



Written by [Joe Wolverton, II, J.D.](#) on September 1, 2018

## Vermont Gun Owners and Retailers Seek to Nullify New State Weapons Regulations

*If now ye suffer grievously through  
cowardice all your own,*

*Cherish no wrath against the gods for this,  
For you yourselves increased the usurper's  
power by giving him your guard in his  
hands,*

*And now, therefore, as his servants you must  
do as he commands.*

— Solon, the Lawgiver of Athens,  
circa 560 B.C.



Gun owners in Vermont refuse to allow government on any level to infringe on their right to keep and bear arms, as protected by the Second Amendment to the U.S. Constitution.

In pleadings filed last week, the Gun Owners of Vermont, joined by several gun and ammunition retailers, are challenging a state law requiring a Federal Firearms License (FFL) for all transfers of weapons, including “privately and legally owned firearms.”

Additionally, the complaint seeks a judicial ruling declaring a statute unconstitutional for its prohibition on the sale and possession of so-called “bump-fire” stocks.

Lastly, the suit seeks to nullify the state’s minimum age requirement — 21 years-old — to purchase a weapon.

According to the group’s website, the Gun Owners of Vermont is “a non-partisan pro-gun organization, committed to a no-compromise position on firearms ownership rights,” with a mission “to supply facts to members about pro-gun and anti-gun legislation, legislators’ voting records, statements, and to lobby on the state level.”

The state statutes being challenged by the Gun Owners of Vermont violate Article 16 of the state constitution, which reads: “The people have a right to bear arms for the defence [sic] 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.”

Vermont’s constitutional protection of the right to armed self-defense is not only stronger than the U.S. Constitution’s Second Amendment, but it is a fuller expression of the Founding Generation’s fear of standing armies and the need of the people to be armed to resist such a force under the command of a tyrannical government.

An article reporting the organization’s lawsuit quotes a couple of local lawyers in its description of the state’s staunch protection of an armed citizenry:

“The hallmark of the Vermont Constitution is its commitment to civil rights,” wrote Michael K. Shane and Robert D. Lees, of the White River Junction law firm of Marsicovetere & Levine. “[I]t was the first



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to prohibit slavery and grant universal suffrage to all men over the age of 21. It also included language protecting the rights of the people to keep and bear arms that is clear and unequivocal.”

“Vermont has a long history, proud history, of responsible law-abiding firearm ownership,” wrote Shane and Lees, as quoted in the story. “The state is an outlier, one with few gun restrictions and a low rate of gun violence. ... Until the signing of the legislation at issue in this case, Vermont had almost no laws curtailing the people’s rights ... and at the same time was one of the safest states in the nation.”

The legislation the attorneys refer to was passed by the state legislature in 2018. It imposed background checks even for private firearm transactions, it raised the minimum age for purchasing a gun to 21, it outlawed the sale of handgun magazines holding more than 15 rounds and rifle magazines of over 10 rounds, it banned the sale of bump-fire stocks, and it gave the police the authority to confiscate weapons from anyone they consider to be “an extreme risk” to the public safety.

As explained by Shane and Lee, “The government has curtailed the people’s fundamental rights with a flurry of hastily slapped together measures passed and signed into law.... This legislation is a knee-jerk, emotional reaction that solves no problem.”

This is nothing new. Governments at every level, from multi-national to municipal, are incrementally infringing on the right of the people to buy, sell, trade, transfer, and own weapons and ammunition. The goal is now as it has always been since the time the tyrant Pisistratus seized the weapons of the formerly free men of Athens: unlimited power over the people and their property.

While the lawsuit’s intent is laudable, it is unlikely that one branch of the state government would weaken the authority of one of its sister branches.

The more constitutionally sound and ultimately successful approach would be to pursue what Thomas Jefferson called the “rightful remedy” for curing the curtailment of liberty: *nullification*.

Nullification occurs when a state, county, city, or other local entity holds as null, void, and of no legal effect any act of any government body that exceeds the boundaries of its constitutional powers.

As the suit filed by these firearm owners and vendors demonstrates, the law of agency applies when one party gives another party legal authority to act on the first party’s behalf. The first party is called the principal and the second party is called the agent. The principal may grant the agent as much or as little authority as suits his purpose. That is to say, by simply giving an agent certain powers, that agent is not authorized to act outside of that defined sphere of authority.

The plaintiffs in the case seek a judicial declaration that the statutes are “devoid of any legal effect” for their violation of the state constitution, as well as an injunction against the enforcement of the other provisions and laws laid out in the lawsuit.

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