



NATIONAL SHOOTING SPORTS FOUNDATION, INC.

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Trevor W. Santos

Director,

Government Relations - State Affairs

February 20, 2020

The Honorable William C. Smith, Jr.
Chair, Senate Judicial Proceedings Committee
2 East
Miller Senate Office Building
Annapolis, Maryland 21401

**SENATE BILL 816
OPPOSE**

Re: Senate Bill 816 - Public Safety - Licensed Firearms Dealers (Firearms Dealers' Safety Act)

Dear Chair Smith, Vice Chair Waldstreicher, and Members of the Judicial Proceedings Committee:

On behalf of the National Shooting Sports Foundation, and our industry members located throughout the state of Maryland, I write today to express our opposition to Senate Bill 816 ("SB 816"). SB 816, dubiously titled the "Firearms Dealers' Safety Act," seeks to mandate costly, burdensome, and even some unattainable requirements of federally licensed firearms dealers ("FFLs") who possess a Maryland Regulated Firearms Dealer License ("firearms dealer"). Firearms dealers are already some of the most heavily regulated businesses in Maryland, not only having to following laws and regulations set by the General Assembly and the Maryland State Police, but also the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives ("ATF"). Unfortunately, SB 816 seems to be a solution in search of a problem. If enacted, hundreds of law abiding, small businesses will be forced out of business because they simply will not be able to afford the costs required to comply. Thousands of Marylanders will lose their job. The state will realize a loss in state and local tax revenues.

As the trade association for America's firearms, ammunition, hunting, and recreational shooting sports industry, the National Shooting Sports Foundation ("NSSF") seeks to promote, protect, and preserve hunting and the shooting sports. NSSF has a membership of more than 10,000 manufacturers, distributors, firearms retailers, shooting ranges, and sportsmen's organizations. Our manufacturer members make the firearms used by law-abiding sportsmen, the U.S. military and law enforcement agencies throughout Maryland.

Electronic Record Keeping

SB 816 would require all records be kept electronically of all receipts, sales, and other dispositions of firearms. While some firearms dealers may keep electronic records, there are still many that keep "hard copies" of all records. Any electronic record keeping software must currently be approved by the ATF. However, the ATF also allows firearms dealers to keep "hard copies" of their records. Firearms dealer keeping records in accordance with federal regulations should be enough for the state. NSSF opposes any requirement for records to be kept

electronically. Electronic recordkeeping software is expensive, and many small dealers cannot afford the cost to purchase this software and the annual service fees to keep the software updated.

Acquisition & Disposition (“A&D”) Records

SB 816 would require the acquisition of any firearm be recorded one (1) business day after acquiring a firearm and would require the disposition of any firearms within seven (7) days after a sale or other disposition. ATF already has requirements for when acquisitions and dispositions must be recorded in a firearm dealer’s A&D book. However, given some firearm dealers are manufacturers, and some are importers, these requirements set forth by ATF may vary. In some cases, records must be updated in seven (7) days, others may be 14 days. NSSF believes the current ATF regulations for A&D record keeping is sufficient and would oppose these requirements in SB 816. The sponsor has offered no evidence that the current federal requirements are inadequate such that Maryland would need to have its own requirements.

Audio and Video of Sales, Including Retention and Availability

SB 816 would require audio and video recording of all receipts, sales, and other disposition of firearms, as well as require the recordings be kept for a year, and made available to the Secretary, a federal agency in connection with an investigation, and to a party to a civil action after receiving a valid subpoena or discovery request.

Audio and video recording of every sale could be nearly impossible for many firearm dealers, as this would include not only traditional firearms retailers, but also “big box” stores, manufacturers, and importers. This also becomes a privacy issue. The cost for retaining these recordings for a year would be extremely expensive, amounting in the 10s of thousands of dollars. The one year associated with the retention of such recordings seems to be an arbitrary number. The cost associated with requiring both audio and video recording of every sale coupled with the requirement that the records be preserved for one year alone with shutter nearly all small retailers.

Records and recordings could already be requested by the Secretary, and federal law enforcement also has access to firearm dealer records in the course of an investigation. Additionally, a valid subpoena by a court would also require a firearm dealer to make available any records. We have great concerns with these records being required to be made available outside of what is already available by law.

Background Checks and Fingerprints for All Employees

SB 816 would require background checks being conducted at the time of hire and annually on all employees of a firearms dealer. Such a requirement would be extremely costly and unnecessary. Firearms dealers already provide annually the name, address, and social security number of all employees to Maryland State Police on an annual basis for the renewal of their Maryland Regulated Firearms Dealer License. The state police would be in a position to conduct a criminal background check on the names provided to them by licensees.

Requiring a background check on all employees is unnecessary as all employees do not necessarily handle firearms. It is also already against the law for an FFL to allow someone to handle firearms who they know or have reason to believe is prohibited from possessing firearms.

This requirement also poses an issue to which a firearms dealer could be targeted for discrimination. The U.S. Equal Employment Opportunity Commission (EEOC) has in the past challenged the hiring practices of certain large retailers alleging that refusing to hire prohibited persons, i.e. felony convictions, has a disparate impact on racial minorities.

Insurance Liability for Acts of Another Using a Firearm Sold, etc.

SB 816 would require licensed dealers to maintain liability insurance for the acts of another using a firearm sold, rented, or transferred by the licensed dealer in the amount of at least \$2,000,000. In no way would an insurance company write a policy to cover the criminal or even non-criminal misuse of a firearm. This would be like requiring a car dealership to maintain insurance for a vehicle they sold that is then involved in an accident caused by someone driving under the influence.

Additionally, as written, the licensed dealer would be liable for a firearm they may have lawfully sold after a background check 10 or 20 years ago which was then stolen from the original owner and misused to commit a violent crime. Again, no insurance company would provide such coverage of the misuse of a firearm, nor any other lawful product that was then misused. NSSF opposes this provision because no insurance company would write such a policy. This provision simply is impossible to comply with and would force every retailer in the state to close their doors.

Reporting Theft of Firearms

SB 816 requires a firearm dealer to report any theft of a firearm immediately to law enforcement. While NSSF does not have a problem with the basis of this requirement, the language is not very specific. FFLs are already required by law to report lost or stolen firearms within 48 hours to both federal and local law enforcement. This is just another provision of this bill that is already addressed by federal law and regulation.

Display and Storage of Firearms During Business and Non-Business Hours

SB 816 would require firearms dealers to store firearms in a locking display case or other area inaccessible to customers during business hours, and in a vault, safe, or reinforced display case with shatterproof glass outside of business hours. SB 816 also requires firearms displayed should be rendered inoperable with a trigger lock or other mechanism.

Business Hours – Most retailers store handguns in a glass display case, similar to what a jewelry store does, so customers are able to see the handguns and view them through the glass. However, long guns (rifles and shotguns) can be stored on open racks not only behind the counter, but also on racks throughout a retail store. It varies from retailer to retailer, and all depends on the amount of space available in a retail establishment. There are no problems associated with how firearms are currently being displayed at retail establishments. Additionally, there is no need to “render a firearm inoperable” while being displayed to a customer. Like with other consumer products, gun owners want to look at, feel and hold a firearm before making a purchase and to compare it to other models. This requirement makes it impossible for consumers to evaluate the product and discourages sales.

Outside Business Hours – Requiring firearms to be locked in a vault, safe, or in a reinforced display case with shatterproof glass is nearly impossible. Some retailers have 50, 100, 200, and

even up to 1,000 firearms in their inventory. The same goes for manufacturers (see the letter from Beretta USA) who could have several thousand firearms in their inventory. A small “mom and pop” retail store would likely not have room for vaults or safes to store their firearms, and those firearms dealers with hundreds of firearms would not be able to find a safe or vault big enough to store their firearms. Additionally, the time associated with storing firearms at night, and bringing them out for display before opening could take hours and hours, while at the same time increasing the chances of damaging a firearm. The display and storage requirements set forth in SB 816 are unworkable, just as many, if not all, other portions of the bill.

Senate Bill 816 would cause many lawful firearms dealers to go out of business simply because they are unable to comply with the requirements of the legislation. This legislation remains to be a solution in search of a problem, but the solution will now create many problems for firearms dealers. Firearms dealers take important steps to ensure their firearms (which is an investment for them) are protected from theft, unauthorized access, and their business is secure. NSSF, as the trade association for the firearms industry, recently embarked on a new initiative in conjunction with ATF, Operation Secure Store. Operation Secure Store (OSS) is a multifaceted initiative providing Federal Firearms Licensees (FFLs) with education on solutions and services that enhance operational security and aid in identifying potential risks, protecting interests and limiting the disruption of operations.

In the year following the Operation Secure Store launch in 2018, burglaries and the number of firearms of stolen from FFLs fell by nearly 25%. This program is working and NSSF, in conjunction with ATF, is glad to lead.

It is for these reasons stated above that the National Shooting Sports Foundation opposes Senate Bill 816 and we would respectfully urge you to vote “NO” should this bill come up for a vote.

Sincerely,

A handwritten signature in black ink, appearing to read "Trevor W. Santos". The signature is fluid and cursive, with the first name being the most prominent.

Trevor W. Santos