

**Public Hearing Testimony for the Insurance and Real Estate Committee Hearing  
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Senator Crisco, Representative Menga and Members of the Committee:

My name is Matthew S. Cahill. I am here today to speak in opposition to H.B. No. 6656 (Raised) *AN ACT CONCERNING LIABILITY INSURANCE FOR FIREARM POSSESSORS OR OWNERS*. I oppose it for a number of reasons:

First, the requirement for excess personal liability and “self defense” insurance to own a firearm is constitutionally defective. The Supreme Court held in *District of Columbia v. Heller*, 554 U.S. 570 (2008) that the right to keep and bear arms is a *fundamental individual right*, just like freedom of speech or religion. The Supreme Court later held in *McDonald v. Chicago*, 561 US 3025 (2010) that the Second Amendment applies to the individual States through operation of the Due Process Clause of the Fourteenth Amendment. The simple truth is that any Connecticut legislation concerning firearms takes place in the shadow of *Heller*. In that way, arms are *not* like cars or other items taxed and regulated by the State. There are defined limits to the extent fundamental rights can be regulated. There can be no doubt that insurance requirements to own firearms, the violation of which would constitute a Class A Misdemeanor punishable up to one year in prison and/or \$1000 fine, act as a clear restraint and *substantial burden* on the exercise of a *fundamental individual right* that is enumerated in the U.S. Constitution.

Moreover, insurance requirements on firearms that impose substantial burdens in the form of heavy premiums or possible jail time act as *intentional* disincentives to the exercise of an important civil right. To borrow a term of art from First Amendment jurisprudence, they would have a chilling effect. I understand that, as legislators, you have a natural urge to legislate and, in the wake of Sandy Hook, that urge is stronger than normal. However, it is helpful to remember that arms are not cars; one is protected by the Bill of Rights and the other is not. After all, Connecticut does not require liability insurance to exercise any other *fundamental individual right*, such as the right to free speech. The right to self defense should not be any different. *Charging fees to dissuade citizens from the free exercise of important rights has a long and particularly odious history in our country*. And while not exactly on point as a matter of constitutional jurisprudence, I think Connecticut could do better than impose what is the *moral equivalent* of a poll tax.

Second, insurance requirements to own a firearm would have a disparate impact on the economically disadvantaged. It is clear that a specialty lines “self defense” insurance of the type contemplated by the bill could be prohibitively expensive, especially given the overall lack of a large market for the product and potential exposure of insurance carriers to large losses.

Therefore, someone who may be in tough financial situation could face some hard, potentially life changing, choices. For example, a single mother loses her job and has to choose between, say, feeding her family or paying for both excess personal liability and "self defense" insurance on the handgun she uses to protect it. She faces a quandary: should she turn in her handgun at the police station at the expense of her children's safety to avoid a potential jail term or punitive fine? Or should she ignore the insurance requirements on the basis that she has a constitutionally recognized right to self defense? As drafted, H.B. No. 6656 would force the single mother in this example to forgo her right to self defense (which would be an infringement on a fundamental right because, remember, *arms are not cars*) or, in the alternative, she would be forced to expose herself to *criminal* penalties for exercising her right to protect her family. It is not a decision any free person should have to make.

Third, proposed H.B. No. 6656 does not address any significant need, nor would it increase public safety. In fact, most defensive gun uses do *not* involve the discharge of a firearm. U.S. Department of Justice, National Institute of Justice, "*Guns in America: National Survey on Private Ownership and Use of Firearms*" (1997). Usually, the people who misuse firearms and cause injury to third parties are *criminals* who use them in the in commission of crime. In considering the practical effect of the provisions of proposed H.B. No. 6656 on crime, ask yourself this: would a prospective home invader call his insurance agent up to make sure his liability insurance is in order and premiums paid before he commits whatever nefarious act he has planned? Then ask yourself, would a criminal be more or less likely to rob a house where the owner might be armed if he knew, without a doubt, there was an excess insurance policy that an enterprising lawyer could seek recovery against? If you answer the questions honestly, it should be clear to you that H.B. No. 6656 will *not* make citizens safer. The only parties who benefit from it are the insurance industry in the form of higher premiums.

Finally, what some people feel about guns is often *not* the truth about guns. The drive for civilian disarmament is based on the false assumption that fewer guns equal less crime and greater safety. And have no doubt, that whatever its purported purpose: fewer guns in hands of civilians is what H.B. No. 6656 is really about. But the hard truth for those that believe in perfection by legislation is that *all* the additional firearms regulations being considered in the wake of Sandy Hook, including H.B. No. 6656, will *not* make anyone safer. In fact, the *per capita* degree of violence in many countries that have disarmed their population, like the UK, is staggering. See Don B. Kates and Harry Mauser, *Would banning firearms reduce murder and suicide? A Review of International and Some Domestic Evidence*, Harvard Journal of Law and Public Policy Vol. 30 No. 2, 650 (2007). If we are to "do something" in response to Sandy Hook, it should be hardening soft targets, like schools and other public places, against attack, going after and prosecuting individuals who engage in the illegal traffic of firearms or use firearms in commission of a crime, and in *identifying* and *treating* the mentally ill. *Ultimately, the answers to the questions posed by Sandy Hook will not be found in passing unconstitutional laws, with marginal social utility, that provide the illusion of security at the expense of our freedom.*