



Ohio Gun Owners

Ohio's Grassroots Gun Rights Organization
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MEMORANDUM

DATE: October 14, 2023

TO: Members of the Ohio House Government Oversight Committee

FROM: Chris Dorr, Director, Ohio Gun Owners
Rob Knisley, Political Director, Ohio Gun Owners

RE: Proponent Testimony on Sub. House Bill 51

Chairman Peterson, Vice Chair Thomas, Ranking Member Forhan and members of the House Government Oversight Committee, I'm Chris Dorr and I'm the Director of Ohio Gun Owners, and I'm joined by OGO's Political Director, Rob Knisley. We represent Ohio's largest grassroots gun rights organization.

We're testifying in support of this substitute House Bill on behalf of the many thousands of OGO members who can't be here today because they have actual jobs and work for a living.

OGO supports Substitute House Bill 51, the Second Amendment Preservation Act (SAPA for short), sponsored by Representatives Loychik & Schmidt, and urges this committee to vote yes on it and pass it out to the House.

This bill is absolutely necessary, and it's needed right now.

The Problem

The Federal Government - from President Biden, to AG Merrick Garland, and all the way down to the lawless bureaucrats at the ATF - have made it clear that they want to obliterate the freedoms we are guaranteed in the Second Amendment.

It used to be cliché, the lawful American side used to say "the Left wants to take away our guns" because it is obvious, and the Marxists would reply, "nobody wants to take your guns, you're just a paranoid conspiracy theorist."

But now Joe Biden says it every day after his morning ice cream.

This is obvious and clear when you consider the ATF rule change that I believe the members of this committee are now familiar with. If you own one of the 30-40 million lawfully purchased pistol braces, you would now be considered a felon if it were not for the injunctions gun owners had to secure in lawsuits, all because an unelected bureaucrat loser at the ATF decided so, UNLESS the owner prostrate themselves before government and register as if they were sex offenders.

This same lawless ATF is currently trying to redefine the definition of what a "firearms dealer" is in an attempt to bypass Congress and implement their wet dream of a national gun registry, which would outlaw the private sale of firearms unless it is entered into their database.

In fact, ever since the passage of the Gun Control Act of 1936, the overlords in our federal government have been consistently and without major pushback hacking away at our gun rights.

The Solution

Ohio has the authority under the 10th Amendment to do something about our increasingly tyrannical federal government.

The Tenth Amendment makes clear that any powers that are not specifically given to the federal government, nor withheld from the states, are reserved to those respective states, or to the people at large.

These Tenth Amendment powers are the springhead of House Bill 51, and we urge this committee to begin the process of exercising their power to put a check and balance on a federal government that is clearly overstepping its authority.

Anti-Commandeering

The foundational precedent that Substitute House Bill 51 is built on and which has centuries of Supreme Court backing is called the anti-commandeering doctrine.

HB51 makes it so that Ohio law enforcement is required to enforce Ohio firearm laws and forbids them from enforcing federal laws, rules or executive orders that deal with firearms.

This is a rational and reasonable distinction to make considering a few facts.

The first reason why is because the Ohio General Assembly is elected exclusively by Ohioans.

Because of this, the laws passed by the Ohio General Assembly far more accurately represent the will and needs of the people of Ohio than anything passed by Congress.

After all, Ohio's Congressional delegation only accounts for about three percent of Congress. By comparison, California accounts for over ten percent, New York has five percent, and even Illinois comes in at three and a half percent of Congress.

Another rather obvious reason why it is rational and reasonable to set these boundaries is because Ohio

taxpayers pay for Ohio law enforcement officers, not federal tax dollars.

Our members believe that the average Ohio gun owner is not very well served when the Ohio law enforcement officers that they pay for are riding around enforcing federal laws that California, Illinois and New York had more of a hand in creating than Ohio did.

This is not theory, either.

There are current federal task forces in Ohio in which federal law enforcement agents are doing ride-alongs with Ohio law enforcement agents to arrest and prosecute Ohioans for federal firearms-related crimes.

That becomes a problem when the federal firearms-related crimes they are arresting and prosecuting Ohioans over are hundreds of thousands of legally purchased pistol-braced firearms that we've mentioned previously.

That problem is better described as lawless federal tyranny, and we need to pass House Bill 51 in order to prevent this from happening, both now and in the future.

The feds should not allowed to 'commandeer' state and local resources, or rather, state and local tax dollars, to enforce their laws.

SCOTUS Precedent

U.S. Supreme Court precedent is very supportive of the anti-commandeering doctrine that House Bill 51 is built upon.

In the *Prigg v. Pennsylvania*, *Printz v. U.S.* and *NFIB v. Sebelius* cases, the Court stated that Congress cannot circumvent that prohibition by conscripting the States' officers directly.

James Madison made the case for anti-commandeering in Federalist 46, explaining that the states can push back on federal overreach by simply refusing to comply.

He also recognized that the federal government will use the states to enforce federal law - boy was he right.

Enforcement

Every good law needs teeth, or it can and will be easily disregarded.

Violating an Ohio citizen's right to bear arms, as recognized by the Ohio Constitution as well as the Second Amendment, is a very serious civil rights violation and must be treated as such.

That's why this bill prohibits the giving of material aid or support to the enforcement, attempted enforcement, or support of another in the enforcement or implementation of any federal acts, orders, rules, regulations, statutes, or ordinances regarding firearms, firearm accessories, or ammunition from any Ohio government agency, law enforcement agency, or employee of this state or any political subdivision of the state.

Even better, House Bill 51 does not rely on government to protect a citizen from government.

Under Sub HB51, if a citizen's rights are violated by an Ohio law enforcement agent that is enforcing a federal gun control law, that citizen can take the agency or government entity responsible into civil court in the county where they reside.

The penalties for the offending agency are a \$50,000 civil penalty per occurrence plus attorney's fees and costs.

By crafting HB51 in this way, a lawful gun owner whose rights have been violated would not be reliant on a liberal county prosecutor to take action, nor be forced to wait for months or maybe even years in order to receive justice.

No sovereign immunity protections apply under this bill, either.

This bill empowers the citizens of Ohio to fight for and protect their gun rights and gives them the means to do so in the civil courts.

SAPA Holds Bad Department Heads Accountable

This bill further protects the civil rights of Ohio citizens by subjecting any political subdivision to civil penalties if they knowingly hire a former or current federal agent or employee of the federal government, if that person gives material aid or support to the efforts of another, enforces, attempts to enforce, or participates in any way in the enforcement or implementation of federal gun laws.

Of course, if the agency or political subdivision is found to have hired someone that fits that description, Ohio citizens can take that agency or government to civil court for a \$50,000 civil penalty per employee, plus attorney's fees and costs.

There were some questions about this section during the last committee hearing and I wanted to take this opportunity to clear up some of the confusion surrounding it.

This bill does not stop Ohio police departments and county Sheriffs from hiring former military personnel.

This section only applies to actions made by individuals who qualify AND enforce, attempt to enforce, or provide material aid or support to another for the enforcement or implementation of any federal gun regulation AFTER the effective date of the bill.

We anticipate that law enforcement agencies across the State will need to utilize a more robust screening and interview process and train their employees on the provisions of this bill, or risk serious civil penalties if they don't.

Gun owners want to know that the folks behind the badge in their communities are working to protect their rights, not

infringe on them under the guise of enforcing federal law, and this bill accomplishes that.

SAPA is Pro-Cop

Ohio Gun Owners is proud to have many members from all different types of Ohio law enforcement departments, everything from State Patrol officers to sheriff's deputies, and even big-city department police officers.

Sub HB51 was designed to protect those officers by preventing them from ever being forced to choose between enforcing tyrannical federal laws, rules or executive orders (like the ATF's pistol brace ban that is now in effect) or sticking to their convictions and losing their jobs.

More explicitly, SAPA law protects a law enforcement officer who is being ordered by an anti-gun department head or mayor by giving them the ability to point to SAPA as a lawful grounds to refuse to obey an unlawful order.

Further, if an Ohio law enforcement officer would enforce a federal gun law, the legal responsibility under HB51 lies with the department instead of the individual officer.

Quite frankly, the law enforcement members of Ohio Gun Owners would love to come in here and testify in favor of this legislation because they love our country, they love freedom and they love freedom just like we do and they never want Ohio's law enforcement community to be federalized and weaponized against Ohio's citizenry.

That being said, we acknowledge the predicament they are in with respect to the politicized law enforcement associations they are members of, all of which routinely make a practice of testifying against gun rights and self-defense rights here in the Columbus, and we are glad to be their voice here in the Ohio Statehouse when it comes to this issue.

SAPA law protects law enforcement officers who respect our Constitutional Republic form of government.

SAPA is Tough on Criminals

Questions have arisen in this committee as to whether or not SAPA law makes it harder for law enforcement and prosecutors to do their jobs in Ohio, and those questions have arisen from testifiers in their official capacity, so I'd like to address that for a moment.

If past performance is indicative of future results, the county prosecutor groups, the gun-control organizations and the political law enforcement associations have a batting average of .000, and their judgement cannot be trusted.

These same entities came in and testified back in the early 2000's that if Ohio passed Concealed Carry there would be an increase in vigilante justice, shootouts on every corner and that blood would flow in the streets.

They came in again and said the same things when we passed Stand-Your-Ground law.

Wanting to pile more egg on their faces, they said the same thing about Constitutional Carry.

Their wild predictions on those firearm freedom restorations were a total failure, and their judgement on House Bill 51 is just as poor.

But to be clear, HB51 makes sure that Ohio and federal law enforcement can partner up to enforce Ohio firearm laws.

HB51 continues to allow Ohio law enforcement to aid federal officers in pursuit of a suspect who is from out-of-state, or for federal felony crimes against others where any weapons violations are ancillary to the prosecution.

HB51 makes it clear that Ohio law enforcement officers are still able to partake in federal task forces other than task forces that focus on federal firearm violations. This would include things like drug task forces, human trafficking task forces, etc.

HB51 makes sure that Ohio law enforcement can do their jobs and put the bad guys away.

SAPA Decouples Ohio Firearms Law from Federal Firearms Law

HB51 removes most references to Federal gun law and the ATF, thereby making sure that any changes to federal law or any future ATF rule changes do not translate into state-level criminal penalties for Ohioans.

This is vitally important for the success of this legislation.

To reiterate the previous point, the current situation in Ohio is that there are tens or hundreds of thousands of legally purchased pistol brace owners who are now considered felons under federal AND state law because of this tethering issue.

HB51 fixes that problem and makes sure it can't happen again in the future.

SAPA Ensures that Pistol Braces are Legal Under State Law

In addition to decoupling Ohio firearms law from federal firearms law, HB51 changes the definition of 'handgun' to make sure that any handgun with an attached brace is not considered "dangerous ordnance" and is completely legal to own under Ohio law.

It is estimated that there are hundreds of thousands of pistol braces currently in Ohio that were legally purchased by Ohio gun owners, and they deserve to be protected from anti-gun Mayors who would be happy to target them with felony prosecutions.

This is a very simple fix and must be made.

So while HB51 won't stop federal agents from enforcing their own laws here in Ohio, it will put a stop to attempts by people like Andrew Ginther from sending his goons into Columbus shooting ranges and ambushing perfectly lawful citizens for shooting firearms they purchased lawfully.

SAPA is an Emergency Measure

Because the ATF rule on pistol braces is currently in effect, and because that same corrupt ATF is now in the process of redefining what a "firearms dealer" is in order to create a national gun registry, it is important to move HB51 as quickly as possible.

The last thing I'll mention is this: this is an opportunity for Ohio to become a leading state on the issue of defending the human right of self-defense.

Ohio was the 23rd state to pass "Constitutional Carry."

It was the 36th state to become a Stand-Your-Ground state.

This is an opportunity for Ohio to become the 2nd state in America to pass a SAPA law, a SAPA law that I would argue is far more robust and clear in its effectiveness.

Most states in America do not have a year-round legislature, and many of the states that are considering whether or not to pass this law are watching what happens here in Ohio very closely.

Help make Ohio synonymous for defending freedom - a leader in the fight to protect our gun rights.

Please pass Substitute House Bill 51 and send it to the House floor for a vote immediately.

Thank you for your time and we'd be happy to answer any questions you have.

Previous comments by Rep Brown: "You're not a lawyer or a constitutional expert, are you?"