

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

February 16, 2009

1:03 p.m.

MEMBERS PRESENT

Representative Jay Ramras, Chair
Representative John Coghill
Representative Carl Gatto
Representative Bob Lynn
Representative Max Gruenberg
Representative Lindsey Holmes

MEMBERS ABSENT

Representative Nancy Dahlstrom, Vice Chair

COMMITTEE CALENDAR

HOUSE JOINT RESOLUTION NO. 17

Urging the United States Congress to reject H.R. 45, the Blair Holt's Firearm Licensing and Record of Sale Act of 2009.

- MOVED CSHJR 17(JUD) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HJR 17

SHORT TITLE: OPPOSE H.R. 45 IN CONGRESS

SPONSOR(S): REPRESENTATIVE(S) HARRIS

02/11/09	(H)	READ THE FIRST TIME - REFERRALS
02/11/09	(H)	JUD
02/16/09	(H)	JUD AT 1:00 PM CAPITOL 120

WITNESS REGISTER

REPRESENTATIVE JOHN HARRIS

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Sponsor of HJR 17.

TAMMI WILSON

Fairbanks, Alaska

POSITION STATEMENT: Expressed her hope that HJR 17 will be passed out of committee.

BRENT RICHEY

Fairbanks, Alaska

POSITION STATEMENT: Recommended that HJR 17 be passed from committee.

MIKE PRAX

North Pole, Alaska

POSITION STATEMENT: Expressed his hope that HJR 17 will pass out of committee expeditiously.

SCOTT HAMANN

Kenai, Alaska

POSITION STATEMENT: Provided comments during discussion of HJR 17.

STEVE CATALANO

Nikiski, Alaska

POSITION STATEMENT: Testified in support of HJR 17.

ACTION NARRATIVE

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CHAIR JAY RAMRAS called the House Judiciary Standing Committee meeting to order at 1:03 p.m. Representatives Ramras, Coghill, Gatto, and Holmes were present at the call to order. Representatives Lynn and Gruenberg arrived as the meeting was in progress.

HJR 17 - OPPOSE H.R. 45 IN CONGRESS

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CHAIR RAMRAS announced that the only order of business would be HOUSE JOINT RESOLUTION NO. 17, Urging the United States Congress to reject H.R. 45, the Blair Holt's Firearm Licensing and Record of Sale Act of 2009.

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REPRESENTATIVE JOHN HARRIS, Alaska State Legislature, said that HJR 17 simply says to the federal government that the Alaska State Legislature doesn't want the federal government to infringe upon the rights of Americans to bear arms, adding his belief that the federal legislation currently before Congress, H.R. 45, does just that. Specifically, HJR 17 asks Congress to

reject H.R. 45. He characterized the "WHEREAS" statements in HJR 17 as self-explanatory, and said he supports [what later become known as proposed Amendment 1].

REPRESENTATIVE GATTO referred to the fact that the Second Amendment says in part, "the right of the people to keep and bear Arms, shall not be infringed", and asked whether instituting licensing requirements such as those proposed by H.R. 45 could be construed [by the courts] to be an infringement and thus be ruled unconstitutional.

REPRESENTATIVE HARRIS acknowledged that that's a possibility, but expressed his hope that H.R. 45 won't progress to the point where the U.S. Supreme Court must address the issue of constitutionality. He characterized H.R. 45 as simply another attack on the people's right to bear arms.

REPRESENTATIVE GATTO asked whether those who confiscated firearms during the aftermath of Hurricane Katrina were in violation of the U.S. Constitution, and, if so, whether they should have been subject to a penalty for doing so.

REPRESENTATIVE HARRIS offered his belief that such people were acting in violation of the U.S. Constitution.

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TAMMI WILSON indicated that she is glad that HJR 17 has been introduced, and expressed her hope that HJR 17 will be passed out of committee.

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BRENT RICHEY referred to the provision in HJR 17 that read in part, "**WHEREAS** the Second Amendment to the United States Constitution enunciates a citizen's right to keep and bear arms, stating that that right shall not be infringed", and remarked that it is a sad state of affairs when state citizens must remind the federal government to abide by its own law. He characterized the wording of the Second Amendment as pretty clear, and surmised that most citizens can understand it as well as the aforementioned provision of HJR 17. He recommended that the committee pass HJR 17.

CHAIR RAMRAS noted that in addition to other legislators, Representatives Coghill and Lynn, as well as he, himself, have signed on as co-sponsors of HJR 17.

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MIKE PRAX opined that it is unfortunate that the Alaska State Legislature must take time out of its schedule to keep track of the federal government, which, he opined, seems to have forgotten its limited role under the U.S. Constitution. All state legislatures, in representing their citizens, need to pay attention to what the federal government is doing, he remarked, and offered his hope that HJR 17 will pass out of committee expeditiously.

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SCOTT HAMANN said he is happy that HJR 17 is being considered, surmising that it will pass. He added, "We are just sick and tired of the stuff that continually comes at us from Washington D.C."

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STEVE CATALANO said he is in full support of HJR 17, and expressed a desire that Congress be reminded that he is not alone in the idea that he should have the right to keep and bear arms and that that right should not be infringed upon.

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REPRESENTATIVE COGHILL made a motion to adopt Amendment 1, labeled 26-LS0555\A.1, Luckhaupt, 2/16/09, which read:

Page 1, following line 5:

Insert new material to read:

"**WHEREAS** art. I, sec. 19, Constitution of the State of Alaska, provides that the right of the people to keep and bear arms shall not be infringed and further states that the individual right to keep and bear arms shall not be denied or infringed; and"

CHAIR RAMRAS objected for the purpose of discussion.

REPRESENTATIVE COGHILL, noting that the Alaska State Constitution additionally protects the individual right to keep and bear arms, said he thinks it's important to add that point to the message being sent to Congress via HJR 17.

CHAIR RAMRAS withdrew his objection, and, noting that there were no further objections, announced that Amendment 1 was adopted.

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REPRESENTATIVE GRUENBERG made a motion to adopt Amendment 2, to delete the language on page 2, lines 3-5, which read:

WHEREAS H.R. 45 directs the attorney general to establish and maintain a firearm injury information clearinghouse, to conduct studies of firearm-related deaths and injuries, and to collect and maintain production and sales data from licensed firearm manufactures; and

REPRESENTATIVE COGHILL objected.

REPRESENTATIVE GRUENBERG indicated that the inclusion of that clause in HJR 17 essentially disapproves of Title V of H.R. 45; Title V read:

TITLE V--FIREARM INJURY INFORMATION AND RESEARCH

SEC. 501. DUTIES OF THE ATTORNEY GENERAL.

(a) In General- The Attorney General shall--

(1) establish and maintain a firearm injury information clearinghouse to collect, investigate, analyze, and disseminate data and information relating to the causes and prevention of death and injury associated with firearms;

(2) conduct continuing studies and investigations of firearm-related deaths and injuries; and

(3) collect and maintain current production and sales figures for each licensed manufacturer.

(b) Availability of Information- Periodically, but not less frequently than annually, the Attorney General shall report to the Congress and make available to the public a report on the activities of the Attorney General under subsection (a).

REPRESENTATIVE GRUENBERG offered his understanding that this provision of H.R. 45 would allow the U.S. Consumer Product Safety Commission (CPSC) to maintain a database in order to ensure that firearms are manufactured safely and thereby hopefully prevent injuries and deaths. He said that although he

supports gun rights, owns several guns himself, and is a former navy gunnery officer, he knows that firearms - like any other complex and potentially dangerous machine - can cause death or injury. The more information society has, he opined, the safer its citizens can be. With regard to Sec. 510(a)(3) of H.R. 45's Title V, he said that it relates to H.R. 45's Title VII, which read:

TITLE VII--RELATIONSHIP TO OTHER LAW

SEC. 701. SUBORDINATION TO ARMS EXPORT CONTROL ACT.

In the event of any conflict between any provision of this Act or an amendment made by this Act, and any provision of the Arms Export Control Act (22 U.S.C. 2751), the provision of the Arms Export Control Act shall control.

REPRESENTATIVE GRUENBERG indicated that that Act requires that the aggregate value of defense articles and defense services sold in any fiscal year should not exceed current levels. This information may be very helpful in the enforcement of national security, and it is important to know whether American manufactures are exporting weapons to governments and groups that would use the weapons against the United States and in violation of national security. Therefore, he said, he doesn't wish to highlight disapproval of [Titles V and VII as the provision that Amendment 2 would delete proposes to do]. He asked that Amendment 2 be adopted.

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REPRESENTATIVE HARRIS said he doesn't support Amendment 2 because HJR 17 currently deals with all aspects of H.R. 45, which he opposes in its entirety, and opined that the aforementioned Title V will cause government to expand and be more intrusive.

REPRESENTATIVE COGHILL expressed opposition to Amendment 2 because [Title IV of] H.R. 45 would allow the attorney general to issue an order prohibiting the sale or transfer of firearms found to be in violation of the Act, and because Title V could add another layer of bureaucracy.

REPRESENTATIVE GRUENBERG said he supports HJR 17 and thinks that Alaska's congressional delegation should vote against H.R. 45 - including voting against Titles V and VII - but is simply

opposed to highlighting Title V as another reason to oppose H.R. 45, particularly given that there are so many other reasons listed; maintaining the language that Amendment 2 proposes to delete is not necessary in order to support the conclusions/resolves in HJR 17.

A roll call vote was taken. Representatives Gruenberg and Holmes voted in favor of Amendment 2. Representatives Coghill, Gatto, Lynn, and Ramras voted against it. Therefore, Amendment 2 failed by a vote of 2-4.

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REPRESENTATIVE GRUENBERG moved to report HJR 17, as amended, out of committee with individual recommendations and the accompanying fiscal notes.

REPRESENTATIVE GRUENBERG, in response to a comment, withdrew his motion.

REPRESENTATIVE HOLMES, characterizing H.R. 45 as out of step with Alaska values, offered her understanding that H.R. 45 was written by a congressman from the inner-city of Chicago, someone who isn't familiar with Alaska culture; for example, H.R. 45 includes licensing requirements such that the owner of a firearm must certify that he/she won't allow a person under the age of 18 to possess the firearm, and although this might make sense for the inner-city of Chicago, it doesn't make sense for Alaska wherein youngsters are encouraged to become knowledgeable about hunting and firearm safety. In conclusion, she said she is in support of HJR 17.

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REPRESENTATIVE GRUENBERG again moved to report HJR 17, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHJR 17(JUD) was reported from the House Judiciary Standing Committee.

1:33:00 PM

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 1:33 p.m.