



NATIONAL SHOOTING SPORTS FOUNDATION, INC.

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JAKE MCGUIGAN
DIRECTOR, GOVERNMENT
RELATIONS/STATE AFFAIRS

March 19, 2013

Insurance and Real Estate Committee
Room 2800, Legislative Office Building
Hartford, CT 06106

Position: Oppose

Re: Opposition to HB 6656 An Act Concerning Liability Insurance

Dear Chairs Crisco and Megna and Members of the Committee:

The National Shooting Sports Foundation ("NSSF") is the trade association for America's firearms, ammunition, hunting and recreational shooting sports industry. Its mission is to promote, protect and preserve hunting and the shooting sports. NSSF has a membership of more than 8,325 manufacturers, distributors, firearms retailers, shooting ranges, and sportsmen's organizations. This letter is to notify you of NSSF's opposition to HB 6656.

This bill, which would require firearms owners to purchase liability insurance will not achieve our shared goal of reducing violence and instead will burden law-abiding businesses and citizens.

Currently, insurance companies already cover unintentional firearm accidents under homeowner insurance policies. The companies do not cover illegal misuse of firearms and would not likely start offering such coverage even if the bill were enacted. As HB 6656 requires coverage for even the intentional misuse of firearms, and no such insurance exists, the bill will act as a ban on all firearms sales in the state.

Even if this coverage were available, the bill would impose significant burdens on licensed retailers forced to check for insurance coverage before transferring a firearm and to call the insurers to verify details about the coverage. Moreover, the bill would make insurance companies the arbiters of the Second Amendment by prohibiting a sale of a firearm if an insurer refuses coverage.

While criminals would be no more likely to comply with the proposed law than they are to follow current law, citizens that become the victim of theft would be required to continue to pay for insurance on the stolen firearms for up to a full year after reporting the crime. There is no doubt that this bill punishes law-abiding citizens and imposes a burden on licensed retailers without any hope of reducing criminal access to firearms.

Some erroneously argue the bill is similar to requirements that car owners insure their vehicles. The key difference between owning a firearm and driving a car on public roads is that the first is a constitutional right and the second is a taking advantage of a public good – taxpayer funded roads and highways. Driving on public roads is a privilege, not a right. Further, car owners do not generally need a license or registration just to purchase a car, or to keep one for use on the owner's property.

A more fitting comparison to the proposal is the antiquated idea of a poll tax. Both would force law-abiding citizens, seeking to exercise a constitutional right, to pay for that right. Under current law there are sensible restrictions on firearm ownership. However, none are based on socioeconomic status, neighborhood location, age or other factors an insurance company would use to determine premium cost.

The bill may also lead to an increase in firearms-related accidents. The industry has dedicated millions of dollars to provide locking devices for firearms and educational materials to ensure firearms are safely stored. The common-sense rules of safe firearm storage have helped reduce accidental firearm fatalities to historically low levels. However, this misguided proposal would foster complacency and erode the hard-line message of safe storage. It removes the onus of responsibility from the law-abiding firearms owner, and hands it off to an insurance company.

All of these concerns aside, the firearms industry contributes over \$1.7 billion in economic activity to Connecticut, creating close to 3,000 direct jobs and paying \$119 million in state taxes. In these difficult economic times, the firearms industry is one of the few industries that continue to create jobs. Passing industry-damaging legislation such as an insurance mandate would put these jobs at risk.

We urge you to OPPOSE the bill requiring firearms owners to purchase liability insurance (HB 6656) because it places costly and unreasonable burdens on Connecticut's retailers, infringes upon our Second Amendment rights, and will fail to make Connecticut safer.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jake McGuigan', with a long horizontal flourish extending to the right.

Jake McGuigan

Massachusetts:

Insurers oppose gun liability insurance

Rep. Linsky says proposal would boost gun safety

BY: BRUCE MOHL

Commonwealth Magazine

March 06, 2013

TWO GROUPS REPRESENTING most of the companies selling insurance in Massachusetts say they oppose a legislative proposal requiring gun owners to purchase special liability insurance.

The two groups, the Property Casualty Insurance Association of America and the Massachusetts Insurance Federation, say they oppose any type of mandatory insurance because it typically leads to heavy government regulation of their business, including price controls and mandatory product offerings.

"If people are required or mandated by statute to have this coverage, then we would be mandated to provide it," said Frank O'Brien, vice president of state government relations at the Property Casualty Insurance Association.

But the insurers are also wary of a government attempt to regulate guns through them. "Why should insurance companies be the deterrent for ownership of guns?" asks James Harrington, president of the Massachusetts Insurance Federation. "If government wants to do something to deter ownership of guns, let government do it."

Rep. David Linsky of Natick, the author of the gun liability insurance provision, which is contained in a much broader gun control bill, said the goal of the measure is to treat gun owners like car owners. In Massachusetts, car owners are required to buy insurance coverage, leading to an elaborate insurance system that financially rewards good drivers with lower premiums and penalizes bad drivers with higher premiums.

Linsky said the same approach can be used with guns, with some gun control advocates saying liability insurance might cost less if a gun owner stores his weapons safely or customizes his guns so only he can fire them. "The idea is to encourage people to handle their guns more safely and store them more safely," Linsky said, noting the goal of his provision is to reduce accidental shootings and suicides.

Linsky said gun liability insurance would not apply to intentional acts where the gun owner shoots someone deliberately. But the language in Linsky's bill is vague. It says anyone with a gun, shotgun, or rifle shall have liability insurance or face a fine and/or imprisonment. The provision leaves all the details to the state's insurance commissioner, whose spokeswoman declined comment. Gun liability insurance provisions have also been introduced as part of legislation filed in Connecticut and California.

One insurer, who is not authorized to speak publicly about the Massachusetts legislation, said he believes few companies would willingly offer gun liability insurance even though some existing homeowners' insurance policies already provide coverage for accidents involving guns.

The insurer also said the distinction between intentional and accidental acts involving guns is not always clear-cut. For example, the shootings in Newtown, Connecticut, by Adam Lanza would appear to be intentional, but the insurer said some have suggested that Lanza's mother might be held liable because she failed to secure her guns properly. According to a story in the New York Times, the families of the students responsible for the 1999 killings at Columbine High School used money from their homeowners' insurance policies to pay claims brought by victims.

Linsky, while acknowledging his gun liability insurance proposal has received a lot of attention, said it is just one of many provisions in his legislation. "There is no one single solution to reducing gun violence," he said. "This is one small piece of the puzzle."

Fast Facts: Firearms Liability Insurance: “Poll Tax” for Firearms

Several states are considering legislation that would require firearms owners to purchase liability insurance. This is not a new idea. In fact, state legislatures have rejected almost two dozen similar proposals across the country in prior years, and for good reasons.ⁱ

Currently insurance companies already cover unintentional firearm accidents under homeowner insurance policies. The companies do not cover illegal misuse of firearms and would not be likely to start offering such coverage even if states mandated that all firearms owners had to purchase liability insurance. Of course, criminals would be no more likely to comply with new laws than they are to follow current law.

Furthermore, such proposals pose significant dangers to citizens’ Second Amendment rights and to historical gains in safety practices, while paving the way to onerous new burdens on law-abiding firearms owners and the industry.

Constitutional Rights vs. Privileges

Although some anti-gun advocates compare such a mandate to car insurance requirements, this is a deeply flawed argument. The key difference between owning a firearm and driving a car on public roads is that the first is a constitutional right and the second is a taking advantage of a public good – taxpayer funded roads and highways. Driving on public roads is a privilege, not a right. Further, car owners do not generally need a license or registration just to purchase a car, or to keep one for use on the owner’s property.

A more fitting comparison to the proposal that firearms owners must purchase extra insurance is the antiquated idea of a poll tax. Both would force law-abiding citizens, seeking to exercise a constitutional right, to pay for that right. Under current law there are sensible restrictions on firearm ownership. However, none are based on socioeconomic status, neighborhood location, age or other factors an insurance company would use to determine premium cost.

This issue is not unintentional and is actually cited as a benefit in a 1987 law review article that proposed such a policy. According to the author, “just as young males and persons who live in neighborhoods with high accident rates have traditionally paid higher automobile insurance premiums, one would expect similar classes of persons who represent higher risks to pay more for firearms liability insurance and thus have a more difficult time obtaining it.” He continued, “An added benefit of the insurance requirement is that it would help curb the tendency of some people to obtain arms for insubstantial reasons.”ⁱⁱⁱ

Moral Hazard

Apart from the serious constitutional questions that such a proposal raises, forcing firearms owners to pay for additional insurance may actually cause more accidents.

The industry has dedicated millions of dollars to provide locking devices for firearms and educational materials to ensure firearms are safely stored. The common-sense rules of safe firearm storage have helped reduce accidental firearm fatalities to historically low levels. However, this misguided policy proposal would foster complacency and erode the hard-line

message of safe storage. It removes the onus of responsibility from the law-abiding firearms owner, and hands it off to an insurance company. The term for this problem is moral hazard.

Broader Implications

Enacting an insurance mandate may have additional unintended consequences for firearms owners and the industry. The insurance industry is largely responsible for the emergence of “Event Data Recorder” technology, the so-called “black box” installed in virtually every new car for the past decade.

This device continually records your speed, throttle input and a host of other data points so they can be collected and analyzed after an accident. The data are increasingly being used in criminal prosecution and civil litigation. If the insurance industry becomes the gatekeeper to owning a firearm, it may require similar monitoring and recording devices for firearms at the expense of the firearms industry and law-abiding gun owners.

Moreover, merely labeling a new anti-gun mandate as “market-driven” or “privatized” is deliberately misleading rhetoric and does not make the policy effective. Government reforms that eliminate or limit the government’s role in certain existing markets may fit this description – but not new government mandates that seek to restrict lawful activities. Markets imply voluntary exchange, not mandatory actions.

Imposing a liability insurance requirement on firearms owners would be misguided and downright dangerous. In addition to the serious constitutional issues, such a mandate would encourage complacency among some firearm owners and set a precedent for insurance company restrictions on the owners and producers of firearms.

¹ Ian Simpson, “Lawmakers propose liability insurance for U.S. gun owners,” Reuters, Feb. 6, 2013. <http://www.reuters.com/article/2013/02/06/us-usa-guns-insurance-idUSBRE91516920130206> (Last accessed Feb. 25, 2013).

¹¹ Nelson Lund, “The Second Amendment, Political Liberty, and the Right to Self-Preservation,” 39 Ala. L. Rev. 103-130, 1987.