

Submitter: Jacob Wadley
On Behalf Of:
Committee: House Committee On Judiciary
Measure, Appointment or Topic: HB3076

Dear Members of the House Committee on Judiciary,

I am writing to express my opposition to House Bill 3076, which directs the Oregon Department of Justice to study the establishment of a state gun dealer licensing program. While the bill itself mandates only a study, the potential outcome—a state-imposed licensing system for gun dealers—raises significant constitutional concerns that warrant your attention.

Second Amendment Implications

The Second Amendment of the United States Constitution guarantees individuals the right to keep and bear arms. The U.S. Supreme Court, in *District of Columbia v. Heller* (2008), affirmed that this right is fundamental and individual. Any state action that imposes undue burdens on lawful commerce in firearms could be seen as infringing upon this right. A state gun dealer licensing program, depending on its structure and requirements, may place excessive restrictions on the sale and distribution of firearms, thereby impeding Oregonians' Second Amendment rights.

Preemption by Federal Law

The federal government already regulates firearm dealers through the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), which issues Federal Firearms Licenses (FFLs) to qualified dealers. These regulations are comprehensive, covering background checks, record-keeping, and compliance inspections. Introducing a state-level licensing system could lead to conflicts with federal law, raising issues under the Supremacy Clause of the U.S. Constitution. Courts have held that when federal and state laws conflict, federal law prevails. Therefore, a state program that duplicates or contradicts federal regulations could be deemed unconstitutional.

Commerce Clause Considerations

The Commerce Clause grants Congress the power to regulate interstate commerce. Firearms and their components often move across state lines, and dealers frequently engage in interstate transactions. A state-imposed licensing system could disrupt this flow, imposing barriers to interstate commerce. Such state regulations may be challenged as unconstitutional if they place an undue burden on interstate commerce without serving a legitimate local purpose that cannot be achieved through less restrictive means.

Potential for Arbitrary Enforcement

Without clear guidelines, a state licensing program could lead to arbitrary or discriminatory enforcement. The lack of objective criteria for granting or denying licenses may result in unequal treatment of applicants, violating the Equal Protection Clause of the Fourteenth Amendment. This potential for inconsistent application underscores the constitutional risks associated with implementing such a program.

Conclusion

While the intent to study the feasibility of a state gun dealer licensing program may stem from concerns about public safety, it is crucial to consider the constitutional implications of any subsequent legislation. The potential conflicts with the Second Amendment, federal preemption, the Commerce Clause, and equal protection principles suggest that pursuing such a program could lead to legal challenges and unintended consequences. I urge the committee to weigh these constitutional concerns carefully before moving forward with HB 3076.

Thank you for considering my testimony.

Sincerely,
Jacob Anson Wadley