

Dear Committee:

Thank you for the manner in which you and your colleagues are attempting to analyze and discuss the issue of gun control in a deliberate and rational manner, as compared with our New York neighbors. If we truly want to reduce gun violence and increase safety for our children and public of this great state, we must do so prudently within the boundaries of our state and federal constitution, lest we waste more time litigating overreaching and doomed reform than enjoying the benefits of targeted and effective and legitimate reform. And make no mistake about it, gun owners in this state are ready to go to court to stop overreaching and unconstitutional laws in their tracks, particularly where the real result of a law is a reduction in everyone's safety and rights, as would be the case with many of the proposals being advanced.

First, from a legal perspective, the scope, language and terms of the New York legislation, like that proposed by several legislators in Connecticut and advanced by extreme antigun groups like CAGV, are ambiguous and overreaching, and will likely fail a strict scrutiny review under the US Constitution, which requires a narrowly tailored and least restrictive means of achieving a compelling government interest. Presuming that reducing gun violence is a compelling interest, the New York measures and several proposed Connecticut measures fail the rest of that test.

First, the failure to grandfather magazines past one year and the limitation of magazines to 7 rounds in essence bans the vast majority (90%, by one estimate) of the millions of magazines sold and owned to date, without just compensation or recourse required under the 5th and 14th Amendments, and it is plainly not the least restrictive means of achieving a reduction of gun violence (see my below notes on registration, licensing, etc.). Further, the Heller and McDonald cases make clear that the Second Amendment embodies a fundamental right to self-defense. Despite the broadside of statistics advanced by anti-gun advocates, none show that an artificial magazine-round cap affects crime rates, criminal wrongdoing or the availability of "illegal" magazines to criminals, particularly given the ubiquity of such magazines in our country and this State. Such a cap only affects legal gun owners, who are, by definition, limited to fewer rounds and smaller magazines than the criminals against whom such owners must be able to defend.

The self-defense right in the Second Amendment is not unlimited and does not support an unmitigated "arms race" between legal gun owners and criminals or hypothetical "tyrannical" governments, but it does and must recognize the realities of what weapons and features are required for a person to effectively defend themselves in today's technology and circumstances.

If semiautomatic weapons and 10-round magazines are the minimum "norm" so to speak today, as most self-defense weapons are semi-automatic weapons and most use a 10-round or more magazine, then a 7-round cap and confiscation/no-grandfathering policy necessarily infringes on the self-defense right, is not narrowly-tailored or the least restrictive means of achieving public safety, and will not survive constitutional review. In contrast, a 10-round magazine cap with grandfathering might be more easily implemented and defensible under constitutional review, though empirical data has not shown any real world effect or benefit of such such a ban in the past, whatever its superficial attractiveness.

Second, the New York assault weapons ban language is overbroad and problematic, causing it to apply to many more semiautomatic weapons that are not currently viewed as "assault weapons,"

however ambiguously defined. That there is an attempt at grandfathering with registration helps with the seizure problem, but not the ambiguity and overbreadth flaws. The definition of a gun stock is particularly vague and overbroad, and Connecticut's legislature should avoid any attempt to model legislation after the New York statute. The point here again is that rushed and poorly-drafted measures, which many in the antigun crowd want to use as a template for Connecticut's laws, will only embolden resistance and prompt constitutional challenges that are likely to succeed.

Third, the ban on certain online sales of ammunition is admittedly harder to judge. Any tax or restriction on ammunition must satisfy the above constitutional tests. Punitive taxes or measures that over-burden or prevent the exercise of Second Amendment rights, including the ability to train or use or acquire ammunition, will likely fail constitutional review. They also defeat antigun proponents' purported goal of increased firearms safety by increasing the cost of training. The 50% sales tax and mandatory insurance proposals are just such penalties that would not survive review, though the insurance idea could work if very narrowly tailored to specific risks and liabilities with a pricing model that does not put gun ownership exclusively in the hands of the wealthy.

In hopeful contrast, there are sensible solutions being discussed. These include increased licensing (should be required for both handguns and rifles, but with a more clearly defined "suitability" standard for permits and oversight over local licensing regimes, which are wildly inconsistent), registration (for all guns, all transactions), training (have a state or NRA sponsored training program for all permit holders on each renewal, waivable with training credits during the 5 year period), weapons security (a MUST for every gun owner) and universal background check requirements, all of which could work. They would also be constitutionally sound with proper, well-defined, and narrow statewide standards, and will have a positive effect. The catch is that the personal information for such requirements should not be made public, for obvious safety and right-to-assembly reasons, as again shown by the experiences of our New York neighbors. Further, an express preemption clause should be used to ensure that individual towns (like Weston) do not try to circumvent or "one-up" state law with their own restrictive measures, which have failed legal challenge in the past. The last thing we need is a patchwork of inconsistent town-by-town laws on firearms, even putting aside the constitutional problems such restrictions may pose.

As this great state is indeed the Constitution State, its legislators should be mindful of the legal limits and traditions embodied by the right to bear arms in the Connecticut and US Constitutions. Violating those limits with overreaching and ill-devised laws wastes time and resources in litigation at a time when we lack both. Thank you for your time and consideration of this constituent's views.