

April 13th, 2015
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Testimony to support: House Bill 15-1138 and Senate Bill 15-032 and

House Bill HB15- 1138 – allows a valid Colorado concealed handgun permit (Colorado Code 18-12-205 -Sheriff-application-procedure-background check) to substitute as a criminal background check in transfer of firearms.

Senate Bill SB15-32 – allows a law-abiding citizen to carry a concealed handgun without a State permit, and restricts carrying onto certain property, and reduces appropriations.

HB15-1138 – Representative Kim Ransom (D44); Senator John Cooke (D13)

Vote FOR HB15-1138: allow a law-abiding Citizen, who has cleared a Colorado and Federal background check in the Colorado CCW permit, to engage in transaction of a firearm, exempt from a redundant background check.

What does a “NO” vote mean for HB15-1138?

* Citizens who have valid concealed carry permits cannot legally transfer firearms without the redundant requirement of a national criminal background check; this requirement for double background check may be “infringement” in current law.

This bill moves to affirm a responsible citizen’s freedom of contract to exchange firearm property with another responsible citizen. Because the bill amends procedures to satisfy federal criminal background checks (**see New Material, page 5**), the Bill will also reduce restrictions to travel between states while carrying a firearm.

Requirement for extra or special permitting, beyond a valid Colorado concealed handgun permit (**see New Material on page 7 of the Bill**), for property exchange and interstate travel may be “infringement” (US Constitutional Amendment #2)

When a law-abiding citizen can demonstrate competence according to 18-12-203 (Criteria for Obtaining a Permit), no additional State permitting should be required for property exchange. Amendments to encourage responsibility with (see my comments under SB 15-32), included in the Sheriff’s “Template” (see New Material on page 8) may apply, to advise and inform participants in firearms handling & use.

SB15-032 – Senator Vicki Marble (D 23); Representative Kim Ransom (D 44)

Vote FOR SB15-32, with citizen responsibility for firearms competence and proof of residence included in amendments, and affirm a citizen's right to keep and bear arms.

What if you vote against SB-032? "No" vote means:

- * State makes felons of Citizens who choose armed defense without a permit.
- * legal use of firearms is confined only to those who obtain a permit.
- * State presumes a capability for Citizen protection in all circumstances.
- * firearm use by criminals is increased if the State is the only protector (armed Citizens can also decrease criminal behavior.)
- * State presumes to define Constitutional rights
- * Voter is not in support and defense of the US Constitution

SB15-32 acknowledges the Citizen right to be armed without State sanction. A Citizen has a combined right & responsibility to have knowledge and capability in the handling and use of firearms. *The State should not demand proof of responsible behavior before a citizen can exercise the right to bear arms, yet, as a practical matter, a citizen has a responsibility to demonstrate competence and residence in exercise of the right. I suggest legislative connection between SB15-032 and citizen responsibilities to demonstrate capability in 18-12-203 (Criteria for Obtaining a Permit.)*

Toward responsibility: perhaps the House amendment (Page 2 lines 14-16):
"*...equal in all respects to the authority granted by a permit to carry a concealed handgun as specified in Section 18-12-214*" (Authority granted by permit - carrying restrictions) accomplishes the requirement of citizen responsibility, though the legislative connection between the right to carry a firearm and the responsibility for its use ought to be clear.

Toward responsibility: County Sheriffs lead us by informing us of the serious obligations anyone assumes in carrying firearms. Perhaps a form of *posse comitatus* can be extended to firearm purchasers, to inform Citizens that they share responsibility for defense in the community, and Sheriffs may be vigorous in guiding Citizens to education and training, to make gun use socially useful, normal, and expected. The message can be part of a "template" that lists requirements for responsibilities and minimum competence in carrying and using firearms (see a reference for Posse Comitatus in Colorado by David B. Kopel, 2014-in Background).

Background – Constitutional Rights and Responsibilities

Support for these Bills is grounded in American history and the 2nd Amendment to the Constitution of the United States: *"A well-regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed."*

Because the State Bills deal with personal rights and responsibilities, the debate leads to these questions:

- *What duties and responsibilities are required of an American citizen?
- *Does the 2nd Amendment to the Constitution apply to citizens not in a militia?
- *Does the 2nd Amendment to the Constitution apply to States?
- *Are constitutional rights connected to responsibilities and duties?

1) The US Dept. of Homeland Security) answers the first question; Citizens have responsibility to:

- Support and defend the Constitution.
- Defend the country if the need should arise.

2) The Supreme Court's 2008 decision *District of Columbia v. Heller*, holds, in defense of ordered liberty... *"the Second Amendment protects an individual's right to possess a firearm unconnected with service in a militia, and to use that weapon for traditionally lawful purposes, such as self-defense within the home. Moreover, this right applies not just to the federal government, but to states and municipalities as well."*
<http://constitution.findlaw.com/amendment2.html>

3) In 2010, the Supreme Court determined in *McDonald v. Chicago* that the 2nd Amendment applies to States – that State law must support the 2nd Amendment.

4) Rights are coupled with responsibilities and duties, and exercises of Constitutional rights require responsible acts. For example: President Theodore Roosevelt wrote this 1883 essay titled: "The Duties of American Citizenship"

<http://www.pbs.org/wgbh/americanexperience/features/primary-resources/tr-citizen/>

including this phrase: *"In a free republic the ideal citizen must be one willing and able to take arms for the defense of the flag..."*

Citizens have responsibilities to: *“support and defend the Constitution, and defend the country if the need should arise.”* Therefore a Citizen is obliged to be a force for defense. The current military oath comports with a citizen’s responsibilities: *“I will support and defend the Constitution of the United States against all enemies, foreign and domestic...”*

HB15-1138 is supported in:

- * freedom of contract
- * Constitutional requirement that States support the 2nd Amendment.

SB15-032 is supported in:

- *Citizen responsibilities and duties
- *State support of individual rights to keep and bear arms
- *Rights associated with Duties.

Kopel, David B., 2014, “THE POSSE COMITATUS AND THE OFFICE OF SHERIFF: ARMED CITIZENS SUMMONED TO THE AID OF LAW ENFORCEMENT” The Journal of Criminal Law & Criminology Vol. 104, No. 4 Northwestern University