

Unless the Attorney General has given an opinion this bill requires a referendum, it is out of order to send SB 719 to the Committee of the Whole from the Committee on the Rules. It should be subjected to the House Judiciary Committee for independent and full review to be revised and/or amended. This bill has many complex issues of due process at issue. This act is perfunctory and makes the House detailed consideration superfluous. If the Republicans had done this, you and the media would be clearly and rightfully disturbed.

**You can do more than vote no.
You can make a point of order and demand a formal legal opinion regarding State Liability from the AG on your sole authority**

under: *180.060 Powers and duties of Attorney General. (2) The Attorney General **shall give opinion** in writing, **when requested**, upon **any question of law** in which the State of Oregon or any public subdivision of the state may have an interest, submitted to the Attorney General by the Governor, any officer, agency, department, board or commission of the state or **any member of the legislature.***

The FISCAL IMPACT OF PROPOSED LEGISLATION Measure: SB 719 - A does not include the cost of reimbursing the loss of use of seized firearms. Under the Oregon Constitution, Article I, Section 18 Private property or services taken for public use **require *just compensation***. Under the US Constitution's Fifth

Amendment's the last 12 words are, "nor shall private property be taken for public use, without *just compensation*."

What would you estimate to be the daily "*just compensation*" for deprivation of firearms and the replacement security services to supplement the self-defense which is any citizen's inalienable self-evident right?

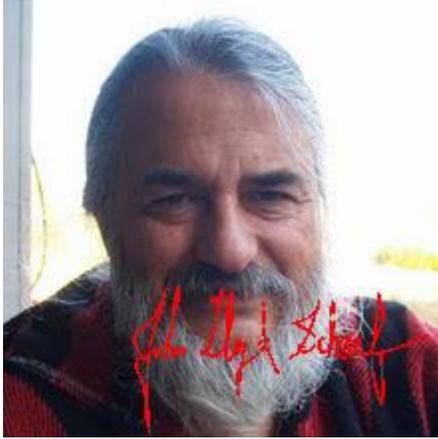
***As an example*, being a former correctional officer, I believe I have more than usual need for private self-defense. I have asked the advice of the Oregon Firearms Federation, what charge can be assessed for state use of my firearms and private security services could they would recommend for 24/7 coverage of my security. Some rentals at ranges are \$5 a day for pistols and \$10 a day for rifles. My time for setting up the release and resumption of ownership is \$60 an hour with a minimum of \$240 for four hours.**

<https://olis.leg.state.or.us/liz/2017R1/Downloads/MeasureAnalysisDocument/37560>

The cost of incarceration in a jail is historically higher than the cost of incarceration in a state prison - which is now \$94.55 per day. This bill makes no accounting or provision for paying counties for incarceration.

IF the victim of this law's over-reach complies, since the state has compelled storage and liability of the firearm. IF the person is convicted of this misdemeanor, it could mean the ATF will treat it as they do domestic violence, meaning permanent loss of the right to self-defense with a firearm. Is the State going to pay for storage fees and liability for these weapons for five years. Or, will they buy the weapon?

REPORT OF SENATE JUDICIARY: *SB 719-A makes it a Class A misdemeanor to knowingly possess a deadly weapon when the person is subject to an extreme risk protection order. A person who commits this offense is also prohibited from possessing a firearm for five years from the later of the extreme protection order's expiration or termination or entry of conviction. It is also a Class A misdemeanor under SB 719-A to file a petition for an extreme risk protection order with the intent to harass the respondent or knowing that the information in the petition is false.*



SB 719 is not an enforcement action in a criminal case. It is a civil action denying the use of property. Regarding the confiscation of firearms with regard to compensation in takings, the holdings of the lower courts were based on the assumption the Second Amendment did not provide an individual right to own or possess firearms, and the plaintiffs therefore lacked standing to bring a Second Amendment challenge. This holding is no longer valid following the U.S. Supreme Court's later decisions in *Heller* and *McDonald*. Since it is not a criminal case, there is no duty to provide competent counsel, meaning there will be no equal protection against false invocations of this as a statute. This Bill treats a self-evident inalienable right to self-defense, effectively, as neither civil nor criminal law. It could be used to make a victim more vulnerable by preventing their self-defense with firearms or other weapons.

Further, while the States may not restrict rights given under the US Constitution, States have the power and right to expand rights under the 10th Amendment. The Oregon Constitution clearly expands that right to compensation with:

Article 1, Section 18. Private property or services taken for public use. Private property shall not be taken for public use, nor the particular services of any man be demanded, without just compensation; nor except in the case of the state, without such compensation first assessed and tendered; provided, that the use of all roads, ways and waterways necessary to promote the transportation of the raw products of mine or farm or forest or water for beneficial use or drainage is necessary to the development and welfare of the state and is declared a public use. So, it should be obvious federal case law is not the only consideration in this bill.

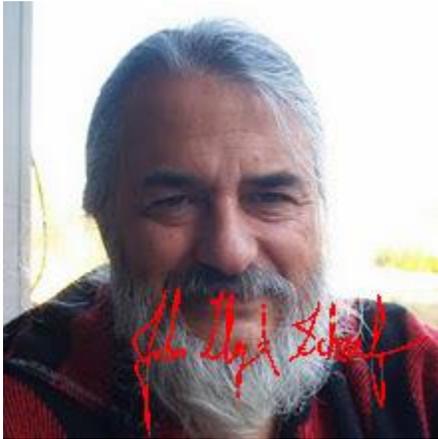
Clearly, the weapons are denied to contribute to the welfare of the State by the statute's advocates. The welfare claimed is exclusively for the purpose of public safety. With regard to suicide, this does not create any particular burden. It does not prevent someone from being intoxicated into consciousness to fall from a great height. I know for a fact it does not prevent self strangulation with a twisted sheet. It does not prevent a person with a 440 HP GTO driving at 140 mph from deliberately hitting a cement truck going the opposite direction at 55 mph. With regard to motor vehicles, ISIS has shown they are more than effective murder and mayhem. There must be 50 ways to take your own life with as little pain and even less violence than the use of a firearm. All of them demand constant observation while in custody.

This bill clearly denies private safety in the form of self-defense, a form of punishment in violation of the equal protection under the 14th Amendment. No law enforcement agency can be compelled to protect an individual. The town of Castle Rock, Colorado and its police department could not be sued under 42 USC §1983 for failure to enforce a restraining order against respondent's husband, as enforcement of the restraining order does not constitute a property right for 14th Amendment purposes.

<https://www.law.cornell.edu/uscode/text/42/1983>

<https://supreme.justia.com/cases/federal/us/545/748/>

If a citizen requires commercial security to replace self defense, do you really suppose a jury would deny them the cost of those services in holding Oregon liable?



For your information, I am seeking the Expert Advice of the Oregon Firearms Federation as to the customary and just compensation required if anyone has their property seized and their safety compromised by this gun bill should I need to apply for compensation in small claims court for periods of under a month of deprivation of firearms property and the use of private security services.

It should be under \$10,000, each, but you may want to create a fund for these claims. I intended to include it in the email exhibits in the judiciary, but I see they were not filed.