



# Agenda Cover Memorandum

**Meeting Date:** July 2, 2013

**Meeting Type:**  COW (Committee of the Whole)  City Council  Budget Workshop

**Item Title:** HB 183 Concealed Carry Legislation

**Action Requested:**

Approval

For discussion

Feedback requested

For your information

**Staff Contact:** Shawn Hamilton, Acting City Manager

**Phone Number:** 847-318-5205

**Email Address:** shamulto@parkridge.us

**Background:**

The Illinois General Assembly passed HB 183 on May 31, 2013, which allows the concealed carry of handguns in the State of Illinois. Governor Quinn had 60 days to consider and sign the bill to make it a law. On July 2, 2013, it was announced in a news release that Governor Pat Quinn today took amendatory veto action on House Bill 183 – legislation that will allow and regulate the carrying of concealed handguns in public places. The governor's amendatory veto makes critical changes to several provisions that pose significant safety risks, and strengthens the legislation to better protect the people of Illinois. This action is part of the Governor's agenda to improve public safety in Illinois.

I am providing duplicate information that was produced for the June 24, 2013 Committee of the Whole. In addition, I have also included any information that I have recently received which I believe might be helpful, including the Governor's veto message.

**Recommendation:** Provide feedback to staff as to next steps.

**Budget Implications:**

Does Action Require an Expenditure of Funds:  Yes  No

If Yes, Total Cost:

If Yes, is this a Budgeted Item:

Yes  No  Requires Budget Transfer

If Budgeted, Budget Code (Fund, Dept, Object)

**Attachments:**

- Concealed Carry Packet from 6/24/2013 COW meeting
- News Release from State of IL
- Governor's Amendatory Veto of House Bill 183
- Ald. Jim Smith's Extended Remarks on Gun Control

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## Memorandum

To: Shawn Hamilton, City Manager  
From: Buzz Hill and Kathie Henn  
Re: Questions Regarding Concealed Carry Legislation  
Date: June 20, 2013

This memorandum is written in response to the questions Alderman Sweeney posed to you in his June 18, 2013, e-mail regarding HB 183, the concealed carry legislation on Governor Quinn's desk:

- 1) *Under the proposed law, do businesses, churches, restaurants, theaters, etc., have the right to restrict concealed carry permit holders from bringing a firearm on or into their premises or place of business? If so the city would need no ordinance covering this control.*
- 2) *Would any ordinance restricting or banning any type of firearm be retroactive prior to enactment?*
- 3) *Can the city ban specific types / sizes of firearm magazines. (number of rounds it can hold) ?  
Retroactive?*
- 4) *What ordinances can the city draft that is not covered by concealed carry law or can legally be enacted or enforced?*
- 5) *Time frame from passing any possible ordinance to actually being enforceable?*

### Background

As we advised in prior correspondence, the City of Park Ridge may not regulate "handguns" in any way, as that area will be specifically preempted once HB 183 is signed into law. The legislation defines handgun as:

Any device which is designed to expel a projectile or projectiles by the action of an explosion, expansion of gas, or escape of gas that is designed to be held and fired by the use of a single hand.

The definition excludes stun guns, tasers, machine guns, short-barreled rifles and shotguns, pneumatic guns, spring guns, paint ball guns, and certain B-B guns. Park Ridge may regulate other weapons, but may only enact an "assault weapon" ban within ten (10) days of Governor Quinn signing the bill. The term "assault weapon" is referred to as follows:

Mr. Shawn Hamilton  
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firearms designated by either make or model or by a test or list of cosmetic features that cumulatively would place the firearm into a definition of "assault weapon" under the ordinance.

This means we would have to define the term in any ordinance which might be contemplated for adoption.

### Specific Questions

- (1) *"Under the proposed law, do businesses, churches, restaurants, theaters, etc. have the right to restrict concealed carry permit holders from bringing a firearm on or into their premises or place of business? If so the city would need an ordinance covering this control."*

The concealed carry law expressly allows an "owner of private real property of any type" to "prohibit the carrying of concealed firearms on the property under his or her control." This is accomplished by posting a sign on the property. It is not absolutely clear as to whether "private real property" includes properties (such as movie theaters, bowling alleys or restaurants), which are generally open to the public but are privately owned. It does appear to us that all private property owners retain this right. Individual business owners will have to decide if they wish to post such signs and should consult their own legal counsel.

Please remember that HB 183 would specifically preempt any City ordinance attempting to further regulate concealed carry. Thus, once HB 183 becomes law, the City may not pass any ordinances attempting to regulate handguns or concealed carry as contemplated by the legislation.

- (2) *"Could any ordinance restricting or banning any type of firearm be made retroactive; or contain "grandfathering" language?"*

If the City Council decided to adopt an ordinance restricting the weapons or firearms that it is permitted to regulate, it may craft its ordinance to "grandfather" current owners. The simplest and most common local assault weapon bans are absolute and have no such language. If the City decided to include grandfathering language, it would need to have some way, such as registration, of knowing who owned such weapons at the time the ordinance becomes effective.

- (3) *"Can the city ban specific types/sizes of firearm magazines (number of rounds it can hold)?"*

High capacity magazines and guns (other than handguns) that function with them may be regulated by municipalities. This part and parcel of the "assault weapons" exception to HB 183.

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(4) *"What ordinances can the city draft that is (sic) not covered by concealed carry law or can legally be enacted or enforced?"*

The City may currently regulate firearms other than handguns. Additionally, the City may regulate "assault weapons," but only until the July 19th cutoff discussed above. As stated above, some other municipalities have regulated "assault weapons," semi automatic weapons, certain makes and models of weapons, and "machine guns."

(5) *"Time frame from passing any possible ordinance to actually being enforceable?"*

Any ordinance that the City passes that restricts weapon possession or usage would be subject to whatever effective date the City wishes. If the ordinance is silent, the ordinance would become effective ten (10) days after being published in pamphlet form by the City Clerk.

Again, under the timeline set forth above, assuming HB 183 is adopted in its current form, the City has until ten (10) days after Governor Quinn signs the bill (presumably on July 9, 2013), or until July 19, 2013, in which to enact any "assault weapon" ban ordinance. Put another way, if the City will ever want an assault ban ordinance, it has until July 19, 2013 to enact one, under the language in HB 183.

**COOK COUNTY CODE OF ORDINANCES  
CHAPTER 54, ARTICLE III, DIVISION 4**

**DIVISION 4.      BLAIR HOLT ASSAULT WEAPONS BAN <sup>(1)</sup>**

Sec. 54-211. Definitions.

Sec. 54-212. Assault weapons and large capacity magazines; sale prohibited; exceptions.

Sec. 54-213. Destruction of weapons confiscated.

Secs. 54-214—54-240. Reserved.

**Sec. 54-211. Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*“Assault weapon”* means:

- (1) A semiautomatic rifle that has the capacity to accept a large capacity magazine detachable or otherwise and one or more of the following:
  - (A) Only a pistol grip without a stock attached;
  - (B) Any feature capable of functioning as a protruding grip that can be held by the non-trigger hand;
  - (C) A folding, telescoping or thumbhole stock;
  - (D) A shroud attached to the barrel, or that partially or completely encircles the barrel, allowing the bearer to hold the firearm with the non-trigger hand without being burned, but excluding a slide that encloses the barrel; or
  - (E) A muzzle brake or muzzle compensator.
- (2) A semiautomatic pistol or any semi-automatic rifle that has a fixed magazine, that has the capacity to accept more than ten rounds of ammunition;
- (3) A semiautomatic pistol that has the capacity to accept a detachable magazine and has one or more of the following:
  - (A) Any feature capable of functioning as a protruding grip that can be held by the non-trigger hand;
  - (B) A folding, telescoping or thumbhole stock;
  - (C) A shroud attached to the barrel, or that partially or completely encircles the barrel, allowing the bearer to hold the firearm with the non-trigger hand without being burned, but excluding a slide that encloses the barrel;
  - (D) A muzzle brake or muzzle compensator; or

- (E) The capacity to accept a detachable magazine at some location outside of the pistol grip.
- (4) A semiautomatic shotgun that has one or more of the following:
  - (A) Only a pistol grip without a stock attached;
  - (B) Any feature capable of functioning as a protruding grip that can be held by the non-trigger hand;
  - (C) A folding, telescoping or thumbhole stock;
  - (D) A fixed magazine capacity in excess of five rounds; or
  - (E) An ability to accept a detachable magazine.
- (5) Any shotgun with a revolving cylinder.
- (6) Conversion kit, part or combination of parts, from which an assault weapon can be assembled if those parts are in the possession or under the control of the same person;
- (7) Shall include, but not be limited to, the assault weapons models identified as follows:
  - (A) The following rifles or copies or duplicates thereof:
    - (i) AK, AKM, AKS, AK-47, AK-74, ARM, MAK90, Misr, NHM 90, NHM 91, SA 85, SA 93, VEPR;
    - (ii) AR-10;
    - (iii) AR-15, Bushmaster XM15, Armalite M15, or Olympic Arms PCR;
    - (iv) AR70;
    - (v) Calico Liberty;
    - (vi) Dragunov SVD Sniper Rifle or Dragunov SVU;
    - (vii) Fabrique National FN/FAL, FN/LAR, or FNC;
    - (viii) Hi-Point Carbine;
    - (ix) HK-91, HK-93, HK-94, or HK-PSG-1;
    - (x) Kel-Tec Sub Rifle;
    - (xi) Saiga;
    - (xii) SAR-8, SAR-4800;
    - (xiii) SKS with detachable magazine;
    - (xiv) SLG 95;
    - (xv) SLR 95 or 96;
    - (xvi) Steyr AUG;
    - (xvii) Sturm, Ruger Mini-14;
    - (xviii) Tavor;
    - (xix) Thompson 1927, Thompson M1, or Thompson 1927 Commando; or
    - (xx) Uzi, Galil and Uzi Sporter, Galil Sporter, or Galil Sniper Rifle (Galatz).
  - (B) The following pistols or copies or duplicates thereof:

- (i) Calico M-110;
  - (ii) MAC-10, MAC-11, or MPA3;
  - (iii) Olympic Arms OA;
  - (iv) TEC-9, TEC-DC9, TEC-22 Scorpion, or AB-10; or
  - (v) Uzi.
- (C) The following shotguns or copies or duplicates thereof:
- (i) Armscor 30 BG;
  - (ii) SPAS 12 or LAW 12;
  - (iii) Striker 12; or
  - (iv) Streetsweeper.

*"Assault weapon"* does not include any firearm that has been made permanently inoperable, or satisfies the definition of "antique firearm," stated in this section, or weapons designed for Olympic target shooting events.

*"Detachable magazine"* means any ammunition feeding device, the function of which is to deliver one or more ammunition cartridges into the firing chamber, which can be removed from the firearm without the use of any tool, including a bullet or ammunition cartridge.

*"Large capacity magazine"* means any ammunition feeding device with the capacity to accept more than ten rounds, but shall not be construed to include the following:

- (1) A feeding device that has been permanently altered so that it cannot accommodate more than ten rounds.
- (2) A 22 caliber tube ammunition feeding device.
- (3) A tubular magazine that is contained in a lever-action firearm.

*"Muzzle brake"* means a device attached to the muzzle of a weapon that utilizes escaping gas to reduce recoil.

*"Muzzle compensator"* means a device attached to the muzzle of a weapon that utilizes escaping gas to control muzzle movement.

(Ord. No. 93-O-37, § 6-1, 10-19-1993; Ord. No. 93-O-46, § 6-1, 11-16-1993; Ord. No. 94-O-33, 7-6-1994; Ord. No. 99-O-27, Pt. 3(5-1), 11-23-1999; Ord. No. 06-O-50, 11-14-2006)

**Sec. 54-212. Assault weapons and large capacity magazines; sale prohibited; exceptions.**

- (a) No person shall manufacture, sell, offer or display for sale, give, lend, transfer ownership of, acquire or possess any assault weapon or large capacity magazine. This subsection shall not apply to:
  - (1) The sale or transfer to, or possession by any officer, agent, or employee of Cook County or any other municipality or state or of the United States,

members of the armed forces of the United States; or the organized militia of this or any other state; or peace officers to the extent that any such person named in this subsection is otherwise authorized to acquire or possess an assault weapon and/or large capacity magazine and does so while acting within the scope of his or her duties;

- (2) Transportation of assault weapons or large capacity magazine if such weapons are broken down and in a nonfunctioning state and are not immediately accessible to any person.
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- (b) Any assault weapon or large capacity magazine possessed, sold or transferred in violation of Subsection (a) of this section is hereby declared to be contraband and shall be seized and disposed of in accordance with the provisions of Section 54-213
  - (c) Any person found in violation of this section shall be sentenced to not more than six months imprisonment or fined not less than \$500.00 and not more than \$1,000.00, or both.
  - (d) Any person who, prior to the effective date of the ordinance codified in this section, was legally in possession of an assault weapon or large capacity magazine prohibited by this section shall have 90 days from the effective date of the ordinance to do any of the following without being subject to prosecution hereunder:
    - (1) To remove the assault weapon or large capacity magazine from within the limits of the County of Cook; or
    - (2) To modify the assault weapon or large capacity magazine either to render it permanently inoperable or to permanently make it a device no longer defined as an assault weapon or large capacity magazine; or
    - (3) To surrender the assault weapon or large capacity magazine to the Sheriff or his designee for disposal as provided below.

*(Ord No 93-O-37, § 6-2, 10-19-1993; Ord. No. 93-O-46, § 6-2 11-16-1993; Ord. No. 94-O-33 7-6-1994  
Ord No 99-O-27, Pt 3(6-2) 11-23-1999; Ord No 06-O-50, 11-14-2006.)*

#### **Sec. 54-213. Destruction of weapons confiscated.**

- (a) Whenever any firearm or large capacity magazine is surrendered or confiscated pursuant to the terms of this article, the Sheriff shall ascertain whether such firearm is needed as evidence in any matter.
- (b) If such firearm or large capacity magazine is not required for evidence it shall be destroyed at the direction of the Sheriff. A record of the date and method of destruction an inventory or the firearm or large capacity magazine so destroyed shall be maintained.



(Ord. No. 93-O-37, § 6-3, 10-19-1993; Ord. No. 94-O-33, 7-6-1994; Ord. No. 99-O-27, Pt. 3, 6-3, 11-23-1999; Ord. No. 06-O-50, 11-14-2006.)

**Secs. 54-214—54-240. Reserved.**

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**FOOTNOTE(S):**

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*Editor's note—* Ord. No. 07-O-36, adopted June 19, 2007, amended the title of Div. 4, Assault Weapons, to read as herein set out.



## NWMC LEGISLATIVE UPDATE

May 31, 2013

### *LGDF Safe in Budget Implementation Bill, PPRT Diversion Expanded*

Earlier in the legislative session, Governor Quinn, during his FY 2014 budget address, proposed “freezing” the Local Government Distributive Fund (LGDF) to FY12 levels. The Conference immediately made protecting local government revenues, specifically the LGDF, our highest priority for the session. A freeze in the LGDF could have cost NWMC members approximately \$15 million.

These efforts have succeeded. The FY14 budget implementation (BIMP) bill, Senate Bill 1329 - FY14 BIMP (Speaker Michael Madigan), does not contain any reduction, freeze or diversion of the LGDF.

However, the Corporate Personal Property Replacement Tax (CPPRT) will experience a permanent diversion beginning in FY14 according to SB 1329. This CPPRT diversion was previously introduced as Senate Bill 492.

Approximately \$18 million will be diverted from CPPRT to fund:

- salary, stipends, and additional compensation for chief election clerks, county clerks, and county recorders;
- costs associated with regional offices of education and educational service centers;
- reimbursements payable by the State Board of Elections; and
- expenses of the Illinois Educational Labor Relations Board.

### *Update So Far...*

The General Assembly has until midnight tonight to wrap up the spring legislative session. This edition of the NWMC Legislative Update contains a recap of progress in the House and Senate as of 3:30 p.m.

We will publish another edition early next with a comprehensive recap of final action.

According to an Illinois Municipal League (IML) analysis, the impact of the CPPRT diversion on municipalities statewide (including Chicago) will be \$3.6 million.

SB 1329 was just approved by the House and goes to the Senate for a concurrence vote.

### *Amended PSEBA Reporting Bill Passes House*

A slightly amended version of the Public Safety Employee Benefits Act (PSEBA) reporting bill, Senate Bill 1245 (Minority Leader Christine Radogno / Rep. Ann Williams), was approved by the House this morning and is pending a concurrence vote in the Senate.

SB 1245 calls for the Commission on Government Forecasting and Accountability (COGFA) to conduct a study of all claims. Former public safety employees who are receiving coverage under PSEBA must file an annual report with their former employer detailing recent employment and compensation from that employment, the availability of other health insurance coverage and whether the employee or spouse is covered under other insurance. If the PSEBA beneficiary fails to file their report in a timely manner, the employer may seek reimbursement from the beneficiary for the PSEBA insurance coverage premium.

The House amendment, placed on the bill at the request of labor, expands some of the reporting and provides a mechanism for labor and management to provide input to COGFA on the results of the study.

### ***Controversial Election Bill Approved by Both Chambers***

Both chambers have approved an omnibus election bill that allows for new voters to register online. However, House Bill 2418 (Sen. Don Harmon / Leader Barbara Flynn Currie) faced significant opposition due to a provision that removes the Lake County Clerk from administering elections in Lake County and creates an appointed board to assume that responsibility.

There are several items of interest to municipalities and townships in the over 200 page amendment that was approved Thursday. Three of these are highlighted below:

- There are no changes to municipal and township electoral boards. If you recall, the Senate approved Senate Bill 1689 in April. SB 1689 eliminated municipal and township electoral boards and transferred their authority to hear challenges to the county electoral boards. That bill was shelved on Thursday.
- There is language streamlining the referendum questions for establishing and terminating home rule status. This language that originated with the IML.
- There is language on page 187 that changes the qualification to hold municipal office: “A person is not eligible to hold a municipal office, if that person is, at any time during the term of office, in arrears in the payment of a tax or other indebtedness due to the municipality or has been convicted in any court located in the United States of any infamous crime, bribery, perjury, or other felony.” The same restriction is also placed on taking the oath of office.

The NWMC Legislative Committee provided a quick review of the bill but due to time constraints were unable to fully debate the bill and recommend a Conference position prior to the bill moving for floor votes (things move very quickly during the final days of session). The Legislative Committee review did reveal that it is unclear if an elected official could be removed from office for being a single day late on a water bill or parking ticket. They also expressed concern that this could unleash a flood of FOIA requests for payment information on the date that mundane bills, such as water bills, are due to the municipality. We will be seeking additional clarification on this provision once the dust settles.

### ***Bill Restricting Home Rule Authority Over Concealed Carry***

A new version of the concealed carry legislation emerged on Friday and was just approved with 46 votes in the Senate. Because of a home rule preemption in the bill, a three-fifths majority was needed.

House Bill 183 - Senate amendment 5 (Sen. Gary Forby) would pre-empt home rule authority to regulate concealed carry but would not invalidate other firearms restrictions such as an assault weapons ban. From the amendment: “The regulation, licensing, possession, registration, and transportation of concealed handguns and

ammunition for concealed handguns by licensees are exclusive powers and functions of the State. Any ordinance or regulation, or portion thereof, enacted on or before the effective date of this Act that purports to impose regulations or restrictions on licensees or concealed handguns and ammunition for concealed handguns in a manner inconsistent with this Act shall be invalid in its application to licensees under this Act on the effective date of this Act. This Section is a denial and limitation of home rule powers”.

Concealed carry applications will be reviewed by a newly created Concealed Carry Licensing Review Board. Local law enforcement would be able to “submit an objection to a license applicant based upon a reasonable suspicion that the applicant is a danger to himself or herself or others, or a threat to public safety.”

HB 183 does provide for a list of locations where concealed carry is not permitted, including: buildings under the control of a unit of local government; elementary or secondary schools; pre-school or child care facilities; government facilities; courthouses; libraries; airports; gaming facilities; stadiums, arenas or sporting events; amusement parks; museums and zoos; public transportation; hospitals, mental health facilities or nursing homes; property under the control of an establishment that serves alcohol on its premises, if more than 50% of the establishment's gross receipts come from the sale of alcohol; any public gathering or special event conducted on property open to the public that requires the issuance of a permit from the unit of local government (with exception for a licensee who must walk through a public gathering in order to access his or her residence, place of business, or vehicle); any building or real property that has been issued a Special Event liquor license during the time designated for the sale of alcohol by the special event liquor license; public playgrounds; any public park, athletic area, or athletic facility under the control of a municipality or park district; colleges and universities; and, any area where firearms are prohibited under federal law. The bill does allow a person with a concealed carry permit to lock their firearm in their vehicle in order to avoid violating these restricted locations.

## *Quick Updates on Pending Matters*

The House and Senate continue to have competing pension bills (SB 1 vs. SB 2404). No resolution is in sight.

A rewrite of the Telecommunications Article of the Public Utilities Act, Senate Bill 1664 (Sen. Don Harmon / Rep. Kelly Burke) was unanimously approved in the House on Wednesday and is pending concurrence in the Senate.

An amended version of House Bill 3390 (Sen. John Mulroe / Rep. Elgie Sims) has been approved in the Senate and is pending concurrence in the House. The approved version removes amendments to the Workers' Compensation Act that were strongly opposed by business and government groups.

So far, no amendments have been introduced to House Bill 924 (Rep. Jay Hoffman / Sen. Kwame Raoul), which adds a responsible bidder requirement to the Prevailing Wage Act.

A vote on gay marriage, Senate Bill 10 (Sen. Heather Steans / Rep. Greg Harris) is expected in the House later this afternoon. If approved, it would go to Governor Quinn for his consideration.

**K T J**

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June 13, 2013

**VIA ELECTRONIC MAIL**

Shawn Hamilton  
Acting City Manager  
City of Park Ridge  
505 Butler Place  
Park Ridge, Illinois 60068

**Re: Concealed Carry Legislation and Impact on the City of Park Ridge**

Dear Shawn:

As you are aware, the Illinois General Assembly passed House Bill 183 ("HB 183") on May 31, 2013. HB 183 allows concealed carry of handguns in the State of Illinois. The bill has not been signed by the Governor, who has sixty (60) days to consider it. However, due to a ruling of the Seventh Circuit Court of Appeals ruling, as of July 9, 2013, there will be no prohibition on concealed carry in the State of Illinois, unless the State has adopted new legislation. Therefore, we expect the Governor to take action on HB 183 on or around July 9. **As proposed, the City would have only ten (10) days after the Governor signs the bill to enact an assault weapons ban, or else it would be preempted from doing so in the future.** In light of this reality, and other provisions of HB 183, there are some areas where the City may want to enact, or amend, ordinances regarding the possession and use of firearms. We are providing you with this information so that the City Council is aware of the deadline in the event that it desires to take any action.

HB 183, if signed by the Governor, affects and preempts the City's regulations of firearms in certain areas: (1) the new Firearm Concealed Carry Act preempts *any* City regulation of the concealed carry of *handguns*; and (2) the Illinois Firearm Owners Act (430 ILCS 65/0.01, *et seq.*) has been amended to specifically allow City ordinances that restrict "assault weapons." This correspondence assumes that HB 183 is adopted as it currently stands, and that the Governor does not veto, or use an amendatory veto, on the bill.

**THE CITY MAY NOT REGULATE HANDGUNS.**

The new Firearm Concealed Carry Act applies only to handguns and allows for handguns to be carried while concealed. No unit of local government, including the City, may enact any ordinance related to the "regulation, licensing, possession, registration and transportation of concealed handguns" or related ammunition.

This preemption applies to any ordinances seeking to further restrict the locations of concealed carries, which prohibited locations include: schools, daycare centers, government buildings, jails, hospitals, nursing homes, buses, trains, public parks and playgrounds, forest preserves, airports, amusement parks, museums, zoos, or any private property posting a sign.

HB 183 thus would allow concealed carry in establishments such as: restaurants, bowling alleys and movie theaters. The City cannot further restrict the manner in which handguns are regulated, licensed, possessed, registered, or transported due to the specific preemption in the bill.

**THE CITY MAY REGULATE AND BAN ASSAULT WEAPONS, IF THE ORDINANCES ARE PASSED WITHIN TEN (10) DAYS OF WHEN GOVERNOR QUINN SIGNS HB 183.**

The amendment to the Illinois Firearm Owners Identification Card Act (430 ILCS 65/0.01, *et seq.*, the "FOID Act") specifically states that local "assault weapon" restrictions, including an ordinance passed by the City, are preempted *unless* those ordinances are in effect within ten (10) days of the effective date of HB 183 becoming law. An assault weapons ordinance, so long as it is in the City's ordinance books within the ten (10) day period, may be amended from time to time.

All *other types* of guns may still be regulated by local ordinance without restriction, pursuant to the current provisions of 430 ILCS 65/13.1. For instance, the City may properly ban *all weapons* except for handguns in movie theaters, including assault weapons, so long as that ordinance is enacted within the ten (10) day window. Or, the City may, at any time, ban all weapons in movie theaters except for handguns and assault weapons.

**Under the timeline set forth above, assuming HB 183 is adopted in its current form, the City has until ten (10) days after Governor Quinn signs the bill (presumably on July 9, 2013), or until July 19, 2013, in which to enact any "assault weapon" ban ordinance. Put another way, if the City will ever want an assault ban ordinance, it has until July 19, 2013 to enact one, under the language in HB 183.**

**CERTAIN CITY ORDINANCES ON FIREARMS WILL BE PREEMPTED.**

The City currently regulates firearms as follows:

1. Allows for the prohibition on the sale, distribution, dispensation or giving away of firearms or ammunition if ordered by the Mayor during a civil emergency. Section 3-1-8(D)(4).
2. Makes it unlawful to carry any concealed weapon without first having a license to do so. Section 14-3-4.
3. Prohibits the storage of firearms if accessible to persons under the age of 18 unless secured by a trigger lock or placed within a locked container. Section 14-3-6.
4. Prohibits the use and discharge of firearms, except for justifiable use of force pursuant to state law. Section 14-3-9.
5. Prohibits the sale, possession, discharge or transportation of air rifles. Section 14-15-14.

Per our initial review of HB 183, some of these regulations may be preempted to an extent if the bill becomes law. As such, it may be appropriate to conduct a review of the City Code and determine what changes to them, if any, the City Council desires.

Please contact us with any questions. We are available to assist with drafting any changes to the City Code regarding the matters set forth herein.

Sincerely,

KLEIN, THORPE and JENKINS, Ltd.



Kathleen T. Henn

KTH/an

## PAT QUINN

For Immediate Release  
Tuesday, July 2, 2013

### Contact

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Grant Klinzman [Grant.Klinzman@illinois.gov](mailto:Grant.Klinzman@illinois.gov)

# Governor Quinn Takes Amendatory Veto Action on Concealed Carry Legislation

## *Governor Uses Constitutional Authority to Address Serious Public Safety Issues*

CHICAGO – Governor Pat Quinn today took amendatory veto action on House Bill 183 – legislation that will allow and regulate the carrying of concealed handguns in public places. The governor’s amendatory veto makes critical changes to several provisions that pose significant safety risks, and strengthens the legislation to better protect the people of Illinois. Today’s action is part of the governor’s agenda to improve public safety in Illinois.

“My foremost duty as Governor is to keep the people of Illinois safe,” Governor Quinn said. “This is a flawed bill with serious safety problems that must be addressed. There are too many provisions in this bill that are inspired by the National Rifle Association, not the common good. Public safety should never be compromised or negotiated away, and I urge members to uphold the common sense changes I propose today.”

On December 11, 2012, three days before the horrific tragedy at Sandy Hook, the United States Court of Appeals for the Seventh Circuit, (Case Nos. 12-1269 and 12-1788), struck down Illinois’ current ban on the concealed carry of guns in public, an unprecedented ruling.

“Let me be clear, I do not agree with this ruling,” Governor Quinn added. “However, I am duty-bound to address the mandates of the Court of Appeals, unless the United States Supreme Court rules otherwise.”

The governor’s changes to House Bill 183 include important revisions to establish a law that better protects the safety of Illinois citizens:

- **Alcohol:** HB 183 allows people to carry guns into establishments serving alcohol, including most family restaurants and other places where large amounts of alcohol are consumed. Mixing alcohol with guns is irresponsible and dangerous. Illinois must keep guns out of any establishment where alcohol is consumed.

- **Home-Rule:** HB183 strips the authority of home-rule governments to enact future laws on assault weapons to protect their local communities. This NRA-inspired provision is not in the interest of public safety or local communities. In fact, these provisions have nothing to do with the right to carry a concealed gun and have no place in this bill. Local governments should always have the right to strengthen their own ordinances to protect the public safety of their communities.



- **Signage:** Under the bill, loaded guns would be allowed in stores, restaurants, churches, children's entertainment venues, movie theaters and other private properties, unless the owner visibly displays a sign prohibiting guns. As a matter of property rights, the legal presumption should always be that a person is not allowed to carry a concealed, loaded gun onto private property unless given express permission.

- **Employer's Rights:** As currently drafted, this bill infringes on an employer's ability to enact policies that ensure a safe and secure work environment. According to the U.S. Bureau of Labor Statistics, shootings are the most frequent cause of workplace fatalities. To best ensure a safe work environment, employers should have the right to enact policies that prohibit employees from carrying guns in the workplace and in the course of performing employment-related duties.

- **Number of Guns and Ammunition:** The bill provides no cap on the number of guns, or on the size or number of ammunition clips that may be carried. Instead, it allows individuals to legally carry multiple guns with unlimited rounds of ammunition, which is a public safety hazard. In the interest of common sense and the common good, it should be clarified so that a license will permit an individual to carry one concealed gun and one ammunition clip that can hold no more than 10 rounds of ammunition.

- **Mental Health Reporting:** While HB 183 appropriately seeks to improve mental health reporting, as Governor Quinn called for during his State of the State address in February, the positive impact of these measures is limited by the lack of clarity in the notification process. Clarification is necessary to ensure these enhancements to mental health reporting prevent guns from falling into the wrong hands.

- **Clarification of "Concealed":** As written, the definition for "concealed firearm" includes the phrase "mostly concealed," which would allow a licensee to walk around in public with a portion of his or her gun exposed. This is an irresponsible step towards open carry in Illinois. This insufficient provision must be clarified to ensure that when guns are carried, they are completely concealed from public view.

- **Open Meetings Act:** Under the current bill, the meetings and records of the Concealed Carry Licensing Review Board are entirely exempt from the Open Meetings and Freedom of Information Acts, providing zero transparency of the meetings, budget, personnel and other aspects of this government board. Similar to the Prisoner Review Board and the Emergency Medical Services Disciplinary Review Board, the meetings and records of this board – unless otherwise exempt – should be announced, open, and available to the public.

- **Law Enforcement:** As written, the bill does not require an individual to immediately disclose to a public safety officer that he or she is in possession of a concealed firearm. In order to protect the safety of our public safety officers in the line of duty, an individual's response to questions from law enforcement about whether they are carrying a gun should always be immediate.

Governor Quinn today also urged the people of Illinois to contact their local legislators and ask them to put public safety first and accept the governor's important changes to this legislation. Additionally, Governor Quinn launched a website where people can access information about the concealed carry legislation and his amendatory veto. To find out more, please visit [www.KeepIllinoisSafe.org](http://www.KeepIllinoisSafe.org).

The state has been given a court-ordered deadline of July 9 to legalize carry weapons.

###

<HB 183 Amendatory Veto Message.pdf>



**FILED**

**JUL 02 2013 -10 :50 A.M.**

SECRETARY OF STATE INDEX DEPT.

**OFFICE OF THE GOVERNOR**

207 STATE HOUSE  
SPRINGFIELD, ILLINOIS 62706

**PAT QUINN**  
GOVERNOR

July 2, 2013

To the Honorable Members of the  
Illinois House of Representatives,  
98th General Assembly:

As Governor, it is my foremost duty to keep the people of Illinois safe. In the first half of this year, there were 843 shootings and 184 murders in the City of Chicago alone. There's no doubt that gun violence is a plague in many Illinois communities. That's why any changes to our state's gun policy must protect the people and minimize the risk of gun violence on our streets.

On December 11, 2012, three days before the Sandy Hook school tragedy, the United States Court of Appeals for the Seventh Circuit, (Case Nos. 12-1269 and 12-1788), without precedent regarding the regulation of guns outside the home, struck down Illinois' current ban on the concealed carry of guns in public.

Let me be clear, I do not agree with this ruling. However, I am duty-bound to address the mandates of the Court of Appeals, unless the United States Supreme Court rules otherwise.

To fill the legal void left by the Seventh Circuit's opinion, House Bill 183 creates the Firearm Concealed Carry Act to allow and regulate the carrying of concealed handguns in public places.

I have carefully reviewed every part of this legislation. This is a flawed bill with serious safety problems that must be addressed.

Therefore, I am compelled to use my constitutional authority to rectify several specific issues, to establish a better law to protect the people of Illinois.

**Alcohol**

As drafted, this bill allows people to carry guns into establishments serving alcohol, including most family restaurants and other places where large amounts of alcohol are consumed.

Mixing alcohol with guns is irresponsible and dangerous. Regardless of the percentage of sales attributed to alcohol, any establishment where alcohol can be consumed is an establishment where alcohol can impair judgment and do harm. Just as we have strong laws to prevent the danger of drinking and driving, we must have laws that prevent the danger of drinking and carrying a loaded gun. Illinois must keep guns out of any establishment where alcohol is consumed.

### **Home Rule**

This bill strips the authority of Illinois home rule governments to enact future laws on assault weapons to protect their local communities. Due to the General Assembly's inability to enact a statewide ban on these dangerous weapons, this burden now rests on the shoulders of local governments, which should always have the right to strengthen their own ordinances depending on their public safety needs.

Restricting local communities' ability to regulate assault weapons is in no way related to the concealed carry of handguns, is not necessary to address the Seventh Circuit's opinion, and has no place in this bill. This NRA-inspired provision is not in the best interest of public safety or local communities. It should be removed.

### **Signage**

Under this bill, loaded guns would be allowed in stores, restaurants, churches, children's entertainment venues, movie theaters and other private properties, unless the owner visibly displays a sign prohibiting guns. As written, this provision would lead to the unfair and unduly burdensome presumption that—without private property owners' specific actions to the contrary—guns are welcome.

As a matter of property rights, the legal presumption should always be that a person is not allowed to carry a concealed, loaded gun onto private property unless given express permission.

### **Employer's Rights**

As currently drafted, this bill infringes on an employer's ability to enact policies that ensure a safe and secure work environment. According to the U.S. Bureau of Labor Statistics, shootings are the most frequent cause of workplace fatalities. Taking away the rights of employers is wrong and in this case, jeopardizes the safety of their employees.

Employers must have the right to enact policies that prohibit employees from carrying guns in the workplace and in the course of any employment-related duties.

### **Limiting Number of Guns and Ammunition**

The bill provides no cap on the number of guns or on the size or number of ammunition clips that may be carried. Instead, it allows individuals to legally carry multiple guns with unlimited rounds of ammunition, which is a public safety hazard.

Recent shootings, such as the horrific tragedy in Newtown, CT where a gunman fired 154 bullets in less than five minutes, have put a spotlight on the extreme and unnecessary danger posed by high-capacity ammunition magazines.

If Illinois is going to legalize the carrying of loaded, concealed guns, our state should do so with common sense and a commitment to preventing mass violence.

The legislation should clarify that a license will permit an individual to carry one concealed gun and one ammunition clip that can hold no more than 10 rounds of ammunition.

### **Clarifying Mental Health Reporting**

While this bill appropriately seeks to improve mental health reporting, the positive impact of these measures is limited by the lack of clarity in the notification process.

As I said during my State of the State address in February, mental health reporting is critical to ensure that guns don't fall into the hands of individuals who pose a threat to themselves or others. As the authority primarily responsible for licensing decisions, the Illinois State Police must have access to information regarding individuals who pose a "clear and present danger." Clarification to the notification process is necessary to ensure these enhancements to mental health reporting prevent guns from falling into the wrong hands.

### **Clarifying "Concealed"**

The definition provided for "concealed firearm" is insufficient and must be clarified to ensure that when guns are carried, they are completely concealed from public view.

As written, the definition includes the phrase "mostly concealed," which would allow a licensee to walk around in public with a portion of his or her gun exposed.

Make no mistake—this is a step towards open carry in Illinois. This vague definition can lead to fear and confusion among the public, varying interpretations and enforcement, and the potential for subsequent litigation.

If Illinois is going to legalize the carrying of loaded, concealed guns, the legislation must be clarified to ensure when guns are carried, they are completely concealed.

### **Open Meetings Act**

Under the current bill, the meetings and records of the Concealed Carry Licensing Review Board are entirely exempt from the Open Meetings and Freedom of Information Acts, providing zero transparency of the meetings, budget, personnel, and other aspects of this government board.

A more transparent approach would best serve the public. Due to the Board's consideration of protected medical and arrest records of applicants, it is understandable for the deliberations of the Board to take place in closed, executive session. However, similar to the Prisoner Review Board and the Emergency Medical Services Disciplinary Review Board, the meetings and records of the board – unless otherwise exempt – should be announced, open, and available to the public.

### **Informing Law Enforcement of Carrying**

We must always ensure our public safety officers are protected as they protect the public in their line of duty. The law in this area must be very clear: an individual's response to questions from law enforcement when it comes to carrying guns must be immediate.

### **Conclusion: Public Safety First**

In closing, there are too many provisions in this bill inspired by the National Rifle Association, not the common good. Public safety should never be compromised nor negotiated away.

With these common sense changes, House Bill 183 will have my approval. I respectfully request your concurrence.

Pursuant to the authority vested in the Governor by Article IV, Section 9(e) of the Illinois Constitution of 1970, and re-affirmed by the People of the State of Illinois by popular referendum in 1974, and conforming to the standard articulated by the Illinois Supreme Court in *People ex rel. Klinger v. Howlett*, 50 Ill.2d 242 (1972), *Continental Illinois National Bank and Trust Co. v. Zagel*, 78 Ill.2d 387 (1979), *People ex rel. City of Canton v. Crouch*, 79 Ill.2d 356 (1980), and *County of Kane v. Carlson*, 116 Ill.2d 186 (1987), declaring that gubernatorial action be consistent with the fundamental purposes and the intent of the bill, I hereby return House Bill 183, entitled "AN ACT concerning regulation," with my specific recommendations for change.

On page 1, by inserting immediately below line 6 the following:

““Ammunition feeding device” means a detachable magazine, clip, belt, drum, feed strip, or similar device.”; and

on page 1, by replacing lines 10 through 13 with the following:

““Concealed firearm” means a loaded or unloaded handgun carried on or about a person completely covered or not visible from the view of the public, or carried in a vehicle concealed, covered, or not visible from the view of the public.”; and

on page 3, by replacing lines 13 through 18 with the following: “permit the licensee to carry one loaded or unloaded concealed firearm and, whether attached to or detached from the firearm, one ammunition feeding device for that firearm with a capacity of 10 rounds of ammunition or less on or about his or her person. The licensee may not carry an ammunition feeding device with a capacity of more than 10 rounds of ammunition or that can be readily restored or converted to accept more than 10 rounds of ammunition.”; and

on page 5, line 1, by inserting “immediately” after “shall”; and

on page 10, by deleting lines 19 through 21; and

on page 10, line 22, by replacing “(i)” with “(h)”; and

on page 22, by replacing lines 16 through 26 with the following:

“(9) Any building, real property, and parking area under the control of an establishment where alcohol may be consumed, other than a private residence or a club as defined in Section 1-3.24 of the Liquor Control Act of 1934.”; and

on page 25, by replacing lines 23 through 26 with the following:

“(a-10) A person shall not carry a concealed firearm onto the private real property of another without prior permission from the property owner. A property owner shall indicate permission to carry concealed firearms by posting a sign at the entrance of a building, premises, or real property, except this posting is not required if the property is a private residence. Signs stating that the carrying of firearms is allowed shall be clearly and conspicuously posted at the entrance of a building, premises, or real property. Signs shall be of a uniform design as established by the Department and shall be at least 4 inches by 6 inches in size. The Department shall adopt rules for standardized signs to be used under this subsection.”; and

on page 26, by replacing lines 1 and 2 with the following:

“(a-15) An employer, or his or her designee, may prohibit an employee from carrying a concealed firearm during any part of the employee's employment. An employer, or his or her designee, may prohibit an employee from bringing a firearm onto the employer's property.”; and

on page 26, by replacing lines 12 through 17 with “vehicle in the parking area. The firearm must remain within the vehicle at all times while within the parking area. For purposes of this”; and

on page 27, by deleting lines 4 through 11; and

on page 45, by replacing lines 18 through 20 with the following:

“(30) Deliberations regarding applicants under the Firearm Concealed Carry Act by the Concealed Carry Licensing Review Board.”; and

on page 58, by replacing lines 16 through 18 with the following:

“(c-5) Any owner of an establishment where alcohol may be consumed, other than a private residence or club as defined in Section 1-3.24 of the Liquor Control Act of 1934.”; and

on page 106, by replacing lines 12 through 22 with the following:

“(d) If a person is determined to pose a clear and present danger to himself, herself, or to others:

(1) by a physician, clinical psychologist, or qualified examiner, or is determined to be developmentally disabled by a physician, clinical psychologist, or qualified examiner, whether employed by the State or privately, then the physician, clinical psychologist, or qualified examiner shall, within 24 hours of making the determination, notify the Department of Human Services that the person poses a clear and present danger or is developmentally disabled; or

(2) by a law enforcement official or school administrator, then the law enforcement official or school administrator shall, within 24 hours of making the determination, notify the Department of State Police that the person poses a clear and present danger.

The Department of Human Services shall”; and

on page 122, line 23, by replacing “subsections (b) and (c)” with “subsection (b)”; and

on page 123, by deleting lines 21 through 26; and

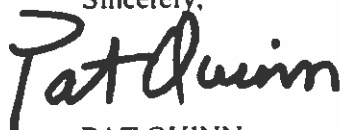
on page 124, by deleting lines 1 through 15; and

on page 124, line 16, by replacing “(d)” with “(c)”; and

on page 124, line 19, by replacing “(e)” with “(d)”.

With these changes, House Bill 183 will have my approval. I respectfully request your concurrence.

Sincerely,

A handwritten signature in black ink that reads "Pat Quinn". The signature is written in a cursive, flowing style.

PAT QUINN



## Ald. Jim Smith's Extended Remarks on Gun Control

I'd like to thank the city for letting me speak here. I'm going to tell you a little about myself and then get into the 3 big issues on the topic of an Assault Weapons Ban (AWB), which are why this is an issue at this particular time, what the "assault weapons" issue really means, and what its implications are.

I'm a retired computer consultant who has lived in the Park Ridge/Des Plaines area for a total of 46 years. I have owned 2 residences in Park Ridge. Since I'm retired, I have time to devote to the job of alderman to which I was elected in 2011. I have always been deeply concerned with civil liberties. That is the issue I see here today.

Where did the issue of local "assault weapon" bans come from? It was a little-noticed provision in a bill passed on the last day of the legislative session. The politician who has been pushing this is Sheila Simon. She is the Lieutenant Governor. "Light Governor" is a do-nothing, dead-end office (unless the Governor has health or legal problems). She has announced that she will not seek re-election. Political pundits are predicting that Simon will run for Attorney General if Lisa Madigan runs for Governor. Stirring up this issue now is designed to give Simon an issue to run on and a mailing list of like-minded supporters. Those who think this is a real issue are Simon's stooges.

The AWB proposal is basically to add more regulation to an industry that is already the most heavily regulated in the US. This burden of regulation goes way beyond any sensible level and must be considered harassment and discrimination against gun owners. Gun owners are a persecuted minority. This is the last remaining civil rights issue after a century of progress in this area. The great recent achievement in this area is the legal recognition that "to keep and bear arms" is a fundamental right guaranteed by the Constitution. Now all of the assumptions about the boundaries of gun control are up for debate. The jurisprudence on Second Amendment rights is very under developed. This means that there is a strong chance of litigation which can be very costly for the city.

The overall thrust of this type of legislation is to criminalize innocuous events. Notice that the crimes are defined as "possession" not misuse. This is something easy to get a conviction on; it requires no proof of criminal intent. Arguably, such an approach is appropriate for something like narcotics, which has no legitimate use. This is not so for fundamental rights guaranteed by the Constitution. Suppose you have a box in your attic containing your grandfather's WW2 uniform and a 20-round magazine from the M1 carbine that he used. There are no cartridges for the magazine and no gun to put it in, yet the resident is just as guilty of this offense as though she used it in a bank robbery.

The US had a nationwide AWB from 1994 to 2004. The Department of Justice made 2 studies of its effectiveness and concluded that it had no significant effect on crime rates. Lack of results is one of the reasons why the AWB was not renewed.

The important thing to understand here is that this topic is a partisan election maneuver by a downstate Democrat, a civil liberties issue that the proponents are on the wrong side of, and the revival of a failed idea. Thank you again for listening to me.



June 19, 2013

Honorable David Schmidt  
City of Park Ridge  
505 Butler Place  
Park Ridge, IL 60068

Dear Mayor Schmidt:

For close to 40 years, the Illinois Council against Handgun Violence (ICHV) has been a voice for reducing gun violence in Illinois and across the country. We wanted to inform you of some new developments in Springfield that will directly impact home rule communities and their ability to regulate firearm safety.

Recently, the General Assembly passed House Bill 183, which will allow the carrying of concealed loaded weapons in public places throughout the state of Illinois. As part of that legislation, the regulation, licensing, possession and registration of handguns and ammunition for a handgun, as well as the transportation of any firearm and ammunition by a holder of a valid FOID card become the exclusive powers and functions of the state.

Additionally, the legislation allows home rule communities 10 days from the effective day of the act to enact a local law banning assault weapons, after which time the regulation will become exclusive powers of the State. Military style assault weapons do not belong in our communities; they are instruments of destruction and have been used in numerous mass shootings and attacks on law enforcement throughout this country. We wanted to share with you model language prepared by the Law Center to Prevent Gun Violence, should you want to enact something before the legislative deadline. The Law Center is a non-partisan organization that works with legislators and advocates to draft laws that will help reduce gun violence.

While it is unclear whether the Governor will sign the bill or not, the court has ruled that something needs to be in place by July 9, 2013, so we encourage you to review the model language and move forward quickly if it is something you are interested in doing to keep your community safe from these deadly weapons.

I hope you consider enacting such an important ordinance. If you have any questions or I can be of any assistance, please do not hesitate to contact me. Thank you.

Sincerely,

Colleen Daley  
Executive Director

Attachment

223 West Jackson Boulevard  
Suite 802

Chicago, Illinois 60606

312.341.0939

312.341.9770 (fax)

[www.ichv.org](http://www.ichv.org)

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Colleen Daley, *Executive Director*



**Part III**

**Text of Model Law**

**ACT BANNING ASSAULT WEAPONS AND LARGE CAPACITY AMMUNITION MAGAZINES**

**Findings**

[Findings in support of a law are most effective when they are specific and localized. When possible, incorporating state and/or local data from law enforcement, the public health community, and the media is advised. General findings are included below.]

*Whereas*, assault weapons are semi-automatic firearms designed with military features to allow rapid spray firing for the quick and efficient killing of humans.

*Whereas*, large capacity ammunition magazines (generally defined as magazines capable of holding more than 10 rounds) are feeding devices that and may hold as many as 100 rounds of ammunition.

*Whereas*, assault weapons and/or large capacity ammunition magazines have been the tools of choice in many mass shootings of innocent civilians, including those described below:

- Newtown, Connecticut, December 14, 2012: Adam Lanza killed 26 and wounded 2 at Sandy Hook Elementary School. Twenty of the dead were young children. Lanza was armed with a Bushmaster AR-15 assault rifle, two regular handguns, multiple 33-round magazines, and hundreds of rounds of ammunition;
- Oak Creek, Wisconsin, August 5, 2012: Wade Michael Page killed 6 and wounded 4 armed with a regular handgun and 19-round ammunition magazines;
- Aurora, Colorado, July 20, 2012: James Holmes killed 12 and wounded 58 armed with a Smith & Wesson M&P15 assault rifle and 100-round ammunition magazines;
- Tucson, Arizona, January 8, 2011: Jared Loughner killed 6 and wounded 13 armed with a regular handgun and 33-round ammunition magazines;
- Carson City, Nevada, September 6, 2011: Eduardo Sencion killed 4 and wounded 7 armed with a Norinco Mak 90, that had been altered from a semi-automatic assault weapon to a fully-automatic machine gun;
- Blacksburg, Virginia, April, 2007: Seung-Hui Cho killed 32 and wounded 17 at Virginia Tech armed with a regular handgun and 15-round ammunition magazines;
- Washington D.C. area, October 2002: John Allen Muhammad and Lee Boyd Malvo killed 10 and wounded 3 during a 3-week rampage armed with a Bushmaster XM-15 E2S assault rifle;
- Columbine, Colorado, April 20, 1999: Eric Harris and Dylan Klebold killed 12 and wounded 21 at Columbine High School. Klebold was armed with a TEC-9 assault pistol and several large capacity ammunition magazines;
- San Francisco, California, July 1, 1993: Gian Luigi Ferri killed 9 and wounded 6 armed with TEC-9 assault pistols and 40- and 50-round ammunition magazines.

*Whereas*, assault weapon shootings are responsible for a significant percentage of the deaths of law enforcement officers killed in the line of duty.<sup>1</sup> Anecdotal evidence from law enforcement leaders suggests that military-style assault weapons are increasingly being used against law enforcement by drug dealers and gang members.<sup>2</sup> In response, law enforcement agencies are upgrading their arsenals to include more assault weapons.<sup>3</sup>

*Whereas*, the International Association of Chiefs of Police recommends enactment of effective bans on military-style assault weapons in order to curb the ability of criminals to “outgun” law enforcement officers.<sup>4</sup>

*Whereas*, in 1994, a federal ban on the manufacture, transfer, and possession of semi-automatic assault weapons and the transfer and possession of large capacity ammunition magazines was enacted.<sup>5</sup> The law included a ten-year sunset provision. In 2004, Congress allowed the law to expire. Seven states and the District of Columbia currently ban assault weapons and (with the exception of Connecticut) large capacity ammunition magazines at the state level.<sup>6</sup> The District of Columbia ban does not grandfather pre-ban weapons and the laws in Hawaii and New Jersey do not grandfather pre-ban large capacity ammunition magazines.<sup>7</sup> Two additional states regulate, but do not ban, assault weapons.<sup>8</sup>

*Whereas*, studies show that the federal assault weapon ban resulted in a marked decrease in the use of assault weapons and large capacity ammunition magazines in crime. One study found that in several major cities, the share of recovered crime guns that were assault weapons declined by at least 32% after the federal ban was adopted.<sup>9</sup> Another study analyzed data kept by the Virginia State Police and found a clear decline in the percentage of crime guns that were equipped with large capacity ammunition magazines after the federal ban was enacted. The percentage reached a low of 10% in 2004 and then steadily climbed after Congress allowed the ban to expire; by 2010, the percentage was close to 22%.<sup>10</sup>

<sup>1</sup> Violence Policy Center, *Officer Down—Assault Weapons and the War on Law Enforcement*, May 2003.

<sup>2</sup> International Association of Chiefs of Police (IACP), *Taking a Stand: Reducing Gun Violence in Our Communities* 26-7 (Sept. 2007).

<sup>3</sup> See, e.g., Susan Candiotti, *Cops Find Themselves in Arms Race with Criminals*, Cable News Network, Nov. 6, 2007, available at <http://www.cnn.com/2007/US/11/05/cops.guns/index.html> (last visited Aug. 21, 2012); Kevin Johnson, *Police Needing Heavier Weapons*, USA Today, Feb. 20, 2007, at 1A.

<sup>4</sup> *Taking a Stand*, *supra* note 2.

<sup>5</sup> 18 U.S.C. § 922(v)(1). All references to sections of the Violent Crime Control and Law Enforcement Act of 1994, codified at 18 U.S.C. § 921 *et seq.*, are to the sections as they appeared on September 12, 2004.

<sup>6</sup> The states that ban assault weapons are: California (Cal. Penal Code §§ 16350, 16790, 16890, 30500-31115); Connecticut (Conn. Gen. Stat. §§ 53-202a – 53-202o); Hawaii (assault pistols only) (Haw. Rev. Stat. Ann. §§ 134-1, 134-4, 134-8); Maryland (assault pistols only) (Md. Code Ann., Crim. Law §§ 4-301 – 4-306); Massachusetts (Mass. Gen. Laws ch. 140, §§ 121, 122, 123, 131, 131M); New Jersey (N.J. Stat. Ann. §§ 2C:39-1w, 2C:39-5, 2C:58-5, 2C:58-12, 2C:58-13); and New York (N.Y. Penal Law §§ 265.00(22), 265.02(7), 265.10). The District of Columbia’s ban is codified at D.C. Code Ann. §§ 7-2501.01(3A), 7-2502.02(a)(6), 7-2505.01, 7-2505.02(a), (c).

<sup>7</sup> D.C. Code Ann. §§ 7-2501.01(3A), 7-2502.02(a)(6), 7-2505.01, 7-2505.02(a), (c); Haw. Rev. Stat. Ann. §§ 134-1, 134-4, 134-8; N.J. Stat. Ann. §§ 2C:39-1w, 2C:39-5, 2C:58-5, 2C:58-12, 2C:58-13.

<sup>8</sup> The states that regulate but do not ban assault weapons are Minnesota (Minn. Stat. §§ 624.712 – 624.7141) and Virginia (Va. Code Ann. §§ 18.2-287.4, 18.2-308.2:01, 18.2-308.2:2, 18.2-308.7, 18.2-308.8). In addition to its ban on assault pistols, Maryland also regulates the sale of other assault weapons. Md. Code Ann., Pub. Safety § 5-101(p).

<sup>9</sup> Christopher S. Koper, *An Updated Assessment of the Federal Assault Weapons Ban: Impacts on Gun Markets and Gun Violence, 1994-2003*, Report to the National Institute of Justice, U.S. Department of Justice (June 2004) 49.

<sup>10</sup> *About the Project: The Hidden Life of Guns*, Wash. Post, Jan. 22, 2011; David S. Fallis & James V. Grimaldi, *Virginia data show drop in criminal firepower during assault gun ban*, Wash. Post, Jan. 23, 2011.

*Whereas*, the expired federal assault weapon ban would have been even more effective had it not contained major loopholes that allowed manufacturers to easily evade the ban;

*Whereas*, assault weapons are inappropriate for civilian use due to their unique combinations of features. An assault weapon allows a shooter to fire a large number of rounds rapidly while maintaining control of the firearm. Specific features that allow an assault weapon to perform this way are:

- **Detachable magazine**: A firearm that can accept a detachable magazine allows a shooter to attach magazines of any size available for the firearm. In some cases, magazines can hold as many as 100 rounds. Even smaller detachable magazines greatly increase firepower since the firearm can be reloaded with pre-filled magazines in seconds;
- **Pistol grip**: To counteract the movement that occurs when a semi-automatic weapon is fired rapidly, assault weapons are typically equipped with features that allow the shooter to steady the weapon. A pistol grip, not typically found on a sporting rifle or shotgun (which would be fired from the shoulder), allows the shooter to control the firearm by shooting from the hip during rapid fire;
- **Thumbhole stock**: As with a pistol grip, a thumbhole stock allows the shooter to control the firearm by shooting from the hip during rapid fire;
- **Folding or telescoping stock**: A folding or telescoping stock folds or collapses to make the weapon easier to conceal and transport.
- **Barrel shroud**: As with a pistol grip and thumbhole stock, a barrel shroud allows the shooter to steady the firearm during rapid fire. The shroud encircles the barrel of the firearm and allows the shooter to hold it without getting burned.

*Whereas*, our nation's lax gun laws adversely impact other nations, especially Mexico. A joint report by scholars in Mexico and the United States found that semi-automatic assault rifles are the most sought after and widely used weapons by Mexican drug trafficking organizations.<sup>11</sup> According to the Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF"), over two-thirds of firearms seized by Mexican authorities and traced over fiscal years 2007-2011 originated in the U.S.<sup>12</sup> The actual percentage is likely much higher due to the large number of trace requests that lacked sufficient data to determine the source country of the firearm.<sup>13</sup>

*Whereas*, mass murderer Anders Behring Breivik, who gunned down 77 people at a summer camp in Norway in 2011, stated in his written manifesto that he purchased 30-round ammunition magazines via mail order from a dealer in the United States.<sup>14</sup>

<sup>11</sup> Colby Goodman & Michel Marizco, *U.S. Firearms Trafficking to Mexico: New Data and Insights Illuminate Key Trends and Challenges*, in SHARED RESPONSIBILITY: U.S.-MEXICO POLICY OPTIONS FOR CONFRONTING ORGANIZED CRIME 185 (Eric L. Olson, David A. Shirk & Andrew Selee eds., 2010).

<sup>12</sup> U.S. Department of Justice, Bureau of Alcohol, Tobacco and Firearms and Explosives, Office of Strategic Intelligence and Information, *International Firearms Trace Data, Mexico 2007-2011* (March 2012), available at: <http://www.atf.gov/statistics/download/trace-data/international/2007-2011-Mexico-trace-data.pdf>.

<sup>13</sup> *Id.*

<sup>14</sup> CBSNews.com, *Norway Massacre Spurs Calls for New U.S. Gun Laws* (Jul. 28, 2011), available at [http://www.cbsnews.com/8301-503544\\_162-20085056-503544.html](http://www.cbsnews.com/8301-503544_162-20085056-503544.html).

*Whereas*, laws banning assault weapons are consistent with the Supreme Court's interpretation of the Second Amendment. In the 2008 ruling in *District of Columbia v. Heller*, the United States Supreme Court stated for the first time that the Second Amendment protects a law-abiding citizen's right to possess an operable handgun in the home for self-defense.<sup>15</sup> The Court noted, however, that the right is limited. Among other limitations, the Court recognized that the Second Amendment would not preclude banning "dangerous and unusual weapons" such as M-16 rifles.<sup>16</sup>

*Whereas*, after the *Heller* decision, the District of Columbia adopted a set of strong new gun laws, including a measure prohibiting the possession of assault weapons and large capacity ammunition magazines. In 2011, the D.C. Circuit Court of Appeals upheld these laws against a Second Amendment challenge.<sup>17</sup>

*Whereas*, a majority of Americans support banning military-style firearms and large capacity ammunition magazines. A CNN poll conducted in December 2012, found that 62% of the public supports a ban on semi-automatic assault guns and high-capacity ammunition magazines.<sup>18</sup> A Field & Stream poll revealed that sixty-seven percent of its readers did not consider assault weapons to be legitimate sporting guns.<sup>19</sup>

*Whereas*, the wide availability of assault weapons is a serious risk to public health and safety;

*Therefore*, the State legislature/County or City governing body hereby adopts the following:

## 2. Definitions

(a) "Assault weapon" means any:

- (1) Semi-automatic rifle that has the capacity to accept a detachable magazine and has one or more of the following:
  - (i) A pistol grip or thumbhole stock;
  - (ii) Any feature capable of functioning as a protruding grip that can be held by the non-trigger hand;
  - (iii) A folding or telescoping stock;
  - (iv) A shroud attached to the barrel, or that partially or completely encircles the barrel, allowing the bearer to hold the firearm with the non-trigger hand without being burned, but excluding a slide that encloses the barrel;
- (2) Semi-automatic pistol, or any semi-automatic, centerfire or rimfire rifle with a fixed magazine, that has the capacity to accept more than 10 rounds of ammunition;
- (3) Semi-automatic pistol that has the capacity to accept a detachable magazine and has one or more of the following:

<sup>15</sup> *District of Columbia v. Heller*, 554 U.S. 570 (2008).

<sup>16</sup> *Id.* at 626-28.

<sup>17</sup> *Heller v. District of Columbia*, 670 F.3d 1244 (D.C. Cir. 2011). For other decisions and additional analysis, see the Opposition Arguments section of this document.

<sup>18</sup> CNN Poll: *Bare majority now support major gun restrictions* (Dec. 19, 2012)(citing a national poll conducted by ORC International from December 17-18, 2012), available at <http://politicalticker.blogs.cnn.com/2012/12/19/cnn-poll-bare-majority-now-support-major-gun-restrictions/>.

<sup>19</sup> Field & Stream, *The 2003 National Hunting Survey* (July 2003).

- (i) Any feature capable of functioning as a protruding grip that can be held by the non-trigger hand;
  - (ii) A folding, telescoping or thumbhole stock;
  - (iii) A shroud attached to the barrel, or that partially or completely encircles the barrel, allowing the bearer to hold the firearm with the non-trigger hand without being burned, but excluding a slide that encloses the barrel; or
  - (iv) The capacity to accept a detachable magazine at any location outside of the pistol grip;
- (4) Semi-automatic shotgun that has one or more of the following:
- (i) A pistol grip or thumbhole stock;
  - (ii) Any feature capable of functioning as a protruding grip that can be held by the non-trigger hand;
  - (iii) A folding or telescoping stock;
  - (iv) A fixed magazine capacity in excess of 5 rounds; or
  - (v) An ability to accept a detachable magazine;
- (5) Shotgun with a revolving cylinder;
- (6) Conversion kit, part, or combination of parts, from which an assault weapon can be assembled if those parts are in the possession or under the control of the same person.
- (b) "Assault weapon" does not include any firearm that has been made permanently inoperable.

[Note: Some jurisdictions exclude from the definition of "assault weapon" antique firearms (generally meaning firearms manufactured before 1899, although sometimes including replica firearms) and weapons designed for Olympic target shooting events. However, these exceptions are not required. Such categories of assault weapons also can be subject to registration rather than an outright ban.]

- (c) "Detachable Magazine" means an ammunition feeding device that can be loaded or unloaded while detached from a firearm and readily inserted into a firearm.
- (d) "Fixed Magazine" means an ammunition feeding device contained in, or permanently attached to, a firearm in such a manner that the device cannot be removed without disassembly of the firearm action.
- (e) "Large capacity magazine" means any ammunition feeding device with the capacity to accept more than 10 rounds, or any conversion kit, part, or combination of parts, from which such a device can be assembled if those parts are in the possession or under the control of the same person, but shall not be construed to include any of the following:
- (1) A feeding device that has been permanently altered so that it cannot accommodate more than 10 rounds.
  - (2) A 22 caliber tube ammunition feeding device.
  - (3) A tubular magazine that is contained in a lever-action firearm.



### 3. Prohibitions

(a) No person, corporation or other entity in the state/county/city may manufacture, import, possess, purchase, sell or transfer any assault weapon or large capacity magazine.

(b) Section (a) shall not apply to:

(1) Any government officer, agent, or employee, member of the armed forces of the United States, or peace officer, to the extent that such person is otherwise authorized to acquire or possess an assault weapon and/or large capacity magazine, and does so while acting within the scope of his or her duties; or

(2) The manufacture of an assault weapon or large capacity ammunition magazine by a firearms manufacturer for the purpose of sale to any branch of the armed forces of the United States, or to a law enforcement agency in this state/county/city for use by that agency or its employees, provided the manufacturer is properly licensed under federal, state and local laws.

(3) The sale or transfer of an assault weapon or large capacity ammunition magazine by a dealer that is properly licensed under federal, state and local laws to any branch of the armed forces of the United States, or to a law enforcement agency in this state/county/city for use by that agency or its employees for law enforcement purposes.

(4) An individual who lawfully possesses a large capacity ammunition magazine if he or she is the lawful owner of a firearm for which no magazine that holds 10 or less rounds of ammunition is compatible, if both the magazine and the firearm were obtained prior to the effective date of this law. Such a magazine may be possessed solely for use with the firearm and no individual may possess more than three large capacity ammunition magazines. Possession must be properly registered pursuant to subsection (e). [Note that subsection (e) is part of Option 2, below.]

#### **[Option 1 – Banning assault weapons and large capacity ammunition magazines already in circulation: Section (3)(c)]**

(c) Any person who, prior to the effective date of this law, was legally in possession of an assault weapon or large capacity ammunition magazine shall have 120 days from such effective date to do any of the following without being subject to prosecution:

- (1) Remove the assault weapon or large capacity ammunition magazine from the state/county/city;
- (2) Sell the assault weapon or large capacity ammunition magazine to a licensed firearms dealer;
- (3) Surrender the assault weapon or large capacity ammunition magazine to the appropriate law enforcement agency for destruction [subject to specific agency regulations]; or
- (4) Render the assault weapon permanently inoperable and dispose of the large capacity ammunition magazine pursuant to section (1), (2), or (3);

**[Option 2 – Registration of assault weapons and possession of large capacity ammunition magazines already in circulation: Section (3)(c) through (f)]**

(c) Any person who, prior to the effective date of this law, was legally in possession of an assault weapon or large capacity ammunition magazine shall have 120 days from such effective date to do any of the following without being subject to prosecution:

- (1) Remove the assault weapon or large capacity ammunition magazine from the state/county/city;
- (2) Sell the assault weapon or large capacity ammunition magazine to a licensed firearms dealer;
- (3) Surrender the assault weapon or large capacity ammunition magazine to the appropriate law enforcement agency for destruction [subject to specific agency regulations];
- (4) Render the assault weapon permanently inoperable and dispose of the large capacity ammunition magazine pursuant to section (1), (2), or (3); or
- (5) If eligible, register the assault weapon as provided in subsection (d) and/or if eligible, register possession of the large capacity ammunition magazine pursuant to subsection (e).

(d) Any person seeking to register an assault weapon that he or she legally possessed prior to the effective date of this law must comply with the following requirements:

- (1) Submit to a background check conducted by the appropriate law enforcement agency to confirm that he or she is not a prohibited purchaser under 18 U.S.C. § 922 [add the appropriate state and local citations];
- (2) Unless the person is currently prohibited by law from possessing a firearm, immediately register the assault weapon with the appropriate law enforcement agency;

(e) Any person seeking to register possession of a large capacity ammunition magazine must comply with the following requirements:

- (1) Submit to a background check conducted by the appropriate law enforcement agency to confirm that he or she is not a prohibited purchaser under 18 U.S.C. § 922 [add the appropriate state and local citations];
- (2) Unless the person is currently prohibited by law from possessing ammunition, immediately register his or her possession of no more than three large capacity ammunition magazines with the appropriate law enforcement agency and dispose of any remaining large capacity ammunition magazines in his or her possession pursuant to section (c)(1), (c)(2), or (c)(3);

(f) A registered owner of an assault weapon or large capacity ammunition magazine must comply with all of the following:

- (1) Safely and securely store the assault weapon and/or large capacity ammunition magazines pursuant to the regulations adopted by the appropriate law enforcement agency. Law enforcement is authorized to inspect the storage of assault weapons and large capacity ammunition magazines to ensure compliance with this subsection;
- (2) Annually renew the registration, subject to the completion of a new background check;

(3) Possess the assault weapon and/or large capacity ammunition magazines only on property owned or immediately controlled by the person, or while on the premises of a licensed firearms dealer or of a licensed gunsmith for the purpose of lawful repair, or while engaged in the legal use of the assault weapon and/or large capacity ammunition magazine at a duly licensed firing range, or while transporting the weapon or magazine in compliance with 18 U.S.C. § 926a; and

(4) Report the loss or theft of a registered assault weapon and/or large capacity ammunition magazine to the appropriate law enforcement agency within 48 hours of the time the discovery of the loss or theft was made or should have been made.

(g) Registered assault weapons or large capacity ammunition magazines may not be purchased, sold or transferred, except for transfer to a firearms dealer who is properly licensed under federal, state and local laws, transfer to a licensed gunsmith for the purpose of lawful repair, or transfer to the appropriate law enforcement agency for the purpose of surrendering the assault weapon or large capacity ammunition magazine for destruction.

(h) The registered owner of an assault weapon and/or large capacity ammunition magazine may not purchase additional assault weapons or large capacity ammunition magazines.

(i) Law enforcement may charge a fee for each registration and registration renewal pursuant to Section (c).

(j) Persons acquiring an assault weapon or large capacity ammunition magazine by inheritance, bequest, or succession shall, within 120 days of acquiring title, do one of the following:

(1) Surrender the assault weapon and/or large capacity ammunition magazine to the appropriate law enforcement agency for destruction [subject to specific agency regulations];

(2) Transfer the assault weapon and/or large capacity ammunition magazine to a firearms dealer who is properly licensed under federal, state and local laws; or

(3) Modify the assault weapon to render it permanently inoperable and dispose of the large capacity ammunition magazine pursuant to section (1) or (2).

#### **4. Penalties**

[Penalties vary significantly based on the standards of each state and local government. States almost always make assault weapon violations a felony. Maximum penalties range from three to 15 years in prison (but may be lower for first-time offenders), and a fine of several thousand dollars is sometimes an additional penalty, depending on the circumstances. Local penalties are usually limited to one year in jail and/or a \$1,000 fine, although these penalties may be lower in some cases/jurisdictions. In almost all cases, the weapons are subject to seizure and destruction.]

#### **5. Severability**

If any provision or term of this Chapter is for any reason declared unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or the effectiveness of the remaining portions of this Chapter or any part thereof. The state/county/city hereby declares that it would

have adopted this Chapter notwithstanding the unconstitutionality, invalidity or ineffectiveness of any one or more of its articles, sections, subsections, sentences or clauses.



# Ald. Jim Smith's Extended Remarks on Gun Control

I'd like to thank the city for letting me speak here. I'm going to tell you a little about myself and then get into the 3 big issues on the topic of an Assault Weapons Ban (AWB), which are why this is an issue at this particular time, what the "assault weapons" issue really means, and what its implications are.

I'm a retired computer consultant who has lived in the Park Ridge/Des Plaines area for a total of 46 years. I have owned 2 residences in Park Ridge. Since I'm retired, I have time to devote to the job of alderman to which I was elected in 2011. I have always been deeply concerned with civil liberties. That is the issue I see here today.

Where did the issue of local "assault weapon" bans come from? It was a little-noticed provision in a bill passed on the last day of the legislative session. The politician who has been pushing this is Sheila Simon. She is the Lieutenant Governor. "Light Governor" is a do-nothing, dead-end office (unless the Governor has health or legal problems). She has announced that she will not seek re-election. Political pundits are predicting that Simon will run for Attorney General if Lisa Madigan runs for Governor. Stirring up this issue now is designed to give Simon an issue to run on and a mailing list of like-minded supporters. Those who think this is a real issue are Simon's stooges.

The AWB proposal is basically to add more regulation to an industry that is already the most heavily regulated in the US. This burden of regulation goes way beyond any sensible level and must be considered harassment and discrimination against gun owners. Gun owners are a persecuted minority. This is the last remaining civil rights issue after a century of progress in this area. The great recent achievement in this area is the legal recognition that "to keep and bear arms" is a fundamental right guaranteed by the Constitution. Now all of the assumptions about the boundaries of gun control are up for debate. The jurisprudence on Second Amendment rights is very under developed. This means that there is a strong chance of litigation which can be very costly for the city.

The overall thrust of this type of legislation is to criminalize innocuous events. Notice that the crimes are defined as "possession" not misuse. This is something easy to get a conviction on; it requires no proof of criminal intent. Arguably, such an approach is appropriate for something like narcotics, which has no legitimate use. This is not so for fundamental rights guaranteed by the Constitution. Suppose you have a box in your attic containing your grandfather's WW2 uniform and a 20-round magazine from the M1 carbine that he used. There are no cartridges for the magazine and no gun to put it in, yet the resident is just as guilty of this offense as though she used it in a bank robbery.

The US had a nationwide AWB from 1994 to 2004. The Department of Justice made 2 studies of its effectiveness and concluded that it had no significant effect on crime rates. Lack of results is one of the reasons why the AWB was not renewed.

The important thing to understand here is that this topic is a partisan election maneuver by a downstate Democrat, a civil liberties issue that the proponents are on the wrong side of, and the revival of a failed idea. Thank you again for listening to me.