



February 13, 2020

WRITTEN TESTIMONY OF MARK W. PENNAK, PRESIDENT, MSI, IN OPPOSITION TO SB 422

I am the President of Maryland Shall Issue (“MSI”). Maryland Shall Issue is an 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 SB 422.

Current Maryland Law:

This bill purports to address and impose new training requirements on persons who hold a “wear and carry permit” issued by the Maryland State Police pursuant to MD Code Public Safety § 5-306. Under MD Code Public Safety § 5-309(a), such “a permit expires on the last day of the holder's birth month following **2 years** after the date the permit is issued.” Under Section 5-309(b), “a permit may **be renewed** for successive periods of **3 years** each if, at the time of an application for renewal, the applicant possesses the qualifications for the issuance of a permit and pays the renewal fee stated in this subtitle.” Thus, the initial permit is good for two years and renewed permits are good for three years.

Current Maryland law also imposes among the most (if not **the** most) demanding and stringent training requirements of any state. Under Section 5-306(a)(5)(i), an applicant must first complete (prior to submitting any application for a permit) **16 hours** of instruction given by a State Police certified qualified handgun instructor. Similarly, any person seeking to renew a carry permit must submit proof of “**8 hours** of instruction by a qualified handgun instructor.” (Id.). For both the initial application and the renewal, that instruction must include “**a firearms qualification component that demonstrates the applicant's proficiency and use of the firearm.**” Section 5-306(a)(5)(ii). Under this requirement, the State Police mandate a minimum score on a prescribed, **timed** course of live-fire at multiple distances from the target (3yds, 5yds, 7yds and 15yds). That score must be certified by the instructor with the actual score achieved specified in the certification by the instructor.

The Bill:

This bill would add a new Section 5-306.1 to the Public Safety Article to provide that:

A PERSON TO WHOM A PERMIT IS ISSUED OR RENEWED SHALL SUCCESSFULLY COMPLETE ON SEPARATE DAYS EACH CALENDAR YEAR:

- (I) A COURSE ON SITUATIONAL AWARENESS APPROVED BY THE SECRETARY;
AND
- (II) A COURSE ON THE COMPETENT HANDLING OF A FIREARM APPROVED BY THE SECRETARY.

The bill would further amend MD Code Public Safety §5-310 to allow the State Police to revoke a permit on grounds that the holder of the permit failed to meet these new requirements imposed by this new Section.

The Bill Would Result In A Massive Waste Of Resources For The Permit Holder, The Instructor and The State Police:

As should be obvious, this bill would impose requirements that are utterly unnecessary. First, as noted, existing training requirements imposed by Section 5-306 are very rigorous. The 16 hours of training for the initial application and the 8 hours of training on renewal invariably **includes** instruction on situational awareness. Both the initial training and the renewal training include live-fire instruction, including completing a State Police prescribed live-fire course for which a minimum score on a prescribed target must be achieved. The initial permit is good only for **two** years, which means, effectively, that the permit holder must go through this training right before getting the initial permit (in one calendar year) and then, **less than two years later** must go through the 8 hours of renewal training at least 90 days before applying for the renewal sometime in the next calendar year. (The State Police demand 90 days to process a renewal application). That permit holder could thus receive the same instruction on situational awareness and proficiency in successive calendar years. No state has a shorter period for initial permits.

The renewal period is only for three years. For the sake of perspective, that 3 year renewal time period is far shorter than the term for carry permits issued by the vast majority of other states. For example, a 5 year effective term for a wear and carry permit is overwhelmingly the norm among the states, with 31 states using this time period. Those states include Virginia, Pennsylvania, Connecticut, Illinois, New York, Washington, Utah, Nevada, New Hampshire and Minnesota. The five year expiration term is also contemplated by federal law, 18 U.S.C. § 922(s)(1)(C), § 922(t)(3) (concerning permits that may be used in firearms transfers). Other states have longer periods. Massachusetts' permit is good for 6 years, Florida's permit is good for 7 years and Tennessee's is good for 8 years. Other states, such as Maine and Rhode Island, use a 4 year term.

In any event, before renewal, the Maryland permit holder must receive the additional **8** hours of training required by Section 5-306 **before** applying for renewal. As is apparent, **relatively little time passes between the initial training and the renewal period training**. Because a renewed permit is good only for three years, the holder of a renewed permit would effectively have only one calendar year between receiving his renewal training and time he or she would be required, under current law, to receive the 8 hours of training before applying for his or her renewal. During those 3 years, the permit holder must maintain proficiency with his or her firearm, as the permit holder knows that he or she must satisfy

all the renewal requirements, including the proficiency live-fire course mandated by the State Police under current law.

The bill would require a SEPARATE **yearly** course on “SITUATIONAL AWARENESS.” Yet, such instruction on situational awareness is part and parcel of both the initial instruction and any renewal instruction. The undersigned, for example, spends a considerable time giving instruction on this subject as does every instructor the undersigned has ever encountered. It simply does not need to be taught **every year** in a SEPARATE course. People with carry permits typically practice situational awareness, as a way of life, **every single day**, whether they happen to be carrying a firearm or not. That is how situational awareness is taught and learned.

The bill also would require a **yearly** SEPARATE course (taught on a SEPARATE DAY from the situational awareness course) on “THE COMPETENT HANDLING OF A FIREARM.” Such instruction is likewise part and parcel of the initial and renewal training. Indeed, as noted above, current law requires “**proficiency**,” not mere competency. As also explained above, the State Police test that proficiency by imposing a State Police prescribed, live-fire course on each initial application and each renewal, requiring that the applicant achieve a minimum score.

By requiring that this additional training be taught yearly on “SEPARATE DAYS,” the bill would impose unnecessary yearly burdens on both the instructor and the applicant. The 8 hours of renewal training is, for example, typically completed in one day. There is no legitimate reason to require that this new training be conducted on “SEPARATE DAYS.” Requiring separate courses on separate days simply imposes costs and burdens for no possible return. It is a burden purely for the sake of burdening.

The bill would also impose, on a yearly basis, additional costs on the State. Specifically, the bill requires the State Police to APPROVE the course on situational awareness and APPROVE the SEPARATE course on the “competent handling of a firearm.” Instead of expending the resources needed to review and “approve” every instructor’s course on these topics, the State Police would most likely have to develop such courses and impose them on instructors. In addition, the State Police would likewise undoubtedly feel it necessary to require the permit holder and the qualified handgun instructor to submit documentation concerning completion of these new courses, just as the State Police currently does with respect to the 8 hour and 16 hour training required by Section 5-306 on renewals and initial applications. Under this bill, the State Police would have to then devote time and resources to processing the documentation submitted by the permit holder on completion of each such yearly course. With respect, the State Police have better things to do with their personnel. We urge an unfavorable report.

Sincerely,



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