

Members of the Judiciary Committee:

I am writing this testimony as a 30-year resident of the state, an attorney, and a proponent of good laws.

The desire to do away with unlawful gun violence is a laudable one. However, HB 4005 is not the answer to wrongful use of firearms; instead it is a misguided attack against hundreds of thousands or millions of responsible firearms owners in the State of Oregon for minimal, if any, likely benefit.

You are doubtless aware of the holding of the United States Supreme Court in the Heller case, in which similar storage requirements were found to be unconstitutional. If HB 4005 is passed, the State of Oregon will subject itself to potentially years of litigation, with its attendant costs, in a case that it will almost certainly lose on the basis of the Heller precedent.

Part of the basis for the Heller decision is that the requirement that a firearm be locked up means that it will not be available at the very time it is most needed to protect the owner's and the owner's family's life and property. This right of self protection is a fundamental right that has been recognized throughout our nation's history.

The liability provisions of the statute stand in opposition to the foundation on which our legal system is built. No other law of which I am aware imposes strict liability on a person for use of the person's stolen property by the thief, or of other persons to whom the thief delivers the stolen property, for the misuse of that property. Relying on the good faith of a prosecutor to decide when the property owner "should have known" that a firearm was stolen is no answer at all. Such nebulous standards are incompatible with our system of justice. Likewise, imposing liability for wrongful acts by persons to whom a firearm is transferred, particularly for a two year period, would impose an impossible burden on law-abiding citizens in proving that the firearm was, in fact, accompanied by the mandated lock devices.

Delegating authority to a non-elected and non-accountable entity (which further has no demonstrable expertise in firearm design, lock design, or security measures) to define what constitutes an acceptable minimum means of securing a firearm simultaneously creates a trap for the unwary, a potentially unknowable standard, and an extreme burden on the many firearm owners of limited financial means. The inherent ambiguity in using terms such as "tamper resistant" exacerbates the problem, and makes it practically impossible for a gun owner to know whether a given locking solution would, in fact, comply with the law. It is all too foreseeable that the fact that a stolen or wrongfully-accessed firearm has been removed from a locked case or cabinet means will be used as ipso facto evidence that the lock in question was not sufficiently "tamper resistant." All of these points present serious issues of constitutional law.

Imposing the onerous, and almost certainly unconstitutional, burdens contained in this legislation on Oregon's law-abiding gun owners will not achieve the purported goals of this legislation. Reporting the theft of a firearm will not prevent the thief or anyone else from using a stolen weapon in an illegal manner - the actions themselves are already illegal. Limiting access to guns will not prevent suicide - those who want to take own lives will find another means of doing so, be it a rope, a knife, a car, some pills, or an elevated platform.

Please do not take our state down this path.

Thank you.