

Institute for Legislative Action

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NRA

January 31, 2022

Senate State Affairs Committee
Alaska State Capitol
120 4th Street, JNUCAP205
Juneau, AK 99801

Dear Chair Shower, Vice Chair Reinbold and Honorable Members of the Senate State Affairs Committee:

On behalf of the National Rifle Association (NRA), I am writing to express strong support for Senate Bill (SB) 136, an NRA priority piece of legislation. SB 136 seeks to place limitations on firearms restrictions by state and municipal agencies during disaster emergency declarations. Simply stated, during such declarations, this bill prohibits state and municipal agencies from:

- forbidding the possession, use, or transfer of a firearm, a firearm accessory, ammunition, or other weapon for personal use;
- ordering the seizure or confiscation of a firearm, a firearm accessory, ammunition, or other weapon for personal use;
- limiting the quantity or placing other restrictions on the sale or service of firearms, firearm accessories, ammunition, or other weapons for personal use;
- closing or limiting the operating hours of an entity engaged in the sale or service of firearms, firearm accessories, ammunition, or other weapons for personal use, or shooting ranges, unless the closure or limitation applies equally to all forms of commerce within the jurisdiction;
- suspending or revoking permits to carry a concealed handgun; and
- refusing to accept a complete and accurate application to carry a concealed handgun.

These limitations are drawn from real-life examples of restrictions imposed by governmental entities during disaster emergency declarations.

In the aftermath of Hurricane Katrina in 2005, and the emergency conditions that followed, New Orleans police superintendent ordered the confiscation of privately-owned firearms, saying “only law enforcement will be able to have guns.” This deprivation of Second Amendment rights led the U.S. Congress to pass Public Law 109-295 (42 U.S.C.A. § 5207), which protects citizens from federal officials confiscating lawfully-owned firearms during a declaration of emergency.

In 2020, declarations of emergency due to the COVID-19 pandemic were similarly used to curtail Americans’ Second Amendment rights. At the outset of the pandemic, varying levels of government across the nation discussed, and in some cases decided, which businesses could stay open and which would have to close, including here in Alaska. These decisions impact firearms-

related businesses and negatively impact Alaskans' right to keep and bear arms as protected by the Second Amendment and Article 1, Section 19 of the Alaska Constitution.

Recognizing the differing ways in which government entities were treating gun stores, the Cybersecurity & Infrastructure Agency (CISA), a part of the Department of Homeland Security, issued revisions to its advisory memorandum listing "essential" infrastructure and workers during the COVID-19 pandemic. The agency declared firearms stores, ammunition manufacturers and shooting ranges to be essential businesses. In contrast, under Anchorage Mayor's Emergency "Hunker Down" Order EO-03 (issued March 20, 2020), firearms stores and shooting ranges were not listed as an enumerated "critical" business, imposing the burden of proof on the firearms business owners to establish that their business was in-fact critical.

In defense of the Second Amendment, in January 2022, a three-judge panel of the U.S. Court of Appeals for the Ninth Circuit sided with the National Rifle Association Institute for Legislative Action (NRA-ILA) when it recognized that Los Angeles County violated the Second Amendment when it forced gun stores and shooting ranges to close in 2020 during the COVID-19 pandemic. NRA-ILA has also challenged similar overbearing COVID-19 firearm access restrictions in New Mexico, New York and four additional counties in California.

SB 136 recognizes Alaskans' Constitutional rights to keep and bear arms, rights that "shall not be denied or infringed by the State or a political subdivision" thereof (Alaska Constitution Article I, Section 19). When a firearms store is forced to close, when ammunition is not allowed to be sold, when gun ranges are shut down, and concealed carry permits are not issued, an individual's ability to keep and bear arms becomes hindered, or rendered impossible. This bill also avoids improperly placing the burden of proof on the business owner to establish that a firearms business is critical or essential in an emergency.

Further, SB 136 recognizes the importance of local control and maintains municipal authority in an emergency by providing that a state or municipal agency may close or restrict firearms stores and shooting ranges as long as "the closure or limitation applies equally to all forms of commerce within the jurisdiction." At the core of the Second Amendment is the right to self-defense. The importance of this right is elevated in times of chaos, uncertainty, and emergency. Alaskans must be able to access firearms, ammunition, shooting ranges and other essential firearms-related businesses during times of emergency. SB 136 provides a thoughtful and effective approach to balance Second Amendment rights and local control.

On behalf of the tens of thousands of members of the National Rifle Association across Alaska, I respectfully urge your support of SB 136.

Sincerely,

Aoibheann Cline

Aoibheann Cline, Esq.
State Director
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