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# Smart Gun Policy for North Carolina

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## **Executive Summary**

Gun violence remains an important threat to public health and safety. The increasing occurrences of mass shootings have raised the media profile of the issue of gun violence, but it fails to portray the true scope and impact of gun violence on our society. Firearm-related criminal violence and suicides are often overlooked but are preventable with the implementation of smart sound policy. While the Federal Government has room for improvement in the policies of regulating firearms within our nation, each state has the ability to enact sound reform to reduce the unnecessary deaths from gun violence.

Despite a steady increase in the number of North Carolinians killed by gun violence, North Carolina has moved backwards by easing restrictions to firearm access. Such a stance is irresponsible and puts the lives of North Carolinians at risk.

This white paper proposes the following changes to North Carolina Gun Laws:

- Establish a renewable licensing requirement to own a firearm
- Establish civil and criminal penalties for failure to report lost or stolen guns
- Require gun owners to purchase mandatory liability insurance
- Banning assault weapons and large capacity magazines.

These proposals would help reduce number of gun deaths while ensuring that law abiding citizens have the ability to access guns for hunting, recreation, and self-defense.

## **Introduction**

Over 31,000 people die each year within the United States from gunshot wounds.<sup>1</sup> In addition to the deaths there are an estimated 338,000 non-fatal violent crimes committed with guns, and 73,505 individuals treated in emergency rooms for non-fatal gunshot wounds.<sup>2</sup> This includes a steadily increasing number of North Carolinians are killed by guns from 1,057 in 1999 to 1,206 in 2014.<sup>3</sup>

Pro-gun groups perpetuate the theory that guns are necessary for self-defense, and point to specific instances in which someone successfully used a gun to deter a crime. But those examples are outliers, as the claim that guns can deter crime fails to hold up under evidence. A 2011 study looked into gun ownership as they related to homicide, robbery and aggravated assault and found that gun prevalence did not equate to a deterrence factor for violent crime.<sup>4</sup>

The proliferation of guns does factor into making crime in America deadlier. A survey of the states revealed a correlation that the more guns within a state, the higher the homicide rate.<sup>5</sup> A similar study was completed looking at 23 developed nations and found the same result, the higher the percentage of homes

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<sup>1</sup> Centers for Disease Control and Prevention. Web-based Injury Statistics Query and Reporting System (WISQARS) [Online]. National Center for Injury Control and Prevention, Centers for Disease Control and Prevention (producer). Available from: URL: <http://www.cdc.gov/injury/wisqars/index.html>. [2017, Oct. 5].

<sup>2</sup> Truman JL. Criminal Victimization, 2010. National Crime Victimization Survey. NCJ 235508, Washington, DC: United States Department of Justice, Bureau of Justice Statistics, Sept. 2010.

<sup>3</sup> *Id* at 1.

<sup>4</sup> Hoskin A. Household gun prevalence and rates of violent crime: A test of competing gun theories. *Criminal Justice Studies*, 125-136. (2011)

<sup>5</sup> Miller, Matthew; Azrael, Deborah; Hemenway, David. State-level homicide victimization rates in the U.S. in relation to survey measures of household firearm ownership, 2001-2003. *Social Science and Medicine*. 2007; 64:656-64.

owning guns, the higher the homicide rate.<sup>6</sup> More gun ownership also puts our officers in danger as another study revealed that when it comes to the rates of homicides of police officers, household gun ownership was a stronger factor than state crime rate.<sup>7</sup>

Over 60% of those killed by firearms are suicide. While focus and attention on prevention of suicides is tied to access mental health, the availability and accessibility of guns has a direct result on rates of suicide. As with homicides, the same trend of states with higher rates of household firearm ownership having more suicide exists.<sup>8</sup> The common retort is that individuals who are suicidal will find a way to commit suicide regardless of method. But given the higher rate of suicide among households with gun ownership, the only way that would be possible is if gun owners are more suicidal than non-gun owners. A Harvard study has shown gun owners do not have more mental health problems,<sup>9</sup> nor are they more suicidal than non-gun owners.<sup>10</sup> The increased rate of suicide among households with access to guns is because of the fact that the success rate for individuals who try to commit suicide is higher for individuals who use guns versus individuals who attempt suicide through other methods like overdosing, cutting, or asphyxiation.<sup>11</sup> This is why the American Psychiatric Association and the American Academy of Pediatrics have sounded the alarm that relaxed gun regulations can spark a mental health crisis.

### **Current Legal Status**

The twenty-seven words of the Second Amendment, “A well-regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed,” was never looked into with any depth when first enshrined into our Bill of Rights. Despite the debate and over the meaning of the Second Amendment today, the framers left little guidance on the intended purpose of the Amendment. It is not mentioned within the early writings of our Founding Fathers, and it was not until 1886, almost 100 years after the signing of the Constitution, that the US Supreme Court heard its first case in which they interpreted the meaning of the Second Amendment.<sup>12</sup>

The current legal precedent is established by the Supreme Court decision in *District of Columbia v. Heller* (2008). In *Heller*, the courts established that the 2<sup>nd</sup> amendment protected an individual right to keep and bear arms unconnected with militia services. The decision did however explicitly allow for limited restriction including banning firearm possession by felons and the mentally ill, limiting access to sensitive places such as schools and government buildings, and limiting sales of firearms so they could be closely monitored.

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<sup>6</sup> Hemenway, David; Miller, Matthew. Firearm availability and homicide rates across 26 high income countries. *Journal of Trauma*. 2000; 49:985-88.

<sup>7</sup> Swedler DI, Simmons MM, Dominici F, Hemenway D. Firearm prevalence and homicides of law enforcement officers in the United States. *American Journal of Public Health*. 2015; 105:2042-48.

<sup>8</sup> Miller, Matthew; Azrael, Deborah; Hepburn, Lisa; Hemenway, David; Lippman, Steven. “The association between changes in household firearm ownership and rates of suicide in the United States, 1981-2002.” *Injury Prevention*. 2006; 12:178-82. See also, Birckmayer, Johanna; Hemenway, David. Suicide and gun prevalence: Are youth disproportionately affected? *Suicide and Life Threatening Behavior*. 2001; 31:303-310.

<sup>9</sup> Miller, Matthew; Molnar, Beth; Barber, Catherine; Hemenway, David; Azrael, Deborah. Recent psychopathology, suicidal thoughts and suicide attempts in households with vs. without firearms: findings from the National Comorbidity Study Replication. *Injury Prevention*. 2009; 15:183-87.

<sup>10</sup> Betz, Marian E; Barber, Catherine; Miller, Matthew. Suicidal behavior and firearm access: results from the second injury control and risk survey (ICARIS-2). *Suicide and Life Threatening Behaviors*. 2011; 41:384-91.

<sup>11</sup> Miller, Matthew; Azrael, Deborah; Hemenway, David. The epidemiology of case fatality rates for suicide in the Northeast. *Annals of Emergency Medicine*. 2004; 723-30.

<sup>12</sup> *Presser v. Illinois*, 116 U.S. 252.

Public health concerns are usually investigated by the Center for Disease Control (CDC). In a 1996 funding bill, a rider known as the “Dickey Amendment” was included which stated “none of the funds made available for injury prevention and control may be used to advocate or promote gun control.”<sup>13</sup> This rider has been included in every budget bill since and in 2012 was expanded to include not just the CDC but the entire Department of Health and Human Services. The result has severely impacted the quality and quantity of gun violence research in the last two decades, during which we have seen a rise in mass shootings and gun deaths.

The current trend of the North Carolina General Assembly has been in favor of loosening gun laws. In 2013, the Republican led General Assembly passed House Bill 937, which expanded where concealed carry permit holders can carry their firearms. This year House Bill 746, which eliminates the requirement of obtaining a permit for concealed carry, passed the North Carolina House but has not been taken up by the North Carolina Senate as of this date. Attempts to strengthen gun laws like House Bill 723 sponsored by Representative Pricey Harrison have been stuck in committee.

### **Licensing Laws**

Requiring a license to purchase a firearm is a reasonable proposal to prevent firearms from ending up in the wrong hands, while ensuring that citizens can exercise their Second Amendment rights legally, safely, and responsibly. Through licensing issuance we can ensure that gun owners undergo a background check, complete safety training courses, and pass written and performance-based tests showing that the owner knows relevant gun laws and how to safely load, fire, and store a gun.

A September 2010 report by Mayors Against Illegal Guns found that states with licensing laws requirements saw significantly fewer guns to be used in crimes than states without licensing laws.<sup>14</sup> The report suggests that the enhanced background checks that come with licensing laws make it more difficult for gun traffickers to obtain firearms. Missouri in particular offers an interesting case study in the impact of permitting or licensing requirements. In 2007, Missouri had a requirement similar to North Carolina in which citizens had to obtain a permit to purchase a handgun. Part of the process for obtaining the permit was to submit to a background check. Since its repeal, the crime gun murder rate has risen by nearly 25%, the share of in-state purchased guns used in crime increased by 25%, and the share of guns that were recovered at crime scenes within two years of their original sale – a key indicator of gun trafficking – doubled.<sup>15</sup>

State licensing laws generally fall into four categories: (1) permits to purchase firearms, (2) licenses to own firearms, which must remain valid as long as the person owns the firearm, (3) firearm safety certificates and (4) registration laws that impose licensing requirements. North Carolina falls into the first classification where citizens are required to get a permit to purchase a handgun.<sup>16</sup> Permits, provided

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<sup>13</sup> Stein, Sam. The Congressman Who Restricted Gun Violence Research Has Regrets. *The Huffington Post*. Published October 6, 2015.

<sup>14</sup> Mayors Against Illegal Guns, *Trace the Guns: The Link Between Gun Laws and Interstate Gun Trafficking* 17 (2010), available at <http://www.tracetheguns.org/report.pdf>. See also Daniel W. Webster et al., *Relationship Between Licensing, Registration, and Other Gun Sales Laws and the Source State of Crime Guns*, 7 *Inj. Prevention* 184, 188-89 (2001).

<sup>15</sup> Mayors Against Illegal Guns, *The Impact of Eliminating Missouri’s Background Check Requirement*, at [http://libcloud.s3.amazonaws.com/9/bd/e/1720/Background\\_Checks\\_-\\_Lessons\\_from\\_Missouri.pdf](http://libcloud.s3.amazonaws.com/9/bd/e/1720/Background_Checks_-_Lessons_from_Missouri.pdf)

<sup>16</sup> N.C. Gen. Stat. §§ 14-402

by the Sheriff after a criminal background check, allow the permit holder to purchase a single handgun for up to five years from its issue date.<sup>17</sup>

While North Carolina has a permitting requirement that allows for a background check to be conducted, we can strengthen this rule. First, we can include long guns. Then, we can move from a permit to purchase to a license to own. By doing so we allow law enforcement confirm that a gun owner remains eligible to possess firearms and removes weapons from those who are no longer eligible. Finally, we can implement a safety training component as a requirement to obtaining and renewing a license.

### **Mandate to Report Lost & Stolen Firearms**

According to the Federal Alcohol, Tobacco, and Firearm Bureau, more than 173,000 guns are reported lost or stolen by private individuals in 2012.<sup>18</sup> Independent research predicts that over a half a million firearms are lost and stolen each year.<sup>19</sup> A U.S. Department of the Treasury study revealed that nearly a quarter of ATF gun trafficking investigations involved stolen firearms.

Laws that require firearm owners to notify law enforcement about loss or theft of a firearm help to deter gun trafficking and straw purchases.<sup>20</sup> It also prevents individuals from lying when questioned by investigators if the weapon was used in a crime, or to prevent seizure of the weapon by law enforcement from an individual prohibited from having the weapon, such as after a criminal conviction or domestic violence restraining order. A mandatory reporting law for lost and stolen guns ensures gun owners are more accountable for their weapons and protects rightful gun owners from unwarranted criminal accusations when a stolen gun ends up recovered at a crime scene.

When enacted reporting laws have shown a reduction in illegal gun trafficking. States without lost or stolen gun reporting laws are the source of 2.5 times as many crime guns recovered in other state as states with a lost or stolen reporting requirement.<sup>21</sup>

North Carolina should enact a loss/theft reporting requirement to all firearms. This law would require firearm owners to contact law enforcement about a lost or stolen gun within 48 hours of discovery. Failure to report a lost or stolen weapon will result in an immediate revocation of an individual's license to own a firearm. A second offense will result in a 5 year ban on an individual's ability to reapply for a license to own a firearm. In addition to the penalty of losing one's license, North Carolina should enact a civil liability statute in which a licensed owner becomes civilly liable for any damages resulting from the criminal use of a lost or stolen weapon. The liability does not apply if the owner reports the theft to law enforcement within 48 hours.

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<sup>17</sup> N.C. Gen. Stat. §§ 14-403

<sup>18</sup> ATF, *2012 Summary: Firearms Reported Lost or Stolen* 4 (Jun. 2013), at <https://www.atf.gov/sites/default/files/assets/Firearms/2012-summary-firearms-reported-lost-and-stolen-2.pdf>. [http://smartgunlaws.org/gun-laws/policy-areas/gun-owner-responsibilities/reporting-lost-stolen-firearms/-identifier\\_1\\_468](http://smartgunlaws.org/gun-laws/policy-areas/gun-owner-responsibilities/reporting-lost-stolen-firearms/-identifier_1_468)

<sup>19</sup> ATF, *Following the Gun: Enforcing Federal Laws Against Firearms Traffickers* xi, 41 (Jun. 2000), at [http://www.mayorsagainstillegalguns.org/downloads/pdf/Follow\\_the\\_gun%202000.pdf](http://www.mayorsagainstillegalguns.org/downloads/pdf/Follow_the_gun%202000.pdf)

<sup>20</sup> *Following the Gun: Enforcing Federal Laws Against Firearms Traffickers*, *supra* note 6, at 11, 41.

<sup>21</sup> *Mayors Against Illegal Guns, Trace the Guns: The Link Between Gun Laws and Interstate Gun Trafficking* 22-23 (September 2010), at <http://www.tracetheguns.org/report.pdf>. [http://smartgunlaws.org/gun-laws/policy-areas/gun-owner-responsibilities/reporting-lost-stolen-firearms/-identifier\\_4\\_468](http://smartgunlaws.org/gun-laws/policy-areas/gun-owner-responsibilities/reporting-lost-stolen-firearms/-identifier_4_468)

## **Mandatory Liability Insurance**

Gun ownership, even in the hands of the most responsible owner, increases the risk of death and serious injury to others. In cases of mass shootings, such as the shooting in Vegas, Orlando, Sandy Hooks, Aurora and San Bernardino, in addition to the emotional toll on victims and their families there is an economic cost. Many victims use crowd sourcing platforms like Gofundme to cope with the costs of hospital bills or burial fees. Few gun owners are able to compensate the victims' families for their loss, but as we require vehicle owners to carry liability, we should look to take a similar approach with firearms.

Insurance sellers are skillful at estimating the risks posed by drivers based on characteristics of the driver and the vehicle. Applying that approach to firearms, gun owners would be financially incentivized into safer options. A gun safe or smart trigger could yield a lower premium, encouraging gun owners towards keeping their guns.

While no amount of money can bring a loved one back from the dead, a liability insurance which covers the medical costs and economic damages from persons injured by a covered firearm would prevent financial issues from compounding a family's tragedy.

## **Regulation on Types of Guns and Ammunition**

Assault weapons are a class of semi-automatic firearms specifically designed for the speed and efficiency in which they can kill. It is no wonder why these are the weapon of choice for the assailants in the Pulse Nightclub, Sandy Hook, Aurora, and Columbine massacre.<sup>22</sup> Modeled heavily after high-powered military designs, their function are not compatible with civilian use of hunting or self-defense. A review of mass shootings between 2009 and 2015 by Everytown Gun Safety found that assault weapons and large magazine ammunition was responsible for 155% more people shot and 47% more people killed than other incidents.<sup>23</sup>

In 1994, Congress passed an assault weapon ban which made it “unlawful for a person to manufacture, transfer, or possess” a semiautomatic assault weapon.<sup>24</sup> Despite the law’s overwhelming popularity, the date of the 2004 sunset clause passed without Congressional renewal. The 1994 act defined assault weapon as a semi-automatic weapon with at least two specified characteristics from a number of features, and specifically named 19 firearms and copies of those firearms.<sup>25</sup>

North Carolina needs to adopt an assault weapons ban. Banning assault weapons and large magazine weapons would have a significant effect on mass shooting fatalities.<sup>26</sup> It would also protect our police

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<sup>22</sup> Mark Follman et al., “More Than Half of Mass Shooters Used Assault Weapons and High-Capacity Magazines,” *Mother Jones* Feb. 27, 2013, at <http://www.motherjones.com/politics/2013/02/assault-weapons-high-capacity-magazines-mass-shootings-feinstein>.

<sup>23</sup> Everytown for Gun Safety, “Analysis of Mass Shootings,” Aug. 20, 2015, <https://everytownresearch.org/reports/mass-shootings-analysis>.

<sup>24</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.*

<sup>25</sup> 18 U.S.C. § 921(a)(30).

<sup>26</sup> Mark Follman et al., “More Than Half of Mass Shooters Used Assault Weapons and High-Capacity Magazines,” *Mother Jones* Feb. 27, 2013, at <http://www.motherjones.com/politics/2013/02/assault-weapons-high-capacity-magazines-mass-shootings-feinstein>.

officers.<sup>27</sup> North Carolina needs to ban manufacture, transfer, possession, sale, purchase, receipt, and transportation of assault weapons into the state. Possession of weapons owned prior to the ban implementation will be allowed provided the weapons are registered with the state. Transfer of all grandfathered weapons will be banned, and North Carolina should implement a gun buy-back program, offering a fair price for anyone wishing to sell the weapons after the ban.

## **Conclusion**

I believe in the power of the Government to craft policies to create a better society. We have seen rapid action and results when our Government responds to problems with sound policy. It is unfortunate that the deeply entrenched gun lobby has paralyzed conversations about policies we can implement to save lives. By feeding a false narrative that more guns and more powerful guns lead to less crime and less death, they have convinced our current elected officials that the proper response to mass shootings are to arm more people.

Reality is not a Hollywood movie. This fantasy of a “bad guy” being stopped by an untrained individual carrying an assault rifle that can rationally process and react to a dangerous situation is not realistic. North Carolina’s decision to permit guns in our Universities, state parks, and restaurants serving alcohol are recipes for disaster.

I believe we can do better. We can allow law abiding citizens access to the tools they need for self-defense, hunting, and sports shooting without putting the general public in danger. These policies once implemented will ensure responsible gun ownership and take the most dangerous weapons, the ones only suited for mass killings off the streets.

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<sup>27</sup> Violence Policy Center, “Officer Down, Assault Weapons and the War on Law Enforcement,” May, 2003, <http://www.vpc.org/studies/officeone.htm>