

Testimony of Chris Bradley
President, Vermont Federation of Sportsman's Clubs
Wednesday, March 28, 2018

I understand that my testimony today should be limited to just the sections of S.55 which were changed subsequent to this bill leaving the Senate.

What Has Been Accomplished with S.55?

In regard to handling events like Fair Haven and Parkland, we fail to see how any portion of S.55 would have prevented these horrific events. As we have repeatedly seen, the majority of the perpetrators at these school shootings were determined, and they carefully planned and prepared. While repeated statements were made that sections of S.55 were "imperfect" and "would not stop everything", what seemed to sway many was the thought that "if just one event could be stopped, it would all be worth it". The sad truth however is that for someone who is determined and who carefully plans and prepares, which appears to be the modus operandi of these sick perpetrators, not one event will be stopped or even appreciably slowed. We have seen it time and time again.

In House Testimony, it was stated by several representatives that they were able to vote for S.55 because it does not take anything away that Vermonters currently own. As that thought generally appears to be true - that nothing is being taken away from Vermonters - then what has been accomplished when everyone keeps what they own? This is not to say that I support outright bans or restrictions on rights, but how exactly is anything being stopped when nothing is taken away?

The stated intent by the presenter, at least concerning section 8, is to gradually reduce the number of magazines held by citizens over time. So, while the magazines I own are grand-fathered, what happens to my grandchildren or great grandchildren? Am I able to gift or bequeath what I own to them? Currently: I believe that such things would be prohibited, so while the current generation is protected, future generations will not be, and I cannot tolerate a restriction on my grandchildren's rights any more than I can abide by watching my own rights infringed upon.

I further ask what is supposed to be done with the magazine in my estate if they can legally go nowhere.

Vermonters will Obey the Law

Several times across the discussion on the House floor, it was stated that Vermonters are law-abiding and that they would voluntarily adhere to laws such as a section 6 and section 8. I beg to differ. While I fully understand that the issue of "registration" is in no way related to S.55, I asked Senate Judiciary Committee for a bit of latitude to briefly touch upon the topic of registration as it pertains to compliance by citizens, as S.55 clearly does require voluntary compliance. Chair Sears: May I have that latitude?

I begin with a situation that exists in Connecticut. As you will recall, in December 2012 a sick and deranged 20-year old perpetrated the horrendous and unconscionable act of gunning down twenty 6 and 7 year-old students and six adults at Sandy Hook Elementary School. As a reminder, he obtained the rifle he used after killing his own mother by shooting her in the face with a .22 so that he could then steal the firearm she legally bought and possessed.

In response to that unconscionable act, the Connecticut Legislature quickly responded by crafting a law that banned the sale of a number of semi-automatic firearms that they labeled as "assault weapons". Connecticut residents who owned these types of firearms were allowed to keep what they already owned, but to remain within the law they were required to register these firearms with the state before December 31st, 2013. As of January 1st, 2014 there had been 41,347 registration applications made.

Given the relatively low number of registrations, the media in Connecticut began to wonder just how many Connecticut citizens had not complied.

Because there are no exact numbers, the National Shooting Sports Foundation (NSSF), which is a trade association for firearms manufacturers, attempted to make an estimate. Using data obtained from numerous surveys, consumer purchase information, NICS background check data and even data from private party transactions, they estimated that there were 350,000 owners of such firearms in Connecticut as of January 1, 2014.

As a quick aside here, because these style of firearms are modern and new in nature, virtually all of these purchases by Connecticut residents were likely made after passing a background - meaning that these were honest and law-abiding citizens with no criminal records. Yet, when it came time to register, a little less than 12% complied, meaning that a 88% DIDN'T comply, which meant that over 308,000 law-abiding citizens of Connecticut appear to have voluntarily opted to become felons as opposed to remaining legal by registering. Why?

Now let's look at a similar situation in New York. In April of 2014 the New York SAFE act took effect, which required New York residents to register any firearms they owned which matched New York's version of what an "assault weapon" was.

Again, the question quickly arose as to how many people registered their guns, and so the government of New York was asked to give that number. New York refused. In response, New York was hit with a Freedom of Information Request. Again, the government in New York refused. Eventually however New York was sued to obtain the number, and as a result they were FORCED to provide what should have been information freely available to the public.

From that lawsuit, we learned that just 23,847 people registered that had these types of firearms.

Again however, there were no hard numbers as to how many New Yorkers actually owned the firearms that were designated as "assault weapons". Using the same approach as had been done

with the Connecticut estimate, the NSSF again stepped forward and calculated the total number of owners in New York of these types of firearms at 1,000,000. If that estimate is accurate, and I believe it is, then just over 2% of the estimated number of New Yorkers who were thought to have this style of firearm registered while over 97% didn't, meaning that 976,153 New Yorkers willingly opted to become felons. Again: The vast majority of these people likely also had to go through a passed background check when they originally purchased these firearms, meaning that these were all likely to be honest and law-abiding citizens with no records.

With the stroke of two pens, a whole new class of citizens were defined in CT and NY. Specifically, this new class of citizen were virtually all law-abiding, they had no criminal records, but when it came time to do an act in compliance with a law which they felt was "infringement", over 1.3 million CT and NY citizens willingly opted to become felons.

I relay all that to underscore that when it comes to Constitutional issues, there is a percentage of law-abiding firearm owners in Vermont that will not obey any law that they feel is repugnant to the Constitution. I believe that this is especially true when these Vermonters consider the process that occurred, or didn't occur, as S.55 was rammed through the House Judiciary and then through the House proper with amendment after amendment being proposed to fix issues which should have been caught and resolved with more careful and protracted deliberation.

Arbitrary Magazine Limit

Within the testimony provided to House Judiciary, I state that there was never any factual basis presented which conclusively indicated that reducing the size of magazine would have any significant impact on Mass Shootings. As it is the Parkland event that seems to have brought us all here, I point out that the Parkland shooter used only 10 round magazines, and the potential shooter in Fair Haven apparently intended to use a shotgun, both of which would have complied with section 8.

Issue with “Constructive Possession”

Within Federal Law there is the concept of “constructive possession”, meaning that if you have a certain parts of a firearm in the same place you can be convicted of having a completed device, even though it is in separate pieces. With the ingenuity of Americans, there are carbines (shorter barreled rifles than full length rifles) which shoot pistol caliber cartridges such as 9mm. The magazines for some of these carbines are completely interchangeable with pistols and in other cases pistols themselves can be incorporated with a carbine assembly to become carbines. If a individual owns one of these carbines and pistol, and legally bought a 15 round magazine for the pistol but which also fits the rifle – is he in fact possessing a legal and illegal magazine at the same time, solely dependent on which firearm it is inserted into, or is otherwise guilty of constructive possession simply because the pistol magazine can be used with the carbine?

Informal Poll on Economic Impact – Section 8

In regards to economic impact, the Federation conducted an informal poll of the 58 entities that are listed as Manufacturers by the BATFE as residing in Vermont. Each entity was then asked if they were aware of S.55, and if so they were asked two questions:

1. Do you see any negative impact to your business of S.55 were to pass?, and
2. If you do foresee negative impact, could this influence any decision to stay in business, or even possibly relocate to another state?

Due to limited time constraints, only 22 calls were able to be made, and due to the presentation of the list as presented to me: These were all small businesses. Of those, 11 indicated that S.55 would negatively affect their business, with 10 of those also indicating that the passage of S.55 would influence their ability to stay in business or otherwise have them consider a move out of state. Of the remaining 11, 2 were out of business, and 9 could not be reached at the number provided.

While completely informal and completely un-scientific, and even with some exemptions being made as S.55 was barraged with amendments, the poll indicated that 100% of respondents indicated negative economic impact.

Issue With the term “Transfer” – Section 8(a)

Section 8 (a) references the term "transfer". When I was giving testimony to House Judiciary, the record will show that I repeatedly asked what the definition of "transfer" was as it was used in several sections, some now thankfully removed, and in response I was repeatedly told that the definition of "transfer" was the same as applied to section 6, (a)7. This past Tuesday however, and in talking directly to Legislative Council, I was told that because section 8 does not provide a definition of "transfer", the definition used in section 6 (a)7 would not apply. Within section 6, transfer is defined in (a)7 as "sale, trade or gift", and I believe that this was done purposefully so as to allow and support the concept of "loaning or borrowing". In section 8 (a), the term "transfer" is used, as is the phrase "or receive".

The use of these two conditions makes it unclear if loaning/borrowing is legal or not. For example, consider two citizens are at a range, and Person A has a rifle with a high-cap magazine (both legally owned) and Person B would like to shoot that rifle. If Person A grants the request, as soon as Person B is handed the rifle he has "received" the high-capacity magazine that was in the firearm. The language of Section 8 is unclear as to whether temporarily handing a gun to a friend that has a high-capacity magazine inserted is legal or not, or simply the act of Person A handing an empty high-capacity magazine to Person B for their examination is legal.

Issue with the word “Import”

In section 8(a) the word "import" appears but is not defined. It is my understanding that when a word or phrase is used in a statute but is not specifically defined, then the commonly accepted use of the word applies. If we Google the word “Import”, I see the first definition being: *“bring (goods or services) into a country from abroad for sale”*. If I can believe that Google might

provide a “common definition” of the word “import”, it becomes unclear as to whether or not it is legal for me to go to NH, buy a case of high-cap magazines, and then return to Vermont with them, so long as I have something in writing that indicates that the stated intent will only be used for my personal use (I.E., not to sell and therefore not an "import").

Enforcement Is Impossible

There is, quite literally, almost no way that Law Enforcement can enforce section 8. As I understand you have heard this already with testimony by folks far more stature than I, I will not belabor this, but magazines are not typically serial numbered, and they rarely have any date of manufacture imprinted on them. When Law Enforcement finds a citizen in possession of a high-cap magazine, the chance of being able to prove precisely when that magazine was made, when the possessor actually first took possession of it, or even if it is on loan or borrowed (assuming loaning/borrowing is legal), will be virtually impossible. Even if LE stopped every vehicle coming into Vermont, and then found a Vermonter with several high-capacity magazines, how could LE tell if they were just recently purchased, or simply being returned to Vermont from whence they originally came?

S.55 Does Prevent the Ownership of Firearms

In the House, repeated statements were made that S.55 does not stop ANY firearms from being legally owned. At this time I can absolutely state that this is not true, as I can think of at least one firearm which is impacted and that is a shotgun made by Kel-Tec. The Kel-Tec KSG shotgun has two integral tube magazines, one on each side, each holding 7 rounds - and I believe by the current definition - that firearm would be made illegal to own. There are also a number of pistols that come standard with magazines that hold greater than 15 rounds, such as Glocks, and while magazines can be made that hold lesser amounts of rounds for a given pistol, it may well be that a manufacturer like Glock will not create a "special" magazine just for Vermont, such that certain type of pistols may no longer be able to be sold here.

Arbitrary Magazine Limits

When the bill left House Judiciary, 10 rounds was the magic number for both pistols and long guns. After a weekend of work, another arbitrary number was arrived at for pistols, with the suggestion of 15. I ask the question: Allowance of number of rounds is apparently based on the type of firearm, does that mean that pistols are less lethal than rifles? If I can have 15 rounds in a magazine with one additional round in the chamber, why cannot the same be true for a rifle, which was also built to accept high-capacity magazines?

Impact on Competitions

I next turn to Competitions, which is a topic very dear to me. I do not typically hunt, I instead like to put little round holes in paper at distance; I am a high-power competitive shooter that has been nationally ranked. While I am the President of the VTFSC, I am also the past President of the Vermont State Rifle & Pistol Association (VSRPA) and I currently serve as their Secretary / Treasurer. Across the spring, summer and fall, the VSRPA runs matches that attract shooters from Vermont and around New England, and we have even had international participants. Three

years ago, the Civilian Marksmanship Program (CMP) was searching for a location to have a new regional CMP New England Games event. After looking at sites in ME, NH and NY, Vermont was selected by the CMP due to the existing laws of Vermont, which was seen as being very friendly to these competitions, as well as the outstanding facilities that available through VSRPA access to the facilities of Camp Ethan Allen Training Site (CEATS) in Jericho/Bolton. Every year surpasses the previous year's participants and match entries, such that the CMP New England Games are now being referred to as "The Camp Perry of The East", and last year saw 800+ match entries. This match is a major fund raiser for the VSRPA, with the 7-days of matches bringing in shooters from around the country and internationally as well. I cannot overstate the economic impact to the area surrounding CEATS by having large numbers of out-of-state competitors come to CEATS to shoot in these events; Restaurants, Hotels, Gas Stations, area attractions and stores all benefit; with greater economic impact each subsequent year.

On the House floor, when the issue of the effect on Competitions was raised, the presenter informed the House that out-of-state competitors coming into Vermont with high-capacity magazines which would be used exclusively for competition shooting would be prohibited from doing so as this would be called "importing", even though these same shooters would leave with what they came in with, and a prior accepted amendment let Vermonters leave the state with high-capacity magazines and then bring them back in. Prior to an 11th hour and 59 minute amendment being crafted that would allow these matches to continue; the House appeared perfectly willing to let these events die. While an amendment was passed to allow these events to continue for this year, the amendment was only allowed because it contained a sunset provision which will have it expire July 18, 2019. So when does this get fixed, or is it the intent to curtail out-of-state involvement in Vermont matches? While I am by no means a lawyer, is there not a legal challenge here under the 14th Amendment and Equal protection when Vermonters are given preferential treatment as to what they legally owned by an arbitrary date versus what an out of state citizen legally owned by the same date? With Vermont stepping firmly onto anti-gun ground with a completely unenforceable law that makes the state look inane, events such as the CMP New England Travel Games may well be moved to a state which is friendlier to 2nd Amendment rights, and other similar statewide events would likewise be negatively impacted.

Bump Stocks

Concerning the Ban on Bump Stocks, I am confident that Federal Government will prohibit these devices in some fashion in the near term, and they will make it a felony to break that law if it were to be broken. Against that I see that the House intends to get tough on the horrible problem by making possession a misdemeanor. I also comment that while bump stocks make the act of bump-firing easier; it is a known fact that you can bump-fire virtually any semi-automatic firearm with specific handling, or you can use a rubber-band or your belt loop to accomplish the same thing easier.