Gun Control in Vermont
January, 2013

Currently Proposed Legislation

Burlington City Council:

On January 7, 2013 Burlington City Councilor Norm Blais (D-6th Ward) introduced a resolution to ban possession of certain [undefined] “semi-automatic assault weapons and multiple ammo clips in the City of Burlington, with such ban to be enforced by a substantial fine; and to “provide for the immediate seizure by the police of any semi-automatic assault weapons and/or multiple ammo clips that are unlawfully possessed, with a civil forfeiture process to follow regarding the ultimate disposition of those weapons or multiple ammo clips.”

The Council approved the resolution 10-3, and it was sent to the Charter Change committee for refinement, further public hearings, and a vote in 2014. At a public hearing held on January 8, almost all of the hundred citizens who appeared opposed the resolution.

State Legislature:

S.32 - An act relating to semiautomatic assault weapons and large capacity ammunition feeding devices. “This bill proposes to prohibit the manufacture, possession, or transfer of semiautomatic assault weapons and large capacity ammunition feeding devices; and to make it a crime for a person to negligently leave a firearm accessible to a child.” WITHDRAWN after strong public opposition.

S.124 – An act relating to firearms regulation. This bill proposes a number of provisions related to firearms regulation, including prohibitions on large capacity ammunition feeding device, gun show sales, background checks, and a new requirement to complete a class in order to obtain a concealed carry permit.
Federal:

Three Vermont mayors (Hollar of Montpelier, Lauzon of Barre, and Weinberger of Burlington) have formally joined a national call for federal legislation that would: 1) Require a criminal background check for every gun sold in America, 2) Ban assault weapons and high-capacity ammunition magazines, and 3) Make gun trafficking a federal crime, with real penalties for “straw purchasers.”

Governing Law

The Vermont Constitution, Ch. I Art. 16th, 1786 affirms, “that the people have a right to bear arms for the defence of themselves and the state.”

Act 178 of 1988, The Sportsmen's Bill of Rights, reads: "Except as provided by law, no town, city or incorporated village, by ordinance, resolution or other enactment, shall directly regulate hunting, fishing and trapping or the possession, ownership, transportation, transfer, sale, purchase, carrying, licensing or registration of traps, firearms, ammunition or components of firearms or ammunition. This section shall not limit the powers conferred upon a town city or incorporated village under subdivision 2291 (8) of this title [relating to ordinances prohibiting use or discharge of a firearm]. The provisions of this section shall supersede any inconsistent provisions of a municipal charter." [24 VSA 2295].

This preempts Vermont municipalities from enacting restrictive firearms laws, leaving any constitutionally-permissible regulation to action by the legislature.

Precedent & History

State v. Rosenthal [75 VT 295, 1903.] The Bill of Rights gave statutory form to a decision of the Vermont Supreme Court (State v. Rosenthal [75 VT 295, 1903.]. The Rutland city council had adopted an ordinance requiring a person wishing to carry a firearm within the city to obtain permission from the mayor or police chief. The Court, in a one page decision, unanimously and unequivocally struck down the ordinance, saying "the carrying of firearms for one's defense is a fundamental right of a citizen. The ordinance is repugnant to the Constitution."

1999: An attempt by the Montpelier City Council to pass a firearms ordinance was thwarted by the threat of a lawsuit based on Act 178. The prospect of such a lawsuit had thwarted similar efforts in Barre and Rutland.

2000: On March 7, 2000 the voters of Montpelier, by a 1781-938 margin, approved a charter change that read, "Notwithstanding any contrary provision of law, the city council may enact civil ordinances regulating the carrying of loaded firearms." Such an ordinance would carve out an exception to the Sportsmen's Bill of Rights for persons residing in or visiting Montpelier.

Three Montpelier legislators introduced H.855 in the 2000 House to approve the proposed charter change, but it was not acted upon.