



## Legislative Analysis

# EFFECTS OF H.R. 6691 ON THE POSSESSION AND USE OF FIREARMS IN THE DISTRICT OF COLUMBIA

## Committee on Oversight and Government Reform

H.R. 6691, the Second Amendment Enforcement Act, was introduced on July 31, 2008. The proposed legislation would make sweeping changes to the District of Columbia's existing firearms laws. This legislative analysis describes the effects of these proposed changes.

### 1. Repeals the District's Ban on Semiautomatic Assault Weapons

H.R. 6691 would repeal the District's current ban on semiautomatic assault weapons.

The District of Columbia currently bans the possession of dangerous weapons, which include "any firearm which shoots automatically or semiautomatically more than 12 shots without reloading."<sup>1</sup>

Section 4 of H.R. 6691 would exclude semiautomatic firearms from the District's prohibition. This change would allow the possession of semiautomatic assault rifles, such as AK-47s, Uzis, and other military-style assault weapons in the District.

A particular concern is that H.R. 6691 would legalize the possession of semiautomatic handguns, such as the assault pistols used in the Virginia Tech and Columbine High School shootings. The presence of these readily concealable assault weapons in the District of Columbia creates an inherent risk because they magnify the death and injury that an attacker can cause.

### 2. Allows the Carrying of Firearms in Public

H.R. 6691 would repeal the District law that prohibits individuals from carrying guns in public.

Under current District law, guns must be kept unloaded and disassembled or locked except under certain narrow circumstances. One exception allows persons who have received special licenses to carry concealable weapons like handguns.<sup>2</sup> Another exception allows unloaded rifles to be transported for hunting and other recreational use.<sup>3</sup> H.R. 6691 would repeal the requirement that guns be kept unloaded and disassembled or locked and it would not require a person to obtain a license to carry loaded assault rifles and other "nonconcealable" weapons.

These revisions would result in a fundamental change in the challenge of maintaining security in the nation's capitol. For the first time, it would be legal for individuals to carry loaded weapons

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<sup>1</sup> D.C. Code § 22-4514, § 22-4501(c). *See also* § 7-2502.02 (prohibiting the registration of machine guns) and § 7-2501.01(10) (defining machine gun as "any firearm which shoots, is designed to shoot, or can be readily converted or restored to shoot ... Semiautomatically, more than 12 shots without manual reloading").

<sup>2</sup> D.C. Code § 22-4504 (a).

<sup>3</sup> D.C. Code § 7-2507.02.

on the streets of the District. To take an extreme case, H.R. 6691 would allow individuals to set up a loaded semiautomatic 50-caliber rifles like those used by U.S. Marine Corps snipers in Iraq.

### **3. Eliminates the District's Firearm Registration System**

H.R. 6691 would eliminate the District of Columbia's firearm registration system.

Under current law, the District requires firearms to be registered with the D.C. Chief of Police.<sup>4</sup> Before an applicant may receive a registration certificate, he or she must be cleared through criminal background checks conducted by both the Chief of Police and the federal National Instant Criminal Background Check system.<sup>5</sup> Under the District's current law, applicants must undergo both background checks before purchasing firearms from any source.<sup>6</sup> In addition, the Metropolitan Police Department performs a "ballistics identification" procedure during which it fires the weapon and retrieves the spent ammunition in order to obtain a ballistic fingerprint of the gun.<sup>7</sup>

The registration system has an important deterrent effect. Under federal law, background checks are performed only for firearms purchased from federally licensed firearms dealers.<sup>8</sup> No federal records are kept when guns are transferred through secondhand sales, gun shows, or are given away. The District's registration system ensures that law enforcement officials know the identity of everyone possessing a lawful firearm in the District regardless of how the weapon was obtained.

Section 5 of H.R. 6691 would repeal this registration system. As a result, the District would not know which residents possess lawful firearms. Individuals who acquire secondhand firearms would know that there would be no official record (either federal or local) linking them to the weapon.

### **4. Eliminates Criminal Background Checks for Secondhand Sales**

H.R. 6691 would eliminate the District's requirement of criminal background checks for secondhand gun purchases.

Current District law requires criminal background checks for all firearm purchases.<sup>9</sup> In contrast, federal law requires criminal background checks only for firearms purchased from federally licensed firearms dealers.<sup>10</sup> Federal law does not require criminal background checks for secondhand purchases or purchases at gun shows.

Section 5 of H.R. 6691 repeals the District's requirement for criminal background checks for gun purchases from sources other than a federally licensed gun dealer.

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<sup>4</sup> D.C. Code § 7-2502.01 (including exceptions for law enforcement officers, military personnel, and licensed firearms dealers).

<sup>5</sup> D.C. Code § 7-2502.03 and The Brady Handgun Violence Protection Act of 1993, 18 U.S.C. § 921 *et seq.*

<sup>6</sup> D.C. Code § 7-2502.03.

<sup>7</sup> The Firearms Control Emergency Amendment Act of 2008, D.C. Legis. Act 17-422 § 2(b) (2008).

<sup>8</sup> The Brady Handgun Violence Prevention Act of 1993, 18 U.S.C. § 921 *et seq.*

<sup>9</sup> D.C. Code § 7-2502.03.

<sup>10</sup> The Brady Handgun Violence Prevention Act of 1993, 18 U.S.C. § 921 *et seq.*

## **5. Eliminates District Prohibitions on Gun Ownership**

H.R. 6691 would eliminate District restrictions on gun ownership that go beyond the minimum federal requirements.

Current District law prohibits firearm ownership by individuals who have been convicted of any criminal offenses involving weapons, violence, assault, or threats to do bodily harm or who do not have sufficient vision to obtain a valid District driver's license.<sup>11</sup>

Each of these prohibitions is more stringent than federal limitations on gun ownership. For example, federal law prohibits gun ownership by individuals convicted of felonies, not gun-related misdemeanors. Section 5 of H.R. 6691 would repeal these additional District prohibitions.

## **6. Prohibits District from Enacting Laws from Other Jurisdictions**

H.R. 6691 would appear to eliminate the District's ability to pass gun regulations in the future, including regulations that have been adopted in other cities and states throughout the country.

Under current District law, the Council is authorized to make "all such usual and reasonable police regulations ... as the Council may deem necessary for the regulation of firearms, projectiles, explosives, or weapons of any kind in the District of Columbia."<sup>12</sup>

Section 3 of H.R. 6691 would add the following restriction:

Nothing in this section or any other provision of law shall authorize, or shall be construed to permit, the Council, the Mayor, or any governmental or regulatory authority of the District of Columbia to prohibit, constructively prohibit, or unduly burden the ability of persons not prohibited from possessing firearms under Federal law from acquiring, possessing in their homes or businesses, or using for sporting, self-protection or other lawful purposes, any firearm neither prohibited by Federal law nor subject to the National Firearms Act. The District of Columbia shall not have authority to enact laws or regulations that discourage or eliminate the private ownership or use of firearms.

As a result, the authority of the District to adopt gun control regulations that prove effective in other jurisdictions would be in doubt. Some examples of the types of restrictions that the District may not be able to adopt include the following:

- The state of Virginia prohibits its residents from purchasing more than one firearm per month.<sup>13</sup>
- The state of North Carolina prohibits the open or concealed carrying of a firearm in the State Capitol Building, the Executive Mansion, and the residence of the Governor.<sup>14</sup>
- The state of Connecticut has prohibited semiautomatic assault weapons with detachable magazines.<sup>15</sup>

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<sup>11</sup> D.C. Code § 7-2502.03.

<sup>12</sup> D.C. Code § 1-303.43.

<sup>13</sup> Va. Code Ann. § 18.2-308.2:2.

<sup>14</sup> N.C. Gen. Stat. § 14-269.4.

<sup>15</sup> Conn. Gen. Stat. § 53-202a.