

Good morning Mr. Chairman and members

My name is Chris McGowne, I am a resident of Hays KS, and I am a lawyer. I proudly represent the Kansas State Rifle Association, and I am here to testify in support of HCR5020, which proposes to amend section 4 of the Kansas bill of rights to recognize the right to bear arms as a fundamental right that includes the possession and use of ammunition, firearm accessories and firearm components, and that any restrictions on such right are subject to the strict scrutiny standard.

The Kansas State Rifle Association is a Kansas non-profit Association that represents thousands of law abiding citizens who believe in their ability to exercise their fundamental rights. This means all of them, including those rights granted under the second amendment.

Americans of all ages and demographics have chosen to exercise the right to bear arms. For example, in March of 2020 federal background checks, a rough proxy for purchases, topped one million in a week for the first time since the government began tracking them in 1998. During those sales, over 1/5 of those purchasing guns were first time gun buyers. Further Half were women, a fifth were Black and a fifth were Hispanic. In other words, according to data provided by the New York Times, gun ownership crosses all range of ages, races, socio economic backgrounds and more. Simply put it is a right that is exercised by nearly a third of Americans, and nearly half of Americans live in a “gun household”.

In order to ensure the right that is exercised by so many Kansans is protected, we believe HSC5020 should be passed and sent to the voters. We believe this is appropriate for three reasons.

1. Because we believe the voters should be afforded the chance to weigh in on their rights
2. Because we believe in the protections of those rights incident and necessary to constitutional rights
3. Because we believe the 2<sup>nd</sup> amendment should be treated in the manner as other fundamental rights.

#### A. Democracy

We live in a representative democracy, whereby each individual state may choose how to implement certain constitutional provisions, subject to certain limitations. This is done in two ways, either direct election of officials, or a direct vote of the people. The proposed HCR would allow for the latter. It would provide the great citizens of Kansas the opportunity to make an informed choice on whether or not the people would like to include firearm accessories, crucial to the exercise of their second amendment rights, within the definition of included firearms. It would further provide the citizens with the chance to impose a legal standard that would be reflective of the same legal standard used for other fundamental rights. Indeed, we believe that when it comes to fundamental rights, the individuals best suited to make those weighty decisions regarding fundamental rights are those that will be most directly impacted, the people.

## B. Additional incidents of ownership.

The proposed amendment would amend section 4 of the Kansas bill of rights to recognize the right to bear arms as a fundamental right that includes the possession and use of ammunition, firearm accessories and firearm components. A right that exists in name only is no real right at all.

To exercise responsible firearm ownership, it is common knowledge, (and common sense), that you need those items ancillary to gun ownership. Without ammunition, accessories or components, the second amendment is rendered to be nothing more than an empty vessel. An amendment that is viable in theory but practically available in only the narrowest of circumstances. This is against both the spirit and letter of the law.

On the other hand, ammunition, accessories or components allow the broad coalition of citizens who regularly exercise their rights in all manner of venues, including shooting sports, hunting, self defense, or even just a day at the range, to continue to exercise those rights in an unfettered manner. These incidents of ownership are necessary to the exercise of a fundamental constitutional right should be further protected so citizens can continue to enjoy their God-given freedoms in a practical and meaningful way.

## C. Strict Scrutiny

When dealing with constitutional rights, there are generally three levels of constitutional review. Strict scrutiny is the highest level of scrutiny, and courts have long held that Strict scrutiny applies in equal protection cases involving suspect classifications such as race, alienage, religion, or speech, as well fundamental rights guaranteed by the Kansas Constitution.

Strict Scrutiny requires showing that challenged classification is necessary to serve compelling state interest in order to withstand a challenge. This is important for two reasons. First, it provides the level of scrutiny to laws applied to the second amendment in the same fashion as other fundamental rights. Instead of being viewed as a second class right, the second amendment would have the same legal standard that is applied to all fundamental rights under the constitution, which is well established under Kansas law.

Further, it would require any state law passed to meet the higher constitutional standard, meaning that certain justifications would need to be made prior to imposing any limitations on the ownership and usage of firearms. That does not mean no restrictions can be imposed, it simply means that there would need to be a compelling reason, and any regulation would need to be narrowly tailored to as to avoid encompassing more than necessary to accomplish the state interest.

This is a well developed concept, and one wholly appropriate to the regulation of the second amendment, ensuring it is viewed in the same manner as other fundamental rights under the Kansas Constitution.

In sum, we respectfully ask this committee to pass HCR5020 and allow the voters of our great state to have the opportunity to weigh in on their constitutional rights.

Thank you, I would be happy to answer any questions.