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I am opposed to HB 4147 for the following reasons:

**Faulty analysis of the delay data:**

The reasoning behind this bill is false. I am a federally licensed firearms dealer operating in the state of Oregon. In more than seven years, I have yet to see a denial on a delay over an hour. Any delay lasting more than an hour has been approved.

Further, no analysis of the statistics given at the hearing has included determining what percentage of denials after delay were justified or mistaken and overturned by later appeal. Therefore, saying 1 in 20 delays end in a justified denial is likely inaccurate.

**False choice balance of risk vs. harm:**

Those who are proponents of HB 4147 claim that if a denial of a firearms transaction saves one life, it is worth all the false denials and delays. This is dangerous reasoning as well as being misguided and ill informed. More persons in the United States use a gun to prevent a crime upon their person than commit mass murders (proponents of HB 4147 focus on mass murderers who use firearms as opposed to knives for some reason).

Many studies have been made which indicate the vast majority of times a firearm is used in self-defense, it goes unreported (because, in the mind of the defender, he was not hurt so therefore, no crime has occurred and there is no need to call the police). It is impossible to show what statistics would look like if more innocent people were armed, but we can reasonably conclude that the innocent being armed would likely improve their chances.

It stands to reason, police suffer fewer crimes upon their person even though they deal almost exclusively with the criminal element. It is because they defend themselves with firearms and other weapons. Civilians have proven that it is much the same for them, except they tend to fire fewer shots and strike their attackers at a much higher rate with far fewer misses than police.

Therefore, the harm proponents of this bill claim to be preventing is likely far less than the harm caused by a populace unable to obtain arms when they need them for their own defense.

**Budgetary issues, personnel issues:**

Legislators and supporters of this bill claim the state police are unable to do background checks within the time limit allotted by law. This is not a failure of law, but a failure of the state. We are told the background check system is having budgetary issues. Again, the state legislature enacted the background check law, predictably without knowing how much it would cost. This is a failure of the state legislature for which the citizens of Oregon should not have to pay. The solution is to turn over the background checks to the FBI and save the state time and money.

**No time limit for delays means no accountability:**

This bill allows for no independently verifiable standards by which the state can be judged in compliance or in non-compliance with the law. Without a clear standard for state agent malfeasance, the state is

completely unaccountable. The former time limits within the old law accomplished this accountability standard. This bill effectively puts all background checks within the discretion of state agents, whom we are expected to trust. Ask any Native American how well trust of governments works.

A legislator should be highly concerned about a law which doesn't hold the executive branch accountable.

### **Discretionary transfer is effectively a ban:**

Because this law's effect is to cause all firearms transfers to be at the discretion of the state, there would be no time at which the state could be considered in non-compliance. No rise to appeal would ensue at any time, even after years. This is in clear violation of the 2<sup>nd</sup> Amendment as it is a de-facto ban on firearms transfers. In established case law, even the most narrow and limited interpretation of the 2<sup>nd</sup> Amendment would have to conclude this as a de-facto ban.

A ban should not be the intent of any legislator who views the populace as his or her friend. A legislator who bans arms to his populace often is viewed as an enemy to the populace.

### **This law puts the burden of proof on the populace:**

The 4<sup>th</sup> Amendment to the Constitution of the United States, which is binding upon the states through the 14<sup>th</sup> Amendment, states that no person should be deprived of a right, property, or life without due process of law. This law puts a positive proof upon the citizen to prove he is not a felon or otherwise prohibited. In effect, he is being required to prove a negative. Any person trained in logic knows a negative cannot be proven. In this case, the right to arms is being de-facto denied by state actors without a trial when the citizen has no way to prove this negative. This proposed law has removed the burden the state has to prove because there is now no time limit for state performance.

A legislator should be the champion of the rights of his citizens, especially jealous and watchful of state sponsored violations. He or she should be very careful not to come even close to violation of a right by proposed legislation. Better to err on the side of the citizen's rights and interpret them broadly, than to trample them with the mighty force of state actors.

### **This bill erodes the credibility of the State Legislature:**

This proposed legislation, as outlined being in violation of the Constitution of the United States and the Oregon Constitution, erodes the credibility of the State Legislature of Oregon as well as the State of Oregon. How can a legislature ask compliance of the law by its citizens when it flaunts its own founding documents? How can a legislature ask good faith compliance of its citizens when it so narrowly interprets its own restrictions so as to violate the spirit of them altogether? Further, a state polices itself and so should hold itself to the highest standards, broadly interpreting its restrictions to hold within the spirit of the document and narrowly interpreting its powers. It should hold sacred its citizens rights, always subservient to the states "rights" and powers.

This proposed legislation, HB 4147, erodes the State of Oregon's credibility because it so clearly holds the citizen accountable for that which he cannot prove and simultaneously holds state actors to no standard whatsoever. This is why people trust government less and less. Considering that HB 4147 is seriously being considered, I do not blame the people for their distrust of the Oregon Legislature.

The Oregon Legislature should not give HB 4147 serious consideration, but rather should hold to principle and drop this bill in the trash.