

To: House Committee on Government operations

Date: January 20, 2016

Subject: Burlington charter changes; H.566, H.567, H.568

Dear Committee members;

It appears that the ill-conceived charter changes requested by Burlington will see some form of action in this legislative session.

As I have stated many times before, we should not be looking to enact new gun laws or change others without clear justification. Burlington, and the rest of Vermont, does not have a gun safety issue. In fact it is just the opposite. Many states are beginning to fashion their gun laws to be similar to those of Vermont, statistically the safest state in the nation.

Allowing Burlington to enact these charter changes would open up the opportunity for every community in the state to do the same, thus rendering the state's preemption law null and void. This law has aptly served the state and was instituted to eliminate a patchwork of gun laws previously on the books in various towns and cities. Those individual laws/ordinances **often paralleled the ideology of the community's governing body.** This is similar to what we are witnessing in Burlington under the leadership of a **mayor who is an avowed anti-gun purveyor and charter member of Michael Bloomberg's Everytown For Gun Safety.** Prior to preemption, a gaggle of laws across the state often led to confusion, arrest and conviction in one locale for something that was perfectly legal in an adjacent town. Statewide preemption laws are now standard in almost all states. I submit to you that this is **more about ideology and political posturing in Burlington than about addressing real issues.**

Be reminded:

- **Burlington voters did not issue a mandate!** Of the 42,282 residents and 29,685 registered voters, **only 26% of the registered voters actually voted on the three gun ordinances.** Of that 26%, 7718 voters, only slightly more than 5000, actually voted to approve the initiatives. Of the three initiatives, they were actually **approved by only about 17% of registered voters. This is certainly not a mandate!**
- Based on the votes of 5000 individuals, Burlington is asking, or better yet demanding, that they should prevail in essentially gutting the state preemption law and its constitutional protections for nearly 600,000 other citizens. **Burlington is one community,** potentially driving change in 250 other communities across the state. Once you approve one community's request, it will be nearly impossible to stop others from doing the same.

Confiscation and storage of firearms:

- Confiscation of weapons from domestic abusers has many due process and constitutional issues associated with it that raise a myriad of legal issues. There are currently mechanisms under state law that allow police to “safe guard” weapons until a court hearing and a final judgment is rendered. No charter change should ever be approved that goes beyond state law and allows police to be judge and jury.
- Requiring safe storage of firearms is an unenforceable ordinance and would be deemed unconstitutional based on the bullet below. It would be enforceable only by default, after the fact, if there was an incident. Culpability for an unfortunate gun incident is already provided for under numerous current laws already on the books
 - **Supreme Court decision (2008): D.C. Vs Heller found that a trigger-lock requirement (as applied to self-defense) violates the Second Amendment. Similarly, the requirement that any lawful firearm in the home be disassembled or bound by a trigger lock makes it impossible for citizens to use arms for the core lawful purpose of self-defense and is hence unconstitutional.**

Prohibiting firearms from the premises of establishment serving alcohol:

- **Burlington seems to have a problem with one bar in particular.** Maybe before gutting a successful statewide preemption law and potentially affecting 250 other communities, it would **be better to close down the problem establishment.**
 - Most all incidents seem to occur around closing time, 2:00 A.M. Maybe a new ordinance that closes all “bars” at midnight would be a more apropos solution.
 - I have not been able to find any public data indicating that there have been any recognizable incidents (firearms) elsewhere in the state associated with establishments serving alcohol years.
- The previous Burlington Police chief, when asked during the original city council meetings, said he couldn’t remember any incident involving a firearm in a Burlington bar
- Burlington bar owners two years ago, stated that they did not recognize a problem or a potential problem with guns in any establishment serving liquor. They chose to remain neutral on the subject
- Burlington is only .16% of the total square miles of the entire state of Vermont (15.5 Vs. 9623)
- Burlington’s population is only 6.75% of Vermont’s total population (42,284 Vs. 626,562)
- Burlington has approximately 7% of the gun owners in Vermont (estimated total Vermont gun owners Vs. ratio to BTV population)
- Burlington has less than 80 licensed restaurants, cabarets, etc. serving alcohol compared to 2300 restaurants, inns and resorts represented by *Vermont Lodging & Restaurant Association’s* web site in the remainder of the state
 - Laws banning guns **on the premises** of any establishment serving alcohol will impact inns/hotels/restaurants serving alcohol to snowmobilers, hikers, hunters,

fishermen, gun show participants, hunter breakfasts, etc. statewide as guns would not even be allowed in vehicles in the parking lot.

- **Nearly 20 million permitted concealed carry permits** have been issued nationwide, which does not include the 1000's of Vermonters and those from other states, i.e., Alaska, Arizona, Maine, Kansas, etc., who are not in that number as they do not require permits in all cases. Essentially, like Vermont, they are migrating to a "constitutional carry" system.
 - According to FBI statistics, violent crime has come down nearly 54% since 1990. Much credit for this dramatic decline has to be attributed to law abiding citizens exercising their rights of self-protection and all states except Hawaii are allowing expanded concealed carry. Major cases in Washington D.C. and Chicago reaffirmed that citizens cannot be denied their right to exercise their constitutional rights of self-protection handed down by the Supreme Court over the past decade. (D.C. Vs Heller and McDonald Vs Chicago)
- The **National Institutes of Health** conducted a controlled study comparing gun violence of "on premises" bars/restaurants serving alcohol versus citizens/patrons in nonalcoholic venues. **The finding was that citizens are equally as safe in a bar/restaurant serving alcohol as they are in a nonalcoholic environment/venue**
 - Establishments serving alcohol maintain a disciplined environment as required by their licensing i.e., age restrictions, consumption limits, employee training, and generally close alliance with law enforcement
- Creating a prohibition of possessing a firearm in a venue (premises) where alcohol is served clearly violates the Vermont constitution: ***"That the people have a right to bear arms for the defense of themselves..."***
 - Essentially, **Burlington is asking to create a gun free zone** with respect to establishments (on premises) where alcohol is served. We all have come to realize that **gun free zones = crime zones**. Only law abiding citizens will comply with the law putting them at a disadvantage. The same individuals that are causing the problems now, who are dealing in drugs, etc., are already committing felonious acts and will continue to possess firearms illegally and carry them anywhere they choose. **So who is the proposed law/ordnance protecting? Not the law-abiding citizen!**
 - **Current laws prohibit users of illegal drugs, convicted felons, etc. from possessing firearms. Federal law prohibits the carry or possession a firearm in the furtherance of a drug felony [18 USC § 924(c)]**

I encourage each of you to watch the following video showing Dr. Suzanna Hupp testifying before the U.S. senate as it gives a real life perspective to what happens when firearms are barred from specific venues such as what Burlington is proposing. Texas changed its laws following this horrific event. Vermont should not take a step back and put its citizens at risk.

www.youtube.com/watch?v=DEJFAvA-ZUE

Please vote to nullify Burlington’s request to enact these politically motivated charter changes. *This is the proverbial “tail wagging the dog”!* These changes would ultimately allow the dismantling of Vermont’s extremely successful preemption law, creating a patchwork of conflicting gun laws across the state.

Respectfully submitted,

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