

My name is Chris Janik, I am a Software Engineer from Forest Grove. I have read many Federal Court rulings on civil rights, and I have thought this problem through rationally and logically, and I can come to no other conclusion than to in the strongest terms possible oppose SB 941.

Many words have been spoken, a lot has been said about the blackmarket and strawpurchases, sadly those words have largely fallen on intentionally deaf ears. Though for those who are willing to listen and learn, I've put together a graphical representation for all the possible permutations of buyers and sellers and how SB 941 would impact them.

| | | Buyer | |
|--------|-------------------------|--|--|
| | | Criminal-Buyer | Peaceful Citizen-Buyer |
| Seller | Criminal-Seller | Criminals don't care. Blackmarket | Usually approved but... Same undue burdens as voter id (ie. violates equal protection clause): |
| | Peaceful Citizen-Seller | Criminal doesn't care. Strawpurchaser | +extra fines & fees +delayed approval +wrongly denied approval |

We all agree that we would like to stop the two cases of the Criminal-Buyer, but the reality is that no background check law will ever interfere with the blackmarket or criminals using strawpurchasers.

Instead the people you are going to interfere with are the Peaceful Citizen-Buyers. There are very clear 14th amendment equal protection violations. There isn't a single issue in the Federal courts' striking down of voter ID laws that doesn't apply every bit as validly against firearm background checks. These undue burdens unfairly limit access and reduce the exercise of constitutionally protected rights.

Do not be fooled by those who claim that the Supreme Court has declared background checks on private sales as being constitutional, in *Heller v. DC*, the Supreme Court actually said something quite contrary to those claims, they said that the "commercial sale of arms" was constitutional. They did not say, private sale, or even just sale, but they explicitly called out commercial sales only.

Furthermore, the Supreme Court directly compared the second amendment to the first amendment, which means that there needs to be a level of scrutiny:

- 1.) a compelling government interest.
 - without any efficacy against criminals, and only burdens placed on the innocent, it's hard to claim there is any sort of government interest.
- 2.) it needs to be narrowly tailored.
 - this bill restricts actions that have nothing to do with the private sale of arms, namely borrowing for target shooting, hunting, gunsmithing, etc... all restrictions which have no place in a bill purporting to be about private sales.
- 3.) it needs to be the least restrictive means to achieve that objective.

- Senator Thatcher's proposed amendments are all the evidence that is needed that there are less restrictive means to achieve what ever supposed objective there is. Marking driver's license of prohibited people would be the ultimate in least restrictive, it would burden precisely the people who are supposedly the target of this bill.

It is unfortunate that the partisan politics that are pushing this bill don't care about constitutional rights, and that those above words will fall on deaf ears. Here are some immediately actionable changes to the bill which will not address all of the constitutional problems, but they at least represent other, less restrictive means...

1.) Cut the scope of what constitutes a transfer down to just sales instead of the list of restrictions masquerading as 'exceptions.'

Make Section 2.(1)(a) read as

""Transfer" means the delivery of a firearm from a transferor to a transferee, including, but not limited to, the sale or gift of the firearm. "Transfer" does not include the temporary provision of a firearm to a transferee if the transferor has no reason to believe the transferee is prohibited from possessing a firearm or intends to use the firearm in the commission of a crime."

and then deleting (A) through (F) from Section 2.(1)(a).

2.) Add a CHL exemption

In Section 2.(4) add

"(b) The transfer of a firearm to a person licensed to carry a concealed handgun under ORS 166.291 (issuance of concealed handgun license) and 166.292 (Procedure for issuing)."

3.) Remove the OSP fee. (this helps with, but doesn't fully alleviate, the undue burden)

Delete of subsection (4) under the amended Section 8.

Sincerely,
Chris Janik