

> The last minute gut and stuff of SB978 with 44 pages of very complicated and far reaching legislation pertaining to guns is very disappointing. Until today, SB978 was a few paragraphs dealing with a single minor issue. Opponents now will have only two business days to analyze, develop arguments, and respond to these major changes. It is obvious that the lengthy, numerous, and far reaching new contents of this bill have been planned and ready to insert for a long time, and that the proponents have been waiting to spring this new language on their opponents for quite a while. The ethics displayed by the proponents of this bill are sadly lacking.

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> There are several problems with the various areas this bill attempts to address in its present form:

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> 1) Transfers involving a temporary loan between friends or family members on a hunting trip require that the transferor apply a cable lock, trigger lock, or place the firearm in a locked box before handing it to the transferee? How would that work and what possible benefit would accrue? I can see it now, a friend hands his unloaded shotgun (safe firearm practices already require that it be unloaded in such a situation) to me so he can cross a barbed wire fence, and he has to apply a trigger lock first, where it resides for 30 seconds before I hand it back to him? Then I do likewise with mine?

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> 2) We make instant criminals out of people who previously owned 80% AR-15 lower receivers which remain unmodified, because they have never applied a serial number to them? The ATF has drawn a line at 80% finished, at or below which the lower receiver is not considered to be a firearm, but Oregon knows better than the federal agency tasked with regulating firearms nationwide, putting Oregon out of step with the federal government and every other state in the nation? At what point is a simple block of aluminum a firearm and when is it not? Is a piece of pipe a shotgun? This provision is so vague that it is probably unconstitutional on its face.

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> 3) I actually do, by choice and out of prudence, adhere to most of the safe storage provisions in this bill. I have small children in my house and if a firearm is not on my physical person it is locked in a safe. My home defense handguns are in pistol safes that can be opened by touch, only by me, in the dark, in a matter of a couple of seconds. I have no quarrel with promoting that idea. However, I have a huge issue with laying strict liability and criminal penalties on firearms owners due to the illegal actions of others. When I was in law school I learned that for hundreds of years, in both American law and British common law, a basic premise of justice was that citizens could not be held responsible for foreseeing the illegal acts of others, and that no liability could be assigned in such a case. This bill proposes to change that ages-old basic premise of Anglo-Saxon law. It is unjust, and unfair. It unduly burdens a firearm owner with a liability due to circumstances over which he has no control. It chills the exercise of a constitutional right. I believe that this too would be unconstitutional under any level of scrutiny.

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> How much better and more palatable to those who love the law would it be if we used a carrot instead of a stick? Why not grant firearm owners who satisfy reasonable storage requirements strict immunity from any liability if their guns are stolen or misused by unauthorized persons? Anyone who does not adhere to those standards would be vulnerable to being liable in a lawsuit or, in cases of gross negligence, criminal prosecution.

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> And why is the definition of "safe storage" left up to the discretion of the Oregon Health Authority, which would presumably have the power to change that definition at any time, even after gun owners have spent thousands of dollars complying with a previous ruling? And why is such a responsibility assigned to an organization that on its face has no expertise or experience in regulating firearms?

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> 4) And finally, where is the rash of unlawful or accidental shootings on college campuses and in other public government buildings by CHL holders that requires that we create a hopelessly complicated maze through which CHL holders must navigate when they try to legally carry a concealed firearm? Any trip or errand that merely passes through any of these buildings or their grounds would require that no firearm be carried throughout the totality of the trip in order not to run afoul of this statute. Must a CHL holder consult a lawyer, a title company, and a surveyor when planning any such trip? I can say from experience that it is not obvious to the average person exactly when one is on PSU or U of O property. And how does one ascertain what policy an institution has in place when driving down the street at the posted speed limit? There is a good reason that previous legislatures thought the firearms pre-emption law was a good idea. It made for uniform, understandable, consistently applied laws throughout the state, laws that the average person could understand and follow. Indeed, the USSC has from time to time reiterated that in order to be constitutional, laws must be fair, easily understandable, and consistently applied.

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> This part of the proposed statute is a solution in search of a problem. Again I ask, where is the rash of unlawful or accidental shootings on college campuses and in other public government buildings by CHL holders? Far from being trigger happy vigilantes or criminals, as a class CHL holders are 6 times less likely to break the law than are police officers. I can only conclude that this part of the bill is intended as punishment for being willing to be responsible for one's own protection and that of others from violent crime. It is a fact that a licensed CHL holder stopped the mass shooting at Clackamas Town Mall. It is a fact that several mass shootings have been ended or prevented by CHL holders. Is that the behavior we wish to discourage?

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> This bill is a bad bill that does nothing to will increase the safety of our citizens from criminals and insane people with guns, while putting new burdens on people who obey the law. I urge you to vote NO on SB978.

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To be more specific than my previous testimony about the undoubted unconstitutionality of parts of SB978:

"Where is the rash of unlawful or accidental shootings on college campuses and in other public government buildings by CHL holders that requires that we create a hopelessly complicated maze through which CHL holders must navigate when they try to legally carry a concealed firearm? Any trip or errand that merely passes through any of these buildings or their grounds would require that no firearm be carried throughout the totality of the trip in order not to run afoul of this statute. Must a CHL holder consult a lawyer, a title company, and a surveyor when planning any such trip? I can say from experience that it is not obvious to the average person exactly when one is on PSU or U of O property. And how does one ascertain what policy an institution has in place when driving down the street at the posted speed limit? There is a good reason that previous legislatures thought the firearms pre-emption law was a good idea. It made for uniform, understandable, consistently applied laws throughout the state, laws that the average person could understand and follow. Indeed, the USSC has from time to time reiterated that in order to be constitutional, laws must be fair, easily understandable, and consistently applied."

From Duncan et al v. Becerra, Case 3:17-cv-01017-BEN-JLB Document 87 Filed 03/29/19, UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA

**ORDER GRANTING PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT, DECLARING CALIFORNIA PENAL CODE § 32310 UNCONSTITUTIONAL and ENJOINING ENFORCEMENT**

"'[A] statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application violates the first essential of due process of law.' *Connally v. General Const. Co.*, 269 U.S. 385, 391 (1926); see also *United States v. Lanier*, 520 U.S. 259, 266 (1997) (quoting *Connally*)."

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