



March 5, 2025

WRITTEN TESTIMONY OF MARK W. PENNAK, PRESIDENT, MSI, IN OPPOSITION TO HB 916

I am the President of Maryland Shall Issue (“MSI”). Maryland Shall Issue is a Section 501(c)(4), 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 OPPOSITION to HB 916.

The Bill

This Bill creates a new Section 4-112 in the Criminal Law article of the Maryland Code to provide that A PERSON MAY NOT TRANSPORT A FIREARM IN A CHECKED BAG ON PUBLIC TRANSPORTATION IN THE STATE UNLESS THE FIREARM IS DISABLED FROM DISCHARGING BY AN EXTERNAL SAFETY LOCK. The term “public transportation” is defined to include ANY FORM OF PUBLIC TRANSPORT THAT IS AVAILABLE TO THE GENERAL PUBLIC, INCLUDING: (I) BUS SERVICE; (II) TRAIN SERVICE; (III) FERRY SERVICE; AND (IV) AIRLINE SERVICE. A violation of this provision is a misdemeanor and is punishable with 2 months of imprisonment and a \$500 fine for the first offense and, for a second offense, by imprisonment of up to 6 months and a \$1000 fine.

The Bill Is Unnecessary And A Trap For The Unwary

The Bill is unnecessary, especially with respect to airline travel. Current federal TSA regulations elaborately regulate the carriage of firearms on airlines. See 49 C.F.R. § 1540.111. Those regulations specifically ban the carriage of any loaded firearm and likewise bans the carriage of an unloaded firearm unless (i) The passenger declares to the aircraft operator, either orally or in writing, before checking the baggage, that the passenger has a firearm in his or her bag and that it is unloaded; (ii) The firearm is unloaded; (iii) The firearm is carried in a hard-sided container; and (iv) The container in which it is carried is locked, and only the passenger retains the key or combination.” *Id.* §1540.111(c).

Airlines typically inspect the firearm at the counter at which time a special declaration is inserted into the carry case. Airlines are free to impose their own additional policies.

At most major airports, firearms are also invasively scanned by federal agents and then delivered directly to the airline for transportation in checked luggage. Similar federal requirements apply to ammunition transport. See 49 C.F.R. § 175.10(a)(8). Imposing additional requirements on top of these federal requirements will ensnare the unwary and motivate people traveling with firearms to use airports located outside of Maryland, such as Dulles and Reagan National Airport, or one of the three major Philadelphia airports, or the Wilmington, Delaware airports, where this Bill would not apply. Hunters and other individuals coming to Maryland should be encouraged to use Maryland airports, not subjected to the risk of arrest or imprisonment for transportation that is otherwise fully compliant with federal law, rules and regulations.

Similarly, Amtrak, which is the only significant rail service in Maryland, has its own, similar regulations concerning firearms in checked luggage. See <https://www.amtrak.com/firearms-in-checked-baggage>. Those regulations require, *inter alia*:

Notification that the passenger will be checking firearms/ammunition must be made no later than 24 hours before train departure by calling Amtrak at 800-USA-RAIL. Online reservations for firearms/ammunition are not accepted.

The passengers must travel on the same train that is transporting the checked firearms and/or ammunition.

All firearms and/or ammunition must be checked at least 30 minutes prior to scheduled train departure. Some larger stations require that baggage be checked earlier.

All firearms (rifles, shotguns, handguns, taser guns, starter pistols) must be unloaded and in an approved, locked hard-sided container not exceeding 62" L x 17" W x 7" D (1575 mm x 432 mm x 178 mm). The passenger must have sole possession of the key or the combination for the lock to the container. The weight of the container may not exceed 50 lbs/23 kg.

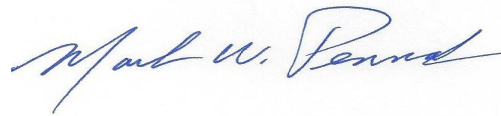
Those regulations provide that "Passengers failing to meet the above-mentioned requirements for checking firearms will be denied transportation." Bus services, including Greyhound, Megabus, Trailways, Peter Pan Bus Lines all have their own policies prohibiting firearms of any kind on their buses and in their cabins. <https://www.usconcealedcarry.com/resources/traveling-with-firearms/bus/> There is no reason to believe that these regulations and policies have not been effective in ensuring that the transported firearms are completely unloaded in the vast majority of cases. Any inadvertent failures to comply should not be criminally punished. The risk of denial of service is more than sufficient to deter intentional noncompliance. People who illegally transport firearms are, of course, subject to criminal sanctions for such illegal transport. This Bill is not needed for those kinds of cases.

Finally, the bill is unclear in its inclusion of "any form of public transportation." For example, does this term include taxicab or Uber services for transportation to and from an airport or train station? In any event, the Uber firearms policy makes specific exceptions for transportation of firearms in luggage that complies with federal TSA regulations noted

above. <https://help.uber.com/en/riders/article/firearms-policy?nodeId=e642d54a-dbf4e9d-922f-69aea2dd1e67>. Taxicab companies are free to adopt and enforce their own policies. As to ferries, there are simply no significant ferry services offered in Maryland, much less ferry services that offer “checked” luggage services. In short, this Bill imposes unnecessary potential criminal liability on hunters and other travelers who are in full, good-faith compliance with federal law and with the policies of transportation companies.

This Bill is an overzealous solution in search of a problem. We urge an unfavorable report.

Sincerely,

A handwritten signature in blue ink, reading "Mark W. Pennak". The signature is fluid and cursive, with the first name "Mark" and last name "Pennak" clearly legible.

Mark W. Pennak
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