



President
Mark W. Pennak

March 6, 2018

WRITTEN TESTIMONY OF MARK W. PENNAK, PRESIDENT, MARYLAND SHALL ISSUE, IN SUPPORT OF HB 1659

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 personal protection outside the home and a range safety officer. I appear today as President of MSI in support of HB 1659.

HB 1659 would bring Maryland law into compliance with federal law with respect to the ability of a resident of one state to purchase ordinary long guns in other states. Current State law, MD Code Public Safety § 5-204 provides that a resident of Maryland who is eligible to purchase a long gun in Maryland may purchase a long gun in an “adjacent” state, defined to include Delaware, Pennsylvania, Virginia or West Virginia. It further provides that residents of these “adjacent” states may purchase a long gun in Maryland if they are eligible to purchase a long gun in their home state. The bill would simply eliminate the requirement reference to “adjacent” states, so that a Maryland resident may purchase a long gun in “another” state if he or she is eligible to purchase in Maryland and, similarly, that residents of “another” state may purchase a long gun in Maryland if eligible to purchase in their home state. The bill retains the requirement of current law that such out-of-state purchases must be through a federal firearms licensee.

These changes make great sense and will bring Maryland law into accord with federal law. At the time Section 5-204 was originally enacted, federal law likewise limited residents of one state to purchases of long guns only in adjacent states. Federal law changed in 1986 to its current version with the enactment of PL 99–308, 100 Stat. 449 (May 19, 1986). Under 18 U.S.C. § 922(b)(3), as thus amended in 1986, a federal firearms licensee may make a sale of a long gun to an out of state resident “if the transferee meets in person with the transferor to accomplish the transfer, and the sale, delivery, and receipt fully comply with the legal conditions of sale in both such States.” HB 1659 would simply make Maryland law coincide with this federal law, as Maryland law did prior to 1986. As thus amended,

Maryland residents would be free to purchase long guns in any state, such as a state in which they were located on a hunting trip. Likewise, Maryland firearms licensees would be free to sell long guns to non-resident hunters from all 50 states who are visiting Maryland to hunt. The bill makes clear, in accord with federal law, that all such sales must still be in full compliance with the law of Maryland and the law of the state in which the sale takes place, or, if the sale takes place in Maryland, in accord with both Maryland law and the law of the state of residence of the purchaser. The ATF ensures that federal firearms licensees have such information with frequent publication of State Laws and Published Ordinances-Firearms (ATF Electronic P-5300.5). See <https://www.atf.gov/firearms/state-laws-and-published-ordinances-firearms-32nd-edition> (Nov. 22, 2017). Indeed, the licensee's federal license depends on having such knowledge as federal law expressly provides that FFLs are "presumed" to have such actual knowledge of state laws under Section 922(b)(3). The bill thus places Maryland federal firearms licensees on equal footing with federal firearms licensees in other states.

We urge a favorable report.

Sincerely,

A handwritten signature in blue ink that reads "Mark W. Pennak". The signature is written in a cursive, flowing style.

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