

A fundamental right shall not be infringed

Written by Pat McKinley

Thursday, 27 September 2012 15:52 -

This week I would like to address another proposed amendment that will be on the November 6 ballot; Constitutional Amendment No. 2, the right to keep and bear arms that, many voters may not be aware of, as I recently discovered after questioning several people at random.

Under our current state's constitution, it gives the right of the people to keep and bear arms and not be abridged, (Encarta Dictionary definition of abridged: to reduce something in scope or extent). Okay, is not that protection enough?

Evidently, it does not prevent a jurisdiction from passing a law/ordinance to prohibit the carrying of weapons if the state can show "compelling governmental interest." That worries me also. Would only the criminals be the ones in possession of firearms then?

With the passage of such laws, no permits would be issued to carry weapons, own hand guns, also limiting the amount, and type of weapons we are allowed to own, and the ammunition with it, as seen in other states that have passed such laws like; Illinois and New York City, and D.C.. (D.C. handgun was overturned in 2008 by the Supreme Court)

I feel we the citizens, need ample time and information regarding such issues, that we are being called upon to vote.

When you go to the voting station this November, this is what you will most likely see on the ballot in block sections YES or NO: "Do you support an amendment to the constitution of the State of Louisiana to provide that the right to keep and bear arms is a fundamental right and any restrictions of that right requires the highest standard of review by a court?" (Hmm) Don't we already have this in place with the Due Process Clause?

Is this language understandable to the layperson? Well, for me it was not. I wanted to know exactly what they meant by, "highest standard of review."

After doing some research, the review in which they speak of is the, "Strict Scrutiny." The Strict

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Scrutiny Test is a term used by the Supreme Court for judicial review, which will determine the constitutionality of a law. Again, don't we already have this in place?

The Strict Scrutiny Test, is a three- tiered test or an approval of analysis under the Equal Protection Clause if you will, with classifications such as, (1) Government must show that the challenged classification serves a "compelling" state interest, and the classification is necessary to serve that interest....

Now, there is a loop-hole such as, (4) Alienage (unless the classification falls within a recognized "Political Community" exception in which case only Rational Basis Scrutiny will be applied.

Now, the definition of Rational Scrutiny, need only show that the challenged classification be "rationally related to serving a legitimate state interest." Way to broad a definition in my opinion.

So, does this mean for example, that under our current constitution at any given time, our city can pass an ordinance prohibiting the carrying of weapons, concealed or not because they think in doing so, they may decrease crime in our area? Could that be a compelling state interest? Yes.

What worries me about leaving this so-called "unprotected" or voting for this so-called "protection," is the possible scenario of some "person or party" opposed to guns, and opposed to our right to keep and bear arms. That they may be in a position, to implement such a law.

Is there no other means by which they may implement a plan to decrease crime without further victimizing its citizens? I hate to tell them, but guns will always be available to the criminals, and by passing a law that would restrict the law-abiding individual, it could drive some of us to purchase firearms in the back alley to ensure we can protect our own.

Will there ever be any way to ensure, with one-hundred percent certainty, that we the people's rights will be protected to keep and bear arms? It is as if you are "damned if you do and damned if you do not."

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I like referring to the “little old’ lady who has a gun in her purse, one in her glove box, one under her seat, and one in the trunk, who when asked what she was afraid of, responded, “Not a damn thing,” and the fellow who said, “Taking guns out of the south, is like taking out fried-chicken. You just can’t do it!”

Pat McKinley is a weekly columnist for the Bossier Press-Tribune. Share “What’s Bugging You” with her by emailing patmckinley@bellsouth.net or newsroom@bossierpress.com.