

Submitter:

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On Behalf Of:

Committee:

Senate Committee On Judiciary

Measure, Appointment or Topic:

SB429

Oregon Senate Bill 429 represents a clear and unacceptable infringement upon the fundamental right to keep and bear arms, as guaranteed by the Second Amendment of the United States Constitution. This legislation, by imposing a mandatory 72-hour waiting period on the purchase of firearms and certain unfinished firearm parts, operates under the misguided premise that delaying the exercise of a constitutional right somehow enhances public safety. In reality, SB 429 places an unconstitutional burden on law-abiding citizens, hindering their ability to protect themselves and their loved ones, and flies in the face of established Second Amendment jurisprudence.

The core principle of the Second Amendment is the individual's right to possess and use firearms for lawful purposes, most notably for self-defense. A mandatory waiting period directly undermines this right by creating an arbitrary and potentially life-threatening delay. For an individual facing an immediate threat, or who suddenly finds themselves in a dangerous situation, a 72-hour waiting period renders their right to self-defense meaningless in their moment of need. The Constitution protects the right to bear arms, not the right to eventually bear arms after bureaucratic hurdles and artificial delays.

This imposition of a waiting period is particularly egregious when considered alongside the immediacy afforded to other fundamental rights enshrined in the Bill of Rights. We do not have to wait 72 hours to exercise our right to free speech, our freedom of religion, our right to assembly, or our protection against unreasonable searches and seizures. These rights are considered inherent and immediately applicable. To single out the Second Amendment for such a significant and arbitrary delay suggests a lesser regard for this fundamental right and creates a dangerous precedent for the potential infringement of other constitutional liberties.

Furthermore, recent federal court cases have increasingly scrutinized and condemned such mandatory waiting periods, recognizing their incompatibility with the Second Amendment. While the specific details of each case vary, a growing trend in federal jurisprudence emphasizes that any restriction on the right to bear arms must be narrowly tailored to serve a compelling government interest and must not unduly burden the exercise of that right. Blanket waiting periods, which apply to all law-abiding purchasers regardless of their individual circumstances or demonstrated lack of risk, fail this strict scrutiny.

For instance, courts have highlighted that such delays do little to deter criminals, who by definition operate outside the bounds of the law and are unlikely to subject

themselves to legal purchasing processes. Instead, these waiting periods primarily impact responsible citizens who have undergone background checks and are legally entitled to own firearms.

The argument that a waiting period allows for a "cooling-off" period or further scrutiny ignores the existing robust background check system. Law-abiding citizens already undergo these checks, and if they are cleared, there is no justifiable reason to further delay their ability to exercise their Second Amendment rights. SB 429 punishes the innocent and creates a false sense of security, while doing little to address the root causes of violence.

In conclusion, Oregon SB 429 is a misguided and unconstitutional measure. It imposes an unacceptable and discriminatory delay on the exercise of a fundamental right, a delay that is not imposed on other equally important rights within the Bill of Rights. This legislation disproportionately burdens law-abiding citizens and is increasingly at odds with the evolving understanding of the Second Amendment in federal courts. The legislature should reject this infringement and instead focus on measures that truly address criminal behavior without undermining the constitutional rights of its citizens.