



NATIONAL SHOOTING SPORTS FOUNDATION, INC.

Headquarters: 11 Mile Hill Road, Newtown, CT 06470-2359
400 N. Capitol Street NW, Suite 475, Washington, D.C. 20001
203-426-1320 ext. 238 jmcguigan@nssf.org

Jake McGuigan

Managing Director,
Government Relations - State Affairs

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Position: Opposed

Senator Dick Sears Jr.
Chair, Senate Committee on Judiciary
Room 1 Vermont State House
Montpelier, VT 05633

Re: S.22: Imposing a waiting period and safe storage

Dear Chair Sears and Members of the Senate Committee on Judiciary:

The National Shooting Sports Foundation ("NSSF") is the trade association for America's firearms, ammunition, hunting, and recreational shooting sports industry. Its mission is to promote, protect and preserve hunting and the shooting sports. NSSF has a membership of more than 11,000 manufacturers, distributors, firearms retailers, shooting ranges, and sportsmen's organizations. Our manufacturer members make the firearms used by law-abiding Vermont sportsmen, the U.S. military and law enforcement agencies throughout the state. This is to notify you of our strong opposition to S.22.

Waiting Periods: Ineffective and Unconstitutional

Several state legislatures are considering legislation that would impose waiting periods to purchase firearms and, in some cases, ammunition. Waiting periods are ineffective barriers to law-abiding citizens' ability to exercise their Constitutional right to purchase firearms.

Advocates of waiting periods dismiss the Second Amendment and argue that such a barrier is merely an inconvenience, not an imposition. This is similar to arguing that laws forcing citizens to submit to literacy tests, or poll taxes, did not create obstacles for those who wished to vote in elections. These laws did not prevent one from voting, but they imposed unnecessary and unconstitutional barriers for those who sought to cast their votes.

When a law-abiding citizen in a rural area must drive hundreds of miles in some cases to purchase a firearm from a federally licensed retailer (FFL), only to be told that he or she must turn around and return in 3 days, or a week plus, an obstacle is created. Or when a single mother in an urban area secures childcare and time off work to purchase a firearm at a licensed retailer, to be turned away and told to repeat the process in several days, an obstacle is created. Or when a collector finds a firearm at a gun show that he has been looking for, seeks to purchase the firearm from a licensed retailer at the event, and is told that he cannot purchase the firearm for another three business days, by which time the gun show will be over, an obstacle is created.

Time-to-Crime

Gun control advocates argue that waiting periods will prevent criminal misuse of firearms. All evidence discredits this argument.

According to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), the time between when a firearm used in a crime was sold at retail, and used in the crime, is an average of 9.3 years.¹ Criminals are clearly not legally purchasing firearms and then turning around to commit crimes. In fact, a recent government survey of prison inmates showed that criminals rarely purchase firearms from licensed retailers to begin with. About 90 percent of firearms possessed by inmates during their crime were obtained illegally on the street, from theft, or from family and friends.²

There is no evidence that imposing waiting periods on law-abiding citizens will have any impact on the criminal misuse of firearms. The original intent of the waiting periods back in the 1990's was to conduct an effective criminal background check since the development of the national instant check system had not occurred yet. Fast forward to today and now the justification for waiting periods is an attempt to prevent suicides. There also is no evidence nor statistics to support this assertion and waiting periods should not be implemented which will only infringe on individuals purchasing firearms for reasons other than suicide.

When the non-partisan RAND Corporation conducted a thorough review of gun policy research, it couldn't find a single study on the effects of waiting periods on suicides that was rigorous enough to include in its review. Much of the research on this topic is deeply flawed. There is no evidence that imposing waiting periods will reduce suicides.

NSSF Partnership

The National Shooting Sports Foundation and the American Foundation for Suicide Prevention have created a groundbreaking partnership to develop educational materials firearms retailers and shooting facilities can use to raise awareness among their staff and customers about suicide prevention.

The result of this partnership is a toolkit of resources, containing materials that have been reviewed by NSSF's Retailer and Range Advisory Councils. These materials are used by ranges and retailers to help develop a basic understanding of suicide and how to recognize and possibly assist individuals who may be going through a difficult time — individuals you may decide not to sell or rent a firearm to, or provide access to your range.

Suicide is preventable. Knowing what to look for, having a brave conversation and helping promote the secure storage of firearms when not in use can make a huge difference to someone. The circumstances of a person's life can change over time — sometimes quickly.

Existing 3-Day Delay

The firearms industry strongly supports the current background check system. Under federal law, before a FFL may transfer a firearm to an individual, the retailer must conduct a background check through the Federal Bureau of Investigation's (FBI) National Instant Criminal Background Check System (NICS) to determine if the individual is prohibited by law from receiving firearms.

In a few cases, rather than an approval or denial, the background check results in a notification that the retailer must delay the transaction for three full business days before completing the transaction. This gives NICS more time to research the individual attempting to make the purchase. Data from the FBI show a very small number of firearms are transferred after three business days without a concluded check.

In 2014, the most recent year for which data are available, 91 percent of checks resulted in an immediate determination, while the FFL was still on the phone with NICS. Only 9 percent of all transactions were "delayed"

¹ ATF, Firearms Trace Data – 2017, <https://www.atf.gov/resource-center/firearms-trace-data-2017>

² Mariel Alper, Ph.D., and Lauren Glaze, "Source and Use of Firearms Involved in Crimes: Survey of Prison Inmates, 2016," Bureau of Justice Statistics Special Report, January 2019. NCJ 251776. <https://www.bjs.gov/content/pub/pdf/suficspi16.pdf>

meaning they were not immediately determined. And, 98 percent of the delayed transactions are resolved with the vast majority being resolved during the first three business days.

In the rare, but legal, occurrences where firearms are transferred after the three-business day period with no resolution from NICS, data on firearm traces conducted by law enforcement fail to show that these firearms are any more likely to end up in the hands of criminals than any other firearm.

While federal law prohibits an FFL from transferring a firearm for three full business days after a delay, individual FFLs establish their own policies about whether to complete the transfer after the three-day period or whether to wait longer, such as for one week, 30 days, or to not complete the transfer without receiving a proceed from NICS.

If the FFL lawfully transfers a firearm after the three business days expires, and the NICS system later determines the transaction should have been denied, NICS notifies the FFL and contacts ATF to handle the case as a firearm retrieval referral.

In 2014, NICS forwarded 2,511 firearm retrieval referrals to ATF. This represents 0.01 percent of all NICS checks that year. Only a mere two percent of all delayed transactions are never resolved after a nearly three-month NICS investigation, according to FBI officials. Data provided to the NSSF show that from October 15, 2013 through November 23, 2015, about 79 percent of delayed transactions are resolved within three business days, 88 percent are completed within five days and 94 percent are completed within 10 days. Of the delays that go beyond three business days, 12 percent are eventually denied. This compares to a 54 percent denial rate for delays that are resolved within the three-business day period.

Project ChildSafe

NSSF, launched Project ChildSafe in 1999 (prior to 2003 the program was called Project HomeSafe) as a nationwide initiative to promote firearms responsibility and provide safety education to all gun owners. While helping to prevent accidents among children is a focus, Project ChildSafe is intended to help adults practice greater firearm safety in the home to help prevent unauthorized access.

We have received strong endorsements from law enforcement agencies across the country who stress the effectiveness of programs like Project ChildSafe, which since 1999 has distributed more than 37 million free firearm safety kits across the country and in five U.S. territories. Thousands of law enforcement agencies, hunting and conservation groups, and firearms retailers already participate in Project ChildSafe and have been instrumental in expanding the reach of the program's safety

A Government Accountability Office (GAO) report has confirmed what we know to be true. The distribution of free gun locks helps to increase the use of safe storage practices. Having doctors talk to parents about safe storage and firearms in the homes does not change the parents' behavior. In the words of the GAO authors:

“Our review of the studies relating to safe storage approaches (device distribution and physician consultation) found that providing a free locking device to study participants influenced behavior to store firearms more safely and physician consultation generally did not.”

We know this of course, having seen through the undeniable success of NSSF's Project ChildSafe® program. And we are determined to see the downward trend in firearms-related accidents continue to decline.

The government researchers analyzed the results of 12 different studies. Of these, about half (5) tested the impact of distributing locking devices (including cable locks, trigger locks or gun safes/cabinets). According to the GAO, the results are clear: “All five studies found that gun owners given a locking device began using the device to store their firearms more safely compared to a control group or based on surveys given before and after receiving the device.”

For example, one study involved a national randomized trial of pediatric practices. Some of the 137 practices distributed educational materials and cable locks to some parents and not to others. The GAO describes the conclusion as, “After 6 months, researchers contacted participants who had received the educational materials and cable locks and found that they reported an increase (from 59 percent to 68 percent) in use of the cable locks since they received them.

Over the same period, the percentage of respondents in the control group, who did not receive these devices, reported that their use of cable locks decreased from 64 percent to 52 percent.” Similar results were reported in studies that did not rely on self-reporting to evaluate effectiveness, rather that followed up with unannounced visits to observe the change in storage behaviors.

Based on GAO’s own research, more funding should be directed to funding the distribution of free locking devices and educational material, rather than being poured into ineffective gun control measures masquerading as safety programs.

Not only is NSSF committed to firearms safety, but also our firearms manufacturers who voluntarily include a gun lock with the sale of every new firearm at retail. Our industry is committed to the safe storage of firearms and making sure prohibited persons do not gain access to firearms.

Rather than imposing ineffective and unconstitutional waiting periods and storage requirements on law-abiding citizens, lawmakers should be focused on improving the quality and accuracy of data in the NICS system and ensuring background checks are run against a complete database.

We must all work together to help prevent those who exhibit reckless disregard for human life and values access to firearms for criminal purposes. But we must also preserve the constitutional rights of tens of millions of law-abiding Americans to safely and responsibly own, store and use firearms for personal protection, hunting and recreation. America's firearms industry welcomes the opportunity to be a part of a respectful and constructive dialogue on this important topic.

Sincerely,



Jake McGuigan
Managing Director State Affairs