



President
Mark W. Pennak

February 13, 2018

WRITTEN TESTIMONY OF MARK W. PENNAK, PRESIDENT, MARYLAND SHALL ISSUE, IN SUPPORT OF SB 472 and HB 792

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 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 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. I appear today as President of MSI in support of SB 472 and HB 792.

SB 1091 and HB 792 would amend 5–309 of the Public Safety Article to provide that an initial wear and carry permit would expire at 5 years instead of the current 2 years and, likewise, for renewal, the permits would expire after 5 years instead of the current 3 years. This will save the State Police (and applicants) the high costs associated with the constant stream of renewal applications and associated reinvestigations that must be conducted by the State Police under the very short time periods established by current law. State Troopers could even be reassigned from administrative tasks to crime prevention. There no good reasons not to realize these cost savings and benefits.

First, 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 Connecticut, Illinois, New York, Washington, Nevada 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 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.

Second, saving the costs of continuing investigations will not put the public safety at risk. Part of the original rationale for a short time period was that the reinvestigation for renewals would detect individuals who had become, since the last permit application, legally disqualified from possessing firearms because of an arrest or a conviction. That rationale no longer obtains in Maryland, as the State Police are full participants in the FBI’s “Rap Back” program, which is part of the

FBI's Next Generation Identification Program. See COMAR 12.15.06.01-.04. The FBI's Rap Back service allows authorized agencies to receive notification of activity on individuals who hold positions of trust or who are under criminal justice supervision or investigation, **thus eliminating the need for repeated background checks** on a person from the same applicant agency. Prior to the deployment of Rap Back, the national criminal history background check system provided a **one-time snapshot** view of an individual's criminal history status. With Rap Back, "authorized agencies can receive on-going status notifications of any criminal history reported to the FBI after the initial processing and retention of criminal or civil transactions. By using fingerprint identification to identify persons arrested and prosecuted for crimes, Rap Back provides a nationwide notice to both criminal justice and noncriminal justice authorities regarding subsequent actions." <https://www.fbi.gov/services/cjis/fingerprints-and-other-biometrics/ngi>

In Maryland, the State Police have entered every permit holder's identification into the Rap Back Program, including fingerprints. The State Police are automatically notified within 72 hours through email if any permit holder has a new "record" entered into the FBI's system. In that way, the State Police may investigate the reasons for the entry of such a record and immediately revoke a permit if otherwise appropriate. MD Code, Public Safety, § 5-310 (empowering the State Police to revoke a permit). The Rap Back program is the reason that, effective October 1, 2016, and with the enactment of House Bill 312 two years ago, the State Police no longer request or need fingerprinting for permit renewal applications. MD Code, Public Safety, § 5-309(c) ("A person who applies for a renewal of a permit is not required to be fingerprinted unless the Secretary requires a set of the person's fingerprints to resolve a question of the person's identity."). This Committee's vote on this change was unanimous. The House vote was 133 Yeas and 1 Nays and the Senate vote was 45 Yeas and 0 Nays. This bill is the same sort of common sense legislation. With Rap Back, frequent reinvestigations are simply no longer needed and thus are a waste of time and money.

Sincerely,



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