

April 1, 2019

Members of the Senate judiciary committee,

I am writing to urge you to oppose Senate Bill 978, specifically, the amendment SB 978-1. Please find my testimony against this bill, below.

Section 1 would allow anyone who sells firearms, ammunition, or components to refuse to sell to persons who are 18-20 years old. Present law prevents this type of age discrimination. Although this is not prohibition on firearm sales to those 18-20 years old, it will undoubtedly reduce their access. Many 18-20 year olds live away from their parents and need the ability to protect themselves from violent crime. What is the nature of 18-20 year olds that makes them a threat with a firearm? Section 3 would eliminate all anti-discrimination lawsuits filed by parties under 21 years of age, effectively denying these parties remedy for any damages they have suffered from illegal discrimination.

Section 6 mandates that a firearm be locked with a trigger lock or stored in a locked container at all times a precaution that responsible gun owners already practice. The fault in this section appears in subsection 3, that imposes strict liability against the owner of the firearm for two years if another person gains access to and misuses the owner's gun. Current law can already be used to prosecute someone who is grossly negligent with firearms. Holding the gun owner responsible for the acts of another person who obtained their firearm without consent is an outrage. Are we to hold someone who owns a shovel responsible if another person steals the shovel and uses it to assault someone? Would we prosecute someone for storing gasoline in a shed if another person stole the gasoline and committed arson? Would we charge the owner of a car with manslaughter if a drunken thief stole his car and caused a fatal traffic accident? If you fairly consider these scenarios you will find that the correct answer to each is, "no!" You would also conclude that Section 6 is no different and is a mistaken policy.

Section 7 requires that someone who transfers a firearm transfer it with an engaged trigger lock or in a locked container. It imposes the same two-year strict liability as in section 6 subsection 3. This section opens an almost unlimited ability to sue someone who transfers a firearm. How is the person who sells a firearm to prove that they transferred it with the engaged trigger lock or approved container? The person who is responsible for the injury can effectively pass the liability to the gun seller by claiming that no trigger lock was supplied. Furthermore, through how many changes of custody is this liability applied? If the original owner sells a gun that is then transferred four times within two years, who shall be liable for any damages that result from the misuse of the gun? Are all four of the owners to be held liable for the irresponsible or criminal behavior of the fifth? If so, what fraction of the liability should each of the four previous owners bear? What if the first two owners complied with Section 7, but not owners three and four? Ridiculous, isn't it?

Section 8 mandates that an owner report the loss or theft of his or her firearm to law enforcement within 72 hours. Again, it imposes the same two-year liability as in Sections 6 and

7. This creates a potential trap for someone who has fallen victim to a property crime. Why punish the victim of the crime? Isn't criminal justice supposed to punish perpetrators? What is special about 72 hours? If the crime victim reports the crime within 71 hours he or she avoids liability, but at 80 hours the victim is liable? How will law enforcement determine when the clock started ticking? Will these matters have to be sorted out in court? Is that an effective use of Oregon's law enforcement resources? Section 8 wastes resources and needlessly burdens crime victims.

Section 12 is unnecessary since current law already allows someone to be prosecuted for gross negligence with regards to the storage of firearms. In addition, how could the owner prove that the firearm was stored locked or disabled if the minor defeated the lock or obtained the key?

Sections 14- 18 deal with unfinished receivers, downloadable firearms, untraceable firearms, and undetectable firearms. Banning these classes of firearms will have no impact on crime. People who build unfinished receivers or downloadable firearms as a hobby have no criminal intent. Criminals who make such firearms will not comply with a law banning the manufacture of those firearms. Most criminals obtain their firearms through theft or via a straw purchaser, not by buying a lathe, fixture, unfinished receiver, or 3-D printer. The cost of the tools needed to finish a receiver or produce a downloadable firearm far exceeds the cost of a stolen gun. A criminal is unlikely to take a more difficult and expensive route to obtain a gun illegally. Downloadable firearms are primitive, unreliable, underpowered, and prone to breakage, hardly the sort of thing that will power a surge in violent crime. They are manufactured in such small numbers and used so infrequently in crimes that making them illegal will have no impact on violent crime. In addition, so-called undetectable firearms are a myth. Even if someone made a firearm entirely out of non-metallic material, the ammunition still contains enough metal to trigger a magnetometer.

Section 19 describes conditions that disqualify someone from possessing a firearm. Subsections (l) and (d) treat someone who is convicted of unlawfully storing a firearm twice or who possesses an unfinished receiver the same as if that person committed a felony. For a law to be just, the punishment must fit the crime. Storing a gun in a manner that does not comply with Section 6 is not the same as felony assault. Likewise, possessing a block of metal that cannot fire a bullet, is not akin to armed robbery. These two subsections are draconian and unfair.

Similarly, Section 20 prohibits the transfer of a firearm to someone who is convicted once of unlawful storage of a firearm under section 12. The prohibition applies for five years after the conviction. This provision is just as unfair as Section 19. In addition, it will create a circumstance that would cause someone who violated section 12 to lose the ability to defend himself or herself from violence.

Section 24 raises the fees for CHL licenses. This will make it more difficult for those who are struggling financially to defend themselves.

Sections 26-27 allow cities, counties, metro service districts, school districts, colleges, or universities to prohibit CHL holders from possessing firearms in public buildings or on campus. This will create a patchwork of gun free zones to ensnare CHL holders who visit any of these places. The overwhelming majority of CHL holders do not commit violent crime. Prohibiting them from carrying their handguns in certain places will have no impact on violent crime. In fact, it may increase the violent crime in those areas. Criminals, and particularly mass shooters, seek out unarmed victims and gun free zones to carry out their slaughter. Increasing the number of gun free zones simply gives criminals a wider array of targets to choose. Study mass shootings across America in the last decade and you will discover that virtually all of them occurred in gun free zones.

Section 32 declares an emergency when no such emergency exists. This provision is included solely so that citizens cannot gather signatures and refer this measure to the voters. If SB 978-1 bill cannot withstand referral to the voters, then it should not be considered. Declaring an emergency on nearly 50% of the bills introduced, as is common practice in Oregon now, is an abuse of power. It violates the trust and respect that Oregon voters place in their elected officials. Legislators should consider if such conduct would more befit a body elected to represent the people, or one that subjugates its own citizens.

SB 978-1 is deeply flawed and unnecessary. It harasses those who own firearms lawfully and will have no impact on crime. I strongly urge you not to proceed with this bill.

Regards,

Earl C. Hixson, Ph.D.  
Portland, Oregon