

Online Testimony in Opposition to HB 4145

Chair and Members of the Committee:

I respectfully submit this testimony in opposition to HB 4145 on constitutional grounds under the Second and Fourteenth Amendments to the United States Constitution and Article I, Section 27 of the Oregon Constitution.

The United States Supreme Court has confirmed that the Second Amendment protects an individual right to possess and acquire firearms in common use for lawful purposes, including self-defense. *District of Columbia v. Heller*, 554 U.S. 570 (2008). This protection applies fully to the states through the Fourteenth Amendment. *McDonald v. City of Chicago*, 561 U.S. 742 (2010). Under the controlling standard articulated in *New York State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1 (2022), firearm regulations must be consistent with the Nation's historical tradition of firearm regulation; means-end scrutiny is not permitted.

HB 4145 raises significant constitutional concerns in three principal areas:

1. **Permit-to-Purchase Requirement:** Conditioning firearm acquisition on discretionary approval, extended processing timelines, and substantial fees risks imposing unconstitutional burdens on a fundamental right protected under *Heller* and *Bruen*. Prolonged administrative delay or subjective denial standards resemble the discretionary regimes invalidated in *Bruen*.
2. **Magazine Capacity Restrictions:** The prohibition of commonly possessed ammunition magazines implicates *Heller's* protection of arms "in common use" for lawful purposes. 554 U.S. at 627. Under *Bruen*, the State bears the burden of demonstrating a historical analogue for such restrictions, and historical evidence from the Founding or Reconstruction eras does not establish a tradition of ammunition capacity limits.
3. **Procedural Due Process:** Automatic denial based on incomplete records and extended administrative delay raise concerns under *Mathews v. Eldridge*, 424 U.S. 319 (1976), which requires balancing the private interest affected, the risk of erroneous deprivation, and the government's interest. The right to acquire constitutionally protected arms is a substantial private interest.

Additionally, Article I, Section 27 of the Oregon Constitution independently guarantees that "the people shall have the right to bear arms for the defence of themselves, and the State." Oregon case law recognizes this as an individual right. See *State v. Kessler*, 289 Or. 359 (1980); *State v. Hirsch*, 338 Or. 622 (2005). Regulations inconsistent with the historical scope of that protection present serious constitutional vulnerability under Oregon law.

For these reasons, HB 4145 presents substantial risk of judicial invalidation and constitutional challenge.

Thank you for your consideration.