based company, C-W Defense, and hold numerous credentials related to firearms instruction including being recognized as a Qualified Handgun Instructor by the Maryland State Police. Since 2016, I have taught Marylanders from all walks of life how to safely operate firearms and the responsibilities that come with them. I come before you today to urge an unfavorable report for House Bill 824.

Among other changes, this bill would amend the Public Safety Article to affect who can possess a regulated firearm and the processes around the issuance of permits to wear and carry handguns. It increases the number of individuals who are ineligible for both but also doubles the fees related to the issuance of carry permits. The bill also repeals the requirement that exists under current law that applicants demonstrate a “good and substantial reason” to carry a handgun, as was found unconstitutional in the US Supreme Court’s June 2022 opinion in *New York State Rifle & Pistol Assn., Inc. v. Bruen*, No. 20-843. https://www.supremecourt.gov/opinions/21pdf/20-843_new_m648.pdf. Carry permits would have to be renewed every two years instead of the current three-year period upon the first renewal of a permit. HB 824 would also allow the State Police to revoke a permit for violating Public Safety, § 5-308, which requires that a holder maintain possession of their permit whenever they wear, carry, or transport a handgun.

The State does have the ability to determine who “law-abiding, responsible” citizens are under footnote 9 at p. 30 of the slip opinion in *Bruen*, which generally blesses the shall-issue permitting schemes of the 43 states that had them when the opinion was rendered. However, there are caveats. Beyond warning that any such schemes should maintain “narrow, objective, and definite standards,” without subjectivity, the note declares:

That said, because any permitting scheme can be put toward abusive ends, we do not rule out constitutional challenges to shall-issue regimes where, for example, lengthy wait times in processing license applications or exorbitant fees deny ordinary citizens their right to public carry.

The Public Safety article as it stands today *and* amended by HB 824 could very much fall within the bounds of the Supreme Court’s warning. Currently, an applicant for a permit in Maryland is required to take a 16-hour training course if they’re not training-exempt. That expense for private instruction *alone* typically runs \$350 and

up. Applicants then must acquire Maryland LiveScan fingerprints (~\$60), and finally, pay the State \$75 for the application itself. Issuance of the permit by the Maryland State Police Licensing Division is averaging around 45 days as of this writing, though state law requires only that the Secretary issue the permit within a “reasonable” amount of time. State Police SOP 29-19-004 provides that the Licensing Division aims to process permits within 90 days. <https://bit.ly/2P9YH4v>. In total, most applicants will spend around \$500 for the exercise of their right to keep and bear arms in public as recognized in *Bruen*. The Supreme Court does not define what fees are “exorbitant” or what wait times are “lengthy,” but the State should avoid doing anything to contribute to increases in either.

Maryland’s current \$75 cost of the permit application itself is on the high-end regionally and the 2 to 3-year period that the permit is valid is short. Pennsylvania charges \$20, with their permits lasting for 5 years. Permits must be denied or issued within 45 days. See PA Code 18 Pa.C.S. § 6109. <https://www.legis.state.pa.us/WU01/LI/LI/CT/HTM/18/00.061.009.000..HTM>. Virginia charges its residents no more than \$50 for a permit, which is valid for 5 years, and they too must issue it within 45 days. <https://vsp.virginia.gov/services/firearms/resident-concealed-handgun-permits/>. Delaware charges \$65 for their permit, which is valid for 3 years for an initial application and 5 years for renewals. <https://delcode.delaware.gov/title11/c005/sc07/index.html#1441>. West Virginia does not require a permit to carry a handgun concealed but does still issue permits to residents for \$50 which also last for 5 years. <https://code.wvlegislature.gov/61-7-4/>. Of note, West Virginia also issues permits to carry for those 18-20 years of age.

Doubling Maryland’s fees and lessening the time the permit is valid makes an already expensive right to exercise even more so. The State cannot price people out of the right to keep and bear arms any differently than the exercise of any other right. What’s worse is that the current licensing scheme is already out of reach for many Marylanders for one reason or another and violating any of it imperils individuals from ever being able to legally exercise that right ever again if convicted. *Any* conviction for a violation of the current MD Code, Criminal Law, § 4-203 is a prohibiting offense from possessing firearms or carrying them in Maryland.

That leads to another point where this bill would allow the State Police to revoke a permit for failure to maintain physical possession of their issued permit while carrying a handgun in public as required in MD Code, Public Safety, § 5-308. Already, it’s a crime to fail to do so and a conviction could come under § 4-203, eliminating that person’s right to keep and bear arms permanently. Simple mistakes should not lead to the erasure of one’s right, but the bill demands so. The likely retort is that charges won’t be brought to those individuals, but that’s a miserably hollow assurance. As this body is aware, with the introduction of HB 131 and prior iterations of that bill, there are laws still being used to charge adults for consensual sexual acts.

These have not been constitutional in Maryland since 1990 and nationally since *Lawrence v. Texas*, 539 U.S. 558, 123 S. Ct. 2472 (2003), yet they're still on the books and still being used to bring charges. <https://www.washingtonblade.com/2021/07/21/gay-men-arrested-under-md-sodomy-law-in-adult-bookstore-raid/>. Supporting that acknowledgment, HB 824 explicitly strikes from current law the unconstitutional requirement that applicants demonstrate a need for the permit under Public Safety, § 5-306(a)(6)(ii).

If there is going to be logical consistency with how this body considers criminal laws because of how they could be tried, they should pass laws that require that individuals actually meant to commit harmful acts. In 2020, the General Assembly's Task Force To Study Crime Classification and Penalties recommended requiring *mens rea* by default in criminal statutes in their interim report from December 2020. <https://bit.ly/34qJwvY>. The Maryland Court of Appeals has likewise recently recommended to the General Assembly in *Lawrence v. State*, 475 Md. 384, 408, 257 A.3d 588, 602 (2021) that *mens rea* be incorporated into Maryland's restrictions on the wearing, carrying, and transporting of regulated firearms, Md. Criminal Law § 4-203(a)(1)(i). "Guns are bad" cannot and should not be the basis for casting aside due process protections and if someone is to be sent away to prison for a crime involving a gun (or any crime), a showing that they *actually* meant to commit the act or harm another should be required.

As far as the training requirements go, the bill should at least be amended to accept any demonstration of live-fire instruction whatsoever as many states do, including Virginia or lessen the amount of time the class must be. The 16-hour requirement in current law is among the most stringent in the United States and was only added after leaders in the state feared it would lose its ability to enforce "good and substantial" reason requirement after a federal district court in *Woollard v. Sheridan*, 863 F. Supp. 2d 462 (D. Md. 2012) had struck it as unconstitutional in 2012 (later reversed by the US Court of Appeals for the 4th Circuit). Utah, a state for which I teach their required licensure course, has no time requirement but its minimum curriculum (retrievable here: <https://bci.utah.gov/wp-content/uploads/sites/15/2022/08/Minimum-Training-Curriculum.pdf>) takes roughly 4 hours to instruct and covers state and federal firearms laws, handgun mechanisms and operation, state self-defense law including justifiable use of force and deadly force, the proportional use of force in self-defense and conflict resolution, as HB 824 would require and is already being taught in classes across Maryland.

There is a clear animus towards ordinary Marylanders being able to legally carry arms in public that the General Assembly, unfortunately, demonstrates time and time again. This attitude does not advance public safety, especially so in a state no stranger to the effects of gun violence stemming from those with zero regard for the State's litany of decades-old gun laws designed to curtail public carry.

I urge an unfavorable report.

A handwritten signature in blue ink, appearing to read 'DCW', is positioned above the contact information.

Daniel J. Carlin-Weber
225 N Calvert St., 819
Baltimore, MD 21202
dcw@cwdef.com