Stoney Creek Fishing & Hunting Club
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February 19, 2020 and February 20, 2020

HB 636 and SB 646: Public Safety – Access to Firearms – Storage Requirements Oppose

The Stoney Creek Fishing and Hunting Club, which has some 300 members and has been in existence for over 70 years, **OPPOSES HB 636/SB 646**. We oppose these Bills because they create requirements that are unrealistic and impossible to meet; they impose penalties for violations that are unwarranted and abusive, and they ignore the safety benefits of an existing State program. In addition, the Bills apparently are in conflict with a U.S. Supreme Court ruling that pertains to the private use and storage of firearms.

HB 636/SB 646 would amend Criminal Law Article 4-104 to: change the definition of a child from "under the age of 16 years" to under the age of 18 years and identify the person as a "minor" versus "a child"; add unloaded firearms to the loaded firearm storage requirements of the law; and substitute the word"could" for "should" under the storage criteria.

These Bills also impose very harsh penalties for violation of the proposed revisions to the Article. The penalties are presented in three tiers depending upon the nature of the alleged violation.

1. A minor does not gain access to a firearm: Imprisonment not exceeding 90 days, or a fine of $1,000, or both.
2. A minor gains access to a firearm: Imprisonment not exceeding 2 years, or a fine not exceeding $2,500, or both;
3. A minor gains access to a firearm and the firearm causes injury to the minor or someone else: Imprisonment not exceeding 5 years, or a fine not exceeding $5,000, or both.

Our first concern is the unrealistic requirements of these Bills. They add "unloaded firearms" to loaded firearms that must be secured. An unloaded firearm does not present a hazard to anyone. Without ammunition, it is an inert object. Unloaded firearms could include modern day replicas of both black powder and cartridge firearms that are hung over fireplaces, displayed in glass covered display cases, etc. It appears that under the provisions of the Bills such displays would be prohibited because a minor could gain access to the firearms therein.

Most troubling is the substitution in the Bills of the term "could" for "would" relative to gaining access to a firearm. The use of "could" opens the door to a very broad interpretation of the circumstances under which either loaded or unloaded firearms must be secured. According to *writingexplained.org*, "would" expresses certainty, intent or both, whereas "could" expresses "possibility". Thus, the latter implies an individual must be clairvoyant as to whom, how, when and where someone might gain access to a firearm.

This places a tremendous burden upon firearm owners because they must secure all firearms, loaded or unloaded, against every and any conceivable eventuality. Parents would have to keep the keys to locked firearms in their possession at all times less a minor find the keys hidden in the house, safe combinations would have to be hidden etc. One could imagine a home owner, who keeps a loaded firearm in his or her night stand for protection against home intruders, having to keep the firearm locked and then sleep with the key on a chain around his/her neck. It would be a "nightmare." In that the possibilities of access are infinite, the provisions of these Bills are unrealistic. and unworkable.

We are very troubled, as well, by the harsh penalties, as outlined above, for any violation of Article 4-104. They are excessive penalties for what is more likely an error of omission than error of commission. Also as noted above, replica firearms could be placed on display within one's home. If under the three tier punishment scheme, a minor "could" gain access to one of these replicas but did not do so, the parent or guardians would still be subject to 90 days in prison, and a $1,000 fine, or both. In other words, the parent is penalized because something "might have happened" This is Orwellian mind control.

The Bills remove the exemption from the storage requirements if "the child", i.e. "minor", has a certificate of firearm and hunter safety issued under Section 10-301.1 of the Natural Resources Article". This appears to reflects a lack of understanding of the State's longstanding Hunter Safety Program and the tremendous volunteer effort that has gone into to making this program a huge success. We at Stoney Creek Fishing & Hunting Club have been involved in the Program since the 1980's and have graduated upwards of 15,000 students, all taught by volunteers. The course is rigorous and not all students pass the course to qualify for a hunting license. The course emphasizes firearm safety again, and again as the name implies. We even emphasize to parents and the students the need and their responsibility to secure their firearms when not in use. Firearm locks and other means to secure firearms are addressed. Thus, to ignore this training and exclude these individuals from the Bills' list of exemptions makes no sense.

Lastly, it is our understanding HB 636/SB 646 are in conflict with the U.S. Supreme Court ruling in the case of the District of Columbia vs. Heller (2008). The Court held as unconstitutional the District's law that required a firearm to be disassembled, or locked up at all times in one's home. We suspect these bills would suffer the same fate when challenged in court.

These Bills use a "sledge hammer" approach in trying to keep firearms out of the hands of those individuals who are not trained in their use, or for other reasons should not have access to firearms. We applaud this. However, we believe a better approach than HB 636/SB 646 would be a State-sponsored/supported education program via various media outlets that would underscore the need to secure properly firearms. The prospect of severe penalties tend to drive people into silence rather than being proactive.

In view of the many shortcomings of HB 636/SB 646, as enumerated above, we respectfully ask these Bills receive unfavorable reports.

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