

GrassRoots GunRights

P.O. Box 2446
Lexington, SC 29071

January 27, 2010

The Honorable John M. "Jake" Knotts, Jr.
SC Senate
Post Office Box 142
Columbia, SC 29202

RE: H. 4022

Dear Senator Knotts,

H. 4022 claims to be the "South Carolina Firearms Freedom Act." But, GrassRoots GunRights sees H. 4022 as a power struggle between the federal and state governments, not as a pro gun rights bill. As H. 4022 is currently drafted, the best South Carolina gun owners can hope for is to suffer only minimal collateral damage. But, if properly amended, H. 4022 can be turned into a pro gun rights bill. GrassRoots GunRights will first explain why amendments are needed, and then propose the needed amendments below.

The biggest flaw in H. 4022 is that it will legislatively entrap otherwise innocent South Carolina gun owners. As H. 4022 is currently drafted, South Carolina gun owners who abide by South Carolina law will still be considered to be in violation of federal law. Thus, the federal government will still prosecute South Carolina gun owners who abide by the so called "South Carolina Firearms Freedom Act."

H. 4022 fails to protect South Carolina gun owners who lawfully abide by the so called "South Carolina Firearms Freedom Act." It is South Carolina gun owners who will bear the entire financial burden of defending themselves in this power struggle between the federal and state governments. It is South Carolina gun owners who will risk going to prison for violating federal gun laws in this power struggle between the federal and state governments. It is South Carolina gun owners who will risk losing their rights to keep and bear arms for the rest of their lives in this power struggle between the federal and state governments.

While South Carolina gun owners bear all of the financial burdens, all of the risks of going to prison, and the risk of forever losing the right to keep and bear arms in this power struggle between the federal and state governments, the state of South Carolina will sit on the sidelines and watch. This is not right and can never be legitimately portrayed as a pro gun rights bill.

To better protect gun owners in South Carolina, H. 4022 needs to be amended to include the language found in a similar bill - H.B. 1863 - introduced in Texas in 2009. H. 4022 needs to be amended by adding the following to Section 1 of the bill:

“Section 23-31-725. ATTORNEY GENERAL.

(A) The attorney general shall defend a citizen of this state whom the federal government attempts to prosecute, claiming the power to regulate interstate commerce, for violation of a federal law concerning the manufacture, sale, transfer, or possession of a firearm, a firearm accessory, or ammunition manufactured and retained in this state.

(B) On written notification to the attorney general by a citizen of the citizen's intent to manufacture a firearm, a firearm accessory, or ammunition to which this chapter applies, the attorney general shall seek a declaratory judgment from a federal district court in this state that this chapter is consistent with the United States Constitution.”

The above language would provide some protection for gun owners in South Carolina from the collateral damage that would otherwise occur in the power struggle between the federal and state governments. Failure to include the above language will demonstrate a total lack of concern for gun owners in South Carolina.

There are two additional problems in H. 4022, both contained in proposed Section 23-31-715. Section 23-31-715 states “[t]his article does not apply to the following: ... (4) a firearm that discharges two or more projectiles with one activation of the trigger or other firing device.” Thus, the so called “South Carolina Firearms Freedom Act” will exclude both single shot shotguns and fully automatic firearms from the protections of H. 4022. The exclusion of shotguns and fully automatic firearms will be discussed separately below.

There is no legitimate reason to exclude shotguns from the protections in H. 4022. This problem is most likely due to the bill’s drafter being unfamiliar with firearms and not understanding the significance of the words used. A single shotgun “round” is usually composed of multiple “projectiles” (the only exception being “slugs”) which can be discharged “with one activation of the trigger or other firing device.” Thus, a single shot shotgun is excluded from the protections of H. 4022. This problem can be remedied by replacing the word “projectiles” with the word “rounds.” Amending H. 4022 in this way will give protection to shotguns, but will continue to exclude fully automatic firearms.

There is no principle that allows the federal government to regulate fully automatic firearms under the commerce clause of the Constitution of the United States, but not semi automatic firearms. South Carolina should not give support to the liberal “politically correct” crowd by enacting into law a liberal “politically correct” difference in H. 4022 when no principled difference exists.

Most importantly, since H. 4022 makes reference to the Second Amendment to the United States Constitution, H. 4022 should honor the words and intent of the United States Constitution by recognizing that fully automatic firearms are the very arms - i.e., those carried by individual soldiers - that our founding fathers envisioned when enacting the Second Amendment. South

Carolina should not join the ranks of the liberal “politically correct” ilk and create a difference where none legitimately exists.

GrassRoots GunRights takes positions on proposed legislation based upon principle - not liberal “politically correct” politics. Therefore, GrassRoots GunRights requests that proposed Section 23-31-715(4) simply be deleted and thereby include both shotguns and fully automatic firearms under the protections of H. 4022. Deleting Section 23-31-715(4) is the principled thing to do even if it is not the liberal “politically correct” thing to do.

Bottom line:

- 1. Add a Section 23-31-725 as described above to better protect South Carolina gun owners from collateral damage.**
- 2. Delete proposed Section 23-31-715(4); or as a lesser favored alternative, substitute the word “rounds” for the word “projectiles.”**

If you have any questions concerning this issue, please contact me.

Sincerely,



Robert D. Butler, J.D.
VP GrassRoots GunRights