

SUBMISSION OF MICHAEL F. KRAEMER, ESQ. TO THE HOUSE  
OF REPRESENTATIVES JUDICIARY COMMITTEE

March 13, 2024

I submit this statement in support of the proposed assault weapons ban, which is HB-7217. My focus is not on the merits of the bill, since the Committee should be well aware of the dangers of allowing weapons designed for the military to be available to the public. Indeed, the many mass shootings and murders of the last decade were made possible in large part because of the mass killing power of the AR-15 assault rifle and other similar weapons. Rather, I want to focus on the applicability of the 2nd Amendment to these weapons as explained by the many federal courts of appeals and district courts which have rejected challenges to assault weapons bans in other states.

The starting place to consider whether the 2nd Amendment guarantees the right to own an assault weapon is the United States Supreme Court decision in *Columbia v. Heller*. In this case, which ruled that individuals had the right to maintain a handgun at home for personal protection, Justice Antonin Scalia wrote: "Like most rights, the right secured by the Second Amendment is not unlimited....[It] is not a right to keep and carry any weapon whatsoever and for whatsoever purpose." He went on to identify some of the restrictions on gun ownership which remained permissible under the Constitution.

Subsequent to the *Heller* decision, all five U.S. Courts of Appeals which ruled on legal challenges to state law bans on assault weapons determined that such laws were constitutional. This includes the 1st Circuit Court of Appeals in *Worman v. Healey* in 2019.

In *New York State Rifle & Pistol Assn. v. Bruen*, the Supreme Court revisited the 2nd Amendment in connection with a challenge to New York's law concerning the concealed carrying of weapons. Since the *Bruen* decision in 2022, no federal court of appeals has ruled that the 2nd Amendment guarantees the right to own an assault weapon. While there have been numerous cases brought by the gun lobby on this issue, federal courts in Illinois, Delaware, Oregon and Rhode Island have all determined that assault weapons bans and/or high capacity magazine bans met constitutional muster and refused to enjoin the enforcement of state laws to that effect. The trial court's decision in Illinois was appealed to the 7th Circuit Court of Appeals which let the judge's ruling stand, as did the U.S. Supreme Court after the gun lobby appealed.

When you consider the arguments put forth by gun control advocates and by the gun lobby, I urge you to make your decision on HB-7217 on the merits and not on the mistaken belief that the 2nd Amendment is relevant. Don't be fooled by the slogans on the yellow t-shirts

or the claims made by gun lobby spokesmen. By their logic, not only is assault weapons ownership protected by the 2nd Amendment, but the same goes for 50 caliber machine guns, flame throwers, Howitzers and stinger missiles. That is not the law and no federal court of appeals has ruled that the 2nd Amendment protects the right to own an assault weapon

Respectfully submitted,

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