

Gun Owners of Vermont - Eric Davis - S.4 Testimony

Good morning, Senators, my name is Eric Davis, and I am the president of Gun Owners of Vermont, an all-volunteer, nonprofit advocacy group dedicated to preservation of the right to keep and bear arms. I would like to thank the committee for having us here today to give testimony on bill S.4.

I will begin by stating the obvious –that this is a lengthy and multilayered proposal which covers several different areas of law- and my testimony today will focus mainly on Sections 6 and 8 which deal directly with the possession of firearms.

Before we get into specifics, I'd like to acknowledge the situation at the nexus of this bill with the violent crime occurring in Bennington and other areas of the state; indeed, I wasn't aware until we heard from the folks in Bennington last week that the events in that area had escalated so severely. We certainly sympathize with the community, and we appreciate the efforts of the Senators in drafting this bill as a measure to help reduce that violence, however we believe that any legislative steps to help protect the good people of Vermont should be considered very carefully and with great respect to the rights of those same good people.

The parts of this bill which deal with gun prohibitions are slightly different in their approach. Section 6 prohibits possession based on a set of behavioral criteria, while section 8 does so based on a combination of age limits and a physical description of the firearms in question. I'd like to start with Section 6.

In Section 6, this bill seeks to ban possession of firearms for:

- Fugitives from justice,
- Persons subject to a final relief from abuse order, and
- Persons subject to a no stalking order.

It also seeks prohibition for those who have been charged with, but not yet convicted of:

- Carrying a dangerous weapon while committing a felony
- Drug trafficking, and
- Human trafficking.

Here at GoVT, we sometimes take a lot of heat for our "no compromise" approach to gun legislation, an approach which we believe is rooted not only in the constitutionality of the right to keep and bear arms, but also the moral premise that every person has not only a right to self-defense, but also the right to access the means with which to defend oneself. That said, the premise of a moral right to self-defense

should be understood within the paradigm of non-aggression – defending oneself is not an aggressive act, nor is the act of obtaining the means with which to do so. I say all this as a segue to my point that if one is to be stripped of their inherent natural rights, it should be considered in the context of whether or not the person has violated that same pact of non-aggression against their fellow man. It appears that Section 6 attempts to do this.

We understand that not everyone out there should possess a firearm, and it's hard to argue that someone who has committed a crime from the list of transgressions laid out in Section 6 shouldn't make the list of prohibited persons – at least temporarily anyway. Our concern with this methodology lies primarily in the realm of due process – specifically in the language that those who have not yet had their day in court might be stripped of their rights, and worse, that an innocent person might possibly remain prohibited after having been acquitted of these charges. Judging by the recent ruling from The Supreme Court of New York which [determined the state's ERPO / Red Flag Law to be unconstitutional](#), one could reasonably speculate that the courts would also find this methodology flawed, especially when considered in the context handed down in the *Bruen* decision.

Section 6 appears to be on the right track in the sense that it considers prohibition based on aggressive and violent behaviors, however we cannot support it in its current wording without careful and specific respect to due process.

Moving on to Section 8, this is where we find the majority of our concerns with this bill. Section 8 entirely disregards individual behavior altogether and seeks to impose a sweeping ban on firearms based purely on the arbitrary criteria of age limits and physical characteristics of certain firearms.

It is obvious that this wording is someone's best attempt to give a legal description to the popular, yet contentious AR-15 style rifles which have gained notoriety among proponents of gun control in recent years. It's also obvious to anyone with a basic understanding of the mechanical workings of firearms that this description was written by someone who does not share that same basic understanding of the mechanics of firearms. Without launching into an hours-long and multi-page lecture dissecting each and every one of the (highly flawed) descriptions attempting to assign a legal definition to the popular misnomer "assault weapon," I will try to couch our objections to this approach in the most concise and rational terms possible.

Approaching this discussion from the angle that restrictions on age and/or certain types of firearms might be an effective hedge against the violent behavior of a few bad apples, is objectively flawed. Not only practically, but both morally and constitutionally as well.

From a practical standpoint, this type of blanket ban will have very little, if not zero effect on the ability of violent and/or youthful offenders to obtain such a weapon for nefarious purposes. When legislative action is taken to restrict access to firearms in an attempt to keep them out of the hands of criminals, it always affects the law abiding to a far greater extent than the bad actors at which it is purportedly aimed. When violent and organized criminals know the laws and know that our judicial system is either incapable of, or unwilling to enforce those laws, they will continue to behave badly, and we have already heard testimony to that effect. A good person who doesn't want to break the law, or in this case, the person who purchases a firearm through the proper legal avenues -from a licensed FFL after completing a background check- will be the one denied their constitutional rights while criminals will continue to utilize straw purchases and stolen weapons to further their ends. Once again, regardless of the intent of such legislation, this approach only affects the people you don't have to worry about.

This ties back into our previous discussion about the morality of banning guns based on arbitrary criteria rather than targeting specific individuals and their actions. I can't imagine any rational justification for a young person to be criminalized based on the actions of people they have never met from places they have never been. Imagine a scenario where your teenage son is responsibly enjoying an outdoor activity like hunting, or target shooting, whereupon he is arrested (or worse) and cited to appear in criminal court for the simple misfortune of being stumbled upon by a game warden or other law enforcement official while committing some ridiculous "infraction" such as having a rifle with an adjustable stock or threaded barrel. Once again, it is our position that it is objectively wrong to criminalize anyone based on something they *might* do, or worse, for something that someone else *might* do.

And finally, from a constitutional perspective, it seems that laws which both restrict age of ownership and certain types of firearms are well on their way to being ruled unconstitutional once and for all with courts across the country issuing judgements against such legislation.

As should be obvious by now, we strongly and vociferously oppose the restrictions proposed in Section 8 of this bill and we hope that the legislature will discontinue their efforts to restrict gun ownership in this manner.

I would like to close by stating that gun owners are very conscious of how every incident involving improper use of a firearm reflects poorly on the gun culture as a whole. Whether it is drug and gang related activity or an instance of negligence where someone is harmed due to unsafe handling of a weapon, it is a black mark on our longstanding traditions of safety in sportsmanship and deterrence of aggression. However, we also know that gun ownership in itself is not an aggressive act and should never be treated as such. We believe that pursuing such measures will take what has the potential to be a good bill in S.4 and turn it into a bad bill which will harm law-abiding citizens.

We appreciate the efforts of the legislature to curb the violence in our communities, but we hope to see that accomplished with more focus on consequences for individual actions of malice, rather than punishing good people going forward.

Thank you for your time and consideration.

In Liberty,
Eric Davis
President, Gun Owners of Vermont.