

HJR

35

FISCAL NOTE

Version: HJR 35

(H) Publish Date: 2/23/00

STATE OF ALASKA
2000 LEGISLATIVE SESSION

Revision Date: _____
Title: Requesting repeal of Brady Law

Dept. Affected _____

BRU _____

Component _____

Sponsor: COGHT JL

Requester: H WTR

Component Serial No. _____

Expenditures/Revenues

(Thousands of Dollars)

| OPERATING EXPENDITURES | FY 01 | FY 02 | FY 03 | FY 04 | FY 05 | FY 06 |
|------------------------|------------|------------|------------|------------|------------|------------|
| Personal Services | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Travel | | | | | | |
| Contractual | | | | | | |
| Supplies | | | | | | |
| Equipment | | | | | | |
| Land & Structures | | | | | | |
| Grants & Claims | | | | | | |
| Miscellaneous | | | | | | |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

| | | | | | | |
|----------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|----------------------|--|--|--|--|--|--|

| | | | | | | |
|------------------------|--|--|--|--|--|--|
| CHANGE IN REVENUES () | | | | | | |
|------------------------|--|--|--|--|--|--|

FUND SOURCE

(Thousands of Dollars)

| | | | | | | |
|----------------------------------|------------|------------|------------|------------|------------|------------|
| 1002 Federal Recelpts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | | | | | | |
| 1005 GF/Program Recelpts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| 1091 Designated Program Recelpts | | | | | | |
| TOTAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of any current year (FY98) cost: _____

POSITIONS

| | | | | | | |
|-----------|--|--|--|--|--|--|
| Full-time | | | | | | |
| Part-time | | | | | | |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

This resolution would not have a significant fiscal impact on any state agency.

Prepared by Donald M. Riehle staff

Phone 465 6643

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Donald M. Riehle WTR
CMTE.

Phone _____

Date 2-8-00

COMMITTEE COPY

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Representative John Coghill

HJR 35 REPEAL THE BRADY ACT

Sponsor Statement

I have introduced House Joint Resolution 35 to encourage Congress to repeal the Brady Handgun Protection Act because it has directly undermined a fundamental protection each citizen has under the supreme law of the land.

HJR 35 is a resolution requesting the United State Congress uphold the Second Amendment to the Constitution of the United States and repeal the Brady Act. The law is unconstitutional because it violates the provisions of U.S. Constitution and the Alaska Constitution guaranteeing the right to keep and bear arms.

The Second Amendment protects a fundamental right. There's something wrong when a government assumes having a handgun makes you a criminal. Well over 90 % of all crimes are committed without the use of a handgun.

Amendments to the Brady Act have further limited ownership and use of rifles and shotguns. Now the FBI further invades the privacy of citizens through FBI maintained registration checks.

It's time to repeal the law that would be used against citizens instead of against criminals.

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Subject: UofA Student Newspaper on Handguns

Date: Sat, 5 Feb 2000 19:20:58 -0900

RE: HJR 35

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Self-control needed, not handgun control

By Anna Waschke
 Editorial writer
 Sun Star (University of Alaska student newspaper)

A transformation has occurred in the "reasonable adult citizen" of the last decade. It seems as though this same "reasonable citizen" for whom the Constitution was drafted, for whom the Bill of Rights was designed, and for whom hundreds of thousands of other "reasonable citizens" have died, has become a helpless child awash in a toxic sea of peril.

The last decade has seen a barrage of legal action taken sometimes by the citizen, sometimes by the state, against several corporate entities whose normal business activity is supposed to constitute a threat to public safety. We've seen the obscene financial sums awarded to individuals who were scalded, insulted, burned or otherwise injured by private businesses, the feeding frenzy engaged in by private lawyers contracted to sue tobacco companies under the direction of several state, and most recently, the full assault on gun manufacturers by nationwide cities.

The latest development may be the most chilling feat of all in the circus of modern Tort law. Several U.S. cities (including Chicago, Atlanta, Bridgeport, Cincinnati, Cleveland, Detroit, Miami and New Orleans) have filed suit against gun manufacturers, claiming that their products are "defective and unreasonably dangerous" and that they should be held responsible for any misuse of their product. The mayor of Bridgeport is even considering a civil rights claim, as most gun violence occurs in minority neighborhoods. This trend has been picked up by the NAACP as well, as they initiate their own lawsuit against gun manufacturers. Lawyers for the cities will try to argue that because the misuse of handguns by children and adults is foreseeable to the makers of guns, each gun should be equipped with technology that would prevent such misuse, such as fingerprint-reading or voice-identifying analysis programs which would prevent the firing of the weapon in the hands of an unauthorized user. That this technology is not currently commercially available seems to be beside the point.

Some of the new tactics that have popped up in these lawsuits include the attempt to sue under Tort law for indirect harm. For 150 years, Tort law cases have required evidence of direct harm, yet cities in these new suits are claiming millions of dollars in damages lost to costs incurred in sweeping up city streets after shootings, absence of city workers due to

shootings and other lost revenue they claim is attributable to instances in which firearms were involved, all of which are indirect damages. Also new to this rash of lawsuits is the concept of "collective liability", which reasons that since each gun manufacturer shares a percent of the firearms market, so each manufacturer should pay a percentage of the total damages awarded a plaintiff in a lawsuit involving the misuse of a firearm. This makes about as much sense as forcing every coffee roaster in the U.S. to pay damages because one roaster sold a pound of beans to a café who made a hot pot of coffee and sold it to someone who spilled it and burned themselves. It is at this point that the hideous thrust behind the movement comes into view; these lawsuits aren't really about money, like the big tobacco suits were. They are about side-stepping the Constitution and getting rid of legal guns, once and for all.

Most anti-gun activists realize the futility of battling the second amendment head-on, and have begun to adopt this devious practice with the aid of their mayors; they realize that gun manufacturers have considerably less money than big name (and sometimes federally subsidized) tobacco companies. A few legal fees, some time tied up in court and other litigation costs can easily put the smaller gun manufacturers out of business and damage the larger ones. They reason that this spells a decrease in overall gun ownership, and they are right about part of it: most likely, the disappearance of smaller gun manufacturers will drive the cost of firearms up, and will decrease the number of gun purchases among the cost-sensitive citizens. The problem is that the cost-sensitive citizens are those who would most likely use the weapon responsibly; a rise in gun costs will not affect the purchase of firearms by criminals. After enough of these law suits render legal gun markets effectively defunct, the only market for guns will be the black market; most of us can anticipate the results of that kind of development. The most severe restrictions on the sale and ownership of guns are found in California, Maryland, Illinois, New Jersey, New York and Washington D.C., yet the homicide rate in these states is 23% higher than for the rest of the states.

More children die in bicycle accidents a year than in gun accidents, but bicycle accidents do not get the attention of the national news. The emotional weight of highly publicized events like the Littleton and Columbine shootings have given anti-gun activists the public sympathy needed to push their agenda forward in the absence of supporting evidence that tighter gun control equals less crime. You will notice that those in favor of gun control will pick a few saddening cases of children shooting children in their homes in order to make you admit that "gee, guns are bad". They will point to a few cases (around 0.5%) in which guns were sold to convicted felons. They will hope that you are ignorant of, and remain ignorant of, the actual statistics of current gun handling., including the facts that handguns are the only consumer product that requires it manufacturers, wholesaler and retailers to have federal licenses, or that every new model must be reviewed by the Bureau of Alcohol, Tobacco and Firearms.

What is more frightening than this abuse of Tort law and Constitutional provision is what it reveals about the "reasonable adult citizen" of contemporary America. Is it true that the modern U.S. adult cannot be trusted to own a piece of molded steel and some lead shot? Must all objects that pose physical harm be kept from us, like small plastic toys from small children? By claiming that gun manufacturers are responsible for the manner in which we employ their product, we are implicitly stating that we cannot be trusted to use safe or responsible judgement, that we must be babysat, that we cannot be expected to look after ourselves. Once the helpless nature of the average citizen is established, the road will be clear for those who will thoughtfully take it upon themselves to look after our safety and protect us to dictate to us exactly what we need to be protected from. If we cannot be reasonably expected to maintain firearms in a responsible manner, then what on earth are we doing in possession of nuclear weapons? Will the military be considered more responsible than the average citizen, and be authorized to carry guns, or will we replace them with 1-oz. bottles of

mace? Will we lose the right to possess matches, knives, forks, fishing hooks, screwdrivers, heavy blunt objects or automobiles because of their potential to cause harm? Will we actually admit that we need to be protected from an inanimate object, and that we cannot be expected to protect our children from our possessions?

This is not the "reasonable adult citizen" for whom the constitution was written, this is the citizen for whom fascist states were established: the citizen who needs protection, who cannot suffer beneath responsibility, and cannot be trusted with rights. If this is the citizen who makes up the greater body of the American public, then it is a sad day for democracy. If we cannot trust ourselves with guns, we cannot trust ourselves with a vote, but then, perhaps that is what those behind this movement are counting on.

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