

Intent for Senate Joint Resolution 11

by

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Foreword

This document is intended to detail and elaborate upon the intent for Senate Joint Resolution 11 (SJ 11). This explanation will be provided to legislators reviewing and voting upon SJ 11. One could presume that the Legislature agrees with this explanation. This explanation will address the introduced version of SJ 11.

Qualifications to comment

The reader may find the explanations contained here more acceptable with more information about the writer.

I am the elected President of the Montana Shooting Sports Association (MSSA), a Montana nonprofit corporation founded to be the leading political advocate for Montana gun owners. In that capacity, MSSA has been very successful, very likely the most successful such entity in the United States. MSSA has originated and supported 67 legislative bills and resolutions that have become public policy in Montana, including one change in the Montana Constitution (the right to hunt, fish, and trap). I have conceived and written most of those.

I grew up on a working Montana cattle ranch, attended Montana schools, and served three years in the U.S. Army (1966-1969). Despite extensive travel (I once lived in Europe for three years), I remain strongly a cultural Montanan, with a Montana-centric worldview.

I am an ongoing student of the law, especially of laws related to the cherished and constitutionally-reserved right of the people to keep and bear arms, or right to keep OR bear arms as the Montana Constitution phrases it (emphasis added). I am the author of the book *Gun Laws of Montana*, now in its fourth printing, which has come to be the accepted standard on that subject. I am accepted in state and federal courts as an expert concerning use of force, self defense, firearm safety, children and guns, and related topics. I have been a consulting or trial expert in about 50 cases that connect with the right to keep and bear arms. I am an active firearms instructor, having graduated over 5,000 students from day-long classes in which part of the curricula is to explain what the right to keep or bear arms means, and how that has been defined by laws and interpreted under the U.S. and Montana constitutions. I have testified before legislative committees scores (maybe hundreds) of times, explaining topics that relate to the right to keep and bear arms. My first appearance as a witness before a legislative committee was in 1971, the most recent in 2017, a span of nearly a half century.

Development of SJ 11

SJ 11 is intended to provide an authoritative definition of what a critical phrase used in Article II, Section 12 of the Montana Constitution means. That phrase declares that the right to keep or bear arms "shall not be called in question." It may seem obvious to the reader what this important phrase means, but in the official world, it may not be so obvious. My research reveals no Montana case law authoritatively defining this phrase (more about this later in this document). Information from the 1884, 1889, and 1972 constitutional conventions shed just a bit light on this, but not much and not enough for a thorough understanding or a fullsome definition.

Apparently, this phrase was first used in business charters in the 1700s. It appears to have been used to prohibit judicial scrutiny of internal company policies and actions. The phrase "shall not be called in question" is, of course, similar to the "shall not be infringed" as used in the U.S. Constitution. (See attached **Appendix C** for the constitutional provisions of most U.S. states.) Both the U.S. and Montana constitutions, it would seem, are very strong prohibitions against curtailment of the reserved right by public policy or government actors. The essential question is, how strong?"

Having found no relevant judicial definition of this unique Montana phrase, I decided to inquire among citizens what they believe the phrase "shall not be called in question" means.. By email, I asked about 1,000 gun owners to tell me what they thought "shall not be called in question", as used in the Montana Constitution, means to them. Many responded. Clips of their answers are attached as **Appendix A**. For the most part, their answers centered around "Beyond discussion."

Finding these comments interesting, but not as helpful as I needed in terms of a legal definition, I consulted attorneys. I had phone or email discussions with some serious and respected legal scholars, attorneys in small practice, local and distant, and others.

Since "shall not be called in question" originated in Montana in the 1884 territorial constitutional convention, I consulted the Webster Unabridged Dictionary of 1884 for period correct definitions. See **Appendix B**.

Based on all of these discussions, and upon my experience studying the law and crafting public policy, I wrote SJ 11.

Senate Joint Resolution 11, item by item

The WHEREASes

(Note to the reader: I have copied and inserted each paragraph of SJ 11 ahead of each explanatory comment so the reader need not shuffle between documents to follow the explanation of SJ 11 provisions. The material taken directly from SJ 11 is in italics to make it easier for the reader to pick that out and thereby follow the explanations. The

comments about each paragraph begin with “**COMMENT:**” in bold to make those easier for the reader to identify.)

First WHEREAS. “*WHEREAS, The current language at Article II, Section 12 of the Montana Constitution was first articulated in the Montana Territorial Constitution of 1884; and*”

COMMENT: In my search for original intent, I have learned that there is no electronic version of the transcripts of the Montana Territorial Constitutional Convention of 1884 (at least a diligent Internet search, and inquires of the Montana Supreme Court Library, the Montana Historical Society, and the University of Montana Law Library have not located an electronic version). However, in the 1884 convention is where the phrase "shall not be called in question" first became a part of constitutional law in Montana. There are handwritten notes from that convention. Volunteer researchers for this effort examined the handwritten notes from the 1884 constitutional convention at the Montana Historical Society and the University of Montana Law Library and found no discussion whatsoever about the phrase “shall not be called in question.” The language proposed by the 1884 Bill of Rights Committee for (then) Article I, Section 13 of the 1884 constitution was adopted by the full convention with a vote of 33 for and 3 against.

Second WHEREAS. “*WHEREAS, This language was repeated in the Montana Statehood Constitution of 1889, which language was also approved by the other several states via Congress; and*”

COMMENT: While the phrase "shall not be called in question" was repeated exactly in the 1889, statehood constitution, there was a minor change in language concerning the exclusion of carrying concealed weapons from the protected right, a change not relevant to this discussion. It is worth mention that this exclusion, which was present in the 1884 constitution, was a cultural issue at that time. The cultural standard in 1884 was that if you were a manly man, you wore your gun exposed where everyone could see it, and those concealing firearms were sneaks or neer-do-wells, not to be sanctioned with a constitutionally-protected right, although that culture has changed. It is also worth note that the language of the 1889 statehood constitution was approved by the other several states via their agent, Congress, upon Montana's admission to statehood. There is no discussion whatsoever concerning the relevant phrase in the transcript of 1889 statehood constitutional convention.

Third WHEREAS. “*WHEREAS, This exact language was repeated verbatim by the Montana Constitutional Convention of 1972, which was approved by the electors of Montana; and*”

COMMENT: The Montana Constitution was largely rewritten by the constitutional convention of 1972. Much was retained from 1884, but much was revised or added. However, the provision that is now Article II, Section 12, was adopted verbatim as it had been in the 1889 constitution. Unlike in the 1889 convention, the 1972 convention did discuss this protection of right, although there was very little discussion about the phrase "shall not be called in question." More than one delegate did assert that the language

used to protect this important right was the strongest language and strongest protection of any existing state, stronger even than the protection for the right reserved by the Second Amendment to the U.S. Constitution. ("...the strongest statement on the right to bear arms of any of the 50 states of the United States." - Delegate Blaylock "The broadest, most liberal concept with respect to the right to keep and bear arms that exists anywhere in any of the several states of the United States." - Delegate Toole)

Fourth WHEREAS. *“WHEREAS, There is no authoritative definition existing of the phrase "shall not be called in question" that is applied in Article II, Section 12; and”*

COMMENT: As explained above Lexis, Westlaw, and Google searches disclose no authoritative definition exists for the phrase "shall not be called in question" used to reserve and protect this fundamental right in the Montana Constitution.

Fifth WHEREAS. *“WHEREAS, The phrase "shall not be called in question" is understood to be the strongest form of prohibition that the framers could imagine and express using polite language; and”*

COMMENT: The discussion from the 1972 constitutional convention says this in different words.

Sixth WHEREAS. *“WHEREAS, The phrase "shall not be called in question" is understood to be a prohibition imposed by the electors of Montana specifically upon government policy, government entities, and government actors; and”*

COMMENT: It is a bedrock principle of our accepted political theory that all political power is vested in individuals. This is even declared overtly at Article II, Section 1 of the Montana Constitution. These individuals, those who are electors, delegate some measure of their personal political power to engender Montana government. With that delegation in the Constitution comes restrictions, such as Article II, Section 12, reserving to the people the right to keep or bear arms. While some constitutional rights reservations may impose restraints on private individuals, or collections of private individuals, whether or not Article II, Section 12 restrains the conduct of non-governmental persons or entities will be left for another day. Certainly, this reservation of authority is designed to restrain public policy, and to prohibit interference with a fundamental right by governmental entities and governmental actors.

Seventh WHEREAS. *“WHEREAS, In response to a question about what the phrase “shall not be called in question” meant as used in the proposed Article II, Section 12 of the Montana Constitution in the 1972 Constitutional Convention, Delegate and Chairman of the Bill of Rights Committee Wade Dahood responded that the phrase meant “that the right shall remain inviolate and shall not be questioned by any person in authority.” (Transcript of the 1972 Montana Constitutional Convention, Volume 5, Page 1739); and”*

COMMENT: This is the most direct and informative comment found in all research about the phrase "shall not be called in question."

Eighth WHEREAS. *“WHEREAS, The maxims of jurisprudence found at Title 1, chapter 3, part 2 are examples of guidance in interpretation of laws.”*

COMMENT: Legislative opinion and guidance in interpretation of law certainly exists and may be considered to be determinative.

The Resolves

“NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA: That the phrase "Shall not be called in question," as used at Article II, section 12, of the Montana constitution, is defined as follows:”

COMMENT: In the vacuum where no authoritative definition of this critical phrase exists, it is appropriate for the people, the enactors of the Constitution, via their elected representatives in the Legislature, to provide such a definition. How and when such a definition will be needed or applied remains to be seen. As is said in the gun culture about firearms, better to have it and not need it than to need it and not have it.

Subsection (1). *“(1) Any impairment, restriction, or curtailment of a person's rights under Article II, section 12, of the Montana constitution by public policy or governmental actors may not be done unless such impairment, restriction, or curtailment survives an examination more restrictive than strict scrutiny, a level of restraint identified as maximum scrutiny and which meets the criteria provided in subsection (2).”*

COMMENT: A standard is evolving by which governmental impairment of constitutionally reserved fundamental rights must be evaluated for propriety and authority. The highest of the evolving standards is called "strict scrutiny." To pass a strict scrutiny test, an offending regulation or action is said to require satisfaction of a two-prong test, compelling state interest and least restrictive means. Given how close to absolute the protection of the right to keep or bear arms is understood to be, assessing impairments to that right appears to need and deserve a test more rigorous than even strict scrutiny, a test identified here as "maximum scrutiny."

Section (2). *“(2) To survive maximum scrutiny requires the following:”*

COMMENT: The test of maximum scrutiny includes six required elements, and is defined as:

Subsection (2)(a). *“(a) A government interest is actually proven and so complete that without impairment, restriction, or curtailment human lives will actually and imminently be at serious risk, or be lost, as demonstrated by current facts in evidence and by clear articulation;”*

COMMENT: (a) This is a tightened and qualified compelling state interest. First, the government interest must be proven; it cannot be simply alleged. Such proof must be

supported by contemporary facts in hand. Second, the public interest must involve human lives at serious risk among the public, not hypothetically or in some undetermined future, and not with a vague allusion to public safety.

Subsection (2)(b). *“(b) Any impairment, restriction, or curtailment is accomplished by a means that cannot be more narrowly limited to achieve its objective as to geography, polity, objects, topics, time frame, societal or political conditions, or class of people affected;”*

COMMENT: (b) This is a tightened and qualified least restrictive means, which some scholars believe includes a requirement that an impairment be narrowly tailored to achieve its purpose.

Subsection (2)(c). *“(c) There is convincing evidence that the impairment, restriction, or curtailment will accomplish the intended purpose;”*

COMMENT: (c) This is to clarify that an impairment of this right will actually accomplish what it is intended to accomplish, and is not just wishful thinking. Again, evidence to support actual accomplishment is required.

Subsection (2)(d). *“(d) There is convincing evidence that the impairment, restriction, or curtailment will have no consequence in restricting the free action of citizens beyond its intended purpose;”*

COMMENT: (d) This is to clarify that an impairment will not have unintended consequences, and that any unintended consequences that can be reasonably foreseen will constitutionally disqualify the impairment. This test may also be related to narrowly tailored.

Subsection (2)(e). *“(e) Any impairment, restriction, or curtailment is not a prior restraint; and”*

COMMENT: (e) A prior restraint is one which prohibits or restricts the exercise of a constitutionally-protected right in advance on the theory that if not prohibited the exercise some one or more persons will misuse or abuse that right. One classic example is the restriction of freedom of the press by prohibiting publication of troop movements during wartime. Another example often misused is "You can't shout 'Fire' in a crowded theater." That's simply not true, but a person may be punished afterwards if the person shouts "Fire" when there is no smoke or fire. What is intolerable is to put duct tape over the mouths of everyone entering a theater on the theory that if the theatergoers are not rendered speechless then some fool will surely and improperly shout "Fire." That would be prohibited prior restraint. As with theaters, the proper remedy is not prohibition of rights exercise, but punishment afterwards for rights abuse.

Subsection (2)(f). *“(f) The impairment, restriction, or curtailment is permissible even though in conformance with subsections (a) through (e).”*

COMMENT: (f) Constitutional scholar and law professor Eugene Volokh makes a persuasive argument in a Pennsylvania Law Review article (<http://www2.law.ucla.edu/volokh/scrutiny.htm>) that it is possible for a rights impairment to pass the tests of strict scrutiny yet still be constitutionally impermissible. This subsection is intended, consistent with professor Volokh's argument, to empower a court find a restraint on the right to keep or bear arms impermissible even if it should pass the other tests described above. It is a final option to protect the right the people have reserved to themselves, unlikely to be needed, but made available nonetheless.

Section (3). *“(3) Keeping or bearing arms, which shall not be called in question,”*

COMMENT: Section (3). To what does "shall not be called in question" actually apply? In the event there may be any confusion, it includes all the items and activities listed in this section, and likely more essentially dependent activities or items not named.

Section 3(a). *"(a) includes but is not limited to producing, manufacturing, storing, transporting, displaying, marketing, obtaining, selling, transferring, carrying, and wearing arms;"*

Section 3(b). *"(b) includes but is not limited to both loaded and unloaded arms, ammunition, ammunition components, and arms accessories; and"*

Section 3(c). *"(c) does not allow any registration, licensing, special taxation, or fees."*

COMMENT: These elaborations should be self-explanatory and are intended to be construed and extended broadly in favor of individual liberty.

Section (4). *“(4) The use of arms is an essential and protected child of the protections assured for the right to keep or bear arms, and included within that protection. Notwithstanding such protection, the use of arms may be regulated by statute only, and only if such regulation is not a prior restraint, is narrowly drawn, is essential for public safety, achieves its stated purpose, is free from unintended consequences, does not inhibit self defense, and does not unreasonably burden hunting opportunity.”*

COMMENT: Section (4). In addition to keeping or bearing arms, there may be a third and corollary activity that is also under the umbrella of this protection. That is, using arms. Using arms seems to warrant its own and slightly different set of rules for when a restriction on using arms is and is not permissible. For example, an existing Montana statute allows the punishment of a person following the person's discharge of a firearm inside the limits of a city or town unless that discharge is done in self defense or at an established shooting range. Because this example appears sensible, then perhaps a lesser, yet defined, threshold must be articulated for tolerable restrictions on using arms.

What is "using" a firearm in this context? As an accepted expert, I say that pointing a loaded or unloaded firearm (Firearm Safety Rule #1: All firearms are loaded.) directly at another person or discharging a firearm, are "using" firearms. I say that keeping”

(obtaining; possessing) or “bearing” (carrying or having with one), transporting, displaying, trading, or bartering firearms are not "using" firearms in this context.

Given the maximum scrutiny required for curtailment of keeping or bearing arms detailed in SJ 11 and above, the barrier for limitation on using arms must be high, and is defined in Section (4).

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to the Montana Supreme Court and to the Montana Attorney General.

COMMENT: This Resolve is intended to help assure that this definition is well established in the public domain.

- End -

Appendix A - an inquiry about what the subject phrase means to the public

Question posed: "What does 'shall not be called in question' mean, as used in Article II, Section 12 of the Montana Constitution?" Responses:

Beyond discussion.

The right shall not be questioned, it is written in stone, factual and eternal.

Shall not be challenged.

It is without ability to be challenged.

Shall not be challenged, infringed, set-aside, circumscribed or revoked by any person, business, institution, or governmental entity.

It is not a debatable right. It exists by Constitutional provision and cannot be altered or rescinded except by Constitutional provision.

There will be NO discussion on this right.

Not be allowed under any circumstance to be considered for any limitation.

The reserved right should not be challenged; in practical terms there should be no limitation or restriction.

There can be no question or challenge to the premise.

They could have added "under ANY circumstances" to keep the lawyerly type out of any misinterpretation.

That no government or private entities can even suggest that the right to keep and bear arms be challenged or minimized.

May not be challenged.

Not called into question to me means it is "not debatable".

Shall not be questioned - PERIOD. By anyone.

Shall not be infringed on.

Means to me that it is considered indisputable.

To me it means that from that moment forward it shall not be brought up again, period. Discussion is over. Not to be changed, not to even be talked about changing. It is as it is for all time.

No doubts shall be raised (as to the veracity of whatever is being discussed).

Shall not be questionable.

There can be no debate or doubt concerning an individual's absolute right to keep or bear arms (at their own discretion).

To me it means that the law that is on the books can't be changed by external circumstances.

Shall not be questioned. Shall not be changed!

Cannot be restricted by another article, law, or regulation.

Shall not be taken away. Cannot be revoked. Cannot be ignored.

That the right is unquestionable, a clear truth that cannot be equivocated.

Will not be up for debate.

Any legislation that is proposed that would hinder or violate the keeping and bearing of arms of any Montanan would be considered an act of treason or sedition or a conspiracy to commit the before mentioned against the people of Montana.

I believe it concedes a God given right that one is born with and thus, needs no interpretation.

I see it as "The End of the Conversation" and for me that is it.

1) to cause someone or something to be evaluated; to examine or reexamine the qualifications or value of someone or something. (idioms.thefreedictionary.com)
2) to cause doubts about something: ("call into question" in British English Cambridge dictionary)

To me that phrase means that no government entity can abridge the right of the citizenry to bear arms.

No laws may ever be enacted which restricts this right in anyway, nor shall infringement be allowed by other individuals, organizations, or Government.

Will not be challenged.

Cannot be challenged or diminished by any person or authority.

NO questions can be asked. Questions are not allowed. The statement stands by itself.

Without a doubt, unquestionable, firm, resolved.

That the referenced right will not be disagreed with, challenged, usurped or legislated against. That it is an absolute.

No law, regulation or policy may be enacted that interferes in any way with our right.

Shall not be infringed means do not do it.
Shall not be called into question means do not even talk about it.

A right that needs no further interpretation.

The item that "shall not be called into question" is an absolute right, not subject to modification by the legislature. (or any government authority).

That there be no doubt.

Other synonyms that come to mind:
Inalienable, inviolable, sacrosanct.

Totally void of any doubt. Nothing or no one can remove the right.

Self evident as proper and correct and therefore not to be denied.

It means, that if a person is possessing or carrying a firearm, they need NOT present a reason or explanation to ANYONE.

Shall be "accepted as it is written" and not second guessed as to its meaning or challenged as to what other meanings could be applied.

A "bright line", in legal term.

Arguments contrary to the right will not be entertained by the court.

No "hair-splitting". No, "relativism". No "technicalities". No "loopholes". NO NOTHING. This is a right that covers EVERYTHING about firearm ownership and possession wherever I chose to go.

Shall not be disputed.

It simply means that no one can legitimately deny that the people of Montana, the right either to keep or to bear arms.

Shall never be considered to even be questioned whether or not it is correct on its face.

That this right cannot be challenged in any way.

“shall not be called into question” means that it is not to be challenged, no questions ask, that’s it, done.

Settled codified law in agreement with natural law, where all natural rights come from.

"shall be no inquiry into the validity" I'm not sure how make make the original statement more self evident.

Questioned, Express doubt about. So in context, one must not doubt that we have the right to bear arms.

To me it seems simple, "shall not be called in question" = It is every citizens right to keep or bear arms, for the listed reasons.

My interpretation of that phrase would be "shall not be challenged".

There is no standing to consider any other possibility.

Don't even think about touching this.

"shall not be called into question" synonyms: Unquestionable; Unchangeable; Untouchable; Unalterable; Indisputable; Irrevocable; Absolute; "Don't even begin to think about messing with..."; Don't mess with this!

Shall never be controlled, impeded, or rescinded by any level of government.

Is absolute and decided.

My take on it is that there is no argument that anybody (government or otherwise) can make that will change the absolute right of any individual to keep and/or bear arms.

"shall not be called into question." = cannot be addressed in a court of law

No if, ands or buts. Dont let the Gov even question it.

Shall not be challenged.

No government official, authority, or entity shall infringe upon this right, because to do so essentially questions the fact that this is a right we have reserved to ourselves.

These rights shall not be infringed.

A "question" arises when two or more parties to a contract cannot come to an agreement and seek a remedy thru the judiciary. No government under the jurisdiction of the Montana Constitution will have legal standing if any properly passed resolution encroaches upon this right and subsequently is challenged in a court of competent jurisdiction.

To cast doubt about something.

I read "shall not be called into question" to mean in no chance is the "right to keep OR bear arms" shall ever have time wasted on the matter.

It is what it is and there is no room for discussion.

The government should not have further discussions about it. The matter is settled and is not to be brought up again.

This is set in stone. Can never be challenged.

It means it can not be changed in any way.

No, this right is NOT subject to "reasonable" regulation.

The phrase "shall not be called into question" means the RIGHT OF A FREE PERSON to keep or bear arms cannot even be brought up FOR DISCUSSION. It is beyond discussion.

In plain English, it means "shall not be challenged". As in, argue about whatever you want but when it comes to this right, it will not be challenged. It is set in stone, unless the constitution is changed, then the stone is reshaped.

"shall not be called in question" is the same as in the federal bill of rights "shall not be infringed".

Above interference by any agency of government. Or anything else that might occur.

I agree with the "Cambridge dictionary": "to cause doubts about something".

Not changed or brought to to be changed.

I think of it as "Res ipsa loquitur", that is, the rightness of the doctrine speaks for itself, is self-evident.

The underlying right has universal application and precedence over legislation or other acts of government, regardless of the rationale for the latter. Narrow limitations on exercising the right don't enfranchise limitations on the

right as a whole; inalienable and incontestable.

At least 'Fundamental' and possibly somewhere between that and 'absolute'.

A permanent right that cannot be taken away.

Self-advocating and an inalienable right that cannot be questioned.

Rights that are irrefutable and cannot be challenged by anyone at any time.

It is very simple English. In other words "No one should question a person's right to keep and or bear arms."

Not to be denied by the politicians.

".... into question" is directed at the legislative process. It simply says that this "question" can not be brought up in the legislature or any initiative/referendum effecting the legislature.

This shall not be changed.

It is indisputable.

The RKBA cannot be challenged or changed without a constitutional amendment.

There is no question, and can be no question as to the right being conferred.

Means what it says until proven in a court of law.

Shall not be challenged

Appendix B

AMERICAN DICTIONARY OF THE ENGLISH LANGUAGE BY NOAH WEBSTER, LL.D.,
PUBLISHED BY G. & C. MERRIAM & CO., STATE STREET, SPRINGFIELD, MASS., 1884.

Question (kwest'yun, 66), n. [origin omitted]

1. The act of asking; interrogation; inquiry; examination; as to examine by question and answer.
2. Discussion; debate; hence, dispute; verbal contest.
3. Examination with reference to a decisive result; investigation; and specifically, judicial or official inquiry; formal investigation as before a tribunal; trial. "He that was in *question* for the robbery. *Shak.*

4. Hence, examination under influence of bodily pain; torture. *Blackstone*

5. That which is asked; an inquiry; an interrogatory; a query.

But this *question* asked puts me in doubt. *Milton.*

6. Hence, a subject of investigation or examination; theme of inquiry; matter to be inquired into or respecting.

In question, in debate; in the course of examination or discussion; as, the matter or point in *question*.

Appendix C. The right to keep and bear arms in 45 states.

Alabama

“That every citizen has a right to bear arms in defense of himself and the state.”

Article 1, Section 26

Alaska

“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. The individual right to keep and bear arms shall not be denied or infringed by the state or political subdivision of the State.”

Article 1, Section 19

Arizona

“The right of the individual citizen to bear arms in defense of himself or the State shall not be impaired, but nothing in this section shall be construed as authorizing individuals or corporations to organize, maintain, or employ an armed body of men.”

Article 2, Section 26.

Arkansas

“The citizens of this State shall have the right to keep for their common defense.”

Article 2, Section 5

Colorado

“The right of no person to keep and bear arms in defense of his home, person and property, or in aid of the civil power when thereto legally summoned, shall be called in question; but nothing herein contained shall be construed to justify the practice of carrying concealed weapons.”

Article II, Section 13.

Connecticut

“Every citizen has a right to bear arms in defense of himself and the state.”

Article 1, Section 15

Delaware

“A person has the right to keep and bear arms for the defense of self, family, home and state, and for hunting and recreational use.”

Article 1, §20.

Florida

“(a) The right of the people to keep and bear arms in defense of themselves and of the lawful authority of the state shall not be infringed, except that the manner of bearing arms may be regulated by law.

Article 1, Section 8

Georgia

“The right of the people to keep and bear arms shall not be infringed, but the General Assembly shall have power to prescribe the manner in which arms may be borne.”

Article 1, Section 1, Paragraph VIII

Hawaii

“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.”

Article 1, Section 15

Idaho

“The people have the right to keep and bear arms, which right shall not be abridged; but this provision

shall not prevent the passage of laws to govern the carrying of weapons concealed on the person, nor prevent passage of legislation providing minimum sentences for crimes committed while in possession of a firearm, nor prevent passage of legislation providing penalties for the possession of firearms by a convicted felon, nor prevent the passage of legislation punishing the use of a firearm. No law shall impose licensure, registration or special taxation on the ownership or possession of firearms or ammunition. Nor shall any law permit the confiscation of firearms, except those actually used in the commission of a felony.”

Article 1, Section 11.

Illinois

“Subject only to the police power, the right of the individual citizen to keep and bear arms shall not be infringed.”

Section 22, Article I of the Illinois Bill of Rights

Indiana

“The people shall have a right to bear arms, for the defense of themselves and the State.”

Article 1 Section 32.

Iowa

Iowa has no State Constitutional right to keep and bear arms. However, the Iowa Constitution does guarantee certain inalienable rights—among which are “defending life” and “protecting property.”

Article 1, Section 1

Kansas

“The people have the right to bear arms for their defense and : security; but standing armies in time of peace, are dangerous to • liberty, and shall not be tolerated, and the military shall be in strict subordination to the civil power.”

Kansas Bill of Rights Section 4

Kentucky

“All men are by nature, free and equal, and have certain inherent and inalienable rights, among which may be reckoned: ... 7) the right to bear arms in defense of themselves and of the state, subject to the power of the general assembly to enact laws to prevent persons from carrying concealed weapons.”

Article 1, Section 1, Paragraph 7

Louisiana

“The right of each citizen to keep and bear arms is fundamental and shall not be infringed. Any restriction on this right shall be subject to strict scrutiny.”

Old one – “The right of each citizen to keep and bear arms shall not be abridged, but this provision shall not prevent the passage of laws to prohibit the carrying of weapons concealed on the person.”

LA State Constitution – Article 1, Section 11

Maine

“Every citizen has a right to keep and bear arms and this right shall never be questioned.”

Article 1, Section 16

Maryland

none

Massachusetts

“The people have a right to keep and bear arms for the common defense. And as, in time of peace, armies are dangerous to liberty, they ought not to be maintained without the consent of the legislature, and the military power shall always be held in an exact subordination to the civil authority, and be

governed by it.”

Declaration of Rights, Article 17

Michigan

“Every person has a right to keep and bear arms for the defense of himself and the state.”

Article 1, Section 6

Minnesota

none

Mississippi

“The right of every citizen to keep and bear arms in defense of his home, person, or property, or in aid of the civil power when thereto legally summoned, shall not be called in question, but the legislature may regulate or forbid carrying concealed weapons.”

Article 3 Section 12

Missouri

“That the right of every citizen to keep and bear arms in defense of his home, person and property, or when lawfully summoned in aid of the civil power, shall not be questioned; but this shall not justify the wearing of concealed weapons.”

Article 1, Section 23

Montana

“The right of any person to keep or bear arms in defense of his own home, person, and property, or in aid of the civil power when thereto legally summoned, shall not be called in question, but nothing herein contained shall be held to permit the carrying of concealed weapons.”

Article 2, Section 12

Nebraska

“All persons ... have certain ... rights, among these are ... the right to keep and bear arms for security or defense of self, family, home, and others, and for lawful common defense, hunting, recreational use, and all other lawful purposes, and such rights shall not be denied or infringed by the state or any subdivision thereof.”

Nebraska Constitution art. 1, sec. 1

Nevada

“Every citizen has the right to keep and bear arms for security and defense, for lawful hunting and recreational use and for other lawful purposes.”

Article 1, Section 11, Paragraph 1

New Hampshire

“All persons have the right to keep and bear arms in defense of themselves, their families, their property, and the state.”

Part 1, Article 2-a

New Jersey

none

New Mexico

“No law shall abridge the right of the citizen to keep and bear arms for security and defense, for lawful hunting and recreational use and for other lawful purposes, but nothing herein shall be held to permit the carrying of concealed weapons. No municipality or county shall regulate, in any way, an incident of the right to keep and bear arms.”

Article II, Section 6

New York

none

North Carolina

“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, and, as standing armies in time of peace are dangerous to liberty, they shall not be maintained, and the military should be kept under strict subordination to and governed by the civil power. Nothing herein shall justify the practice of carrying concealed weapons, or prevent the General Assembly from enacting penal statutes against that practice.”

Article 1, Section 30

North Dakota

“All individuals . . . have certain inalienable rights, among which are . . . to keep and bear arms for the defense of their person, family, property, and the state, and for lawful hunting, recreational, and other lawful purposes, which shall not be infringed.”

Article 1, Section 1

Ohio

“The people have the right to bear arms for their defense and security; but standing armies, in time of peace, are dangerous to liberty, and shall not be kept up; and the military shall be in strict subordination to the civil power.”

Article 1, Section 4

Oklahoma

“The right of a citizen to keep and bear arms in defense of his home, person, or property, or in aid of the civil power, when thereunto legally summoned, shall never be prohibited, but nothing herein contained shall prevent the legislature from regulating the carrying of weapons.”

Article 2, Section 26.

Oregon

“The people shall have the right to keep and bear arms for the defense of themselves and the state, but the military shall be kept in strict subordination to the civil power.”

Article 1, Section 27

Pennsylvania

“The right of the citizens to bear arms in defense of themselves and the State shall not be questioned.”

Article 1, Section 21

Rhode Island

“The right of the people to keep and bear arms shall not be infringed.”

Article 1, Section 22

South Carolina

“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.”

Article 1, Section 20

South Dakota

“The right of the citizens to bear arms in defense of themselves and the state shall not be denied.”

Article VI, Section 24

Tennessee

“That the citizens of this State have a right to keep and to bear arms for their common defense; but the Legislature shall have power, by law, to regulate the wearing of arms with a view to prevent crime.”

Article 1, Section 26

Texas

“Every citizen shall have the right to keep and bear arms in the lawful defense of himself or the State; but the Legislature shall have power, by law, to regulate the wearing of arms, with a view to prevent crime.”

Article 1, Section 23

Utah

“The individual right of the people to keep and bear arms for security and defense of self, family, others, property, or the State as well as for other lawful purposes shall not be infringed; but nothing herein shall prevent the legislature from defining the lawful use of arms.”

Article 1, Section 6

Vermont

“That the people have a right to bear arms for the defense of themselves and the State as standing armies in time of peace are dangerous to liberty, they ought not to be kept up; and that the military should be kept under strict subordination to and governed by the civil power.”

Chapter 1, Article 16

Virginia

“That a well regulated militia, composed of the body of the people, trained to arms, is the proper, natural, and safe defense of a free state, therefore, the right of the people to keep and bear arms shall not be infringed; that standing armies, in time of peace, should be avoided as dangerous to liberty; and that in all cases the military should be under strict subordination to, and governed by, the civil power.”

Article 1, Section 13

Washington

“The right of the individual citizen to bear arms in defense of himself, or the state, shall not be impaired, but nothing in this section shall be construed as authorizing individuals or corporations to organize, maintain or employ an armed body of men.”

Article 1, Section 24

West Virginia

A person has the right to keep and bear arms for the defense of self, family, home, and state, and for lawful hunting and recreational use.

Art. 3, Sec. 22

Wisconsin

The people have the right to keep and bear arms for security, defense, hunting, recreation or any other lawful purpose.

WISC. CONST. art. 1, § 25

Wyoming

“The right of the citizens to bear arms in defense of themselves and the state shall not be denied.”

Article 1, Section 24