



President
Mark W. Pennak

February 12, 2025

**WRITTEN TESTIMONY OF MARK W. PENNAK, PRESIDENT,
MARYLAND SHALL ISSUE,
IN SUPPORT WITH AMENDMENTS TO HB 353**

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 **IN SUPPORT WITH AMENDMENTS** to HB 353.

The Bill: House Bill 353 would amend MD Code, Criminal Law, §4-101 and MD Code, Criminal Law, § 4-203. Section 4-101 addresses concealed and open carry of “dangerous weapons” which are defined by Section 4-101(a)(5) to include “a dirk knife, bowie knife, switchblade knife, star knife, sandclub, metal knuckles, razor, and nunchaku,” but to exclude “handguns.” Under current law, Section 4-101(b)(3) exempts a person with a wear and carry permit issued by the State Police under MD Code Public Safety, 5-306, from the prohibitions set forth in Section 4-101. Permit holders are exempted from Section 4-203 under Section 4-203(b)(2).

The bill would first amend Section 4-101 to delete the exemption for wear and carry permit holders, thereby subjecting the prohibitions of Section 4-101 on permit holders. The bill would then amend Section 4-203(a) to sharply limit the current broad ban on wear and carry of a handgun on or about the person to a defined set of persons and circumstances, *viz.*, persons under the age of 21 while in a vehicle, persons under the age of 21 with a loaded handgun, on public school property, or wear or carry a handgun with the intent of hurting someone. The bill would also amend Section 4-203(b) by deleting, with two exceptions, the remaining exceptions to the broad ban on wear and carry of a handgun under Section 4-203(a), including the exemption for wear and carry permit holders. The bill would retain the exception permitting a person to wear, carry or transport a handgun for use in “an organized military activity, a formal or informal target practice, sport shoot event, hunting, a Department of Natural Resources-sponsored firearms and hunter safety class, trapping or dog obedience training class or show.” The bill would likewise

retain the exception in current law for the “carrying or transporting of a signal pistol” on the waterways of the State.

Finally, the bill would add a new Section 4-207 to the Criminal Law article. New Section 4-207 would ban the wear, carry or transport of a handgun while a person is under the influence of alcohol or drugs and impose a penalty provision punishing a violation of Section 4-207 as a misdemeanor with imprisonment up to 1 year or a fine of \$1,000 or both. The bill would make an amendment to MD Code, Natural Resources, § 10-410(c). That section provides, *inter alia*, that a person may not possess a loaded handgun, shotgun or rifle containing any ammunition in the magazine or chamber, except to the extent permitted by the handgun permit statute, MD Code, Public Safety, subtitle 3, relating to handgun carry permits or by Section 4-203. The bill would delete the provision relating to subtitle 3 of the Public Safety article. The substantive prohibition would remain intact.

Discussion: The bill would effectively create “constitutional carry” in Maryland by law-abiding adults who are 21 years old and older. Under constitutional carry laws, a law-abiding, non-prohibited adult may possess and carry a handgun. Currently **29 States** are constitutional carry States. See <https://bit.ly/3QM6Ms0>. Anyone who can legally possess a firearm may carry in these states without a carry permit. These states issue carry permits but do not require carry permits in order to carry legally. See <https://handgunlaw.us/>. These laws have **not** resulted in any increase of violent crime in these states. Indeed, there is a **reduction** in murders in these states. <https://crimeresearch.org/2022/01/changes-in-crime-and-killings-of-police-after-constitutional-carry-adopted/> See also <https://firearmsresearchcenter.org/forum/research-highlights-the-impact-of-permitless-carry-laws-on-crime-and-violence/> (University of Wyoming, May 29, 2024) (“constitutional carry does not lead to large-scale change in homicides or in firearm suicides. The doomsday scenarios of constitutional-carry opponents are not supported by social science.”).

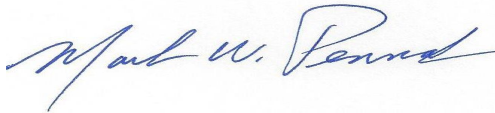
This bill is supported by the June 2022 decision of the Supreme Court in *New York State Rifle & Pistol Association, Inc. v. Bruen*, 142 S.Ct. 2111 (2022), where the Court struck down as unconstitutional New York’s “proper cause” requirement for issuance of a permit to carry a handgun in public. In so holding, the Court ruled that “the Second Amendment guarantees a general right to public carry.” 142 S.Ct. at 2135. See also *Bruen*, 142 S.Ct. at 2156 (“The Second Amendment guaranteed to ‘all Americans’ the right to bear commonly used arms in public subject to certain reasonable, well-defined restrictions.”). Under the Supreme Court’s decision in *District of Columbia v. Heller*, 554 U.S. 570 (2008), 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.”). In striking down a law burdening that core right, the Supreme Court recognized “the handgun to be the quintessential self-defense weapon.” *Heller*, 554 U.S. at 629. *Bruen* squarely holds that the Second Amendment protects the right to carry in public while also making clear that a State may condition that right on

obtaining a wear and carry permit from the State, if the permit is issued on an otherwise reasonable and objective “shall issue” basis. 142 S.Ct. at 2138 & n.9. As noted, 29 States do not require permits to carry. This Bill recognizes the right confirmed in *Bruen*, while continuing to allow Marylanders to obtain carry permits if they choose. Such permits remain useful. For example, while Maryland does not currently honor any carry permit issued by another state, 26 states actually recognize a Maryland carry permit issued to Maryland residents. See <https://handgunlaw.us/states/USStatesThatHonorMyPermit.pdf>.

We support this bill and urge a favorable report with two amendments. The first amendment would strike that portion of the bill that would amend Section 4-101 to delete that part of current law that exempts carry permit holders from the prohibitions in Section 4-101. We see no need for the bill’s amendment to Section 4-101, as it makes perfect sense to allow a person with a permit to carry a loaded handgun to likewise carry the type of less-lethal weapons covered in Section 4-101. We also see no reason to delete the exception for carry permit holders in MD Code, Natural Resources, § 10-410(c), referenced above. Nothing in this bill would change the right, under current law, to apply for and receive a carry permit under MD Code, Public Safety, § 5-306. All of the “constitutional carry” states save Vermont, noted above, likewise have provisions under state law for the issuance of such carry permits. Such permits are very useful to persons who travel, as such permits are accorded recognition by other states. Nothing in this bill would change the requirements for the issuance of such permits. Exceptions for carry permit holders thus make sense. With those amendments, we urge a favorable report with AMENDMENTS.

Sincerely,

A handwritten signature in blue ink that reads "Mark W. Pennak". The signature is fluid and cursive, with the first name "Mark" being the most prominent part.

Mark W. Pennak
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