

Testimony on House Bill 62

House State and Local Government Committee

June 9, 2021

Submitted by:

Sharon Kokot

Chair Wiggam, Vice Chair John, Ranking Member Kelly, and members of the committee.

My name is Sharon Kokot. I am a lifelong Ohio citizen and a voter. Thank you for accepting my written testimony in opposition to House Bill 62.

This is a time when we are all deeply troubled. We are troubled as more of our loved ones and fellow citizens are killed, wounded or impacted by gun violence every day. It is time for us to realize that as gun rights advocates and as concerned citizens, we must work together to address the crisis of rising gun violence in our country and our state. We must work together as Americans and Ohioans, and we must make our state and federal governments work together as well.

Conflicting, confusing, and unconstitutional gun laws like HB62 that pit state and federal law enforcement against each other will not solve the problem. Not only would HB62 not solve the problem, it would create new ones.

First, it will provoke lengthy, and costly pointless court battles. HB62 is a proposal to nullify federal law that, following precedent, will not stand in court. The U.S. Constitution (Article VI, clause 2) states that federal laws are “the supreme law of the land,” and that any state law that conflicts with federal law is null and void. Nullification proposals have been put to the test a number of times by various states and have been routinely struck down in federal court because of their unconstitutionality. A recent example of this took place in 2013, when the Ninth Circuit Court of Appeals ruled that a Montana nullification law exempting firearms made in the state from federal gun laws was preempted and void. (Mont. Shooting Sports Ass’n v. Holder, 727 F.3d 975, 9th Cir. 2013.)

Second, HB62 would penalize local police and prosecutors for enforcing federal laws.

If enforcing federal law means breaking state law, what are local officials to do? Should they risk a lawsuit and possibly their job for enforcing federal laws? Don’t police have enough problems without adding this to the mix? Whether you belong to the “law and order party” or any other political party, we ALL need to support our police in proper execution of clearly stated, consistent laws.

Third, HB62 would prevent local authorities from accessing federal resources.

Under this bill, if local authorities participate in federal task forces, refer cases to federal law enforcement, or ask for federal assistance in tracing the origin of crime guns, they could be breaking Ohio law.

Fourth, HB62 would create confusion for law-abiding gun owners. What is the law we are supposed to obey? Gun owners who think they are protected by a nullification law can be surprised when they prosecuted for violating a federal gun law. This actually happened in Kansas case of United States v. Cox in 2018, when the appeals court rejected the argument that the defendants were protected by state nullification law. (906 F.rd 1170 10th Cir)

This bill is not needed. Second Amendment rights are already protected under the Constitution and no president has the power to take them away. Not only is the bill not needed, it is harmful to law enforcement and law-abiding gun owners, as demonstrated above. If law enforcement's hands are tied by conflicting laws, they cannot protect us from criminal activity with guns. Let's work together to address gun violence, not set up more problems than we already have.

Thank you for your thoughtful consideration of these points. Vote no on HB62.