

1) Formal Committee Testimony (For Legislative Record)

Written Testimony in Opposition to Oregon House Bill 4145

Submitted by: Thomas L. Woods

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Oregon Citizen

Before the [House/Senate] Committee on [Judiciary / Public Safety]

Oregon Legislative Assembly

Chair, Vice Chair, and Members of the Committee,

Thank you for the opportunity to submit written testimony in opposition to Oregon House Bill 4145.

I submit this testimony as a former member of the United States military and as an Oregon citizen who has sworn an oath to support and defend the Constitution of the United States. After reviewing HB 4145, it is my firm conclusion that this bill is unconstitutional on its face, unsupported by historical or empirical evidence, and incompatible with controlling Supreme Court precedent.

HB 4145 directly burdens conduct protected by the plain text of the Second Amendment—the right of law-abiding citizens to keep and bear arms for lawful purposes, including self-defense. Under the legal standard articulated by the United States Supreme Court in *New York State Rifle & Pistol Association v. Bruen* (2022), the burden rests entirely with the government to demonstrate that such a regulation is consistent with the Nation’s historical tradition of firearm regulation.

HB 4145 fails that test.

Discretionary permitting schemes, extended approval timelines, and broad enforcement authority over otherwise eligible citizens have no historical analogue at the Founding or during Reconstruction. Courts across the country have repeatedly invalidated such frameworks in the post-Bruen era.

Additionally, HB 4145 does not meaningfully deter criminal firearm possession. Criminals do not comply with permitting regimes or administrative processes. The predictable effect of this legislation is to remove firearms from lawful citizens while leaving criminal access unchanged, thereby undermining rather than enhancing public safety.

Oregon's recent legislative history—including the unintended consequences of Measure 101 and drug decriminalization—demonstrates the risks of enacting public-safety legislation without factual support or constitutional grounding. HB 4145 follows the same pattern: broad restrictions, no empirical justification, and foreseeable harm to communities.

For these reasons, I respectfully urge this Committee to reject HB 4145 in its entirety.

Thank you for your time and consideration.

Respectfully submitted,

Thomas L. Woods

## 2) Court-Ready Constitutional Argument (Federal + Oregon Constitution)

### HB 4145 Is Unconstitutional Under the United States Constitution and the Oregon Constitution

#### I. Federal Constitutional Violations (Briefly Restated)

HB 4145 burdens conduct protected by the plain text of the Second Amendment. Under *District of Columbia v. Heller*, *McDonald v. City of Chicago*, and *New York State Rifle & Pistol Association v. Bruen*, the State bears the burden of proving that such regulation is consistent with the Nation's historical tradition of firearm regulation.

HB 4145 fails that burden. The statute relies on discretionary licensing, administrative delay, and categorical restrictions applied to law-abiding citizens—mechanisms explicitly disfavored by *Bruen* and unsupported by historical analogues.

#### II. Independent Violation of the Oregon Constitution

##### A. Article I, Section 27 — Right to Bear Arms

Article I, Section 27 of the Oregon Constitution states:

“The people shall have the right to bear arms for the defence of themselves, and the State, but the Military shall be kept in strict subordination to the civil power.”

The Oregon Supreme Court has long recognized that Article I, §27 protects an individual right, not a collective or militia-dependent one. (*State v. Kessler*, 289 Or. 359 (1980)).

Unlike the federal Second Amendment, Oregon's right to bear arms is explicitly framed around self-defense, making it, in many respects, broader and more explicit than its federal counterpart.

HB 4145 violates Article I, §27 by:

Conditioning firearm possession on discretionary government approval

Burdening law-abiding citizens absent individualized findings of dangerousness

Imposing restrictions untethered from historical regulation at the time of Oregon's founding

Under *Kessler* and its progeny, Oregon courts have made clear that while reasonable regulations may exist, the legislature may not destroy or materially impair the right itself.

HB 4145 materially impairs that right.

#### B. Article I, Section 20 — Equal Privileges and Immunities

Article I, Section 20 provides:

“No law shall be passed granting to any citizen or class of citizens privileges, or immunities, which, upon the same terms, shall not equally belong to all citizens.”

HB 4145 violates Article I, §20 by creating unequal classes of firearm rights, where similarly situated citizens are treated differently under discretionary or exempted frameworks.

The Oregon Supreme Court has held that laws violating Article I, §20 are unconstitutional when:

A privilege or immunity is granted to one class of citizens, and

The distinction lacks a legitimate, constitutionally sufficient justification

(*State v. Clark*, 291 Or. 231 (1981)).

HB 4145 grants favored treatment to certain classes while imposing heightened burdens on ordinary citizens without evidence that such distinctions are constitutionally required or factually justified.

This unequal treatment cannot survive Article I, §20 scrutiny.

#### C. Article I, Section 10 — Administration of Justice / Due Process

Article I, Section 10 states:

“No court shall be secret, but justice shall be administered, openly and without purchase, completely and without delay...”

HB 4145 introduces administrative barriers, delays, and discretionary denials that effectively condition a fundamental right on government permission.

Oregon courts have recognized that undue delay and arbitrary procedures infringing fundamental rights violate Article I, §10, particularly where access to a right is obstructed without judicial findings or procedural safeguards.

A constitutional right delayed indefinitely is a right denied.

### III. HB 4145 Cannot Be Saved by Public Policy Arguments

Oregon courts, like federal courts, do not permit constitutional rights to be overridden by generalized public safety claims unsupported by evidence.

Oregon’s experience with prior criminal justice reforms—most notably Measure 101 and subsequent drug decriminalization—demonstrates the danger of policy-driven legislation enacted without constitutional or empirical grounding. Legislative intent cannot cure constitutional infirmity.

### IV. Severability Is Not a Viable Remedy

Because HB 4145’s constitutional defects are structural—embedded in its permitting, enforcement, and discretionary framework—the statute cannot be salvaged through severability. The unconstitutional provisions are not incidental; they are foundational.

### V. Conclusion

HB 4145 violates:

The Second Amendment to the U.S. Constitution

Article I, Sections 27, 20, and 10 of the Oregon Constitution

It lacks historical justification, infringes fundamental rights, denies equal privileges, and imposes unconstitutional procedural barriers. As such, HB 4145 would not withstand judicial scrutiny in Oregon or federal courts.

### Footnoted Legal Citations

District of Columbia v. Heller, 554 U.S. 570 (2008)

- Second Amendment protects an individual right to possess firearms for lawful purposes.

McDonald v. City of Chicago, 561 U.S. 742 (2010)

- Second Amendment incorporated against the states.

New York State Rifle & Pistol Ass’n v. Bruen, 597 U.S. \_\_\_\_ (2022)

- Government must justify firearm regulations through historical tradition; interest balancing prohibited.

United States v. Rahimi, 602 U.S. \_\_\_\_ (2024)

- Firearm restrictions permissible only after a judicial finding of credible danger.

Caetano v. Massachusetts, 577 U.S. 411 (2016)

- Second Amendment extends to all bearable arms, not limited to those existing at the Founding.

Range v. Attorney General, 69 F.4<sup>th</sup> 96 (3d Cir. 2023)

- Non-dangerous individuals cannot be disarmed absent historical justification.

Duncan v. Bonta, 19 F.4<sup>th</sup> 1087 (9<sup>th</sup> Cir. 2021), vacated and remanded post-Bruen

- Demonstrates instability of pre-Bruen firearm restrictions in Ninth Circuit.

State v. Kessler, 289 Or. 359 (1980)

- Oregon Constitution protects individual right to bear arms, subject to constitutional limits.