



January 28, 2026

## WRITTEN TESTIMONY OF MARK W. PENNAK, PRESIDENT, MSI, IN SUPPORT OF HB 94 and SB 331 WITH AMENDMENTS

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 SUPPORT of HB 94 and SB 331 (“the Bill”) WITH AMENDMENTS.

### **Existing Statutory Framework:**

Current Maryland law provides that wear and carry permits for the possession and transport of a handgun outside the home may be issued for an initial term of 2 years and that permit may thereafter be renewed for a 3-year term. See MD Code, Public Safety, § 5-309(a),(b). Maryland’s permitting system is administered by the Maryland State Police under MD Code, Public Safety, §§ 5-301-5-313. All applicants for permits are subject to extensive background checks, including fingerprinting. MD Code, Public Safety, § 5-305. Applicants are also required to undergo training consisting of 16 hours of instruction by a Maryland certified firearms instructor (including a graded live fire requirement) for initial permits and 8 hours of training (including graded live fire) for each renewal. See MD Code, Public Safety, 5-306(a)(9), (a-1). Maryland imposes a substantial application fee of \$125 for the initial permit and \$75 for renewal. MD Code, Public Safety, § 5-304(b). Training alone costs hundred dollars for scheduled classes. See, e.g., <https://mdguntraining.org/maryland-wc>. The curriculum for the training is developed and mandated by the State Police. MD Code, Public Safety, § 5-306(a-2). Certification of instructors is likewise under the control of the State Police. MD Code, Public Safety, 5-101(q). Unlike most states, Maryland does not recognize any carry permit issued by any other state.

The two-year expiration period for carry permits dates to the enactment of 1972 Maryland Laws, Chapter 13, § 3, the legislation that created Maryland’s carry permit system. That 1972 legislation likewise required an applicant for a carry permit to show a “good and substantial reason” for a carrying. Current Maryland law generally prohibits the “wear, carry, or transport” of any “handgun,” subject to specific limited exceptions. MD Code, Criminal Law, § 4-203(a),(b). Wear and carry of a handgun by a permit holder is an such an exception as it is specifically allowed by MD Code, Criminal Law, § 4-203(b)(2). See also MD Code, Public Safety, § 5-303 (“A person shall have a permit issued under this subtitle before the person carries, wears, or transports a handgun.”). Only **concealed** carry by a permit holder is allowed in Maryland. MD Code, Public Safety, § 5-307(b). A person convicted of carrying without a permit is “subject to imprisonment for not less than 30 days and not exceeding 5 years or a fine of not less than \$250 and not exceeding \$2,500 or both” for the first offense. MD Code, Criminal Law, § 4-203(c)(2)(i). That conviction is sufficient to impose a life-long firearms disqualification under both federal law and State law. 18 U.S.C. § 921(a)(20), 18 U.S.C. § 922(g)(1), MD Code, Public Safety, § 5-101(g)(3).

### **The Bill:**

This Bill would create a 5-year term for expiration of the carry permit but limits that amendment to “a retired law enforcement officer who retired in good standing from service with a law enforcement agency of the state or a county or municipal corporation of the state.” As set forth below, the 5-year term for permits is the norm among the states and should be adopted. The current expiration periods are outdated, a waste of resources and open to challenge under the Second Amendment. Accordingly, the Bill should be amended to apply a 5-year term for initial permits and subsequent renewals for all permit holders, not merely for retired officers.

### **Discussion:**

The Supreme Court held in *N.Y. State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1, 31 (2022), that there is a “general right to publicly carry arms for self-defense.” The Court observed that while States may require carry licenses, such licenses must be issued on a “shall issue” basis and may not be “put toward abusive ends.” 597 U.S. at 38 n.9. The Court thus struck down New York’s “good cause” requirement for carry permits and likewise invalidated Maryland’s then-existing “good and substantial reason” regulatory requirement originally enacted in 1972. 597 U.S. at 15 n.2. See *Matter of Rounds*, 255 Md.App. 205, 213 (2022). *Bruen* makes clear that any regulation of the right to bear arms in public must be justified by the government which must “demonstrat[e] that it [the regulation] is consistent with the Nation’s historical tradition of firearm regulation.” *Id.* at 24.

The Court also made clear in *United States v. Rahimi*, 602 U.S. 680, 691-92 (2024), that any government regulation of “arms bearing conduct” must be supported by “a permissible reason.” This requirement of “a permissible reason” is currently before the Supreme Court in *Wolford v. Lopez*, No. No. 24-1046, which was orally argued on January 20, 2026.<sup>1</sup> A decision in *Wolford* is expected by the end of the Court’s Term in June or July. Regulation designed to discourage the exercise of the right is not permissible under the Second Amendment any more than it would be permissible under any other Constitutional right. See Amicus Brief of the United States in *Wolford*.<sup>2</sup>

Maryland’s 2-year term for initial permits and the 3-year term for renewals fail under these principles. Like the “good and substantial reason” requirement struck down in *Bruen*, the expiration provisions of Maryland law are outdated relics of the past and are gross outliers among all the States, including States that otherwise impose heavy gun control requirements. The expiration periods inappropriately inflict unwarranted and unjustifiable costs on permit holders and consume scarce resources of the Maryland State Police. Such resources can be put to better use, especially where, as now, the State is experiencing a budget shortfall. Continued adherence to existing law invites a constitutional challenge on grounds that the permitting system is being put to “abusive ends” and being used for “impermissible reasons” under *Bruen* and *Rahimi*. Maryland complied with *Bruen*’s invalidation of the “good and substantial reason” requirement by repealing the requirement in HB 824, 2023 MD Laws, Ch. 651. The General Assembly should likewise update Maryland’s expiration periods and thus avoid such a challenge.

First, Maryland’s expiration terms are true outliers and, as *Bruen* makes clear, outlier requirements are particularly hard to justify under *Bruen*. See 597 U.S. at 13-14, 30, 65. Twenty-nine States are now “constitutional carry” jurisdictions, meaning that no permit is required for concealed carry by otherwise law-abiding adults in these States. <https://bit.ly/3S2nbde>. The Second Amendment right to carry in these States is not subject to **any** time limit. Such “constitutional carry” States include states with small populations, like New Hampshire, Vermont, and Maine, as well as more heavily populated States, such as Missouri, Florida, Texas, and Ohio. Maryland’s neighbors, Pennsylvania, and Virginia, allow **open** carry **without** a permit and issue **concealed** carry permits for those who wish to carry concealed. Those concealed carry permits are good **for five years**. Virginia Code, § 18.2-308.02; Pennsylvania Code § 1609(f). Similarly, in Delaware, open carry is allowed without a permit. The initial permit for **concealed** carry in Delaware is good for three years and renewals are good for **five years**. Del. Code Ann. tit. 11, § 1441(a)(5).

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<sup>1</sup> Full disclosure, the undersigned is counsel for the petitioners in *Wolford*.

<sup>2</sup> The filings in *Wolford* can be found on the Supreme Court’s docket, available at <https://www.supremecourt.gov/search.aspx?filename=/docket/docketfiles/html/public/24-1046.html>

Second, even in the minority of States that still require carry permits for all carry (like Maryland), very few States (New Jersey and California) impose a 2-year expiration period for permits. Michigan, for example, has a **four**-year expiration period for initial issuance and a **five**-year term for renewals. Michigan Statutes, § 28.4251. Illinois (hardly a gun-friendly State), issues renewals for a five-year period. 430 ILCS 66/50. A carry permit is good for **six** years in Massachusetts. Mass. Gen. Laws ch. 140, § 131(e). Massachusetts, like Maryland and New York, imposed a “good cause” requirement on carry permits prior to that requirement being invalidated in *Bruen*. 597 U.S. at 15 n.2. Connecticut has adopted a five-year term for permits. See Conn. Gen. Stat. §§ 29-30(b). In Florida, permits are good for **seven** years. Florida Statutes § 790.06(c).

Not even New York, whose “good cause” requirement was overturned in *Bruen*, uses a two-year period for initial permits or a three-year period for renewals. Rather, New York law provides that a carry permit is valid for “**five years** after the date of issuance” for the City of New York, and for the counties of Nassau, Suffolk, and Westchester. NY Penal Code Art. 400.00(10)(a). (Emphasis added). Elsewhere in the State of New York, “any license to carry or possess a pistol or revolver, issued at any time pursuant to this section or prior to the first day of July, nineteen hundred sixty-three and not previously revoked or cancelled, **shall be in force and effect until revoked as herein provided.**” *Id.* (Emphasis added). New York merely requires that the license be “recertified to the division of the state police every five years” and revokes any permit not recertified. *Id.* § 400.00(10)(b). Unlike Maryland’s renewals, New York recertification does not require proof of training. *Id.*

Frequent renewals are also not necessary to ensure continual qualification for the permit. Maryland participates in the FBI’s “Rap Back” system under which the State Police will receive prompt notification (within 72 hours) of an arrest of any permit holder anywhere in the United States. <https://www.dpscs.state.md.us/publicservs/bgchecks.shtml>. That “Rap Back” system did not exist in 1972, when Maryland’s permit system was first created. Nor did the FBI’s NICS background check, much less the sophisticated, electronic fingerprinting and computerized background check system currently used by the Maryland State Police in investigating permit applicants. That system allows the State Police to deny a permit to any person who has “exhibited a propensity for violence or instability that may reasonably render the person's possession of a handgun a danger to the person or to another” or who is “otherwise prohibited” by law “from purchasing or possessing a handgun.” MD Code, Public Safety, §5-306(a)(10). The State Police may immediately revoke the permit held by any person who is no longer eligible for a permit under these criteria. MD Code, Public Safety, § 5-310.

Beyond the standard disqualifications on criminals imposed by MD Code, Public Safety, § 5-101(g), and 18 U.S.C. § 921(g), such ineligibility for a permit also includes “any person who is under indictment for a crime punishable by imprisonment for a

term exceeding one year,” 18 U.S.C. § 922(n), or has been convicted of any “felony or misdemeanor for which a sentence of imprisonment for more than 1 year has been imposed,” MD Code, Public Safety, § 5-306(a)(2), or is on “supervised probation for a “conviction of a crime *punishable* by imprisonment for 1 year or more” (most misdemeanors and all felonies) or for “violating a protective order” issued under Section 4-509 of the Family Law article of the Maryland code. Id. at §5-306(a)(4). See also MD Code, Family Law, § 4-506(f) (“The final protective order shall order the respondent to surrender to law enforcement authorities any firearm in the respondent’s possession”). As enacted by HB 824 in 2023, Maryland also bans the mere possession of a regulated firearm by a person who “has been convicted on or after October 1, 2023, of a second or subsequent violation of § 4-104 of the Criminal Law Article,” a provision requiring safe storage. MD Code, Public Safety, § 5-133(b)(3).

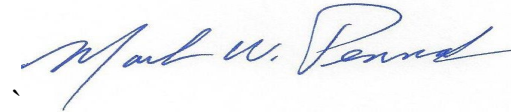
Retired law enforcement officers already enjoy a privileged position under LEOSA, 18 U.S.C. § 926C. That provision of federal law provides that “[n]otwithstanding any other provision of the law of any State or any political subdivision thereof, an individual who is a qualified retired law enforcement officer and who is carrying the identification required by subsection (d) may carry a concealed firearm that has been shipped or transported in interstate or foreign commerce.” (Emphasis added). Under LEOSA, otherwise qualified retired law enforcement officers need not obtain a State-issued permit **at all** to carry in Maryland. Indeed, because LEOSA expressly preempts State law, these individuals may disregard limitations otherwise imposed on permit holders by State law, subject only to the requirements and the exceptions imposed by LEOSA itself. See 18 U.S.C. § 926C(b). There is thus no reason to make a special provision for LEOSA retired officers in Maryland’s permit system. If such retired officers fail to qualify under LEOSA for some reason, then they should be treated like everyone else. If they are qualified under LEOSA, then they don’t need a permit to carry in Maryland.

Finally, while retired officers are generally very law-abiding, the same is overwhelmingly true for permit holders. See John Lott, Carlisle E. Moody, and Rujun Wang, *Concealed Carry Permit Holders Across the United States: 2023*, at 43-44 (2023) (“it is impossible to think of any other group in the US that is anywhere near as law-abiding,” noting further that “concealed carry permit holders are even more law-abiding than police”) (available at <https://bit.ly/3O8SjGH>). That reality is undisputed. As one court has noted, “[s]imply put, CCW permitholders are not the gun wielders legislators should fear.” *May v. Bonta*, 709 F. Supp. 3d 940, 969 (C.D.Cal. 2023), *aff’d in part, rev’d in part on other grounds sub nom., Wolford v. Lopez*, 116 F.4th 959 (9th Cir. 2025), *cert. granted*, No. 24-1046, --- S.Ct. ---- (Oct. 03, 2025); *Wolford v. Lopez*, 686 F.Supp.3d 1034, 1075-76 (D.Haw. 2023) (same). The Rand Corporation agrees. See Rosanna Smart, et al., *The Science of Gun Policy: A Critical Synthesis of Research Evidence on the Effect of Gun Policies in the United States* 427 (4th ed. 2024), available at

[https://www.rand.org/pubs/research\\_reports/RA243-9.html](https://www.rand.org/pubs/research_reports/RA243-9.html) (“as a group, license holders are particularly law abiding and rarely are convicted for violent crimes.”). In summary, the expiration periods imposed by current law are both unnecessary and an outdated waste of resources.

For all the foregoing reasons, we urge a favorable report on this bill, **if it is amended to include all permit holders.**

Sincerely,

A handwritten signature in blue ink that reads "Mark W. Pennak". The signature is written in a cursive style with a large initial 'M' and 'P'.

Mark W. Pennak  
President, Maryland Shall Issue, Inc.  
mpennak@marylandshallissue.org