

# 2024 MDDA SB 348 Firearms.pdf

Uploaded by: Ashlie Bagwell

Position: FAV



TESTIMONY ON BEHALF OF THE MARYLAND DISPENSARY  
ASSOCIATION (MDDA)

Senate Bill 348—Firearms-Right to Purchase, Own, Possess and Carry  
**SUPPORT**

Senate Judicial Proceedings Committee  
February 2, 2024

The Maryland Medical Dispensary Association (MDMDA) was established in May, 2017 in order to promote the common interests and goals of the Cannabis Dispensaries in Maryland. MDDA advocates for laws, regulations and public policies that foster a healthy, professional and secure cannabis industry in the State. MDDA works on the State and local level to advance the interests of licensed dispensaries as well as to provide a forum for the exchange of information in the Cannabis Industry.

Senate Bill 348 specifies that a person may not be denied the right to purchase, own, possess, or carry a firearm simply because he or she is a qualifying patient with legal access to medical cannabis in Maryland. The MDDA strongly believes that Marylanders should not have to choose between owning a legal firearm and accessing medication.

For this simple and straightforward reason, we urge the Senate Judicial Proceedings Committee to vote favorably on Senate Bill 348.

# **SB348.pdf**

Uploaded by: Mike McKay

Position: FAV

**MIKE MCKAY**  
*Legislative District 1*  
Garrett, Allegany, and Washington Counties



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Judicial Proceedings Committee  
Executive Nominations Committee

**THE SENATE OF MARYLAND**  
**ANNAPOLIS, MARYLAND 21401**

Senate Bill 348 – Firearms – Right to Purchase, Own, Possess, and Carry– State Share Adjustment

February 1, 2024

Dear Chairman Smith, Vice Chairman Waldstreicher, and Members of the Committee,

The purpose of the bill is to protect the firearm ownership rights of those who are authorized to use medical cannabis. Patients who qualify to use medical cannabis, which is a legal product that is non-addictive, lose their rights when answering relevant firearm forms. These are the forms every prospective gun owner must fill out when purchasing a firearm in the State of Maryland. Preventing these law-abiding patients from purchasing a firearm based solely on the prescribed method they take, is unconstitutional and unfair. Former Attorney General Brian Frosh had written in an opinion, the state law does not permit our State Police from denying applications for purchase, handgun qualification permits, or carry permits. To fix this issue, he stated the legislature should clarify the Public Safety article with the Health General Article, Section 13-3313. Senate Bill 348 clarifies and rectifies this exact issue. I thank you all for your time and ask for a favorable report.

Sincerely,

A handwritten signature in black ink that reads "Mike McKay".

Senator Mike McKay

Representing the Appalachia Region of Maryland

Serving Garrett, Allegany, and Washington Counties

**SB0348.pdf**

Uploaded by: Karla Mooney

Position: UNF

SB0348 - Firearms – Right to Purchase, Own, Possess, and Carry

Karla Mooney  
21175 Marigold St  
Leonardtown MD 20650  
Resident of St. Mary' County Dist. 29C

I am State Director of The DC Project-Women for Gun Rights and the State Leader of the Armed Women of America. I stand in solidarity with the Ladies of both groups, numbering many more than just myself. I am also a professional Multi-disciplined Firearms Instructor and Maryland QHIC.

On premise that everyone has the right to own a firearm, I might agree with the bill. However Marijuana is still a Federal Schedule one drug there for ILLEGAL to possess and have a firearm according to the ATF. For this reason I oppose this bill.

Please give an unfavorable report for this bill.

# **SB 348 Firearms, right to purchase**

Uploaded by: vince mcavoy

Position: UNF



SB0348 – Sen. Mike McKay

UNFavorable

vince mcavoy

baltimore md 21203

Senators of Senate JPR,

Since the permissive effort toward legalization in my state, Maryland and particularly the Baltimore region has seen vast changes due to use of marijuana products. Increased crime. Increased robbery and carjackings. The stench of marijuana on the roads from early in the morning to very late. Large stores we all shop in reeking after only 1 or 2 individuals exhale inside a WholeFoods or a Marshalls. Drugs are everywhere. Murder in the Baltimore region is expanding beyond the City. The same has happened with carjacking, general lawlessness, & drug addiction. Where there are drugs, there is crime. Gun owners should not be able to indulge in marijuana use ( “medical” or otherwise) due to the epidemic of marijuana-spurred psychosis and resulting schizophrenic diagnoses related to marijuana. Gun owners should represent a heightened standard of responsibility. They should not make themselves prone to self-induced mental illness. Gun owners should model positive, responsible behavior in front of children and the community.

“Medical marijuana” has always been a canard, a first-step in each state which has adopted legalization. To look at states which have legalized recreational use or liberalized enforcement of state/federal marijuana and drug laws is to view the uncoupling of society from reality. California, which had been deemed America’s paradise long ago, has fully degenerated into a nightmare. Maryland’s own Baltimore City is a cautionary tale to the rest of the state and the country. Weed is openly smoked on the streets by children... by 10, 12 and 14 year old children. No arrests are made, endless excuses are made for criminals. No concern is shown for Maryland’s future. We don’t need guns in the hands of self-induced drug-addicts and schizophrenics.

This Western Maryland senator has lost his way? Does he want Garrett, Allegany, and Washington Counties to be like the Baltimore region? Bad move!

There is virtually no peer-reviewed research regarding any positive effects of marijuana consumption on patients. “Medical marijuana” is a fraud.

As real conservative Rep. Andy Harris pointed out last year, marijuana users are struggling with marijuana addiction.

### **Chairman Harris Issues Statement In Response To Study Showing Recreational Marijuana Users Commonly Struggle With Cannabis Use Disorder**

Only a few months ago, Doctor and Congressman Andy Harris M.D., Chairman of the House Appropriations Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies highlighted the cult-like efforts Marylanders have toward marijuana use & intoxication.

The House Appropriations committee released the following statement in response to the Journal of the American Medical Association Network Open (JAMA) **study** showing 21% of recreational cannabis users struggle with **cannabis use disorder** (CUD) after cannabis became legal.

According to the National Health Institute, **clinicians characterize cannabis use disorder as a problematic use of cannabis. Common symptoms include:**

1. **A persistent desire or unsuccessful efforts to cut down or control cannabis use.**
2. **A great deal of time is spent in activities necessary to obtain cannabis, use cannabis, or recover from its effects.**
3. **Craving, or a strong desire or urge to use cannabis.**

According to the study, recreational cannabis users experienced a more severe form of CUD.

<https://harris.house.gov/media/press-releases/chairman-harris-issues-statement-response-study-showing-recreational-marijuana> August 31, 2023

What Rep. Andy Harris, M.D. didn't point out was that these people exposed to this disorder are prone to marijuana-driven psychosis, yet may be driving children around in a marijuana-fogged vehicle, harming those children. This excellent video tape recently covers a great many issues surrounding marijuana use. <https://youtu.be/Kii94hG9jSQ&t=1010>

This psychosis is increasing are instances of drug-induced murder, suicide, violence, increased autism, higher lung damage, and intolerance/allergic reactions to marijuana smoke. roads.

humbly  
~vince

# **MSI Testimony on SB 348 and HB 296 medical marijuana**

Uploaded by: Mark Pennak

Position: INFO



President  
Mark W. Pennak

February 2, 2024

**WRITTEN TESTIMONY OF MARK W. PENNAK, PRESIDENT,  
MARYLAND SHALL ISSUE,  
AS INFORMATION WITH RESPECT TO SB 348 and HB 296**

I am the President of Maryland Shall Issue (“MSI”). Maryland Shall Issue is a Section 501(c)(4), all-volunteer, non-partisan, non-profit 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 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 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 and personal protection in the home and outside the home and muzzle loading. I appear today as President of MSI to provide information with respect to SB 348 and HB 482

**The Bill:** The Bill adds Section 5-901 to the Public Safety Article to provide that “A PERSON MAY NOT BE DENIED THE RIGHT TO PURCHASE, OWN, POSSESS, OR CARRY A FIREARM UNDER THIS TITLE SOLELY ON THE BASIS THAT THE PERSON IS AUTHORIZED TO USE MEDICAL CANNABIS UNDER TITLE 36, SUBTITLE 3 OF THE 18 ALCOHOLIC BEVERAGES AND CANNABIS ARTICLE. Like similar bills in the past, MSI takes no position with respect to the merits of the Bill. However, as before, we do wish to point out some legal realities for the purpose of informing the debate on the Bill.

**Legal Framework:**

With the recent changes in Maryland law concerning medical marijuana, and legalization of the use and possession of marijuana in Maryland, MD Code, Art. 20, § 1, a recurring issue is how such marijuana use and possession would affect Second Amendment rights. The short answer is that while the bill could be read to do away State restrictions for medical marijuana users, the bill would do nothing that would affect federal law under which such use and possession of any marijuana effectively would abrogates those rights by (1) barring a Federal Firearms Licensee (“FFL”) from selling a firearm to such a user and (2), by making such a user a prohibited person under federal law.

**Federal law:** As to FFLs, the pertinent statutory provision under federal law is 18 U.S.C. § 922(d)(3), which provides:

(d) It shall be unlawful for any person to sell or otherwise dispose of any firearm or ammunition to any person knowing or having reasonable cause to believe that such person--

\* \* \*

(3) is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. § 802));

The ATF has issued a bulletin to all Federal Firearms Licensees that advises FFLs that “if you are aware that the potential transferee is in possession of a card authorizing the possession and use of marijuana under State law, then you have ‘reasonable cause to believe’ that the person is an unlawful user of a controlled substance.” See Open Letter to All Federal Firearms Licensees, Sept. 21, 2011, available at [www.atf.gov/file/60211/download](http://www.atf.gov/file/60211/download). That means that the FFL (or any other person with such knowledge) is prohibited from selling a firearm to such a person with a medical marijuana card. This ATF prohibition has been sustained in federal court. *Wilson v. Lynch*, 835 F.3d 1083, 1093 (9th Cir. 2016), *cert. denied*, 580 U.S. 1217 (2017).

Moreover, the latest version of Federal Form 4473 (attached hereto in relevant part) continues to expressly ask if the purchaser is “an unlawful user of . . . any controlled substance” and states in bold type: “**Warning: The use or possession of marijuana remains unlawful under Federal law regardless of whether it has been legalized or decriminalized for medicinal or recreational purposes in the state where you reside.**” A false statement or answer on Form 4473 is federal felony under 18 U.S.C. § 922(a)(6) (barring material misrepresentations “in connection with the acquisition” of a firearm). See *Abramski v. United States*, 573 U.S. 169 (2014). A violation of Section 922(a)(6) is punishable by up to 10 years in prison. See 18 U.S.C. § 924(a)(2).

As to becoming a disqualified person, under federal law, **any user of marijuana is a disqualified person** under 18 U.S.C. § 922(g)(3) which states:

(g) It shall be unlawful for any person--

\* \* \*

(3) who is *an unlawful user* of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.” (Emphasis added).

A knowing violation of Section 922(d)(3) or Section 922(g)(3) is a federal felony, punishable with up to 15 years in prison. See 18 U.S.C. § 924(a)(8). Both provisions define the term “unlawful user” by reference to the Controlled Substances Act, a federal law. Marijuana is expressly classified as a Schedule I controlled substance under the Controlled Substances Act, 21 U.S.C. § 812(c). See also ATF regulations 27 C.F.R. § 478.11. **Any** use of marijuana makes a person an “unlawful user” under that federal law. **Period.** Under the Supremacy Clause of the Constitution, Article VI, Clause 2, the federal law provisions cannot be abrogated by State law. And these

provisions of federal law cannot be simply ignored, if only because every purchaser of a firearm from a FFL must fill out ATF Form 4473. See 18 U.S.C. § 922(t). As noted above, a false statement in filling out that form is a felony.

In *United States v. Parker*, 2021 WL 211304 at \*12 (D. MD. Jan. 21, 2021), the Maryland federal district court held that “notwithstanding Maryland’s decriminalization of possession of small quantities of marijuana, federal law continues to render it illegal to possess marijuana.” The *Parker* court thus held that the odor of marijuana provided a sufficient basis for a search of a person. This line of federal cases makes clear that a medical marijuana user continues to face the risk of a search and possible arrest even though possession of medical marijuana may be perfectly legal under State law. Federal courts are not bound by State court decisions. See also *United States v. Castillo Palacio*, 427 F. Supp. 3d 662, 672 (D. Md. 2019) (upholding vehicle search by local Maryland police officers where the search was based on odor of marijuana, even though personal possession of a small quantity was then a civil offense in Maryland, on grounds that possession of marijuana was still a federal crime). While current Maryland law prevents a State or local law enforcement officer from initiating a stop or a search of a person, a motor vehicle or a vessel “based solely on” the “order of burnt or unburnt cannabis” and impose other marijuana related restrictions on such officers, MD Code, Criminal Procedure, § 1-211, nothing in State law would apply to federal law enforcement officers. Any firearm discovered during an otherwise lawful search may be used as evidence supporting a charge that the medical marijuana user violated federal firearms law.

**State law and expungements:** Maryland law imposes a firearms disqualifier on a “habitual user” of “a controlled dangerous substance” and bars that person from acquiring a regulated firearm (a handgun). MD Code, Public Safety, § 5-118(b)(3)(vi). Maryland law defines that term to mean any person “who has been found guilty of two controlled dangerous substance crimes, one of which occurred in the past 5 years.” MD Code, Public Safety, 5-101(m). Likewise, MD Code, Public Safety, 5-134(b)(7) makes it a criminal offense punishable by 5 years of imprisonment for a dealer or any other person to “sell, rent, loan or transfer” a regulated firearm to any person who is “a habitual user” of “a controlled dangerous substance.” A similar disqualification is imposed on an “habitual user of a controlled dangerous substance unless the habitual use of the controlled dangerous substance is under legitimate medical direction” with respect to applicants for wear and carry permits under MD Code, Public Safety, 5-306(a)(5).

The Handgun License Qualification provisions of Maryland law, MD Code, Public Safety, 5-117.1(c)(2), provides that a person “may purchase, rent or receive a handgun only if the person” possesses a valid HQL issued by the State Police and only if that person “is not otherwise prohibited from purchasing or possessing a handgun **under State or federal law.**” An HQL thus cannot be issued to a person under this section if possession of a firearm would violate federal law and that would include medical marijuana users. The Maryland Code does not distinguish between federal and state convictions in these provisions.

A wear and carry permit applicant is likewise disqualified if that person has been “convicted of a felony or of a misdemeanor for which a sentence of imprisonment for more than 1 year has been imposed,” *id.* at 5-306(a)(2)(i) or has been “convicted of a crime involving the possession, use, or distribution of a controlled dangerous substance.” *Id.* at 5-306(a)(3). The categorical Maryland disqualification for convicted felons was sustained as constitutional in *Hamilton v. Pallozzi*, 848 F.3d 614 (4th Cir. 2017), *cert. denied*, 583 U.S. 1012 (2017). HB 824, enacted just last Session, see 2023 Maryland Session Laws, Ch. 651, imposes a firearms disqualification for the wear and carry permit if a person has been convicted of improper storage of a firearm under MD Code, Criminal Law, § 4-104. See MD Code, Public Safety, § 5-306(d). Section 4-104(c) provides that “[a] person may not store or leave a loaded firearm in a location where the person knew or should have known that an unsupervised minor has access to the firearm.” A violation is punishable with “a fine not exceeding \$1,000.” *Id.* § 104(d).

This Bill is presumably intended to nullify all these disqualification provisions of State law with **respect to medical marijuana users** (but not with respect to other cannabis users). Again, however, the Bill can do nothing to impair the operation of federal law. Nor would this Bill affect the disqualifications that may still apply to existing cannabis users who were previously convicted for possession of marijuana and who do not possess medical marijuana cards. Habitual users of cannabis under Maryland law may be forced to seek expungements of their prior convictions to overcome the disqualifications imposed by Maryland law. See MD Code, Criminal Procedure, § 10-105(a)(11) (allowing expungements for convictions where “the act on which the conviction was based is no longer a crime”). See also *id.*, at § 10-105(a)(12) (allowing expungements the person was convicted of possession of marijuana under § 5-601 of the Criminal Law Article).

However, even with expungements, if those prior convictions were disqualifiers under federal or State law, then those convictions could continue to act as disqualifiers under federal law, as the FBI does not recognize the validity of Maryland expungements under 18 U.S.C. § 921(a)(20), in administering the federal NICS background check system. That provision of federal law provides that “[a]ny conviction which has been expunged or set aside or for which a person has been pardoned or has had civil rights restored shall not be considered a conviction for purposes of this chapter, unless such pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.” Maryland expungements are disregarded by the FBI because expungement is defined under Maryland law to constitute removal “from public inspection” rather than complete removal. See MD Code, Criminal Procedure, § 10-101(d),(e) (defining “expunge” and “expungement”). The FBI construes the expungement provisions of Section 921(a)(20) to apply only to a total expungement, not merely an expungement from “public inspection.” Amendments to the expungement law are thus necessary. The appropriate amendments are addressed in HB 268 and HB 269, sponsored by Del. Grammar. And of course, continued use of cannabis by any person (including medical marijuana card holders) is still prohibited by federal law and thus those persons would continue to be disqualified by Section 922(g)(3) of Title 18.

## **Medical Marijuana and the Rohrabacher–Blumenauer Amendment:**

It is important to note that for years Congress has adopted an appropriations rider that prohibits the Department of Justice from spending funds to “prevent” the “implementation” of State medical marijuana laws. See, e.g., Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, § 542, 129 Stat. 2242, 2332-33 (2015) (also known as the Rohrabacher–Blumenauer amendment). See *McIntosh v. United States*, 833 F.3d 1163 (9<sup>th</sup> Cir. 2016). That amendment has been continuously reenacted since then as an appropriations rider. The amendment has been recently renewed. As of this writing, the Rohrabacher–Farr amendment is effective through February 2, 2024. As it is only an appropriation provision that prohibits the expenditure of the appropriated funds for these enforcement purposes, the amendment must be continually renewed to remain effective. The underlying conduct (possession of marijuana) remains a federal crime.

The enforcement bar imposed the Rohrabacher–Blumenauer Amendment only extends to the expenditure of funds for prosecutions that “prevent” the “implementation” of medical marijuana laws. See *United States v. Nixon*, 839 F.3d 885 (9<sup>th</sup> Cir. 2016) (holding that the appropriations rider does not impact the ability of a federal district court to restrict a defendant’s use of medical marijuana as a condition of probation). See also *United States v. Bilodeau*, 24 F.4th 705 (1<sup>st</sup> Cir. 2022) (holding that the Rohrabacher-Farr amendment did not apply to defendants who sold cannabis to persons who lacked a medical marijuana card). It does not address enforcement of federal **gun** laws, such as 18 U.S.C. § 922, or ATF regulation of FFLs. See *United States v. Bellamy*, 682 Fed. Appx. 447 (6<sup>th</sup> Cir. 2017) (sustaining a felon-in-possession conviction under 18 U.S.C. § 922(g)(3) for possession of a gun while being a user of medical marijuana); *Parker*, 2021 W. 211304 at \*13 (in an unlawful possession of a firearms case, court sustained a search and resulting seizure of a firearm based on the odor of marijuana).

In any event, enforcement of such federal gun laws does not “prevent” the “implementation” of medical marijuana laws; it simply means that medical marijuana users may not possess or purchase firearms. See *McIntosh*, 833 F.3d at 1178 (the rider “prohibits the federal government only from preventing the implementation of those specific rules of state law that authorize the use, distribution, possession, or cultivation of medical marijuana”). Congress could restore funding tomorrow (or the appropriation rider could lapse) and the government could then prosecute individuals who committed offenses while the government lacked funding. See *McIntosh*, 833 F.3d at 1179 n.5. The federal government can prosecute such offenses for up to five years after they occur. See 18 U.S.C. § 3282. This Bill does not and cannot protect a medical marijuana user from such outcomes.

### ***Bruen:***

The constitutionality of the firearms disqualification imposed by Section 922(g)(3) under *NYSRPA v. Bruen*, 142 S.Ct. 2111 (2022), is an open question, with decisions going both ways. *Compare Fried v. Garland*, 640 S.Supp.3d 1252 (N.D. Fla. 2022) (prohibiting possession of firearms by unlawful users of controlled substances was



consistent with historical tradition of firearms regulation); *United States v. Posey*, 655 F.Supp.3d 762 (N.D. Indiana 2023) (same), *with United States v. Harrison*, 6654 F.Supp.3d 1191 (W.D. Oklahoma 2023) (holding that Section 922(g)(3) was unconstitutional under *Bruen* as applied to the defendant). The Fifth Circuit, in *United States v. Daniels*, 77 F.4th 337 (5th Cir. 2023), *petition for certiorari filed*, No. 23-376 (Oct. 10, 2023), held that Section 922(g)(3) was facially unconstitutional under *Bruen*, and the United States has filed a petition for certiorari with the Supreme Court challenging that ruling.

It is likely that the Supreme Court will hold the *Daniels* petition pending a decision in *United States v. Rahimi*, 61 F.4th 443 (5th Cir. 2023), *petition for certiorari granted*, No. 22-915, 143 S.Ct. 2688 (June 30, 2023) (argued Nov. 7, 2023), and then may dispose of the petition as appropriate. *Rahimi* involves the facial validity of the firearms disqualification imposed by 18 U.S.C. § 922(g)(8), which applies to persons subject to a non *ex parte* court order that:

- (B) restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and
- (C)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or
- (ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury;

Maryland has an even broader disqualification provision in MD Code, Public Safety, § 5-133(b)(12), and in MD Code, Public Safety, § 5-205(b)(12), both of which impose a firearms disqualification on a person subject to a non *ex parte* civil protective order entered under Section 4-506 of the Family Law Article or is subject an order for protection under Section 4-508.1 of the Family Law Article. Those provisions of the Family Law Article allow a protective order for “abuse” but that term is not limited in the manner specified by Section 922(g)(8).

It should be obvious that a decision in *Rahimi* could well require Maryland to repeal or modify current State law that imposes firearms disqualifications. For example, *Rahimi* could affect the disqualification for all felonies (violent and non-violent alike) and for any misdemeanor (including non-violent misdemeanors) punishable by imprisonment for more than two years. See MD Code, Public Safety, § 5-101(g). Maryland law also expressly imposes such disqualifications in MD Code, Public Safety, § 5-133(b) (regulated firearms); MD Code, Public Safety, 5-205(b) (long guns). *Rahimi* also puts at risk the federal firearms disqualification imposed for any conviction “in any court” of any State or federal felony (violent or non-violent) punishable by more than 1 year of imprisonment, 18 U.S.C. § 922(g)(1), or conviction of any State misdemeanor punishable by imprisonment for more than 2 years. See 28 U.S.C. § 921(a)(20)(B). The same risk is applicable to State laws.

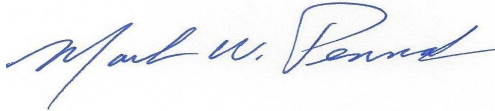
Indeed, in *Range v. United States*, 69 F.4th 96 (3d Cir. 2023) (*en banc*), *petition for certiorari filed*, No. 23-374 (Oct. 10, 2023), the Third Circuit held *en banc* that the

firearms disqualification imposed on a non-violent misdemeanor under 18 U.S.C. § 922(g)(1), was unconstitutional under *Bruen* as applied to the plaintiff in that case. A violation of the State law at issue in *Range* (food stamp fraud) was punishable by up to 5 years of imprisonment. As in *Daniels*, the United States has filed a petition for certiorari in *Range* and that petition, like the *Daniels* petition, is likely being held by the Supreme Court pending a decision in *Rahimi*.

**Conclusion:**

The pending matters in *Rahimi*, *Daniels* and *Range* illustrate the state of uncertainty in the law after *Bruen*. Until this uncertainty is resolved, the question the Committee should ask itself is whether passage of this bill might mislead medical marijuana users into thinking that they may use and possess medical marijuana without any fear of losing their gun rights. Under federal law, that is not an assurance that the State can make. For example, on a practical level, this bill, if enacted into law, could easily fool someone into expending time and resources to acquire a handgun qualification license only to find that all that time and money was wasted when the dealer refuses to complete the sale because the person cannot honestly complete ATF Form 4473. Likewise carrying a firearm with a wear and carry permit could subject a medical marijuana user to arrest on federal felony gun charges by federal law enforcement. This Bill could not change that reality. The prudent course of action would be to await a decision in *Rahimi* and action from the Supreme Court in *Daniels* and *Range*.

Sincerely,



Mark W. Pennak  
President, Maryland Shall Issue, Inc.  
[mpennak@marylandshallissue.org](mailto:mpennak@marylandshallissue.org)

# Firearms Transaction Record

**WARNING:** The information you provide will be used to determine whether you are prohibited by Federal or State Law from receiving a firearm, or whether Federal or State Law prohibits the sale or disposition of a firearm to you. Certain violations of the Gun Control Act, 18 U.S.C. § 921 et. seq., are punishable by up to 15 years imprisonment and/or up to a \$250,000 fine. Any person who exports a firearm without a proper authorization from either the Department of Commerce or the Department of State, as applicable, is subject to a fine of not more than \$1,000,000 and up to 20 years imprisonment.

Transferor's/Seller's  
Transaction  
Number (if any)

**Read the Notices, Instructions, and Definitions on this form.** Prepare in original only at the licensed premises (including business temporarily conducted from a qualifying gun show or event in the same State in which the premises is located) unless the transaction qualifies under 18 U.S.C. § 922(c). **All entries must be handwritten in ink unless completed under ATF Rul. 2016-2.** PLEASE PRINT.

**Section A - Must Be Completed By Transferor/Seller Before Transferee/Buyer Completes Section B**

1. Manufacturer and Importer (if any), or Privately Made Firearm (PMF) (If the Manufacturer and Importer are different, include both.)	2. Model (if designated)	3. Serial Number	4. Type	5. Caliber or Gauge
1.				
2.				
3.				

6. Total Number of Firearms to be Transferred (Please spell total number e.g., one, two, etc. Do not use numerals.)

7. Check if any part of this transaction is a pawn redemption.   
Record Line Number(s) From Question 1:

8. Check if any part of this transaction is to facilitate a private party transfer.

**Section B - Must Be Completed Personally By Transferee/Buyer**

9. Transferee's/Buyer's Full Name (If legal name contains an initial only, record the initial followed by "IO" in quotes. If no middle initial or name, record "NMN".)  
Last Name (including suffix, e.g., Jr, Sr, II, III) | First Name | Middle Name

10. Current State of Residence and Address (U.S. postal abbreviations are acceptable. Cannot be a post office box.)  
Number and Street Address | City | Reside in City Limits?  Yes  No  Unknown | State | ZIP Code | County/Parish/Borough

11. Place of Birth  
U.S. City and State **-OR-** Foreign Country | 12. Height Ft. \_\_\_\_\_ In. \_\_\_\_\_ | 13. Weight (lbs.) | 14. Sex  Male  Female  Non-Binary | 15. Birth Date Month \_\_\_\_\_ Day \_\_\_\_\_ Year \_\_\_\_\_

16. Social Security Number (optional, but will help prevent misidentification) | 17. Unique Personal Identification Number (UPIN) or Appeals Management Database Identification (AMD ID) (if applicable)

18.a. Ethnicity  Hispanic or Latino  Not Hispanic or Latino | 18.b. Race (Select one or more race in 18.b. Both 18.a. and 18.b. must be answered.)  American Indian or Alaska Native  Black or African American  White  Asian  Native Hawaiian or Other Pacific Islander

19. Country of Citizenship: (Check/List more than one, if applicable. Nationals of the United States may check U.S.A.)  United States of America (U.S.A.)  Other Country/Countries (Specify):

20. If you are an alien, record your U.S.-issued alien or admission number (AR#, USCIS#, or I94#):

21. Answer the following questions by checking or marking either the "yes" or "no" box to the right of the questions:

	Yes	No
a. Are you the actual transferee/buyer of all of the firearm(s) listed on this form and any continuation sheet(s) (ATF Form 5300.9A)? <b>Warning: You are not the actual transferee/buyer if you are acquiring any of the firearm(s) on behalf of another person. If you are not the actual transferee/buyer, the licensee cannot transfer any of the firearm(s) to you.</b> Exception: If you are only picking up a repaired firearm(s) for another person, you are not required to answer 21.a. and may proceed to question 21.b.	<input type="checkbox"/>	<input type="checkbox"/>
b. Do you intend to sell or otherwise dispose of any firearm listed on this form and any continuation sheet(s) in furtherance of any felony or other offense punishable by imprisonment for a term of more than one year, a Federal crime of terrorism, or a drug trafficking offense?	<input type="checkbox"/>	<input type="checkbox"/>
c. Are you under indictment or information in any court for a <b>felony</b> , or any other crime for which the judge could imprison you for more than one year, or are you a current member of the military who has been charged with violation(s) of the Uniform Code of Military Justice and whose charge(s) have been referred to a general court-martial?	<input type="checkbox"/>	<input type="checkbox"/>
d. Have you ever been convicted in any court, including a military court, of a <b>felony</b> , or any other crime for which the judge could have imprisoned you for more than one year, even if you received a shorter sentence including probation?	<input type="checkbox"/>	<input type="checkbox"/>
e. Are you a fugitive from justice?	<input type="checkbox"/>	<input type="checkbox"/>

	Yes	No
f. Are you an unlawful user of, or addicted to, marijuana or any depressant, stimulant, narcotic drug, or any other controlled substance? <b>Warning:</b> The use or possession of marijuana remains unlawful under Federal law regardless of whether it has been legalized or decriminalized for medicinal or recreational purposes in the state where you reside.	<input type="checkbox"/>	<input type="checkbox"/>
g. Have you ever been adjudicated as a mental defective <b>OR</b> have you ever been committed to a mental institution?	<input type="checkbox"/>	<input type="checkbox"/>
h. Have you ever been discharged from the Armed Forces under dishonorable conditions?	<input type="checkbox"/>	<input type="checkbox"/>
i. Are you subject to a court order, including a Military Protection Order issued by a military judge or magistrate, restraining you from harassing, stalking, or threatening your child or an intimate partner or child of such partner?	<input type="checkbox"/>	<input type="checkbox"/>
j. Have you ever been convicted in any court of a misdemeanor crime of domestic violence, or are you or have you ever been a member of the military and been convicted of a crime that included, as an element, the use of force against a person as identified in the instructions?	<input type="checkbox"/>	<input type="checkbox"/>
k. Have you ever renounced your United States citizenship?	<input type="checkbox"/>	<input type="checkbox"/>
l. Are you an alien <b>illegally</b> or <b>unlawfully</b> in the United States?	<input type="checkbox"/>	<input type="checkbox"/>
m.1. Are you an alien who has been admitted to the United States under a nonimmigrant visa?	<input type="checkbox"/>	<input type="checkbox"/>
m.2. If you answered "Yes" to question 21.m.1, do you fall within any of the exceptions stated in the instructions?	<input type="checkbox"/>	<input type="checkbox"/>
n. Do you intend to sell or dispose of any firearm(s) listed on this form or any continuation sheet(s) to any person described in questions 21(b)-(l) or to a person described in question 21.m.1 who does not fall within a nonimmigrant alien exception?	<input type="checkbox"/>	<input type="checkbox"/>

**I certify that my answers in Section B are true, correct, and complete. I have read and understand the Notices, Instructions, and Definitions on ATF Form 4473. I understand that answering "yes" to question 21.a. if I am not the actual transferee/buyer is a crime punishable as a felony under Federal law, and may also violate State and/or local law. I understand that a person who answers "yes" to any of the questions 21.b. through 21.l. as well as 21.n. is prohibited from receiving, possessing, or purchasing a firearm. I understand that a person who answers "yes" to question 21.m.1. is prohibited from receiving or possessing a firearm, unless the person answers "yes" to question 21.m.2. and provides the documentation required in 26.d. I also understand that making any false oral or written statement, or exhibiting any false or misrepresented identification with respect to this transaction, is a crime punishable as a felony under Federal law, and may also violate State and/or local law. I further understand that the repetitive purchase of firearms for the purpose of resale to predominantly earn a profit without a Federal firearms license is a violation of Federal law.**

22. Transferee's/Buyer's Signature	23. Certification Date		
	Month	Day	Year

**Section C - Must Be Completed By Transferor/Seller Prior To The Transfer Of The Firearm(s)**

24. Category of firearm(s) to be transferred (check or mark all that apply):  <input type="checkbox"/> Handgun <input type="checkbox"/> Long Gun (i.e., rifle or shotgun) <input type="checkbox"/> Other Firearm (e.g., frame, receiver, etc.)	25. If sale or transfer is at a qualifying gun show or event: Name of Function: _____ County: _____ Address: _____ City, State, ZIP Code: _____
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26.a. Identification (e.g., Virginia driver's license (VA DL) or other valid government-issued photo identification including military ID.)			
Issuing Authority and Type of Identification	Number on Identification	Expiration Date of Identification (if any)	
		Month	Day    Year

26.b. Supplemental Government Issued Documentation (if identification document does not show current residence address or legal name)

26.c. Official Military Orders Establishing Permanent Change of Station (PCS):		
PCS Base, City and State:	PCS Effective Date:	PCS Order Number (if any):

26.d. Exception to the Nonimmigrant Alien Prohibition: If the transferee/buyer answered "yes" to 21.m.2. record the type of documentation showing the exception to the prohibition and attach a copy to this ATF Form 4473:

**Notice:** If transferee/buyer is under 21, a waiting period of up to 10 days may apply where notification from NICS is received within 3 business days to further investigate a possible disqualifying juvenile record. A NICS check is only valid for 30 calendar days from the date recorded in question 27.a.

27.a. Date the transferee's/buyer's identifying information in Section B was transmitted to NICS or the appropriate State agency:	27.b. The NICS or State transaction number (if provided) was:
Month    Day    Year	

27.c. The response initially provided by NICS or the appropriate State agency was:     Proceed     Denied     Cancelled

Delayed. The firearm(s) may be transferred on \_\_\_\_\_ (date) if time period is not extended by NICS or the appropriate State agency, and State law allows (optional).