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"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."

March 26, 2013

RE: Senate Committee on Federal and State Affairs
House Bill No. 2199 Senate Committee Hearing

Dear Chairman Ostmeyer and Honorable Members of the Committee:

My name is Patricia Stoneking and I am the President and Registered Lobbyist for The Kansas State Rifle Association, the NRA State Affiliate. I represent thousands of Kansans, multiple gun clubs sporting thousands of members, as well as nearly 900 Kansas gun dealers. I am writing to urge you to support House Bill 2199. This bill passed the House with a strong majority vote of 94 to 29.

The Firearms Freedom Act portion of this bill is primarily a states' rights challenge to the power of Washington to regulate everything under the guise of commerce among the several states. Please keep in mind that it is an undisputed historical fact that the states created the federal government to serve the states and the people. The states need to begin drawing boundaries and clearly demarked lines for their servant. This bill is such a boundary. To date 8 states have enacted this law and 25 more states have it under consideration by their legislatures.

The Tenth Amendment to the Constitution of the United States codifies in law that the only powers which the Federal Government may exercise are those that have been specifically delegated to it in the Constitution of the United States. The Ninth Amendment to the Constitution of the United States guarantees to the people rights not enumerated in the Constitution and reserves to the people of Kansas those rights. During the Constitutional Convention, the Founders considered a plan which would have authorized the federal government to not only regulate commerce among the several states, but also any activity having spillover effects across state lines. They rejected it!

Firearms should not be subject to the authority of the Congress of the United States under its constitutional power to regulate commerce among the several states when they are produced and retained in Kansas and do not enter into commerce with other states.

I argue that federal law doesn't preempt Kansas' ability to exercise its sovereign powers to facilitate the exercise of individual rights protected by the Second and Ninth Amendments. For federal law to trump this proposed state law, the government must claim that the Commerce and Necessary and Proper Clauses give it the power to regulate wholly intrastate manufacture, sale, and possession of guns, which is a state-specific market distinct from any related national one.

Based on Federalist Nos. 28, 31, 33 and 51, we contend that the Ninth and Tenth Amendments were meant to work in tandem to confirm that the states may exercise their reserved powers to secure constitutional liberty against federal overreach. In other words, the Founders fully intended for the people to resist federal usurpation through their state representatives passing laws such as the Firearms Freedom Act to protect freedoms guaranteed by the Second and Ninth Amendments.

The federal government never sued any states over states' Real ID rejection or over state-adopted medical marijuana laws. It would be extremely irregular for the feds to sue a state over an adopted Firearms Freedom Act. Any litigation over it would NOT be between an adopting state and the federal government. Any such litigation would almost certainly follow the Montana experience, private entities suing the federal government, at zero taxpayer expense, to validate the states' rights principles of the Firearms Freedom Act.

Although judicial commerce clause precedent may not favor this concept in some opinions, that is exactly the reason to pass this law and challenge precedent. Precedent is never revised until it is challenged. The Supreme Court commonly overturns precedent. Revising precedent may be the primary function of the Supreme Court.

This law opens doors for in-state business and jobs in manufacture of state-made and retained firearms. It will not affect existing firearm manufacturers. Those manufacturers are already federally licensed for an interstate market essential to the business model of those manufacturers. This law will apply to small machine shops, gunsmiths and other firearms enthusiasts.

Making firearms is not rocket science. It's been done for a long time. Anyone with computer-controlled machining equipment can produce the actions for firearms. They might finish and sell them, or others might buy state-made firearm actions and finish those for sale in-state as complete firearms. They would clearly be stamped, Made in Kansas. This legislation will open doors for in-state business and jobs in the manufacture of state-made and retained firearms and firearm parts and accessories.

A firearm manufactured under this legislation, marked "Made in Kansas", and found outside of the state would subject the firearm and the person possessing that firearm to federal authority and probably criminal prosecution. A firearm that has crossed the state line may be subject to the authority of Congress to regulate "commerce among the several states."

It cannot be fairly disputed that firearms making and selling was occurring within the borders of Kansas in 1859. Those manufacturing activities were not regulated by the federal government at that time. It is difficult to envision that those who negotiated the terms of the compact in 1859 thought that permission would have to be obtained from the federal government to make and sell firearms. In fact, it could be argued that Kansas would not have agreed to the compact had they believed that their Second Amendment rights were going to be regulated away by laws such as the National Firearms Act or Gun Control Act.

The Second Amendment 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.**" Our inalienable Second Amendment rights are also declared in Article IV of the Kansas Constitution which was recently affirmed in 2010 by 89% of the voters in Kansas.

The right to bear arms is clearly a fundamental right the people have reserved to themselves. That right is compromised if access to firearms is only through a federally controlled supply chain. This legislation protects Kansans from violation of their inalienable right that is protected by the Second Amendment.

The other aspect of this law has to do with protecting the citizens of Kansas from an unconstitutional gun grab by the federal government or any other entity. I challenge anyone who believes there is not a real and present danger to our freedom and liberty. The threats are real and not at all veiled and this state must stand up to those threats. Those threats are coming not only from our own government officials but also from the United Nations and they are escalating.

Just in the last few weeks there have been several notable incidents. A woman named Eileen Hart in Clayton, NJ complained about county government moving to raise her property taxes. She protested verbally that they had no right to search her property without a search warrant and she cited the constitution to them in stating her position. She did not scream or yell. She simply stated her case. Her complaint is one many in her town share. The result of her speaking against this was being arrested because they said reading the Constitution was considered extremist and threatening in nature. When they arrested her they demanded that she surrender her firearms. I've dealt with the tax appraiser in my county and it would be no stretch of the imagination to be in this lady's shoes!

Did you know that the men and women who have laid their lives on the line to defend us and our Constitution are now having their own Constitutional rights denied? Attached to my testimony is a letter that veterans are receiving. There are no clear criteria for the VA to declare a veteran incompetent. It can be the loss of a limb in combat, a head injury, a diagnosis of PTSD, or even a soldier just telling someone at the VA that he or she is depressed over the loss of a buddy in combat. In none of these situations has the person been found to be a danger to themselves or others. If that was the case then all of the Americans who have suffered from PTSD following the loss of a loved one or from being in a car accident would also have to be disqualified from owning firearms. It would also mean that everyone who has ever been depressed for any reason should be disarmed. In fact, many of the veterans being deprived of their rights have no idea why it is happening. The answer seems to be it is simply because they are veterans.

There are other examples but I doubt you want to stay here for the next week round the clock while I testify about them.

It has come to my attention that a provision in this proposed law that provides for penalties when enforcing protection of Kansas citizens from an incident, such as federal encroachment on our inalienable rights, is not well received. I find that perplexing at best. We have many criminal statutes on the books that provide penalties for breaking the law. Should we make murder illegal but not have penalties for committing murder? Should we make stealing illegal but not have penalties for stealing? It seems to me that there are probably quite a few people in this state that avoid committing illegal actions because they do not want to suffer the consequences. I would suggest that penalties are a good deterrent and might make them think twice about coming to this state and trying to forcibly confiscate our firearms. And if they do it anyway shouldn't there be a penalty for doing so? I suggest there certainly should be.

It is the duty of this legislature to do everything possible to protect every citizen of this state by protecting the sovereignty of this state and preserving and protecting the inalienable, natural, God given rights protected by the Constitution of the United States and the Constitution of the State of Kansas.

This legislation is taking back the rights that lawfully belong to all Kansans and rejects the overreach and encroachment of the federal government to dictate intrastate commerce which has no constitutional basis. This law will protect Kansans from gun confiscation and the violation of their most base inalienable and natural right given to us by God Almighty and protected by the Second Amendment.

And just as a side note, at last count there are over 120 firearms related businesses and manufacturers looking to relocate and move out of states that are not protecting their rights and who are passing ridiculous gun grabbing restrictions. I met with the Governor and I know for a fact that our Commerce Department is working with him to try to entice some of those companies to move to Kansas. At that time there were 117 companies for which I provided him a list of. What a wonderful boon to our economy that would be. But I can assure you that they are not going to move to Kansas if we don't put these protections in place as they carefully watch what state legislatures are doing in states they would consider moving to.

We are asking the legislature of this great state to reaffirm our natural, inalienable, God given right to keep and bear arms within our borders and to be secure in their person to protect themselves, their families, their neighborhoods and this state. To not pass this law will be a serious failure by this legislature and one in which I pray daily that our citizens will not have to pay the price for.

Mr. Chairman and members of the Committee, thank you for considering our position in this most important matter. We respectfully urge that you protect Kansas firearms owners by voting YES in support of HB 2199. Please recommend this bill for passage and send it to the floor of the Senate for a debate and vote.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Patricia Stoneking".

Patricia Stoneking, President
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DEPARTMENT OF VETERANS AFFAIRS
Regional Office
100 SW Main Street
Floor 2
Portland OR 97204-2825



December 20, 2012

In reply, refer to:
[REDACTED]

IMPORTANT -- reply needed

Dear Mr. [REDACTED]

We have received information showing that because of your disabilities you may need help in handling your Department of Veterans Affairs (VA) benefits.

This letter explains the evidence we received, what we must do with this information, the impact on you and your VA payments if we decide that you cannot handle your benefits, and when VA will make a final decision.

What Information Did We Receive?

We received a report from Portland VA Medical Center on December 3, 2012.

This evidence indicates that you are not able to handle your VA benefit payments because of a physical or mental condition.

What Will We Do with This Information?

We propose to rate you incompetent for VA purposes. This means we must decide if you are able to handle your VA benefit payments. We will base our decision on all the evidence we already have including any other evidence you send to us.

Before we make a final determination, you have the right to submit any evidence, information, or statement that presents your side of the case within the next 60 days. Our policy is to assist a person with his or her claim in every reasonable way. We want you to have every benefit that you are entitled to under the law.

What Happens if You Are Rated Incompetent?

If VA decides that you are incompetent to handle your benefit payments, VA may appoint a fiduciary (payee) to manage your VA payments. All your VA payments will be made directly to your fiduciary. This person or institution must use your VA payments for your personal care and is responsible to VA for how the payments are used.

A determination of incompetency will prohibit you from purchasing, possessing, receiving, or transporting a firearm or ammunition. If you knowingly violate any of these prohibitions, you may be fined, imprisoned, or both pursuant to the Brady Handgun Violence Prevention Act, Pub.L.No. 103-159, as implemented at 18, United States Code 924(a)(2).

If we decide that you are unable to handle your VA funds, you may apply to this regional office for the relief of prohibitions imposed by the Brady Act with regards to the possession, purchase, receipt, or transportation of a firearm. Submit your request to the address at the top of this letter on the enclosed VA Form 21-4138, *Statement in Support of Claim*. VA will determine whether such relief is warranted.

What Should You Do?

If You Agree: You do not need to do anything if you agree that you need help managing your VA money. We will make our final decision, tell you what we decided, and who will be your fiduciary. However, if you want us to make a final decision without waiting the full 60 days, please tell us to do so on the attached VA Form 21-4138, *Statement in Support of Claim*. You should specifically state, "I do not have any evidence to submit and I want you to make a final decision without waiting the entire 60-day due process period."

If You Disagree: You must send us medical evidence (such as a doctor's statement) that says you are able to handle your own financial affairs in a responsible manner, if you believe you are able to handle your VA benefits without anyone's help. You should send us this evidence within 60 days from the date at the top of this letter.

Personal Hearing: You may request a personal hearing within 30 days from the date at the top of this letter to present evidence or argument on any important point in your claim. We will arrange a time and place for the hearing. You may bring witnesses who have personal knowledge of the circumstances. We will consider their testimony and keep it as part of our permanent records. We will furnish the hearing room, provide hearing officials, and prepare the transcript of the proceedings. We cannot pay for other expenses of the hearing because we hold a personal hearing only upon a claimant's request.

Representation: An accredited representative of a veterans' organization or other service organization recognized by the Secretary of Veterans Affairs will represent you without charge. An agent or attorney may also represent you. An agent or attorney can charge you for services performed on or after the date of a final decision by the Board of Veterans Appeals (38 U.S.C. 5904(c)).

When Will We Make a Decision?

If we don't hear from you within the next 60 days, we will assume you have no additional evidence and do not want a hearing. After those 60 days we will make our decision using the evidence we already have and tell you our decision.

Register Now for eBenefits

As a registered eBenefits user you can access personalized VA information, apply for benefits online, and check VA claim status. For registration information:

- Call 1-800-827-1000 and select option 7 or;
- contact us at www.ebenefits.va.gov or;
- visit the VA Regional Office at the address listed at the top of this letter

How Can You Contact Us?

If you are looking for general information about benefits and eligibility, you should visit our web site at <http://www.va.gov>. Otherwise, you can contact us in several ways. Please give us your VA file number, [REDACTED] when you do contact us.

- Call us at 1-800-827-1000. If you use a Telecommunications Device for the Deaf (TDD), the number is 1-800-829-4833.
- Send us an inquiry using the Internet at <https://iris.va.gov>.
- Write to us at the address at the top of this letter.

We look forward to resolving your claim in a fair and timely manner.

Sincerely yours,

K. Kalama

K. Kalama
Veterans Service Center Manager
Enclosure: 21-4138
cc: OREGON DEPARTMENT OF VETERANS AFFAIRS