

DATE: April 20, 2021

TO: Members of the House State and Local Government Committee

FROM: Mark Schmitt, lifelong resident of Ohio

RE: Support for HB62, the Second Amendment Preservation Act (SAPA)

- Designed to protect lawful gun owners from Federal gun control laws that may pass during anti-gun administrations.
- SAPA is based on the “Anti-Commandeering Doctrine,” which acknowledges that states are individual, sovereign entities and that the federal government can’t simply commandeer their legislative process or the use of their resources.
- Specifically, it simply says that the State of Ohio, nor any of its political subdivisions nor any of its officials, can use any of its resources to aid federal government in the enforcement of its gun control laws.
  - o It further stipulates that the only gun control laws that will apply to Ohioans are ones that Ohioans codify in state statute.
- SAPA is based on the same doctrine that states like California have used to make themselves “Sanctuary States” for illegal immigrants, only in this case it is the state of Ohio making itself a Sanctuary State for the Right to Keep and Bear Arms.
- SAPA emboldens constitutional state office holders and officials to do their duty to protect the people’s Right to Keep and Bear Arms.
- The Anti-Commandeering Doctrine has been upheld in the U.S. Supreme Court on many instances:
  - o 1842, Prigg v. Pennsylvania, Justice Joseph Story held that the federal government could not force states to implement or carry out the Fugitive Slave Act of 1793.
  - o 1992, New York v. United States, Sandra Day O’Connor wrote that “Congress may not simply commandeer” the legislative processes of the States.”
  - o 1997, Printz v United States, Supreme Court agreed with Sheriffs Mack and Printz that, as state level officials, they could not be forced to participate in the Brady Gun Bill.
  - o 2012, NFIB v. Sebelius, SCOTUS cited the anti-commandeering doctrine to not only affirm the states’ right to refuse to expand Medicare, but also to prohibit federal retribution through withholding federal funds.
  - o 2018, Murphy v. NCAA, SCOTUS held that Congress can not take any action that “dictates what a state legislature may and may not do,” even when the state action conflicts with federal law. Justice Alito wrote, “a more direct affront to state sovereignty is not easy to imagine.”
- SAPA is powerful because the Federal Government lacks the resources to do its own work, and relies on state and local resources, including law enforcement officers and facilities and equipment to do their job in any wholesale fashion, which the states have the right to refuse.

- Since the Anti-Commandeering doctrine prohibits the federal government from forcing states to participate in the enforcement of federal gun control laws, the federal government usually resorts to bribery of states in the forms of grant funding. Knowing this, SAPA law prohibits state and local governments and officials from accepting grants that make as a contingency their participation in the enforcement of unconstitutional federal gun-control edicts.
- SAPA has teeth that protect gun owners, unlike recent “sanctuary county resolutions,” which do not rely on “government to protect you from government.” It doesn’t require a county prosecutor or attorney general to do their job before rights are protected.
  - o SAPA has a private cause of action so that any citizen whose rights have been violated has the right to sue in civil court.
  - o Sovereign, official and qualified immunity are stripped so that government actors cannot claim to be above the law.
  - o The Governor all the way to township trustees and mayors could be held accountable if they in any way indulge in Federal gun control enforcement.
  - o Dayton Mayor Nan Whaley, Columbus Mayor Andrew Ginther, etc
- Is not anti-law enforcement. It protects law enforcement officials who want to uphold their oath of office and constitutional duty, and provides them legal cover to say “NO” should their superiors give them an order that violates the Constitution.
- Will not affect or empower people to buy machine guns or most firearms prohibited by federal law.
  - o Most firearms prohibited by federal law are already illegal under Ohio law.
- SAPA is massively supported by grassroots gun owners, especially considering impending gun-control from the Biden Regime’s takeover of Washington DC.

In light of the information presented above, I respectfully request that you pass HB62.

Sincerely,  
 Mark Schmitt  
 Troy, Ohio