



Second Amendment

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EXECUTIVE SUMMARY

The right to own a firearm is protected under the Second Amendment to the United States Constitution – a right which has been upheld by the United States Supreme Court in the landmark case *District of Columbia v. Heller*. But, like most issues, there are various interpretations of what this right means and how it should be enforced in our federal and state laws.

While there are several laws dealing with firearms, there are two major federal laws that regulate the commerce in and possession of firearms – the National Firearms Act of 1934, and the Gun Control Act of 1968. It is important to note, though, that even with these federal laws in place, some state firearms laws are stricter and some are less restrictive than federal law.

Carrying a concealed firearm is something that is traditionally regulated by the states. Each state has its own concealed carry eligibility laws and requirements and determines which out-of-state concealed carry permits it will recognize. Although this issue is typically left to the states, Congress has passed a few laws over the years to authorize certain individuals to carry concealed firearms across state lines and to allow the carrying of concealed firearms on federal lands that are part of the National Park System and the National Wildlife Refuge System. More recently in the 112th Congress, legislation has been considered that would establish a greater degree of reciprocity between states that issue concealed carry permits to civilians by requiring them to recognize the permits that other states issue to their citizens.

WHAT DOES IT SAY?

The Second Amendment to the United States Constitution 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.”

WHAT DOES IT MEAN?

As with much of what is found in our Constitution, there are opposing views and interpretations of the Second Amendment and what it actually means.

Proponents of gun control laws and legislation often argue that the Second Amendment is now obsolete with the presence of professional police forces; was intended solely to guard against suppression of state militias by the federal government and is therefore restricted in scope by that intent; and does not guarantee a right that is absolute, but instead one that can be limited by reasonable requirements. They question why in today’s society a private citizen needs any firearm not designed to be used for hunting or other sporting purposes.

Opponents of gun control vary in their positions with respect to specific forms of control, but generally maintain that gun control laws do not accomplish what is intended. In their perspective, a more-stringent federal firearms regulatory system would only create problems for law-abiding citizens. They also reject the assumption that the only legitimate purpose of a private citizen owning a gun should be recreational.

On one side of the debate is what is known as the “individual right model,” which maintains that the Second Amendment clearly establishes that the right to keep and bear arms is committed to the people, as opposed to state or the federal governments. This is the view held by many pro-gun rights organizations such as the National Rifle Association (NRA).

On the other end of the spectrum is the “collective right model” which interprets the Second Amendment as protecting the authority of the states to maintain a formal organized militia - a view held by more liberal gun-control advocates.

A third, but also liberal, interpretation, commonly referred to as the “sophisticated collective right model,” splits the difference between the individual right and collective right models and interprets the Second Amendment to mean that individuals have a right under the Second Amendment to own and possess firearms, but only to the extent that such ownership and possession is connected to service in a state militia.



“The said Constitution [shall] be never construed to authorize Congress to infringe the just liberty of the press, or the rights of conscience; or to prevent the people of the United States, who are peaceable citizens, from keeping their own arms.”

~ Samuel Adams, Massachusetts’ U.S. Constitution ratification convention, 1788



DISTRICT OF COLUMBIA V. HELLER:

In June 2008, the U.S. Supreme Court handed down a landmark decision in the case of *District of Columbia v. Heller*. The Court found that the District of Columbia (D.C.) handgun ban, among other regulations, violated an individual’s right under the Second Amendment to lawfully possess a firearm in his home for self-defense. This Supreme Court decision overturned the D.C. ban on handguns, the strictest gun-control law in the country, and embraced the view that the Second Amendment protects an individual right to own a gun for personal use, ruling 5 to 4 that there is a Constitutional right to keep a loaded handgun at home for self-defense.



“In sum, we hold that the District’s ban on handgun possession in the home violates the Second Amendment, as does its prohibition against rendering any lawful firearm in the home operable for the purpose of immediate self-defense.”

According to the majority opinion in the case, authored by Supreme Court Justice Antonin Scalia, the “militia” reference in the first part of the amendment simply “announces the purpose for which the right was codified: to prevent elimination of the militia.” The Constitution’s framers were afraid that the new federal government would disarm the populace, as the British had tried to do, Justice Scalia said. But he added that this “prefatory statement of purpose” should not be interpreted to limit the meaning of what is called the operative clause — “the right of the people to keep and bear arms, shall not be infringed.” Instead, Justice Scalia said, the operative clause “codified a *pre-existing* right” of individual gun ownership for private use.

~ Opinion of the Court, *District of Columbia v. Heller*, U.S. Supreme Court, June 26, 2008



The decision states that the Second Amendment’s preamble (“A well regulated Militia, being necessary to the security of a free State...”) is an absolute phrase and grammatically independent of the rest of the sentence and therefore did not qualify any word in the operative clause (“...the right of the people to keep and bear Arms, shall not be infringed”).

To make it simpler: Imagine going to a business and finding a sign on the door that states, “The owner being ill, the store is closed.” Nothing in the first part of that statement affects the latter part of the statement. Whether or not the owner is truly ill or if he or she is just taking the day off, doesn’t change the fact that the store is closed.

The Second Amendment’s structure is identical. Whatever a well-regulated militia may or may not be, or even if such a thing no longer exists or is necessary, the fact remains that the right of the people to keep and bear arms “shall not be infringed.” Whether or not such a militia can contribute to the security of a free state, the right of the people to keep and bear arms remains unaffected.

Despite the decision, one can expect that the debate over the Second Amendment and the role of firearms in society will continue to be a contentious point of debate in the courtroom, the halls of government, the media, and the general public.

FEDERAL REGULATION OF COMMERCE IN AND POSSESSION OF FIREARMS

While there are several laws dealing with firearms, there are two major federal laws that regulate the commerce in and possession of firearms – the National Firearms Act of 1934, and the Gun Control Act of 1968. It is important to note, though, that even with these federal laws in place, some state firearms laws are stricter and some are less restrictive than federal law. For example, some states require permits for firearms and impose a waiting period for firearms transfers. Regardless, state law cannot preempt federal law since federal law is the minimum standard in the United States.

The National Firearms Act

The National Firearms Act (NFA) was originally enacted to make it harder to obtain firearms perceived to be particularly lethal or to be the chosen weapons of “gangsters,” like machine guns and short-barreled long guns. The NFA also regulates firearms that can be concealed on a person such as belt buckle guns, a gun hidden in a pen or a cane and taxes the manufacture and distribution of firearms.

The Gun Control Act

The Gun Control Act (GCA) requires that all manufacturers, importers or sellers of firearms **as a business** be federally licensed. It also prohibits the interstate mail-order sale of all firearms and the interstate sale of handguns generally. The GCA also establishes categories of people to whom firearms or ammunition cannot be sold (like people under a specified age or with criminal records). Additionally, the GCA prohibits the importation of non-sporting firearms, requires that gun dealers maintain records of all commercial gun sales and establishes penalties for the use of a firearm in a federal drug trafficking crime or crime of violence.

In 1993, the GCA was amended by the Brady Handgun Violence Prevention Act (P.L. 103-159) to require that background checks be conducted on all non-licensed persons seeking to obtain firearms from federal firearms licensees. Transactions between people “not engaged in the business” are not covered by these recordkeeping and background check provisions of the GCA. State laws or local ordinances typically cover private transactions.

Categories of People with Firearms Restrictions

Under current federal law, there are nine categories of people prohibited from shipping, transporting, receiving or owning firearms:

- anyone convicted in any court of a crime punishable by imprisonment for a term exceeding one year
- fugitives from justice
- unlawful users or addicts of any controlled substance as defined in Section 102 of the Controlled Substances Act
- anyone adjudicated as “mental defective” or committed to mental institutions

- unauthorized immigrants and most nonimmigrant visitors (with some exceptions)
- anyone dishonorably discharged from the U.S. Armed Forces
- anyone who has renounced their U.S. citizenship
- anyone under court-order restraints related to harassing, stalking or threatening an intimate partner or child of such intimate partner
- anyone convicted of a misdemeanor crime of domestic violence

There is also a tenth category of people prohibited from shipping, transporting or receiving firearms (not prohibited from owning firearms):

- anyone under indictment in any court of a crime punishable by imprisonment for a term exceeding one year

CONCEALED CARRY PERMITS (CCPs)

Carrying a concealed firearm is something that is traditionally regulated by the states. Each state, as previously mentioned in this chapter, has its own concealed carry eligibility laws and requirements and determines which out-of-state concealed carry permits it will recognize. Although this issue is typically left to the states, Congress has passed a few laws over the years to authorize certain individuals to carry concealed firearms across state lines and to allow the carrying of concealed firearms on federal lands that are part of the National Park System and the National Wildlife Refuge System. More recently in the 112th Congress, legislation has been considered that would allow nationwide concealed carry.

***Editor's Note:** The section that follows this will discuss gun votes in the 112th Congress.*

Concealed carry, as opposed to open carry, is the ability of someone to carry on his or her person a firearm in a concealed manner. Open carry means that someone is carrying a firearm visible to the public. The only state that completely prohibits concealed carry is Illinois. In addition to Illinois, D.C., the Northern Marianas Islands and American Samoa also do not allow any private citizen to carry a concealed firearm. In addition to this “no-issue” state and territories, there are three additional categories of state regulations relating to concealed carry permits (CCPs): “shall-issue,” “may-issue” and “unrestricted.” It is important to keep in mind, though, that although there are these specific categories, these classifications will also vary from state-to-state, and sometimes from county to county or city to city within a state, depending on state, local and municipal laws and regulations.

“Shall-Issue”

Generally, in “shall-issue” jurisdictions, possession of a CCP is required in order to be able to carry a concealed firearm. If a CCP applicant meets the state’s CCP requirements, the state’s issuing authority is required to grant the permit to the applicant.

Additionally, within this “shall-issue” classification, some states shall issue CCPs only to residents, while others shall issue permits to both residents and non-residents.

The following states are classified as “shall-issue:”

To Residents Only: Alaska (also “unrestricted”), Arkansas, Colorado, Georgia, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Montana, Nebraska, New Mexico, North Carolina, Ohio, Oklahoma, South Dakota, Tennessee, Vermont, West Virginia, Wisconsin, Wyoming (also “unrestricted”)

To Both Residents and Non-residents: Arizona (also “unrestricted”), Florida, Idaho, Indiana, Iowa, Maine, Minnesota, Nevada, New Hampshire, North Dakota, Oregon, Pennsylvania, Rhode Island, South Carolina, Texas, Utah, Virginia, Washington

“May-Issue”

In “may-issue” jurisdictions, the state’s issuing authority has the discretion to grant or deny a CCP based on a variety of factors. For example, the state of California, a “may-issue” state, may issue a CCP, “...upon proof that the person applying is of good moral character, that good cause exists for the issuance, and that the person applying satisfies any one of the conditions...”

Similar to “shall-issue” classifications, some states may issue CCPs only to residents, while others may issue permits to both residents and non-residents.

The following states and territories are classified as “may-issue:”

To Residents Only: Alabama, California, Delaware, Hawaii, New York, and Guam, Puerto Rico, Virgin Islands

To Both Residents and Non-residents: Connecticut, Maryland, Massachusetts and New Jersey

“Unrestricted”

“Unrestricted” states do not require their residents to have CCPs to carry a concealed firearm. But, some of these states (i.e. Alaska and Arizona) continue to issue CCPs so that their residents may carry concealed in other states which do require CCPs for the purpose of reciprocity.

The following states are classified as “unrestricted:”

To Residents Only: Vermont, Wyoming

To Both Residents and Non-residents: Alaska, Arizona

LEGISLATIVE ACTION IN THE 112th CONGRESS

As in most every Congress, there are usually multiple bills and votes dealing with gun control, gun rights and the Second Amendment. This section will take a look at the most publicized bill and vote, as of this writing, in the current 112th Congress.

H.R. 822, the National Right-to-Carry Reciprocity Act

H.R. 822, introduced by Rep. Cliff Stearns (R-Fla.), would allow any person to carry a concealed handgun into another state that also issues concealed firearm permits, or does not prohibit the carrying of concealed firearms, as long as he or she is carrying a “valid identification document containing a photograph of the person.” Thus, H.R. 822 would not allow someone to carry concealed in Illinois since it prohibits the carrying of concealed firearms altogether. Also under this bill, anyone not otherwise eligible for a CCP in his or her state of residence would not be allowed to obtain an out-of-state, or non-resident, CCP in a state with less restrictive eligibility requirements and then use that permit to carry concealed in his or her own state.

H.R. 822 passed the House on Nov. 16, 2011, by a vote of 272 to 154. You may see the vote results [here](#).

For further detailed information regarding H.R. 822, candidates may want to refer to the NRA’s Fact Sheet located [here](#) on their website.

While H.R. 822 has bipartisan support, a number of lawmakers from both parties have voiced concerns that the bill might infringe on individual states rights. The following story from *The Hill* explains some of these concerns:



House panel clears conceal-and-carry gun bill, with one Republican defection

By MOLLY K. HOOPER

“The House Judiciary Committee on Tuesday approved a gun-rights bill that could be headed to the floor by the end of 2011.

“The legislation, which would allow for conceal-and-carry weapon reciprocity across states lines, cleared the panel on a 19-11 vote.

“All but one committee Republican, Rep. Dan Lungren (Calif.), supported the National Right-to-Carry Reciprocity Act, which is sponsored by Rep. Cliff Stearns (R-Fla.); Democrats united in opposition to the bill. Lungren and other Republicans have raised concerns about the legislation’s effect on the rights of states.

“GOP leadership sources told The Hill that the bipartisan measure, with 245 co-sponsors, will likely come up for a vote on the floor before year’s end.

“Judiciary Committee Chairman Lamar Smith (R-Texas) said the bill would make it easier for individuals with permits to cross state lines with their concealed weapons.

“The bill allows law-abiding gun owners with valid state-issued concealed-firearms permits or licenses to carry a concealed firearm in any other state that also allows concealed carry. This legislation does not pre-empt a state’s ability to set concealed-carry requirements for its own residents,” Smith said at the markup.

“Lungren, a former attorney general of California, opposed the bill, contending it infringes on states’ rights.

“Lungren wants the measure to set a minimum national standard for conceal-and-carry permit holders.

“He is also concerned that residents of states with strict conceal-and-carry requirements would go to other states with less stringent requirements to obtain a permit.

“I wanted to offer an amendment that the person be a resident of the state in order for the reciprocity imposed by federal law — in other words, a resident of the state that granted the permit,” Lungren said, noting that his concerns were not adequately addressed in committee.

“Democrats, meanwhile, cited the 10th Amendment, which deals with states’ rights, in opposing the Stearns bill.

“Rep. Steve Cohen (D-Tenn.), a co-sponsor of the measure until Oct. 12 when he formally withdrew his support, called the bill ‘repugnant’ to his ‘perspective of states’ rights.’

“One thing the Tea Party is right on is that states ought to have more sovereignty. And on gun laws, states should have sovereignty, and we are taking away the sovereignty of the states,” Cohen said earlier this month.

“The White House has not indicated where it stands on the bill. The National Rifle Association (NRA) did not respond to several requests for comment.

“But in an op-ed published on the conservative website Townhall.com, Chris Cox, the NRA’s chief lobbyist, stated that passage of the conceal-and-carry bill is a ‘top priority’ for the organization.

“The National Right-to-Carry Reciprocity Act doesn’t violate the 10th Amendment. Rather, the act recognizes that the Second Amendment guarantees the fundamental, individual right of every law-abiding citizen to bear arms for safety when traveling,” Cox wrote.

“That opinion, however, is not shared by other gun-rights activists.

“John Velleco, director of federal affairs for the Gun Owners of America, noted that his organization has concerns with the bill, but it does not officially oppose it.

“Velleco said that states such as Vermont, Wyoming, Arizona and Alaska that do not require permits for individuals who choose to carry a concealed weapon would be punished under Stearns’s bill.

“The gun group has endorsed bills offered by Sen. John Thune (R-S.D.) and Rep. Paul Broun (R-Ga.) that would take into consideration those states without permit laws.”

GUARANTEES OF THE RIGHT TO ARMS IN STATE CONSTITUTIONS

Editor's Note: Some candidates may be interested in examining the following list of guarantees of the right to arms in state constitutions as compiled by the National Rifle Association. This compilation may also be found on the NRA's website [here](#).

Alabama

That the great, general and essential principles of liberty and free government may be recognized and established, we declare.... That every citizen has a right to bear arms in defense of himself and the state. (Art. I, § 26) (1819)

Alaska

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. The individual right to keep and bear arms shall not be denied or infringed by the State or a political subdivision of the State. (Art. I, § 19) (1994; previous version 1959)

Arizona

The right of the individual citizen to bear arms in defense of himself or the State shall not be impaired, but nothing in this section shall be construed as authorizing individuals or corporations to organize, maintain or employ an armed body of men. (Art. II, § 26) (1912)

Arkansas

The citizens of this State shall have the right to keep and bear arms for their common defense. (Art. II, § 5) (1868; previous versions 1864, 1861, 1836)

Colorado

The right of no person to keep and bear arms in defense of his home, person and property, or in aid of the civil power when thereto legally summoned, shall be called in question; but nothing herein contained shall be construed to justify the practice of carrying concealed weapons. (Art. II, § 13) (1876)

Connecticut

Every citizen has a right to bear arms in defense of himself and the state. (Art. I, § 15) (1818)

Delaware

A person has the right to keep and bear arms for the defense of self, family, home and State, and for hunting and recreational use. (Art. I, § 20) (1987)

Florida

The right of the people to keep and bear arms in defense of themselves and of the lawful authority of the state shall not be infringed, except that the manner of bearing arms may be regulated by law. (Art. I, § 8, [a]) (1990; previous versions 1968, 1885, 1868, 1838)

Georgia

The right of the people to keep and bear arms shall not be infringed, but the General Assembly shall have the power to prescribe the manner in which arms may be borne. (1982 Constitution, Art. I, § 1, para. 8) (1982; previous versions 1877, 1868, 1865)

Hawaii

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. (Art. I, § 15) (1959)

Idaho

The people have the right to keep and bear arms, which right shall not be abridged; but this provision shall not prevent the passage of laws to govern the carrying of weapons concealed on the person nor prevent passage of legislation providing minimum sentences for crimes committed while in possession of a firearm, nor prevent passage of legislation providing penalties for the possession of firearms by a convicted felon, nor prevent the passage of legislation punishing the use of a firearm. No law shall impose licensure, registration or special taxation on the ownership or possession of firearms or ammunition. Nor shall any law permit the confiscation of firearms, except those actually used in the commission of a felony. (Art. I, § 11) (1978; previous version 1889)

Illinois

Subject only to the police power, the right of the individual citizen to keep and bear arms shall not be infringed. (Art. I, § 22) (1970)

Indiana

The people shall have a right to bear arms, for the defense of themselves and the State. (Art. I, § 32) (1851; previous version, 1816)

Kansas

The people have the right to bear arms for their defense and security; but standing armies, in time of peace, are dangerous to liberty, and shall not be tolerated, and the military shall be in strict subordination to the civil power. (Bill of Rights, § 4) (1859) Note: In the 2010 general election, the people of Kansas will have the opportunity to strengthen the right to keep and bear arms provision of their constitution by changing the first part of the provision to read: “A person has the right to keep and bear arms for the defense of self, family, home and state, for lawful hunting and recreational use, and for any other lawful purpose;” (The full language can be read here.)

Kentucky

All men are, by nature, free and equal, and have certain inherent and inalienable rights, among which may be reckoned: ... [t]he right to bear arms in defense of themselves and of the state, subject to the power of the general assembly to enact laws to prevent persons from carrying concealed weapons. (Bill of Rights, § 1) (1891; previous versions 1850, 1799)

Louisiana

The right of each citizen to keep and bear arms shall not be abridged, but this provision shall not prevent the passage of laws to prohibit the carrying of weapons concealed on the person. (Art. I, § 11) (1974; previous version 1879)

Maine

Every person has a right to keep and bear arms and this right shall never be questioned. (Art. I, § 16)(1987; previous version 1819)

Massachusetts

The people have a right to keep and bear arms for the common defence. And as, in time of peace, armies are dangerous to liberty, they ought not to be maintained without the consent of the legislature; and the

military power shall always be held in an exact subordination to the civil authority, and be governed by it. (Part I, Art. XVII) (1780)

Michigan

Every person has a right to keep or bear arms for the defense of himself and the State. (Art. I, § 6) (1963; previous versions 1850, 1835)

Mississippi

The right of every citizen to keep and bear arms in defense of his home, person, or property, or in aid of the civil power when thereto legally summoned, shall not be called in question, but the legislature may regulate or forbid carrying concealed weapons. (Art. III, § 12) (1890; previous versions 1868, 1817)

Missouri

That the right of every citizen to keep and bear arms in defense of his home, person, and property, or when lawfully summoned in aid of the civil power, shall not be questioned; but this shall not justify the wearing of concealed weapons. (Art. I, § 23) (1945; previous versions 1875, 1865, 1820)

Montana

The right of any person to keep or bear arms in defense of his own home, person, and property, or in aid of the civil power when thereto legally summoned, shall not be called in question; but nothing herein contained shall be held to permit the carrying of concealed weapons. (Art. II, § 12)
Militia forces shall consist of all able-bodied citizens of the state except those excepted by law. (Art. VI, § 14) (1889)

Nebraska

All persons are by nature free and independent, and have certain inherent and inalienable rights; among these are life, liberty, the pursuit of happiness, and the right to keep and bear arms for security or defense of self, family, home and others, and for lawful common defense, hunting, recreational use and all other lawful purposes, and such rights shall not be denied or infringed by the state or any subdivision thereof. (Art. I, § 1) (1988)

Nevada

Every citizen has the right to keep and bear arms for security and defense, for lawful hunting and recreational use and for other lawful purposes. (Art. I, § 11, [1]) (1982)

New Hampshire

All persons have the right to keep and bear arms in defense of themselves, their families, their property and the state. (Part I, Art. 2a)
No person, who is conscientiously scrupulous about the lawfulness of bearing arms, shall be compelled thereto. (Part I, Art. 13) (1982)

New Mexico

No law shall abridge the right of the citizen to keep and bear arms for security and defense, for lawful hunting and recreational use and for other lawful purposes, but nothing herein shall be held to permit the carrying of concealed weapons. No municipality or county shall regulate in any way, an incident of the right to keep and bear arms. (Art. II, § 6) (1986; previous versions 1971, 1912)

North Carolina

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; and, as standing armies in time of peace are dangerous to liberty, they shall not be maintained, and the military shall be kept under strict subordination to, and governed by, the civil power. Nothing herein shall justify the practice of carrying concealed weapons, or prevent the General Assembly from enacting penal statutes against that practice. (Art. I, § 30) (1971; previous versions 1876, 1868, 1776)

North Dakota

All individuals are by nature equally free and independent and have certain inalienable rights, among which are those of enjoying and defending life and liberty; acquiring, possessing and protecting property and reputation; pursuing and obtaining safety and happiness; and to keep and bear arms for the defense of their person, family, property, and the state, and for lawful hunting, recreational and other lawful purposes, which shall not be infringed. (Art. I, § 1) (1984)

Ohio

The people have the right to bear arms for their defense and security; but standing armies, in time of peace, are dangerous to liberty, and shall not be kept up; and the military shall be in strict subordination to the civil power. (Art. I, §4) (1851; previous version 1802)

Oklahoma

The right of a citizen to keep and bear arms in defense of his home, person or property, or in aid of the civil power, when thereunto legally summoned, shall never be prohibited; but nothing herein contained shall prevent the Legislature from regulating the carrying of weapons. (Art. II, § 26) (1907)

Oregon

The people shall have the right to bear arms for the defense of themselves, and the State, but the Military shall be kept in strict subordination to the civil power. (Art. I, § 27) (1857)

Pennsylvania

The right of the citizens to bear arms in defense of themselves and the State shall not be questioned. (Art. I, § 21) (1790)

Rhode Island

The right of the people to keep and bear arms shall not be infringed. (Art. I, § 22) (1842)

South Carolina

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. As, in times of peace, armies are dangerous to liberty, they shall not be maintained without the consent of the General Assembly. The military power of the State shall always be held in subordination to the civil authority and be governed by it. No soldier shall in time of peace be quartered in any house without the consent of the owner nor in time of war but in the manner prescribed by law. (Art. I, § 20) (1895; previous version 1868)

South Dakota

The right of the citizens to bear arms in defense of themselves and the state shall not be denied. (Art. VI, §24) (1889)

Tennessee

That the citizens of this State have a right to keep and bear arms for their common defense; but the Legislature shall have power, by law, to regulate the wearing of arms with a view to prevent crime. (Art. I, § 26) (1870; previous versions 1834, 1796)

Texas

Every citizen shall have the right to keep and bear arms in lawful defense of himself or the State; but the Legislature shall have power, by law, to regulate the wearing of arms, with a view to prevent crime. (Art. I, § 23) (1876; previous versions 1868, 1845)

Editor's Note: The Texas Declaration of Independence stated that "[The Mexican government] has demanded us to deliver up our arms, which are essential to our defense—the rightful property of freemen—and formidable only to tyrannical governments." The Republic of Texas Constitution of 1836 also protected Texans' right to arms: Every citizen shall have the right to bear arms in defense of himself and the republic. The military shall at all times and in all cases be subordinate to the civil power."

Utah

The individual right of the people to keep and bear arms for security and defense of self, family, others, property, or the state as well as for other lawful purposes shall not be infringed; but nothing herein shall prevent the legislature from defining the lawful use of arms. (Art. I, § 6) (1984; previous version 1895)

Vermont

That the people have a right to bear arms for the defense of themselves and the State—and as standing armies in time of peace are dangerous to liberty, they ought not to be kept up; and that the military should be kept under strict subordination to and governed by the civil power. (Chapter I, Art. 16) (1777)

Virginia

That a well regulated militia, composed of the body of the people, trained to arms, is the proper, natural and safe defense of a free state, therefore, the right of the people to keep and bear arms shall not be infringed; that standing armies, in time of peace, should be avoided as dangerous to liberty; and that in all cases the military should be under strict subordination to, and governed by, the civil power. (Art. I, § 13) (1971; previous version 1776)

Washington

The right of the individual citizen to bear arms in defense of himself, or the state, shall not be impaired, but nothing in this section shall be construed as authorizing individuals or corporations to organize, maintain or employ an armed body of men. (Art. I, § 24) (1889)

West Virginia

A person has the right to keep and bear arms for the defense of self, family, home, and state, and for lawful hunting and recreational use. (Art. 3, § 22) (1986)

Wisconsin

The people have the right to keep and bear arms for security, defense, hunting, recreation, or any other lawful purpose. (Art. 1, § 25) (1998; approved by a 3:1 margin among Wisconsin voters)

Wyoming

The right of the citizens to bear arms in defense of themselves and of the state shall not be denied. (Art. I, § 24) (1889)

Other States - California, Iowa, Maryland, Minnesota, New Jersey, and New York do not have “right to keep and bear arms” provisions in their state constitutions. Two of those states have general provisions that protect a right to defend life and liberty:

Iowa’s constitution (Art. I, § 1) states: “All men are, by nature, free and equal, and have certain inalienable rights—among which are those of enjoying and defending life and liberty, acquiring, possessing and protecting property, and pursuing and obtaining safety and happiness.”

New Jersey’s (Art. I, § 1) states: “All persons are by nature free and independent, and have certain natural and unalienable rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing, and protecting property, and of pursuing and obtaining safety, and happiness.”

SECOND AMENDMENT TALKING POINTS

Note for candidates: The right to own a firearm is protected under the Second Amendment to the United States Constitution and broadly supported throughout the Republican Conference.

However, like many issues, your support for Second Amendment rights may be nuanced by a variety of factors. Candidates are encouraged to tailor their positions on Second Amendment issues based on both personal convictions and the inclinations of their districts.

Candidate's should also note that this is an issue that largely is being "fought" in the courts and amongst competing interests groups at the state and local level and in the "court of public opinion." In recent years, outside of the issue of gun rights in Washington, D.C., Members of Congress have not had the opportunity to vote on critical Second Amendment issues.

ADDITIONAL INFORMATION AND RESOURCES

Candidates may find these resources and websites useful in regard to gun and Second Amendment issues, specifically in relation to specific laws, states and jurisdictions.

- National Rifle Association (NRA) – <http://home.nra.org>
- National Rifle Association’s Institute for Legislative Action (NRA-ILA) – <http://www.nraila.org/>
- Bureau of Alcohol, Tobacco, Firearms and Explosives (BATFE) Firearms Frequently Asked Questions – <http://www.atf.gov/firearms/faq/>
- NRA’s State Gun Laws At a Glance – <http://www.nraila.org/gun-laws.aspx>
- Gun Owners of America (GOA) - <http://gunowners.org/>