To whom it may concern,

I am submitting my objection to SB348 for the public record for consideration at least, for use as part of follow-up litigation against governmental overreach on citizen rights at most.

This objection is toward the following tenants of SB348-1 as proposed: increase in cost for licensing, an increased mandatory hold after Federal approval, a raising of age for those who have legal rights to purchase Federally, restricting commonly held arms (magazines as defined by SCOTUS are part of 'arms'.)

I will break my objections down into three categories: Racial disparity, State preparedness, and national legal considerations.

**Racial Disparity:** Historically, inserting higher barriers to access of self-defense tools have been rooted in racist practices against African Americans (see: Bonta response to the latest Duncan v. Bonta case in District Court – almost every single "historical context gun restriction" submitted as case evidence has not been a ban on arms, but a ban on who can possess arms -100% racially discriminatory). This discrimination takes root in two primary forms: ethnic and financial. Oregon's continued blight is that communities of color significantly skew lower on income and financial support; the myth that the costs rooted in the license charge are only related to that charge. Training (access to physically/affordability) are unknown and unregulated costs, for which there are capacity and certification challenges (see State Preparedness later.)

Further, we need to acknowledge Oregon's history of disparate treatment of people of color regarding law enforcement/policing. In a post-George Floyd era, this initiative puts more control of citizen data into the hands of law enforcement. With magazine restrictions impacting people owning/carrying common-use magazines of the time, this also puts law enforcement well beyond equal footing with those communities. The message being sent by this initiative and the supporting committee seems to say that the loud and passionate concerns expressed by our marginalized communities is less important than restricting them from equal access to defensive tools under the law.
I respectfully disagree with this mindset, and object to any set of restrictions that further drives a wedge in marginalized communities from having the same access and ability to self-protect as majority communities. The original text of 114 capped fees at "$50" by the state, claiming that this low amount would not be financially impacting on communities of color. Senator Prozanski has pushed up the dollar amount showing disdain for those communities where every dollar counts. Senator Prozanski should be forced to hold listening sessions with marginalized communities (LGBTQ, African-American, Asian-American, Hispanic-American) and understand why raising barriers on those communities is unacceptable before pushing ill-advised legislation.

**State Preparedness:** The current state within Oregon is this: consistently over the past two years, firearm purchases within the state have maintained a backlog to be processed by Oregon State Patrol measures in the thousands. Contrary to the implication of the committee that firearms can be transferred after three days if no response from OSP is received, actual practice across Oregon by FFLs is to hold until a response is received. This frequently exceeds three and seven days, sometimes well beyond. To imply that this is a critical risk/gap to close is a myth. This is an important topic because it highlights a significant resource challenge for OSP to manage. This also underscores the key questions

not answered by this IP/measure are how will OSP and other LEO organizations (also, as everyone is aware, significantly understaffed to do basic public safety activities and not demonstrating their ability to staff up) will be able to provide staffing and support to meet the requirements of the initiative. The most specific example around this staffing concern is ensuring proper support of FFL and citizen applications; this initiative provides no assurances of timelines or access, and what the escalation of complaint process is if timely support of citizens isn't being provided.
Further, access to ranges for citizens to demonstrate competency (a requirement written into the description of the initiative) is a significant barrier. Currently most available are privately held, and sparse in terms of access/availability. Many of these are also not easily accessible to the marginalized communities (see Racial Disparity above, specifically access and costs.) For private ranges, this will drive costs up as they will need to staff up and manage their operations (additional insurance, facility investment, etc.) What commitments is the state able to make and deliver on to provide facilities and access for citizens, especially communities of color? Without a commitment and timelines to deliver service, the question of undue burden becomes very (legally) important.

**National Legal Considerations:** When this initiative was originated, individual states were being sued for their restrictive equipment laws and firearm carry and in a holding pattern for consideration by SCOTUS. Cases pertinent to this initiative are:
Bianchi v. Frosh – a firearm and magazine ban in Maryland, which was originally upheld that the specifically defined weapons and magazines could be restricted.

Duncan v. Bonta – a ban of magazines of 10 rounds or more in California. After originally being found unconstitutional by the three-judge panel of the 9th Circuit, an En Banc decision (7-4) reversed that decision, claiming the two-step approach to testing constitutionality used by the Courts allowed the restriction.
Young v. Hawaii – A case where restrictions on accessing permitting (in this case for carry) was argued as arbitrary and lacking a clear measurable test for approval/denial. The major focus is around subjectiveness to approving/denying. This case has the most parallels to the NY v. Bruen ruling, which I'll get to.
NY v. Bruen – the case regarding subjective permitting in New York state. This is the case that, since June, changes the discussion. I have included the link to the SCOTUS ruling by hyperlinking it to the title.

Outside determining that the state of New York was creating significant barriers to an identified constitutional right, the Supreme Court reaffirmed a core component of the Heller decision (2008) and clarified some support of Heller which they believed was being misinterpreted by the lower courts. Particularly around weapons and accessories "in common use" and providing historical context as weapons systems and ammunition storage have evolved over time. Where lower court rulings such as Bianchi and Duncan were utilizing an intermediate scrutiny approach to restrict weapons and magazines that have availability numbers that are prolific, the Supreme Court clarified that strict scrutiny must be applied.

As of 30-Jun-2022, the Supreme Court has vacated the rulings in Bianchi, Duncan, and Young, remanding those cases back to the lower courts and expecting that the cases be re-evaluated using strict scrutiny along with the historical guidance in Bruen, reinforcing the opinion of Heller.
The short is this: the restrictions built into this initiative which restrict and ban common use firearms and their feeding devices is highly unlikely to hold after those vacated/remanded cases are re-evaluated using the tests mandated by SCOTUS. As this committee is made up primarily of attorneys, as is

SecState (Oregon), you know the message that SCOTUS has sent, and what will happen if the lower courts continue to ignore the guidance. The speed in which it happens is unknown, but the constitutional protection of extremely common use items (magazines in excess of 10 rounds, semi-automatic rifles with cosmetic features, shotguns with capacity, etc.) is inevitable.
Citizen rights are oft politicized but should not be. For all the reasons above I **strongly object** to this initiative/measure. It is racially biased, the state is not ready to handle the load, and the majority – if not all – of this initiative/measure are highly likely to be overturned based on constitutionality.

It would be far better for Oregon to sit back and see how these challenges play out in Federal court vs. creating yet another case to be litigated, which will be costly for the state in event of an eventual overturn by SCOTUS or even the Appeals courts. And if not, my expectation is that we as citizens will review our legal options, as members of the legislative body are not necessarily protected from civil penalty with qualified immunity for knowingly violating Constitutional rights. It may become an interesting argument that legislators pushing forward are fully aware that their attempt to circumvent citizen protections qualifies as "knowingly violating those rights."

As a native Oregonian, I've watched our state go from a welcoming moderate/liberal state that finds way to work to take care of one another to a state that is actively aspiring to mimic California/Washington state. That's embarrassing to me, as those states aren't states we should aspire to be.
We should continue to aspire to be Oregonians.

Respectfully,
Jonathan Edwards
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