

INSTITUTE FOR LEGISLATIVE ACTION

11250 WAPLES MILL ROAD

FAIRFAX, VIRGINIA 22030



NRA

January 19, 2022

Chairman Luke Clippinger
90 State Cir
Annapolis, Maryland, 21401

Dear Chair Atterbeary:

On behalf of our members in Maryland, I would like to communicate our opposition to House Bill 1021. This legislation puts punitive and overly burdensome mandates on small businesses in Maryland, while criminal enterprise continues unimpeded. Recent incidents involving criminals targeting Federal Firearms Licensees have seen these small businesses victimized, and with HB1021, they would be punished for being victims of crime.

Please review the following for our objects to this onerous legislation:

1. Prohibitive cost to gun dealers and gun owners

The mandatory recording equipment, burglary alarms and monitoring, and required changes to the physical plant of a gun store is an added expense to doing business. At a time when inflation is at a 40-year high, and there is an ongoing ammunition shortage, adding further costs to gun dealers and gun owners is punitive.

The additional costs of acquiring recording equipment and burglary alarm systems and monitoring are obvious. However, two other costs that this legislation would bring about may be less so.

Additional staffing expenses

Consider that the legislation requires firearms businesses to be equipped with:

(II) BARS OR SECURITY SCREENS DESIGNED TO PREVENT UNAUTHORIZED ENTRY ON ALL EXTERIOR DOORS AND WINDOWS OF ALL BUILDINGS WHERE FIREARMS ARE STORED;

Even with this new modification to the physical premises, the business would still be required to:

(2) OUTSIDE BUSINESS HOURS, THE LICENSED DEALER LOCKS ALL FIREARMS STORED ON THE PREMISES IN:

(I) A VAULT;

(II) A SAFE; OR

(III) A SECURE ROOM.

As these requirements are separate, a reasonable interpretation of this legislation could conclude that even

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with bars and security screens at all entrances and windows, the retail floor space of a firearms business would not be considered a “secure room” for the purposes of the second requirement.

Therefore, each evening a store employee would be required to remove all firearms from the retail floor space and place them in a “safe,” “vault,” or “secure room.” As these are the only options, firearm dealers would not be able to use other means of securing firearms kept on the retail floor such as security cables or locking gun display cases. Such stocking and removal of firearms from the retail floor space each day would add significant staffing costs to firearm businesses.

Changes to the Physical Plant

The changes to the physical plant are likely to be the most prohibitive. The legislation states that a gun dealer may not operate unless the business premises is equipped with

(II) BARS OR SECURITY SCREENS DESIGNED TO PREVENT UNAUTHORIZED ENTRY ON ALL EXTERIOR DOORS AND WINDOWS OF ALL BUILDINGS WHERE FIREARMS ARE STORED;

and

(IV) PHYSICAL BARRIERS DESIGNED TO PREVENT THE USE OF MOTOR VEHICLES TO BREACH ALL BUILDINGS WHERE FIREARMS ARE STORED;

The physical plant of some firearm stores may not be able to accommodate all of these requirements under this bill.

If a gun dealer is renting space from a property owner, there is further difficulty in ensuring that a property owner will accommodate the installation of new security equipment on their building. In particular, a property owner would need to be willing to allow the gun dealer alter the outside of the rental space to install what are effectively roadblocks (“PHYSICAL BARRIERS DESIGNED TO PREVENT THE USE OF MOTOR VEHICLES TO BREACH ALL BUILDINGS”) outside the establishment.

Consider, that many firearm business owners may be under lengthy leases. These contracts may not contemplate the sort of drastic changes to a property considered under this legislation.

Harm to gun owners

These onerous security measure will restrict access to firearms in two ways.

First, the bill would impose new costs on gun dealers that would to some degree be passed along to gun buyers. This will price some prospective gun owners out of the market.

Second, the proposed costs on small businesses may make their enterprise unprofitable. If a firearm dealer

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closes up shop, being unable to profitably comply with these requirements, this restricts prospective gun owners' access to firearms.

2. Vague language

The security measures language is vague. Leaving the door open to abuse by elected officials, judges, or overbearing regulators.

Consider the following language,

(2) OUTSIDE BUSINESS HOURS, THE LICENSED DEALER LOCKS ALL FIREARMS STORED ON THE PREMISES IN:

(I) A VAULT;

(II) A SAFE; OR

(III) A SECURE ROOM.

"Safe" and "vault" could be reasonably understood, but "a secure room," what does that mean? I found no other reference to "secure room in existing Maryland statute. Does it mean an ordinary locked room? Does it mean a two-foot thick concrete walls? There is no telling. Some anti-gun Attorney General, judge, or state bureaucrat will help to decide.

All that can be reasonably gleaned from the legislation is that this "secure room" is an even more secure location than the rest of the business that is already required to be equipped with "BARS OR SECURITY SCREENS DESIGNED TO PREVENT UNAUTHORIZED ENTRY ON ALL EXTERIOR DOORS AND WINDOWS."

Similar concerns can be applied to the language regarding the external physical barriers.

(IV) PHYSICAL BARRIERS DESIGNED TO PREVENT THE USE OF MOTOR VEHICLES TO BREACH ALL BUILDINGS WHERE FIREARMS ARE STORED;

Must these barriers be concrete? Rebar concrete? Steel? Tire spike strips? Plastic roadblocks filled with water/sand?

3. Further victimizing the victims of crime

Federal Firearms Licensees and dealers are extensively vetted, business owners, and law-abiding citizens; when they are the victims of property theft it is the fault of the criminal, not the gun dealer. This legislation is victim-blaming, placing the onus on property owners to prevent theft, rather than correctly punishing the criminal responsible for the theft. The proper way to tackle this problem is harsher treatment of the criminal. It's the state's responsibility to protect law-abiding business owners from criminals, burdening the law-abiding in this manner is an abdication of its duty.

Moreover, we can all think of a very specific scenario where this sort of victim-blaming has become

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wildly out of fashion. It shouldn't be tolerated in any other context.

4. Loss of rights for a second violation

The punishment for a violation of new security measures requirements are as follows:

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO A CIVIL PENALTY NOT EXCEEDING \$1,000 IMPOSED BY THE SECRETARY.

(2) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 3 YEARS OR A FINE NOT EXCEEDING \$10,000 OR BOTH, IF THE OFFENSE IS:

(I) A SECOND OR SUBSEQUENT OFFENSE; AND

(II) COMMITTED KNOWINGLY AND WILLFULLY.

Note that a person convicted of a second or subsequent offense committed knowingly and willfully faces up to three years imprisonment. This would result in a federal prohibition barring the gun dealer from possessing firearms.

Now consider how easily an otherwise law-abiding and well-meaning business owner might fall prey to this statute.

As previously mentioned, there is no telling what some of the statute's requirements mean in practice. Say the walls on a firearm business owner's "secure room" are 3 inches too thin for the state regulator, or his vehicle barrier isn't the height that the attorney general would like, he gets written up for a civil penalty and pays a \$1000 fine.

Now say two years after paying his fine, the business owner's alarm system is on the fritz. He calls the monitoring company and they say they can come out to fix it in three days. The business owner figures, "I'm a good guy and trying to follow the law," so he stays open in the meantime.

As a licensed dealer "may not conduct business and store firearms" without a "burglary alarm system that is continually monitored" and he knows that is isn't working, he could be convicted of a subsequent offense and imprisoned for three years.

You could imagine a limitless number of other sympathetic scenarios. Maybe his wife just went into labor and he had to run out of the already wildly secured store without putting all of the firearms in the "secure room." Maybe a snow plow backed over his vehicle barriers and he figured he would stay open until they were replaced.

The point is that no one should face imprisonment or a loss of rights for insufficiently protecting themselves from the criminal conduct of others.

For the foregoing reasons NRA opposes HB1201.

NATIONAL RIFLE ASSOCIATION OF AMERICA

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Sincerely,

A handwritten signature in black ink, appearing to read "D.J. Spiker".

D.J. Spiker
Maryland State Director
NRA-ILA

CC: Delegate David Moon
Delegate Curt Anderson
Delegate Lauren Arikan
Delegate J. Sandy Bartlett
Delegate Jon S. Cardin
Delegate Frank M. Conaway Jr.
Delegate Daniel L. Cox
Delegate Charlotte Crutchfield
Delegate Debra Davis
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