



## Efforts to Pass National Reciprocity for Concealed Carry Focus on Senate

Riding the momentum from [passage of the National Reciprocity for Concealed Carry bill by the House](#) on December 9, attention of the National Rifle Association (NRA) is now being directed to the Senate's version, the Constitutional Concealed Carry Reciprocity Act, S. 446.

The NRA's arguments are simple: current state laws concerning concealed carry are "inconsistent" and "complex" and hence threaten to turn law-abiding citizens travelling across the country into "accidental criminals." With national reciprocity, anyone with a concealed carry permit would be free to carry in any other state without legal consequences. The metaphor often used is that of a driver's license. States voluntarily accept the license from any other state as valid in their own jurisdiction. Attorneys general from 23 states have written a letter to Senate leadership urging passage of the bill. This is reflective of the fact that more and more Americans have obtained their concealed carry permits — approaching one out of every 10 adults — and run the risk of violating state laws when they travel.

S. 446 has 39 sponsors in the Senate. For passage however, 60 votes will be needed to shut down the filibuster all but guaranteed by anti-gun Democrats if the bill comes to the floor.

Those opposed to passage present several arguments, some of which carry weight. First, states voluntarily allow drivers with out-of-state driver's licenses to operate their vehicles in state, while national reciprocity would *mandate* states' compliance. Second, they complain (some hypocritically) that states' rights would be violated with passage. After all, goes the argument, voters in states with onerous restrictions on issuance of concealed carry permits (i.e., Illinois, New Jersey, New York, California, and others) have already decided, through their representatives, just what kind of restrictions they favor when it comes to the Second Amendment.

Third, they complain that local laws would be overridden by those carrying concealed from states with much looser (the term "lax" is often used here) requirements. Implied is the presumption that crime will rise with the increase in the number of firearms that would be present in the state. Some police organizations have expressed concerns as well, noting that "at 2 a.m., it's hard to tell a good guy from a





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bad guy,” or words to that effect. The underlying assumption by those opposed to national reciprocity is that since local gun owners can’t be trusted, neither can those from out of state. They ignore the fact (provided by Gun Facts) that “crime rates involving gun owners with carry licenses have consistently been about 0.02% of all carry permit holders.”

Those opposed also believe that the NRA has a darker motive behind its support: it wants to punish local anti-gun politicians by forcing them to allow all citizens greater freedom to exercise their Second Amendment rights. They take to heart the veiled warning issued by UCLA law professor Adam Winkler:

What the NRA really wants to do on concealed carry is to overturn these clear-cut restrictions on people carrying guns. They want to make guns very much a prominent part of American life — guns on college campuses, guns in bars, churches, wherever they can get them.

The problem with Winkler’s argument is that Americans are already making the carrying of personal firearms “very much a prominent part” of American life and the NRA is riding that momentum in its support of national reciprocity.

The NRA is building its case around the increasingly prominent face of one of those who got caught becoming an “accidental criminal.” Shaneen Allen became a cause célèbre in 2013 when she crossed from Pennsylvania into New Jersey, was stopped for a minor traffic violation, voluntarily offered information to the arresting officer that she not only had a firearm in her car but a Pennsylvania concealed carry permit to go with it, and spent 48 days behind bars for her “accidental” crime. She was pardoned by New Jersey’s governor in 2015 and Allen began offering her services in support of national reciprocity.

Another vastly larger group weighing in in favor of passage is the estimated 3.5 million over-the-road truckers. Because of the mishmash of state laws regarding concealed carry — and most trucking companies banning their truck drivers from carrying a firearm — they drive unarmed and consequently are targets for criminals. According to *Overdrive Magazine*, three out of four truckers “have been in a situation in which they were unarmed but wished that they were armed.” In addition, nearly a quarter have actually been attacked. They are sitting ducks for criminals seeking unarmed citizens for targets.

Those opposed to national reciprocity have another problem: the Fourteenth Amendment. George Mocsary, an assistant law professor at the Southern Illinois University School of Law, makes the case that those invoking states’ rights — federalism — as a defense against passage ignore the simple facts of and history behind passage of that amendment. Wrote Mocsary, “A federalism argument cannot stand where Congress is exercising authority that has been explicitly granted by the Constitution’s Fourteenth Amendment ... [it requires] the states to respect basic rights of their citizens, including ‘the personal rights guaranteed and secured by the first eight amendments to the Constitution.’” Added Mocsary:

These enforcement clauses were explicitly and implicitly the source for authority for Congress to pass the Civil Rights Acts, including the Voting Rights Act, for over 150 years. The Supreme Court has repeatedly upheld these Acts.

There are other arguments advanced in support of national reciprocity, including the inherent right of a citizen to move from one state to another without being subjected to discriminatory laws. Nor can states discriminate against new residents by treating them differently in matters such as medical care and welfare benefits.

So, what are the chances that the Senate will pass national reciprocity next year? Given the



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intransigence of Democrats in denying support for anything coming out of the Trump administration, most have concluded that the matter is dead, and they must wait for more favorable times in the Senate. But The Trace, the anti-gun group founded and funded by former New York City Mayor Michael Bloomberg, has issued an interesting and hopeful warning:

In 2013, in a vote that received limited notice, 13 Democrats voted for a version of Cornyn's bill. Seven of those senators — Jon Tester of Montana; Joe Manchin of West Virginia; Joe Donnelly of Indiana; Heidi Heitkamp of North Dakota; Martin Heinrich and Tom Udall of New Mexico; and Mark Warner of Virginia — remain in office. Five of those lawmakers are up for re-election in 2018, along with several other Democrats in gun-friendly states. The NRA and its allies in the Republican leadership will be looking to put maximum pressure on red-state Democrats to back the bill, or at least make opposing it more politically costly.

At bottom the decision to bring national reciprocity to the floor of the Senate will be a political one. It being a year of the mid-term elections bets are being taken on both sides of the issue. One bet that is certain: the pressure to pass national reciprocity isn't going to diminish as more and more Americans exercise their Second Amendment rights by applying for and receiving their concealed carry licenses. They will put pressure on their elected senators to allow them to enjoy those freedoms in every state in the country.

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