GrassRoots GunRights

P.O. Box 2446 Lexington, SC 29071 http://www.SCFirearms.org

March 24, 2008

The Honorable Robert W. Harrell, Jr.
South Carolina House of Representatives
P.O. Box 11867
Columbia, SC 29211

RE: H. 3212

Dear Representative Harrell:

The concealed weapon permit (CWP) recognition bill - H. 3212 - passed by the House last year was recently amended in the Senate. The Senate amendment turns H. 3212 into a horrible bill that could easily make CWP reciprocity with South Carolina worse rather than better. The Senate amendment would change things so drastically that South Carolina could not even get reciprocity with itself!

The Senate amended H. 3212 to read as follows:

> "(N) Valid out-of-state permits to carry concealable weapons held by a resident of a reciprocal state must be honored by this State, provided, that the reciprocal state requires an applicant to successfully pass a criminal background check and a course in firearm training and safety. A resident of a reciprocal state carrying a concealable weapon in South Carolina is subject to and must abide by the laws of South Carolina regarding concealable weapons. SLED ~~shall make a determination as to those states which have permit issuance standards equal to or greater than the standards contained in this article and~~ shall maintain and publish a list of those states as the states with which South Carolina has reciprocity."

The logical reasoning that follows below will prove why H. 3212 is a terrible bill as amended by the Senate and why it needs to be amended to actually accomplish that which the NRA inaccurately claims it does now. Then, GrassRoots will provide alternative language to amend H. 3212 so that H. 3212 will actually do what it is claimed that it does now.

Words have meaning, which is why they are so important in legal matters. Words are so important that the law frequently defines a word as it is to be used in a particular article of law rather than leaving the definition of the word to common usage, which could allow for different interpretations.

The South Carolina "Law Abiding Citizens Self-Defense Act of 1996" defined certain words. Those definitions can not be ignored when considering amendments to the law. A definition critical to a proper understanding of the impact of the Senate amendment to H. 3212 can found in Section 23-31-210(5), which reads as follows:

"Proof of training" means an original document or certified copy of the document supplied by an applicant that certifies that he is either:
(a) a person who, within three years before filing an application, has successfully completed a basic or advanced handgun education course offered by a state, county, or municipal law enforcement agency or a nationally recognized organization that promotes gun safety. This education course must be a minimum of eight hours and must include, but is not limited to:

(i) information on the statutory and case law of this State relating to handguns and to the use of deadly force;
(ii) information on handgun use and safety;
(iii) information on the proper storage practice for handguns with an emphasis on storage practices that reduces the possibility of accidental injury to a child; and
(iv) the actual firing of the handgun in the presence of the instructor;

(b) an instructor certified by the National Rifle Association or another SLED-approved competent national organization that promotes the safe use of handguns;
(c) a person who can demonstrate to the Director of SLED or his designee that he has a proficiency in both the use of handguns and state laws pertaining to handguns;
(d) an active duty police handgun instructor;
(e) a person who has a SLED-certified or approved competitive handgun shooting classification; or
(f) a member of the active or reserve military, or a member of the National Guard who has had handgun training in the previous three years.

SLED shall promulgate regulations containing general guidelines for courses and qualifications for instructors which would satisfy the requirements of this item. For purposes of subitems (a) and (b), "proof of training" is not satisfied unless the organization and its instructors meet or exceed the guidelines and qualifications contained in the regulations promulgated by SLED pursuant to this item.

Existing South Carolina law - Section 23-31-215(A)(5) - allows a person to qualify for a CWP if that person can satisfy just one of the six legal alternatives for “proof of training” found in Section 23-31-210(5) above. A “course in firearm training and safety” is only one of those alternatives, and what constitutes a proper course in firearm training and safety is further defined in Section 23-31-210(5)(a) as a minimum eight (8) hour class.

Existing South Carolina law Section 23-31-215(N) states:

Valid out-of-state permits to carry concealable weapons held by a resident of a reciprocal state must be honored by this State. SLED shall make a determination as to those states which have permit issuance standards equal to or greater than the standards contained in this article and shall maintain and publish a list of those states as the states with which South Carolina has reciprocity.

As can be readily seen from the above cited SC law, existing SC law allows for CWP reciprocity with states that do not necessarily require a “course in firearm training and safety.” All that is required under existing SC law is that another state have CWP “issuance standards equal to or greater than the standards contained in this article,” and SC legally allows for five alternatives that do not require a “course in firearm training and safety.” Thus, if the Senate amendment to H. 3212 is enacted into law, South Carolina would not be eligible for CWP reciprocity with itself because South Carolina does not necessarily require a “course in firearm training and safety” to obtain a CWP as the Senate amendment would mandate. Does the Senate really fear NRA certified instructors, active duty police handgun instructors, or members of the active or reserve military or members of the National Guard who have had handgun training in the previous three years who qualified for a CWP in their home state? GrassRoots will propose an amendment to H. 3212 to remedy this shortcoming that was overlooked, misunderstood, and denied by the NRA.

There is no excuse for using ambiguous language to draft legislation when clear and concise language would ensure the intent of the legislature was codified. Otherwise, the ambiguous language could lead to years of litigation at best, and possibly great bodily harm or death to those denied the ability to properly defend themselves.

The NRA has claimed the Senate amendment will allow CWP reciprocity with states that do not require an eight (8) hour “course in firearm training and safety.” Unfortunately, that is not clear from the language used in the Senate amendment.

Going back to the definitions section of the South Carolina "Law Abiding Citizens Self-Defense Act of 1996," an eight (8) hour minimum class time is required to satisfy the “proof of training” requirement when the classroom alternative is chosen for “proof of training.” The Senate amendment to H. 3212 does nothing to change the definition of what constitutes a proper education course. This failure makes for an ambiguous situation.

If SLED or a court was asked to decide what constituted a proper “course in firearm training and safety,” it could easily be argued that the definitions section of the South Carolina "Law Abiding Citizens Self-Defense Act of 1996" controlled, which would mean a minimum eight (8) hour class. Why leave things to chance? Why leave things ambiguous? Why not say exactly what is meant?

It is important to note the NRA already made errors in drafting the Senate amendment to H. 3212 on March 13, 2008. Only after GrassRoots exposed those drafting errors in a letter to the Senate dated March 17, 2008, did the NRA then draft a new amendment to remedy one of the errors. Over the years, GrassRoots has proven itself as the organization best able to properly draft legislation without errors.

GrassRoots requests that the House reject the Senate amendment to H. 3212 and return H. 3212 back to the CWP recognition bill passed last year. But, if the House is determined to pass H. 3212 even as a CWP reciprocity bill, then the Senate amendment still needs to be rejected because it does not accomplish that which it is claimed it accomplishes. The Senate amendment to H. 3212 needs to be replaced with a GrassRoots proposed amendment that will accomplish that which the NRA wrongly claims the Senate amendment will do.

GrassRoots proposes the following language to replace the Senate amendment to H. 3212:

> **"(N) Valid out-of-state permits to carry concealable weapons held by a resident of a reciprocal state must be honored by this State, provided, the reciprocal state requires an applicant to successfully pass a criminal background check and either 1) any course in firearm training and safety accepted by the reciprocal state, or 2) other proof of training that would be accepted under South Carolina law. A resident of a reciprocal state carrying a concealable weapon in South Carolina is subject to and must abide by the laws of South Carolina regarding concealable weapons. SLED ~~shall make a determination as to those states which have permit issuance standards equal to or greater than the standards contained in this article and~~ shall maintain and publish a list of those states ~~as the states~~ with which South Carolina has reciprocity."**

The GrassRoots proposed amendment makes it clear the SC CWP reciprocity law should not be interpreted using the definitions section of the South Carolina CWP law, and the GrassRoots proposed amendment will thus ensure the SC CWP law will allow less than an eight (8) hour minimum class time to satisfy the CWP reciprocity requirement. This is exactly what people are now being told the Senate amendment will do, so this should not be a controversial change.

The GrassRoots proposed amendment will also allow for CWP reciprocity with states like South Carolina that allow alternatives to a “course in firearm training and safety” to satisfy the “proof of training” requirement, i.e., NRA certified instructors, active duty police handgun instructors, or members of the active or reserve military or members of the National Guard who have had handgun training in the previous three years who qualified for a CWP in their home state. This change will allow reciprocity with Florida, which allows for issuance of a CWP upon presentation of “evidence of equivalent experience with a firearm through participation in organized shooting competition or military service.”

If you have any questions concerning H. 3212 or the effects of the intricacies of the various sections of law upon CWP reciprocity, please contact me at (XXX) XXX-XXXX.

Sincerely,

RD Butler

Robert D. Butler, J.D.
Vice President
GrassRoots GunRights SC