

NATIONAL RIGHT-TO-CARRY RECIPROCITY ACT OF 2011

NOVEMBER 10, 2011.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SMITH of Texas, from the Committee on the Judiciary,
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 822]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 822) to amend title 18, United States Code, to provide a national standard in accordance with which nonresidents of a State may carry concealed firearms in the State, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The Amendment

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “National Right-to-Carry Reciprocity Act of 2011”.

SEC. 2. RECIPROCITY FOR THE CARRYING OF CERTAIN CONCEALED FIREARMS.

(a) IN GENERAL.—Chapter 44 of title 18, United States Code, is amended by inserting after section 926C the following:

“§ 926D. Reciprocity for the carrying of certain concealed firearms

“(a) Notwithstanding any provision of the law of any State or political subdivision thereof (except as provided in subsection (b)), a person who is not prohibited by Federal law from possessing, transporting, shipping, or receiving a firearm, and who is carrying a valid identification document containing a photograph of the person, and a valid license or permit which is issued pursuant to the law of a State and which permits the person to carry a concealed firearm, may possess or carry a concealed handgun (other than a machinegun or destructive device) that has been shipped or transported in interstate or foreign commerce, in any State, other than the State of residence of the person, that—

“(1) has a statute that allows residents of the State to obtain licenses or permits to carry concealed firearms; or

“(2) does not prohibit the carrying of concealed firearms by residents of the State for lawful purposes.

“(b) The possession or carrying of a concealed handgun in a State under this section shall be subject to the same conditions and limitations, except as to eligibility to possess or carry, imposed by or under Federal or State law or the law of a political subdivision of a State, that apply to the possession or carrying of a concealed handgun by residents of the State or political subdivision who are licensed by the State or political subdivision to do so, or not prohibited by the State from doing so.

“(c) In subsection (a), the term ‘identification document’ means a document made or issued by or under the authority of the United States Government, a State, or a political subdivision of a State which, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals.”.

(b) CLERICAL AMENDMENT.—The table of sections for such chapter is amended by inserting after the item relating to section 926C the following:

“926D. Reciprocity for the carrying of certain concealed firearms.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 90 days after the date of the enactment of this Act.

SEC. 3. GAO AUDIT OF THE STATES’ CONCEALED CARRY PERMIT OR LICENSING REQUIREMENTS FOR NON-RESIDENTS.

(a) The Comptroller General of the United States shall conduct an audit of—

(1) the laws and regulations of each State that authorize the issuance of a valid permit or license to permit a person, other than a resident of such State, to possess or carry a concealed firearm, including a description of the permitting or licensing requirements of each State that issues concealed carry permits or licenses to persons other than a resident of such State;

(2) the number of such valid permits or licenses issued or denied (and the basis for such denials) by each State to persons other than a resident of such State; and

(3) the effectiveness of such State laws and regulations in protecting the public safety.

(b) Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on the findings of the study conducted under subsection (a).

Purpose and Summary

H.R. 822 allows persons with valid state-issued concealed firearm permits or licenses to carry a concealed firearm in any other state that also issues concealed firearm permits or licenses, or in any other state that does not generally prohibit the carrying of concealed firearms.

Background and Need for the Legislation

I. THE CURRENT STATUS OF CONCEALED CARRY LAWS

In a 2008 opinion striking down Washington D.C.'s district-wide handgun ban, the U.S. Supreme Court recognized "that the Second Amendment conferred an individual right to keep and bear arms" that stems in large part from the right to protect oneself, as well as "one's home and family," from harm. *See District of Columbia v. Heller*, 554 U.S. 570 (2008). Specifically, the *Heller* decision found that the right to self defense, as opposed to the creation of a militia or other principles, "was the *central component* of the right itself." *Id.* at 599 (emphasis in original). More recently, in *McDonald v. City of Chicago*, 561 U.S. ___, 130 S.Ct. 3020 (2010), the Supreme Court clarified that the Second Amendment rights discussed in *Heller* also extend to the states.

Forty-nine states currently permit concealed carry in some manner. Thirty-five states have "shall issue" permit laws, which generally require states to issue a concealed carry permit or license to people who meet the legal requirements. Ten states—plus the Virgin Islands, Puerto Rico, and Guam—have "may issue" or discretionary permit laws that are administered in varying ways. Four states—Vermont, Arizona, Alaska, and Wyoming—permit the carrying of a concealed weapon without any permit or license (although Arizona, Alaska, and Wyoming also have a permitting process in place). Illinois, the District of Columbia, the Northern Marianas Islands, and American Samoa prohibit concealed carry.

Twenty-five states allow non-residents to apply for a concealed carry permit or license, and Vermont allows non-residents to carry without a permit while in the state. In most instances, the process for permitting in-state and out-of-state persons is the same. However, some states apply a stricter permitting process to out-of-state residents, including requiring that the person have a valid concealed carry permit from their home state.

A majority of states currently extend reciprocal concealed carry privileges to varying degrees to the residents of other states. Fourteen states grant outright recognition of all valid permits issued by another state. Ten states automatically recognize permits from other states that also recognize their permits. Sixteen states will recognize another state's concealed carry permit if certain conditions are met. Only ten states do not recognize a concealed carry permit issued by another state in any circumstance, although many of these states do allow non-residents to apply for permits to carry a concealed handgun in the state.

Under current Federal law, certain active-duty and retired law enforcement officers are permitted to carry concealed firearms across state lines, even while off duty.¹ In 2010, Congress passed and President Obama signed legislation to expand the categories of current and retired law enforcement officers who are entitled to carry concealed weapons across state lines.² H.R. 822 would extend the ability to carry concealed firearms across state lines to other

¹See 18 U.S.C. §§ 926B and 926C.

²See P.L. 111-272.

law-abiding citizens. President Obama also signed legislation in 2009 to allow the carrying of concealed weapons in Federal parks.³

II. EFFECTS OF CONCEALED CARRY ON PUBLIC SAFETY

While there is disagreement over the benefits of carrying concealed weapons, many believe that robust concealed carry laws ultimately deter crime by making criminal acts much more risky and costly for potential law breakers. Statistics show a connection between concealed carry laws and a decrease in violent crime rates. The National Rifle Association estimates, based on data from the FBI's Annual Uniform Crime Report, that "right-to-carry" states (*i.e.*, those that widely allow concealed carry) have 22 percent lower total violent crime rates, 30 percent lower murder rates, 46 percent lower robbery rates, and 12 percent lower aggravated assault rates, as compared to the rest of the country.⁴ A study of the effect of concealed carry laws on crime rates, published in 1997, estimated that "[w]hen state concealed handgun laws went into effect in a county, murders fell by 7.65 percent, and rapes and aggravated assaults fell by 5 and 7 percent."⁵ The general conclusion of this study, that concealed weapons deter crime, has been replicated and confirmed by other scholars.⁶

The use of firearms in self defense is prevalent. According to the National Self Defense Survey, conducted by criminologists from Florida State University, Americans use guns in self defense an estimated 2.2 to 2.5 million times a year, or every 13 seconds.⁷ This same study found that, in general, simply brandishing a gun or firing a warning shot is sufficient to defend against an attacker in most cases of self defense involving a firearm. Only 24 percent of people surveyed reported firing a gun in self defense, and just 8 percent reported wounding an assailant with a gun.⁸

There is also little evidence that law-abiding permit holders are a threat to public safety. The state of Florida, which has issued over 2 million concealed carry permits since it adopted a "right-to-carry" law in 1987, has revoked just 6,400 permits (just 0.3 percent of the total issued permits) and just 168 concealed carry permits were revoked due to the use of a firearm in a crime (just 0.008 percent).⁹

III. NATIONAL RECIPROCITY UNDER H.R. 822

H.R. 822 would allow persons with valid state-issued concealed firearm permits or licenses to carry a concealed firearm in all other

³ See P.L. 111-24.

⁴ See <http://www.nraila.org/Issues/FactSheets/Read.aspx?id=189&issue=003>.

⁵ John R. Lott, Jr. and David B. Mustard, *Crime, Deterrence, and Right to Carry Concealed Handguns*, 26 J. LEGAL STUD. 1, 19 (1997). This study also found that concealed carry laws and the accompanying decline in violence crime lead to significant financial savings. *Id.* at 64 ("The estimated annual gain in 1992 from allowing concealed handguns was over \$5.74 billion.").

⁶ See Don B. Kates, *Would Banning Firearms Reduce Murder and Suicide?*, 30 HARV. J.L. & PUB. POLY 649, 658 n.30 (2007) ("Several critics have now replicated Lott's work using additional or different data, additional control variables, or new or different statistical techniques they deem superior to those Lott used. Interestingly, the replications all confirm Lott's general conclusions; some even find that Lott underestimated the crime-reductive effects of allowing good citizens to carry concealed guns.").

⁷ See Gary Kleck & Marc Gertz, *Armed Resistance to Crime: The Prevalence and Nature of Self-Defense with a Gun*, 86 J. CRIM. L. & CRIMINOLOGY 150, 164 (1995).

⁸ *Id.* at 173.

⁹ See Florida Department of Agriculture and Consumer Services, Division of Licensing, *Concealed Weapon/Firearm Summary Report*, http://licgweb.doacs.state.fl.us/stats/cw_monthly.html.

states that also issue concealed firearm permits or licenses, or in any other state that does not generally prohibit the carrying of concealed firearms. This legislation would not create a national licensing scheme, but rather would require states that currently permit people to carry concealed firearms to recognize other states' valid concealed carry permits.

H.R. 822, as clarified by the substitute manager's amendment, does not affect a state's ability to set eligibility requirements for its own residents. The bill instead makes clear that a person cannot use this Federal grant of reciprocity to carry a concealed weapon in his or her own state of residence under another state's permit or license, unless their own state's laws permit this. H.R. 822 also does not impact state laws governing how concealed firearms are possessed or carried within the various states. All state, federal, and local laws regarding the possession and carrying of a concealed handgun that would apply to a resident of a state will also apply in equal force to a non-resident. A non-resident who is able to show both a valid identification document and a valid concealed carry permit or license will be permitted to carry a concealed firearm in the same manner as a resident holding a general-use permit or license.

H.R. 822 addresses concerns regarding law enforcement's ability to confirm the validity of an out-of-state concealed carry permit by requiring that a person show both a valid government-issued identification document, such as a license or passport, and a valid concealed carry license or permit. The states are also currently able to verify the validity of out-of-state concealed permits. The Nlets system, formerly the National Law Enforcement Teletype System, permits federal, state, and local law enforcement to query handgun permit information for 12 states that have elected to participate in the program. Law enforcement can also use Nlets to send inquiries regarding concealed carry permits directly to out-of-state agencies that issue permits but do not participate in the Nlets concealed carry program. Forty states currently grant some form of reciprocity for out-of-state concealed carry permits and all of the states are subject to the Firearms Owners' Protection Act's Safe Passage Provision, codified at 18 U.S.C. § 926A, which provides a process by which non-residents can transport lawful firearms through states where they could not otherwise carry the firearm. Accordingly, law enforcement is already very familiar with handling and verifying firearms carried by non-residents.

Hearings

The Committee's Subcommittee on Crime, Terrorism, and Homeland Security held 1 day of hearings on H.R. 822 on September 13, 2011. Testimony was received from Joyce Lee Malcolm, Professor, George Mason University School of Law; David Kopel, Research Director, Independence Institute and Adjunct Professor, Denver University Sturm College of Law; and Philadelphia Police Commissioner Charles Ramsey, with additional material submitted by the International Association of Chiefs of Police, Mayors Against Illegal Guns, the Minnesota Chiefs of Police, and the Virginia Association of Chiefs of Police.

Committee Consideration

On October 25, the Committee met in open session and ordered the bill H.R. 822 favorably reported, with an amendment, by a roll-call vote of 19 to 11, a quorum being present.

Committee Votes

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that the following rollcall votes occurred during the Committee's consideration of H.R. 822.

1. An amendment by Mr. Conyers to strike the provision stating that state eligibility requirements do not apply to non-residents. Failed 12 to 18.

ROLLCALL NO. 1

	Ayes	Nays	Present
Mr. Smith, Chairman		X	
Mr. Sensenbrenner, Jr.			
Mr. Coble		X	
Mr. Gallegly		X	
Mr. Goodlatte		X	
Mr. Lungren		X	
Mr. Chabot		X	
Mr. Issa			
Mr. Pence			
Mr. Forbes		X	
Mr. King		X	
Mr. Franks		X	
Mr. Gohmert		X	
Mr. Jordan		X	
Mr. Poe		X	
Mr. Chaffetz		X	
Mr. Griffin		X	
Mr. Marino		X	
Mr. Gowdy		X	
Mr. Ross			
Ms. Adams		X	
Mr. Quayle		X	
Mr. Amodei			
Mr. Conyers, Jr., Ranking Member	X		
Mr. Berman	X		
Mr. Nadler	X		
Mr. Scott	X		
Mr. Watt	X		
Ms. Lofgren	X		
Ms. Jackson Lee	X		
Ms. Waters	X		
Mr. Cohen	X		
Mr. Johnson	X		
Mr. Pierluisi	X		
Mr. Quigley			
Ms. Chu	X		
Mr. Deutch			
Ms. Sánchez			
(Vacant)			
Total	12	18	

2. An amendment by Mr. Gohmert to add the District of Columbia to jurisdictions eligible for reciprocity for the carrying of concealed firearms. Failed 3 to 24, with one Member reported as present.

ROLLCALL NO. 2

	Ayes	Nays	Present
Mr. Smith, Chairman		X	
Mr. Sensenbrenner, Jr.		X	
Mr. Coble		X	
Mr. Gallegly		X	
Mr. Goodlatte		X	
Mr. Lungren		X	
Mr. Chabot			
Mr. Issa			
Mr. Pence			
Mr. Forbes		X	
Mr. King	X		
Mr. Franks		X	
Mr. Gohmert	X		
Mr. Jordan	X		
Mr. Poe		X	
Mr. Chaffetz		X	
Mr. Griffin		X	
Mr. Marino		X	
Mr. Gowdy			X
Mr. Ross			
Ms. Adams		X	
Mr. Quayle		X	
Mr. Amodei		X	
Mr. Conyers, Jr., Ranking Member		X	
Mr. Berman			
Mr. Nadler		X	
Mr. Scott		X	
Mr. Watt		X	
Ms. Lofgren		X	
Ms. Jackson Lee		X	
Ms. Waters		X	
Mr. Cohen		X	
Mr. Johnson			
Mr. Pierluisi		X	
Mr. Quigley		X	
Ms. Chu			
Mr. Deutch			
Ms. Sánchez			
(Vacant)			
Total	3	24	1

3. An amendment by Mr. Nadler to apply State law regarding the possession and carrying of concealed handguns for those convicted of a sex offense against a child. Failed 11 to 17.

ROLLCALL NO. 3

	Ayes	Nays	Present
Mr. Smith, Chairman		X	
Mr. Sensenbrenner, Jr.		X	
Mr. Coble		X	
Mr. Gallegly		X	
Mr. Goodlatte		X	
Mr. Lungren	X		
Mr. Chabot			
Mr. Issa			
Mr. Pence			
Mr. Forbes		X	
Mr. King		X	
Mr. Franks		X	
Mr. Gohmert			
Mr. Jordan		X	

ROLLCALL NO. 3—Continued

	Ayes	Nays	Present
Mr. Poe		X	
Mr. Chaffetz		X	
Mr. Griffin		X	
Mr. Marino		X	
Mr. Gowdy		X	
Mr. Ross			
Ms. Adams		X	
Mr. Quayle		X	
Mr. Amodei		X	
Mr. Conyers, Jr., Ranking Member	X		
Mr. Berman			
Mr. Nadler	X		
Mr. Scott	X		
Mr. Watt	X		
Ms. Lofgren	X		
Ms. Jackson Lee			
Ms. Waters			
Mr. Cohen	X		
Mr. Johnson	X		
Mr. Pierluisi	X		
Mr. Quigley	X		
Ms. Chu	X		
Mr. Deutch			
Ms. Sánchez			
(Vacant)			
Total	11	17	

4. An amendment by Mr. Nadler to prohibit someone known or suspected to be a terrorist from possessing or carrying a handgun under the bill. Failed 10 to 19.

ROLLCALL NO. 4

	Ayes	Nays	Present
Mr. Smith, Chairman		X	
Mr. Sensenbrenner, Jr.		X	
Mr. Coble			
Mr. Gallegly		X	
Mr. Goodlatte			
Mr. Lungren		X	
Mr. Chabot		X	
Mr. Issa			
Mr. Pence		X	
Mr. Forbes		X	
Mr. King		X	
Mr. Franks		X	
Mr. Gohmert			
Mr. Jordan		X	
Mr. Poe		X	
Mr. Chaffetz		X	
Mr. Griffin		X	
Mr. Marino		X	
Mr. Gowdy		X	
Mr. Ross		X	
Ms. Adams		X	
Mr. Quayle		X	
Mr. Amodei		X	
Mr. Conyers, Jr., Ranking Member			
Mr. Berman			
Mr. Nadler	X		
Mr. Scott	X		
Mr. Watt	X		

ROLLCALL NO. 4—Continued

	Ayes	Nays	Present
Ms. Lofgren	X		
Ms. Jackson Lee	X		
Ms. Waters			
Mr. Cohen			
Mr. Johnson	X		
Mr. Pierluisi	X		
Mr. Quigley	X		
Ms. Chu	X		
Mr. Deutch	X		
Ms. Sánchez			
(Vacant)			
Total	10	19	

5. An amendment by Ms. Jackson Lee to subject anyone convicted of stalking or unlawful surveillance to any state laws that limit their ability to possess or carry a concealed weapon. Failed 9 to 15.

ROLLCALL NO. 5

	Ayes	Nays	Present
Mr. Smith, Chairman		X	
Mr. Sensenbrenner, Jr.		X	
Mr. Coble			
Mr. Gallegly		X	
Mr. Goodlatte			
Mr. Lungren		X	
Mr. Chabot		X	
Mr. Issa			
Mr. Pence		X	
Mr. Forbes		X	
Mr. King		X	
Mr. Franks		X	
Mr. Gohmert			
Mr. Jordan			
Mr. Poe			
Mr. Chaffetz		X	
Mr. Griffin		X	
Mr. Marino		X	
Mr. Gowdy		X	
Mr. Ross		X	
Ms. Adams			
Mr. Quayle		X	
Mr. Amodei			
Mr. Conyers, Jr., Ranking Member			
Mr. Berman			
Mr. Nadler	X		
Mr. Scott	X		
Mr. Watt	X		
Ms. Lofgren	X		
Ms. Jackson Lee	X		
Ms. Waters			
Mr. Cohen			
Mr. Johnson	X		
Mr. Pierluisi	X		
Mr. Quigley	X		
Ms. Chu			
Mr. Deutch	X		
Ms. Sánchez			
(Vacant)			
Total	9	15	

6. An amendment by Mr. Johnson to require the possession or carrying of a concealed handgun in a state to be subject to that state's law regarding concealed carry by any person subject to a domestic violence protection order within the past 10 years. Failed 12 to 14.

ROLLCALL NO. 6

	Ayes	Nays	Present
Mr. Smith, Chairman		X	
Mr. Sensenbrenner, Jr.			
Mr. Coble		X	
Mr. Gallegly		X	
Mr. Goodlatte			
Mr. Lungren		X	
Mr. Chabot		X	
Mr. Issa			
Mr. Pence			
Mr. Forbes		X	
Mr. King		X	
Mr. Franks		X	
Mr. Gohmert			
Mr. Jordan			
Mr. Poe			
Mr. Chaffetz		X	
Mr. Griffin		X	
Mr. Marino		X	
Mr. Gowdy		X	
Mr. Ross		X	
Ms. Adams		X	
Mr. Quayle			
Mr. Amodei			
Mr. Conyers, Jr., Ranking Member	X		
Mr. Berman			
Mr. Nadler	X		
Mr. Scott	X		
Mr. Watt	X		
Ms. Lofgren	X		
Ms. Jackson Lee	X		
Ms. Waters			
Mr. Cohen	X		
Mr. Johnson	X		
Mr. Pierluisi			
Mr. Quigley	X		
Ms. Chu	X		
Mr. Deutch	X		
Ms. Sánchez	X		
(Vacant)			
Total	12	14	

7. An amendment by Mr. Quigley on behalf of Mr. Pierluisi to require that a permit to carry a concealed firearm include the permit holder's full legal name, date of birth, gender, digital photograph, address of principal residence, and signature; the permit's unique issuance number; and physical security features. Failed 12 to 15.

ROLLCALL NO. 7

	Ayes	Nays	Present
Mr. Smith, Chairman		X	
Mr. Sensenbrenner, Jr.			
Mr. Coble			

ROLLCALL NO. 7—Continued

	Ayes	Nays	Present
Mr. Gallegly		X	
Mr. Goodlatte			
Mr. Lungren		X	
Mr. Chabot		X	
Mr. Issa			
Mr. Pence			
Mr. Forbes		X	
Mr. King		X	
Mr. Franks		X	
Mr. Gohmert			
Mr. Jordan			
Mr. Poe		X	
Mr. Chaffetz		X	
Mr. Griffin		X	
Mr. Marino		X	
Mr. Gowdy		X	
Mr. Ross		X	
Ms. Adams		X	
Mr. Quayle			
Mr. Amodei		X	
Mr. Conyers, Jr., Ranking Member	X		
Mr. Berman			
Mr. Nadler	X		
Mr. Scott	X		
Mr. Watt	X		
Ms. Lofgren	X		
Ms. Jackson Lee	X		
Ms. Waters			
Mr. Cohen	X		
Mr. Johnson	X		
Mr. Pierluisi			
Mr. Quigley	X		
Ms. Chu	X		
Mr. Deutch	X		
Ms. Sánchez	X		
(Vacant)			
Total	12	15	

8. An amendment by Mr. Quigley to require to possession or carrying of a concealed handgun in a State be subject to any State law limiting the eligibility to possess or carry a concealed handgun for anyone convicted of assaulted or impersonating a law enforcement officer. Failed 11 to 16.

ROLLCALL NO. 8

	Ayes	Nays	Present
Mr. Smith, Chairman		X	
Mr. Sensenbrenner, Jr.		X	
Mr. Coble			
Mr. Gallegly			
Mr. Goodlatte		X	
Mr. Lungren		X	
Mr. Chabot		X	
Mr. Issa		X	
Mr. Pence			
Mr. Forbes		X	
Mr. King			
Mr. Franks		X	
Mr. Gohmert		X	
Mr. Jordan			

ROLLCALL NO. 8—Continued

	Ayes	Nays	Present
Mr. Poe			
Mr. Chaffetz		X	
Mr. Griffin		X	
Mr. Marino		X	
Mr. Gowdy		X	
Mr. Ross		X	
Ms. Adams			
Mr. Quayle		X	
Mr. Amodei		X	
Mr. Conyers, Jr., Ranking Member	X		
Mr. Berman			
Mr. Nadler	X		
Mr. Scott	X		
Mr. Watt	X		
Ms. Lofgren	X		
Ms. Jackson Lee			
Ms. Waters			
Mr. Cohen	X		
Mr. Johnson	X		
Mr. Pierluisi			
Mr. Quigley	X		
Ms. Chu	X		
Mr. Deutch	X		
Ms. Sánchez	X		
(Vacant)			
Total	11	16	

9. An amendment by Ms. Chu to require that the possession of carrying of a concealed handgun in a state be subject to that state's law regarding concealed carry by someone convicted of selling a controlled substance to a minor. Failed 11 to 17.

ROLLCALL NO. 9

	Ayes	Nays	Present
Mr. Smith, Chairman		X	
Mr. Sensenbrenner, Jr.		X	
Mr. Coble			
Mr. Gallegly			
Mr. Goodlatte		X	
Mr. Lungren		X	
Mr. Chabot		X	
Mr. Issa		X	
Mr. Pence			
Mr. Forbes		X	
Mr. King		X	
Mr. Franks		X	
Mr. Gohmert			
Mr. Jordan			
Mr. Poe		X	
Mr. Chaffetz		X	
Mr. Griffin		X	
Mr. Marino		X	
Mr. Gowdy		X	
Mr. Ross		X	
Ms. Adams			
Mr. Quayle		X	
Mr. Amodei		X	
Mr. Conyers, Jr., Ranking Member	X		
Mr. Berman			
Mr. Nadler	X		
Mr. Scott	X		

ROLLCALL NO. 9—Continued

	Ayes	Nays	Present
Mr. Watt	X		
Ms. Lofgren	X		
Ms. Jackson Lee			
Ms. Waters	X		
Mr. Cohen	X		
Mr. Johnson	X		
Mr. Pierluisi			
Mr. Quigley	X		
Ms. Chu	X		
Mr. Deutch			
Ms. Sánchez	X		
(Vacant)			
Total	11	17	

10. An amendment by Mr. Lungren to require a GAO audit of the laws of each state that issues concealed carry permits or licenses to non-residents. Passed 13 to 8.

ROLLCALL NO. 10

	Ayes	Nays	Present
Mr. Smith, Chairman	X		
Mr. Sensenbrenner, Jr.			
Mr. Coble			
Mr. Gallegly			
Mr. Goodlatte	X		
Mr. Lungren	X		
Mr. Chabot	X		
Mr. Issa	X		
Mr. Pence			
Mr. Forbes	X		
Mr. King	X		
Mr. Franks	X		
Mr. Gohmert			
Mr. Jordan			
Mr. Poe			
Mr. Chaffetz		X	
Mr. Griffin	X		
Mr. Marino	X		
Mr. Gowdy	X		
Mr. Ross			
Ms. Adams			
Mr. Quayle	X		
Mr. Amodei	X		
Mr. Conyers, Jr., Ranking Member		X	
Mr. Berman			
Mr. Nadler		X	
Mr. Scott		X	
Mr. Watt		X	
Ms. Lofgren			
Ms. Jackson Lee			
Ms. Waters		X	
Mr. Cohen			
Mr. Johnson		X	
Mr. Pierluisi			
Mr. Quigley			
Ms. Chu			
Mr. Deutch			
Ms. Sánchez		X	
(Vacant)			
Total	13	8	

11. An amendment by Mr. Cohen to limit the reciprocity extended by H.R. 822 to persons over the age of 21. Failed 4 to 12.

ROLLCALL NO. 11

	Ayes	Nays	Present
Mr. Smith, Chairman		X	
Mr. Sensenbrenner, Jr.		X	
Mr. Coble			
Mr. Gallegly			
Mr. Goodlatte		X	
Mr. Lungren			
Mr. Chabot		X	
Mr. Issa			
Mr. Pence			
Mr. Forbes		X	
Mr. King		X	
Mr. Franks		X	
Mr. Gohmert			
Mr. Jordan			
Mr. Poe			
Mr. Chaffetz		X	
Mr. Griffin		X	
Mr. Marino		X	
Mr. Gowdy			
Mr. Ross			
Ms. Adams		X	
Mr. Quayle		X	
Mr. Amodei			
Mr. Conyers, Jr., Ranking Member			
Mr. Berman			
Mr. Nadler			
Mr. Scott	X		
Mr. Watt			
Ms. Lofgren			
Ms. Jackson Lee	X		
Ms. Waters			
Mr. Cohen	X		
Mr. Johnson	X		
Mr. Pierluisi			
Mr. Quigley			
Ms. Chu			
Mr. Deutch			
Ms. Sánchez			
(Vacant)			
Total	4	12	

12. An amendment by Ms. Jackson Lee to require states to maintain a database of all concealed carry permits and licenses issued by the states and make that database available to law enforcement 24-hours a day. Failed 3 to 12.

ROLLCALL NO. 12

	Ayes	Nays	Present
Mr. Smith, Chairman		X	
Mr. Sensenbrenner, Jr.		X	
Mr. Coble			
Mr. Gallegly			
Mr. Goodlatte		X	
Mr. Lungren			
Mr. Chabot		X	
Mr. Issa			
Mr. Pence			

ROLLCALL NO. 12—Continued

	Ayes	Nays	Present
Mr. Forbes		X	
Mr. King		X	
Mr. Franks		X	
Mr. Gohmert			
Mr. Jordan			
Mr. Poe			
Mr. Chaffetz		X	
Mr. Griffin		X	
Mr. Marino		X	
Mr. Gowdy			
Mr. Ross			
Ms. Adams		X	
Mr. Quayle		X	
Mr. Amodei			
Mr. Conyers, Jr., Ranking Member			
Mr. Berman			
Mr. Nadler			
Mr. Scott	X		
Mr. Watt			
Ms. Lofgren			
Ms. Jackson Lee	X		
Ms. Waters			
Mr. Cohen			
Mr. Johnson	X		
Mr. Pierluisi			
Mr. Quigley			
Ms. Chu			
Mr. Deutch			
Ms. Sánchez			
(Vacant)			
Total	3	12	

13. Motion to report H.R. 822 favorably, as amended. Passed 19 to 11.

ROLLCALL NO. 13

	Ayes	Nays	Present
Mr. Smith, Chairman	X		
Mr. Sensenbrenner, Jr.	X		
Mr. Coble	X		
Mr. Gallegly			
Mr. Goodlatte	X		
Mr. Lungren		X	
Mr. Chabot	X		
Mr. Issa	X		
Mr. Pence			
Mr. Forbes	X		
Mr. King	X		
Mr. Franks	X		
Mr. Gohmert			
Mr. Jordan	X		
Mr. Poe	X		
Mr. Chaffetz	X		
Mr. Griffin	X		
Mr. Marino	X		
Mr. Gowdy	X		
Mr. Ross	X		
Ms. Adams	X		
Mr. Quayle	X		
Mr. Amodei	X		
Mr. Conyers, Jr., Ranking Member		X	

ROLLCALL NO. 13—Continued

	Ayes	Nays	Present
Mr. Berman		X	
Mr. Nadler		X	
Mr. Scott		X	
Mr. Watt			
Ms. Lofgren			
Ms. Jackson Lee			
Ms. Waters		X	
Mr. Cohen		X	
Mr. Johnson		X	
Mr. Pierluisi		X	
Mr. Quigley		X	
Ms. Chu		X	
Mr. Deutch			
Ms. Sánchez			
(Vacant)			
Total	19	11	

Committee Oversight Findings

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

New Budget Authority and Tax Expenditures

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

Congressional Budget Office Cost Estimate

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 822, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 4, 2011.

Hon. LAMAR SMITH, CHAIRMAN,
Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 822, the “National Right-to-Carry Reciprocity Act of 2011.”

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz, who can be reached at 226–2860.

Sincerely,

DOUGLAS W. ELMENDORF,
DIRECTOR.

Enclosure

cc: Honorable John Conyers, Jr.
Ranking Member

H.R. 822—National Right-to-Carry Reciprocity Act of 2011.

As ordered reported by the House Committee on the Judiciary on
October 25, 2011

H.R. 822 would permit persons who are authorized to carry concealed firearms in their state of residence to carry concealed handguns in other states, under certain circumstances. The bill also would require the Government Accountability Office (GAO) to submit to the Congress a study on the laws and regulations of states that currently authorize nonresidents to carry concealed handguns.

Based on the costs of similar GAO activities, CBO estimates that implementing H.R. 822 would have no significant cost to the Federal Government. Enacting the bill would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 822 would impose an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA) by preempting some state laws that limit the ability of nonresidents to carry concealed weapons. Laws allowing individuals to carry concealed weapons vary from state to state and range from allowing anyone to carry such weapons without a permit to prohibiting nonresidents from carrying concealed weapons and requiring residents to complete training and meet other conditions before obtaining a permit. Some states recognize permits issued by other states and some do not. If enacted, the bill would require states that currently do not recognize permits to carry concealed weapons issued by other states to recognize those permits for nonresidents. The costs for states to comply with that mandate would include the cost to change protocols and train law enforcement officers.

The bill also could result in the loss of revenue for some states. Currently, some states issue permits to nonresidents and charge fees ranging from \$20 to \$140 for those permits. If this bill is enacted and individuals have a permit to carry concealed weapons from their resident state, they would no longer need to purchase nonresident permits in other states they visit. There is no data on how many individuals this may affect, but the loss to states that issue nonresident permits could total a few million dollars annually.

CBO estimates that the total costs for states to comply with the preemption, including the training costs for law enforcement and the lost revenue from the nonresident permit fees, would be small and would not exceed the threshold established in UMRA (\$71 million in 2011, adjusted annually for inflation).

H.R. 822 contains no private-sector mandates as defined in UMRA.

The CBO staff contacts for this estimate are Mark Grabowicz (for Federal costs) and Melissa Merrell (for the intergovernmental impact). The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

Performance Goals and Objectives

The Committee states that pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 822 allows persons with valid state-issued concealed firearm permits or licenses to carry a concealed firearm in any other state that also issues concealed firearm permits or licenses, or in any other state that does not generally prohibit the carrying of concealed firearms.

Advisory on Earmarks

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 822 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of Rule XXI.

Section-by-Section Analysis

The following discussion describes the bill as reported by the Committee.

Section 1. Short Title. Section 1 states that H.R. 822 may be cited as the “National Right-to-Carry Reciprocity Act of 2011.”

Section 2. Reciprocity for the Carrying of Certain Concealed Firearms. This section amends Chapter 44 of title 18 of the U.S. Code to insert after Section 926C a provision to provide reciprocity for the carrying of certain concealed firearms across state lines. This legislation would allow any person with a valid state-issued concealed firearm permit or license and a valid government-issued identification document to carry a concealed firearm in any other state that either issues concealed firearm permits, or that does not prohibit the carrying of concealed firearms. Section 2 further provides that the laws of a state or political subdivision regarding the possession or carrying of concealed firearms would continue to apply within its borders, as well as any Federal laws that apply to residents of a state. Section 2 also defines “identification document” and provides that the effective date of the bill is 90 days after the enactment of the Act.

Section 3. GAO Audit of the States’ Concealed Carry Permit of Licensing Requirements for Non-Residents. This section directs the Comptroller General to audit the laws of each state that issues concealed carry permits or licenses to non-residents, the number of permits issued to non-residents by these states, and the effectiveness of these laws in protecting the public safety. This audit is due not more than 1-year after enactment of H.R. 822.

Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

TITLE 18, UNITED STATES CODE

PART I—CRIMES

* * * * *

CHAPTER 44—FIREARMS

Sec.

921. Definitions.

* * * * *

926D. Reciprocity for the carrying of certain concealed firearms.

* * * * *

§926D. Reciprocity for the carrying of certain concealed firearms

(a) Notwithstanding any provision of the law of any State or political subdivision thereof (except as provided in subsection (b)), a person who is not prohibited by Federal law from possessing, transporting, shipping, or receiving a firearm, and who is carrying a valid identification document containing a photograph of the person, and a valid license or permit which is issued pursuant to the law of a State and which permits the person to carry a concealed firearm, may possess or carry a concealed handgun (other than a machinegun or destructive device) that has been shipped or transported in interstate or foreign commerce, in any State, other than the State of residence of the person, that—

(1) has a statute that allows residents of the State to obtain licenses or permits to carry concealed firearms; or

(2) does not prohibit the carrying of concealed firearms by residents of the State for lawful purposes.

(b) The possession or carrying of a concealed handgun in a State under this section shall be subject to the same conditions and limitations, except as to eligibility to possess or carry, imposed by or under Federal or State law or the law of a political subdivision of a State, that apply to the possession or carrying of a concealed handgun by residents of the State or political subdivision who are licensed by the State or political subdivision to do so, or not prohibited by the State from doing so.

(c) In subsection (a), the term “identification document” means a document made or issued by or under the authority of the United States Government, a State, or a political subdivision of a State which, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals.

* * * * *

Dissenting Views

INTRODUCTION

H.R. 822, the “National Right-to-Carry Reciprocity Act of 2011,” is a dangerous bill that would override the laws of almost every state by obliging each to accept concealed handgun carry permits from every other state, even if the permit holder would not be allowed to carry or even possess a handgun in the state where he or she is traveling. The law tramples federalism and endangers public safety.

The harmful impact of this legislation is without doubt. For example, some states require an individual to show that he or she knows how to use a firearm or meet minimum training standards before obtaining a concealed carry license. Under H.R. 822, however, these states would be forced to allow out-of-state visitors to carry concealed weapons even if they do not meet that state’s concealed licensing standards concerning basic gun safety or training requirements. During consideration of the bill, numerous amendments were offered by the Minority to address these serious flaws, but none were adopted. Members of the Majority blocked amendments to preserve the application of state laws concerning eligibility to carry concealed weapons within their borders, as well as other amendments that would have allowed states to prevent concealed carrying of handguns by those with out of state permits with convictions for offenses such as misdemeanor assault on police officers and misdemeanor sex offenses against children.

Recognizing the danger that it would pose to our citizens and to law enforcement officers across this country, this bill is opposed by more than 550 mayors (represented by Mayors Against Illegal Guns),¹ major police organizations, domestic violence abuse victim advocates, prosecutors, and faith-based organizations.²

For these reasons, and those stated below, we urge our colleagues to oppose this seriously flawed legislation and respectfully dissent.

¹ Letter from Thomas M. Menino, Mayor of Boston and Michael R. Bloomberg, Mayor of New York City (Co-Chairs of the Mayors Against Illegal Guns) to The Honorable John Boehner and The Honorable Nancy Pelosi (March 11, 2011).

² Police groups opposing the bill included the International Association of Chiefs of Police; Major Cities Chiefs Association; the Police Foundation, National Latino Peace Officers Association; and National Organization of Black Law Enforcement Executives. Among the state and local police organizations and individuals opposing the bill are the California Police Chiefs Association; the Colorado Association of Chiefs of Police; Colorado Springs Police Chief Richard Myers; Boston Police Commissioner Edward Davis; Las Vegas Metropolitan Police Department Sheriff Douglas Gillespie; the Virginia Association of Chiefs of Police; Minneapolis Chief of Police Timothy Dolan; Duluth Police Chief Gordon Ramsay; Burlington North Carolina Chief of Police Michael Williams; New York City Police Commissioner Raymond W. Kelly; and Portland Maine Chief of Police James E. Craig. Domestic violence abuse victims advocates oppose this bill, including the National Network to End Domestic Violence (a coalition of 56 domestic violence victim advocacy groups) and the Minnesota Domestic Abuse Project. Prosecutors opposing the bill, include the Association of Prosecuting Attorneys; the American Bar Association; Minneapolis Office of the City Attorney Susan Segal; Bronx County (NY) District Attorney Robert Johnson; Kings County (NY) District Attorney Charles Hynes; Queens County (NY) District Attorney Richard A. Brown; Richmond County (NY) District Attorney Daniel Donovan, Jr.; New York’s Special Narcotics Prosecutor Bridget G. Brennan; New York County (NY) District Attorney Robert Morris Morgenthau; New Jersey Attorney General Anne Milgram; Delaware Acting Attorney General Richard Gebelein; Iowa Attorney General Tom Miller; Illinois Attorney General Lisa Madigan; Colorado Association of Chiefs of Police; Broomfield (CO) Police Chief Thomas Deland; Colorado Springs (CO) Police Chief Richard Myers; and Wheat Ridge (CO) Police Chief Daniel G. Brennan. Faith-based organizations opposing the bill include Faiths United, a coalition of more than 30 religious organizations. Our Lives, Our Laws: People Who Care, <http://www.ourlivesourlaws.org/people-who-care>.

DESCRIPTION AND BACKGROUND

H.R. 822 disregards state laws by forcing states to allow the carrying of loaded, concealed weapons by any individual permitted to carry concealed weapons in another state. Section 2 of H.R. 822, as amended by the Committee, sets forth the bill's operative provisions and makes clear that the intent of this legislation is to override the will of the states with regard to who may carry concealed handguns within their borders. It provides that an individual who is not prohibited by federal law from possessing firearms and who is carrying a valid identification document containing a photograph of such individual and a valid concealed carry permit issued by a state, may carry a concealed handgun in another state if the other state has a statute that allows the issuance of concealed carry permits or does not prohibit the carrying of concealed firearms. Section 2(b) provides that an individual carrying a concealed handgun in a state must be permitted to carry the gun subject to "the same conditions and limitations, *except as to eligibility to possess or carry,*" imposed by federal, state or local law that apply to the possession or carrying of a concealed handgun by residents of that state.³

In effect, the bill would reduce all states to the lowest common denominator of concealed carry laws, and would subject citizens to unnecessary public safety risks, contrary to the judgments made by the individual states. As Philadelphia Police Commissioner Charles Ramsey stated, "We have a uniquely diverse nation. What works where I currently serve as Commissioner in Philadelphia, and the Commonwealth of Pennsylvania, does not work for our neighbor across the river in New Jersey. Our laws for obtaining a permit are vastly different, based on well-debated decisions made at the state level."⁴

The Courts have found that States are within their lawful constitutional power to set minimum public safety standards for carrying concealed guns. The Supreme Court has stated that even prohibitions on concealed carrying are permissible. In *District of Columbia v. Heller*,⁵ a case in which the Supreme Court held that the District's handgun ban was unconstitutional, Justice Scalia, writing for the majority, specified that the Court's holding did not "cast doubt" on other gun laws and noted that "[w]e identify these presumptively lawful regulatory measures only as examples; our list does not purport to be exhaustive."⁶ In discussing long-understood limitations on the right to keep and bear arms, Justice Scalia noted that "the majority of the 19th-century courts to consider the question held that prohibitions on carrying concealed weapons were lawful under the Second Amendment or state analogues."⁷ The Court thus reaffirmed its ruling in *Robertson v. Baldwin* that "the

³H.R. 822, as amended by the Franks Substitute Amendment, 112th Cong. §2(b) (emphasis supplied).

⁴*The National Right-to-Carry Reciprocity Act of 2011: Hearing on H.R. 822 Before the Subcomm. on Crime, Terrorism, and Homeland Security of the H. Comm. on the Judiciary*, 112th Cong. (2011) (statement of Charles H. Ramsey, Police Commissioner, Philadelphia Police Department).

⁵554 U.S. 570 (2008).

⁶*Id.* at 627 n.26.

⁷*Id.* at 626.

right of the people to keep and bear arms (article 2) is not infringed by laws prohibiting the carrying of concealed weapons.”⁸

Since *Heller*, courts throughout the United States have rejected the argument that there is a right to carry concealed guns in public. In *Kachalsky v. Cacace*,⁹ the court upheld New York’s restrictions on concealed carry, and stated:

This emphasis on the Second Amendment’s protection of the right to keep and bear arms for the purpose of ‘self-defense in the home’ permeates the Court’s decision and forms the basis for its holding—which, despite the Court’s broad analysis of the Second Amendment’s text and historical underpinnings, is actually quite narrow.

The language of *Heller* makes clear that the Court recognized ‘not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose’ but rather a much narrower right—namely the “right of law-abiding, responsible citizens to use arms in defense of hearth and home.”¹⁰

In *U.S. v. Masciandaro*,¹¹ the Fourth Circuit rejected the claim that there is a constitutional right to possess a loaded handgun in a car in a national park. The court explained, “This is serious business. We do not wish to be even minutely responsible for some unspeakably tragic act of mayhem because in the peace of our judicial chambers we miscalculated as to Second Amendment rights.”¹² The Fourth Circuit cautioned further that the danger posed by guns “would rise exponentially as one moved the right from the home to the public square. If ever there was an occasion for restraint, this would seem to be it. There is much to be said for a course of simple caution.”¹³

Many other courts have similarly reached this conclusion.¹⁴ In sum, the courts are in accord that there is no constitutional right to carry loaded guns outside the home, and certainly not to carry

⁸ 165 U.S. 275, 281–82 (1897).

⁹ F. Supp. 2d (S.D.N.Y. 2011).

¹⁰ *Heller*, 554 U.S. at 635.

¹¹ 638 F.3d 458 (4th Cir. 2011).

¹² *Id.* at 475.

¹³ *Id.* at 476.

¹⁴ See, e.g., *People v. Aguillar*, 944 N.E. 2d 816 (Ill. App. Ct. 2011) (stating “the decisions in *Heller* and *McDonald* were limited to interpreting the second amendment’s protection of the right to possess handguns in the home, not the right to possess handguns outside the home”); *Gonzalez v. Village of W. Milwaukee*, No. 09cv0384, 2010 WL 1904977 (E.D. Wis. May 11, 2010) (stating that the “Supreme Court has never held that the Second Amendment protects the carrying of guns outside the home”); *United States v. Hart*, 725 F. Supp. 2d 56 (D. Mass. 2010) (“*Heller* does not hold, nor even suggest, that concealed weapons laws are unconstitutional.”); *In re Factor*, 2010 WL 1753307 (N.J. Super. Ct. App. Div. Apr. 21, 2010) (stating that the “United States Supreme Court has not held or even implied that the Second Amendment prohibits laws that restrict carrying of concealed weapons”); *Dorr v. Weber*, 2010 WL 1976743 (N.D. Iowa, May 18, 2010) (stating that a “right to carry a concealed weapon under the Second Amendment has not been recognized to date”); *Teng v. Town of Kensington*, No. 09cv8jl, 2010 WL 596526 (D.N.H. Feb. 17, 2010) (“Given that *Heller* refers to outright ‘prohibition on carrying concealed weapons’ as ‘presumptively lawful,’ far lesser restrictions of the sort imposed here clearly do not violate the Second Amendment.”); *United States v. Tooley*, 717 F. Supp. 2d 580 (S.D.W.Va. 2010) (“Additionally, possession of a firearm outside of the home or for purposes other than self-defense in the home are not within the ‘core’ of the Second Amendment right as defined by *Heller*.”); *Riddick v. United States*, 995 A.2d 212 (D.C. 2010) (stating that Second Amendment does not “compel the District to license a resident to carry and possess a handgun outside the confines of his home, however broadly defined”); *State v. Knight*, 218 P.3d 1177 (Kan. Ct. App. 2009) (“It is clear that the [*Heller*] Court was drawing a narrow line regarding the violations related solely to use of a handgun in the home for self-defense purposes. [The defendant’s] argument, that *Heller* conferred on an individual the right to carry a concealed firearm, is unpersuasive.”).

concealed guns in public spaces. State laws governing such conduct, directly bearing on questions of public safety, should therefore not be nullified by Congress.

CONCERNS WITH H.R. 822

I. IMPOSING NATIONAL CONCEALED CARRY RECIPROCITY INFRINGES STATES' RIGHTS TO PROTECT THEIR CITIZENS FROM GUN VIOLENCE

A. *H.R. 822 Would Override State Laws Regarding Who Is Eligible To Carry A Concealed, Loaded Gun*

H.R.822 eviscerates the authority of states to set their own eligibility standards for who may carry a concealed, loaded gun in public. State officials, law enforcement, and legislators are in the best position to decide crime-fighting policies for their respective jurisdictions. For example, rural areas may not fit the needs of big cities and vice-versa.

States often set standards for carrying handguns on city streets that include criteria that exceed the requirement that an applicant pass a federal background check. For instance, many states, including those with strong gun rights traditions, have enacted laws that prohibit concealed handgun carrying by certain categories of individuals. These include teenagers, alcohol abusers, and individuals who pose a danger to others, or those who have not completed basic safety training. Some states also include individuals who have been convicted of certain violent misdemeanors, providing an even greater degree of protection than the prohibition in Federal law against gun possession by felons.¹⁵ The following identifies the various state requirements on applicants for concealed carry permits:

- Thirty-five states require gun safety training,¹⁶ 18 of which require live fire drills or other proof of competency with a firearm.¹⁷
- Thirty-eight states prohibit individuals convicted of certain misdemeanor crimes from carrying concealed firearms, including Pennsylvania, which bars carrying by those who have been convicted of stalking, impersonating a law enforcement officer and other dangerous misdemeanor offenses. Research supports these restrictions. For example, one study found handgun buyers who have been convicted of just one misdemeanor are almost five times as likely to be convicted of a serious violent crime as handgun buyers with no criminal record.¹⁸

¹⁵ 18 U.S.C § 922(g)(1).

¹⁶ The following states require training: Alaska, Arkansas, Arizona, California, Colorado, Connecticut, Delaware, Florida, Hawaii, Iowa, Kansas, Kentucky, Louisiana, Massachusetts, Maine, Michigan, Minnesota, Missouri, Montana, North Carolina, Nebraska, New Jersey, New Mexico, Nevada, Ohio, Oklahoma, Oregon, Rhode Island, South Carolina, Tennessee, Texas, Utah, Wisconsin, West Virginia, and Wyoming. In addition, Virginia and Maryland explicitly state that internet-based training can satisfy their requirement and North Dakota requires certain permits only to pass an open book exam to satisfy its requirement.

¹⁷ The following states require live fire training: Arkansas, Delaware, Hawaii, Kansas, Kentucky, Michigan, Minnesota, Missouri, North Carolina, New Jersey, New Mexico, Ohio, Oklahoma, Rhode Island, South Carolina, Tennessee, Texas, and West Virginia.

¹⁸ Garen Wintemute *et al.*, *Prior misdemeanor convictions as a risk factor for later violent and firearm-related criminal activity among authorized purchasers of handguns*, J. Am. Medical Ass'n 1998, 280:2083–2087.

- Thirty-six states prohibit youths age 20 and under from obtaining a concealed carry permit, including Colorado and Missouri.¹⁹
- Twenty-nine states prohibit alcohol abusers from obtaining a concealed carry permit, including South Carolina, which prevents “habitual drunkard[s]” from carrying guns.²⁰
- Twenty-four states grant law enforcement agencies discretion to approve or deny carry permits to an applicant who appears to be dangerous, including Alabama, which allows sheriffs to grant or deny licenses based on whether “it appears that the applicant . . . has any . . . proper reason for carrying a pistol, and [whether] he or she is a suitable person to be so licensed.”²¹

Some states have voluntarily entered into reciprocity agreements with other states. These agreements vary from state to state. Ten states honor concealed carry permits issued in any other state and three states allow carrying by nonresidents without a permit.²² Nine states, however, choose not to recognize any out-of-state permits.²³ And, 27 states recognize permits only from certain other states, typically states with equivalent or higher standards.²⁴

Some states have recently tightened the requirements for their residents to obtain out-of-state carry permits and cancelled reciprocity agreements with states that no longer meet minimum standards. For example, New Mexico and Nevada both stopped recognizing concealed carry permits issued by Utah because it does not include live-fire instruction as part of its training requirement.²⁵ Nevada also stopped recognizing carry permits issued by Florida, which only requires permits to be renewed every 7 years.²⁶ H.R. 822, however, would override these State determinations and

¹⁹The following states prohibit carrying by people under the age of 21: Alaska, Arkansas, Arizona, Colorado, Connecticut, Florida, Georgia, Hawaii, Idaho, Kansas, Kentucky, Louisiana, Massachusetts, Michigan, Minnesota, Missouri, Mississippi, North Carolina, Nebraska, New Jersey, New Mexico, Nevada, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, and Wyoming.

²⁰The following states prohibit carrying by alcohol abusers: Alabama, Arkansas, Colorado, Florida, Georgia, Hawaii, Iowa, Indiana, Kansas, Kentucky, Louisiana, Massachusetts, Maryland, Mississippi, North Carolina, New Jersey, New Mexico, Nevada, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Virginia, West Virginia, and Wyoming.

²¹Ten states grant broad discretion to approve or deny concealed carry permits (Alabama, California, Connecticut, Delaware, Hawaii, Massachusetts, Maryland, New Jersey, New York, and Rhode Island); 14 states granted limited discretion to do so (Arkansas, Colorado, Iowa, Indiana, Maine, Michigan, Minnesota, Missouri, Montana, New Hampshire, Oregon, Pennsylvania, Utah, and Wyoming).

²²These states are the following: Iowa, Idaho, Indiana, Kentucky, Michigan, Missouri, Oklahoma, South Dakota, Tennessee, and Utah.

²³These states are California, Connecticut, Hawaii, Massachusetts, Maryland, New Jersey, New York, Oregon, Rhode Island. Note that Massachusetts allows non-residents with valid out-of-state carry licenses to carry concealed firearms in Massachusetts in limited circumstances—hunting, attending an organized firearms collectors’ exhibition, or the person is participating in a firearms competition. See Mass. Gen. Laws ch. 140 § 131G.

²⁴The breakdown of these states is as follows: Alabama (23 states); Arkansas (37 states); Colorado (29 states); Delaware (18 states); Florida (35 states); Georgia (23 states); Kansas (23 states); Louisiana (36 states); Maine (6 states); Minnesota (15 states); Mississippi (25 states); Montana (40 states); North Carolina (34 states); North Dakota (35 states); Nebraska (35 states); New Hampshire (21 states); New Mexico (19 states); Nevada (15 states); Ohio (21 states); Pennsylvania (25 states); South Carolina (17 states); Texas (40 states); Virginia (27 states); Washington (11 states); Wisconsin; West Virginia (21 states); and Wyoming (33 states).

²⁵Press Release, State of New Mexico, Department of Public Safety, New Mexico No Longer Recognizes Utah Concealed Carry License (Apr. 23, 2010); *Are other states’ concealed-guns rules up to par?*, The Santa Fe New Mexican (AP), May 18, 2010; *Outdoors-DEC decides against antler restrictions in Region 4*, Press & Sun Bulletin (Binghamton, NY), July 9, 2009.

²⁶*Outdoors-DEC Decides Against Antler Restrictions in Region 4*, Press & Sun Bulletin (Binghamton, NY), July 9, 2009.

would force States to recognize all concealed carry permits regardless of the issuing State's standards.

H.R. 822's infringement on states' rights is underscored by the substitute amendment, offered by Congressman Trent Franks (R-AZ), which the Committee adopted. The amendment exempts the possession and carrying of concealed handguns under the bill from state conditions and limitations "as to eligibility to possess and carry." Unfortunately, by a vote of 12 to 18, the Committee failed to adopt the amendment offered by Ranking Minority Member John Conyers to eliminate this specific provision from the substitute amendment. As a result, this legislation would override all of these carefully deliberated state and local policies, reducing concealed carry permitting to a new federal lowest common denominator.

Many states have determined that persons convicted of certain misdemeanors should not be allowed to carry concealed handguns within their borders. This is their considered judgment based on debate within their legislatures. As one study shows, misdemeanants who buy handguns are more likely to commit future crimes than other handgun buyers:

- Buyers who had at least one misdemeanor conviction were 7.5 times as likely to be charged with a new offense as buyers who had no record.
- The more past misdemeanors a gun buyer had, the more likely he or she would be charged with a further offense after the purchase.
- Men who had one violent misdemeanor conviction were 9.3 times as likely to be charged with a new offense as men who had no record.
- Men with two or more violent misdemeanor convictions who bought a handgun were 15 times as likely to be charged with a serious violent crime as men with no record who bought handguns.²⁷

Misdemeanor sex offense against a child: Federal law prohibits possession of guns by felons, including people convicted of felony sex crimes, but not by individuals convicted of misdemeanor sex crimes. Some states have nonetheless decided to deny permits to carry concealed, loaded guns to individuals convicted of dangerous misdemeanors, including sex crimes against children. For example, New York prohibits people convicted of certain sex crime from carrying or possessing a gun,²⁸ including the misdemeanor sex crimes of sexual misconduct,²⁹ forcible touching,³⁰ sexual abuse in the third degree,³¹ and sexual abuse in the second degree.³² In addition, 14 states require concealed carry permit applicants to demonstrate good moral character,³³ including—for example—a record

²⁷ Garen J. Wintemute *et al.*, *Prior Misdemeanor Convictions as a Risk Factor for Later Violent and Firearm-Related Criminal Activity Among Authorized Purchasers of Handguns*, 280 J. Am. Med. Ass'n 2083, Dec. 23/30, 1998.

²⁸ N.Y. Penal Law §§ 265.02, 400.00(1).

²⁹ N.Y. Penal Law § 130.20.

³⁰ N.Y. Penal Law § 130.52.

³¹ N.Y. Penal Law § 130.55.

³² N.Y. Penal Law § 130.60.

³³ These states are: California, Connecticut, Delaware, Hawaii, Indiana, Massachusetts, Maryland, Maine, Michigan, New Hampshire, New Jersey, New York, Oklahoma, and Rhode Island.

free of criminal convictions and 10 states grant law enforcement broad discretion to deny permits to carry concealed, loaded guns based on an applicant's record or other factors.³⁴

Congressman Jerrold Nadler (D-NY) offered an amendment that would have prohibited any person convicted of a misdemeanor sex offense against a child, subject to due process protections, from carrying a concealed handgun under the bill. The amendment, however, failed by a vote of 11 to 17.

Misdemeanor stalking: There are at least 12 different states' laws preventing individuals convicted of stalking from carrying concealed, loaded guns.³⁵ In addition, 14 states require concealed carry permit applicants to demonstrate good moral character, such as a record free of criminal convictions³⁶ and 10 states grant law enforcement broad discretion to deny permits to carry concealed, loaded guns based on an applicant's record or other factors.³⁷ The bill will override all these laws and allow stalkers and people convicted of unlawful surveillance to carry concealed, loaded guns nationwide. Congresswoman Sheila Jackson Lee (D-TX) offered an amendment that would have prohibited any person convicted of misdemeanor stalking or unlawful surveillance from carrying a concealed handgun under the bill. The amendment, however, failed by a vote of 10 to 15.

Domestic violence protection orders: The risk to public safety when domestic abusers carry concealed guns is real and documented. Statistics show that in homicides of intimate partners where the weapon could be identified, female partners are more likely to be murdered with a firearm than all other means combined. Between 1990 and 2005, firearms were used to kill more than two-thirds of spouse and ex-spouse victims.³⁸ Further yet, the presence of guns makes domestic violence much more likely to result in death. According to one study, domestic violence assaults involving a firearm are 23 times more likely to result in death than those involving other weapons or bodily force.³⁹

Federal law prohibits possession of guns by felons, domestic violence misdemeanants and individuals currently subject to a domestic violence protective order, but federal law does not bar gun possession by individuals who were subject to a protective order in the past. To close this gap out of concerns for public safety and the welfare of families, some states do not grant permits to carry loaded concealed guns to individuals who have a history of domestic abuse or were subject to a prior order of protection. For example, New York City will deny permits to individuals who have one or more

³⁴These states are: Alabama, California, Connecticut, Delaware, Hawaii, Massachusetts, Maryland, New Jersey, New York, and Rhode Island.

³⁵These states are: Iowa, Louisiana, Wyoming, Pennsylvania, Tennessee, Oklahoma, North Dakota, New York, Connecticut, Michigan, Ohio, and Minnesota.

³⁶These states are: California, Connecticut, Delaware, Hawaii, Indiana, Massachusetts, Maryland, Maine, Michigan, New Hampshire, New Jersey, New York, Oklahoma, and Rhode Island.

³⁷These states are: Alabama, California, Connecticut, Delaware, Hawaii, Massachusetts, Maryland, New Jersey, New York, and Rhode Island.

³⁸Bureau of Justice Statistics, U.S. Department of Justice, Homicide Trends in the U.S.: Intimate Homicide (July 2007), available at <http://bjs.ojp.usdoj.gov/content/homicide/intimates.cfm>.

³⁹Linda E. Saltzman, *et al.*, *Weapon Involvement and Injury Outcomes in Family and Intimate Assaults*, 267 J. Am. Med. Ass'n, 3043-3047 (1992). Abstract available at: <http://jama.ama-assn.org/content/267/22/3043.abstract>.

incidents of domestic violence on their record,⁴⁰ and 14 states require applicants to show good moral character.⁴¹

The bill will override these more protective laws and allow domestic abusers to carry nationwide. In addition, because the validity of permits will be difficult to verify by law enforcement (as discussed below), the bill will make it easier for domestic abusers to follow family members across state lines with concealed weapons.

For these reasons, the National Network to End Domestic Violence, a coalition of 56 domestic violence victim advocacy groups and more than 2,000 crisis shelters, opposes national concealed carry reciprocity,⁴² and Congressman Hank Johnson (D-GA) offered an amendment that would have prohibited any person subject to a domestic violence protection order within the past 10 years from carrying a concealed handgun under the bill. The amendment, however, failed by a vote of 12 to 14.

Misdemeanor assaulting or impersonating a police officer: The bill would override several states' laws preventing individuals convicted of impersonating or assaulting a police officer from carrying concealed, loaded guns. For example, four states—Iowa, Florida, Louisiana, and North Carolina—prohibit individuals convicted of assaulting a police officer from carrying a concealed weapon. In addition, Michigan and Pennsylvania deny permits to people convicted of impersonating a police officer. The risk to public safety when individuals convicted of assault or attacking a police officer carry concealed, loaded guns is very serious.

Even worse, the bill establishes minimum standards for an average citizen to carry concealed, loaded guns that are *lower* than current standards for carry by retired law enforcement officers. In 2004, Congress passed the “Law Enforcement Officers Safety Act” (LEOSA), which permits certain former law enforcement officers to carry concealed, loaded guns in their own or other states if they complete annual gun safety training, had 10 years of service and retired in good standing. The bill imposes none of these minimum standards for carry by ordinary citizens.

Congressman Mike Quigley (D-IL) offered an amendment that would have prohibited any person convicted of misdemeanor assaulting or impersonating a law enforcement officer from carrying a concealed handgun under the bill. The amendment, however, failed by a vote of 11 to 16.

Misdemeanor selling drugs to a minor: The nexus between drug crimes and gun crimes is well documented, and states should have the right to prevent drug criminals from carrying guns. Massachusetts, for example, denies concealed carry permits to individuals convicted of certain misdemeanor drug crimes, such as selling up to 50 pounds of marijuana⁴³ or repeatedly selling controlled substances that contain specified amounts of codeine.⁴⁴ Congresswoman Judy Chu (D-CA) offered an amendment that would have prohibited any person convicted of a misdemeanor of selling a con-

⁴⁰ R.C.N.Y. tit. 38 § 5–10.

⁴¹ These states are: California, Connecticut, Delaware, Hawaii, Indiana, Massachusetts, Maryland, Maine, Michigan, New Hampshire, New Jersey, New York, Oklahoma, and Rhode Island.

⁴² Letter from the National Network to End Domestic Violence to U.S. House Speaker John Boehner and U.S. House Democratic Leader Nancy Pelosi (Oct. 12, 2011) (on file with the H. Comm on the Judiciary, Dem. Staff).

⁴³ Mass. Gen. Laws ch. 140 § 131(d)(i); Mass. Gen. Laws ch. 94C § 32C.

⁴⁴ Mass. Gen. Laws ch. 140 § 131(d)(i); Mass. Gen. Laws ch. 94C § 32D.

trolled substance to a minor from carrying a concealed handgun under the bill. The amendment, however, failed by a vote of 11 to 17.

Under the age of 21: At least 36 states prohibit individuals under the age of 21 from obtaining a concealed carry permit.⁴⁵ In addition, Wisconsin has enacted a carry permit scheme, effective November 1, 2011, that prohibits individuals under the age of 21 from carrying concealed guns. Congressman Steve Cohen (D-TN) offered an amendment that would have prohibited any person under the age of 21 from carrying a concealed handgun under the bill. The amendment, however, failed by a vote of 4 to 12. As a result, the bill, as reported, would override 37 different states' laws and permit teenagers to carry loaded guns nationwide.

B. H.R. 822 Would Allow Individuals Who Are Ineligible For A Carry Permit In Their Home State To Carry Concealed, Loaded Guns In Every Other State

Incredibly, this bill would even allow persons ineligible for a carry permit in their own state to shop around for lower standards in those many other states that offer permits to out-of-state residents. As a result, a criminal could circumvent laws that would otherwise render him or her ineligible to carry a concealed handgun. While the bill would not let people carry in their own state of residence using an out-of-state permit, it would allow them to abuse reciprocity to carry concealed handguns in almost every other state.

C. H.R. 822 Will Allow Dangerous People To Exploit The Weakest State Concealed Carry Standards

Criminals are already exploiting agreements with states with weaker standards, with deadly consequences. For example, a recent investigation by the *Philadelphia Daily News* revealed that as of February 2010, 2,651 Pennsylvania residents had obtained Florida permits, including many individuals who would have been or were actually denied a permit in Pennsylvania.⁴⁶ In one case, a Pennsylvania man obtained a Florida carry license even though his Pennsylvania license had been revoked and went on to use the gun to murder a teenager.⁴⁷ The following Philadelphia officials are advocating for the state to cancel its agreement with Florida:

- Seth Williams, Philadelphia District Attorney: "We should not allow Florida to pierce the veil of sovereignty of Pennsylvania."⁴⁸
- Lt. Lisa King, Commander of the Gun Permitting Unit, Philadelphia Police Department: "They could be disapproved here and they could apply in Florida and we are not notified."

⁴⁵These states are: Alaska, Arkansas, Arizona, Colorado, Connecticut, Florida, Georgia, Hawaii, Idaho, Kansas, Kentucky, Louisiana, Massachusetts, Michigan, Minnesota, Missouri, Mississippi, North Carolina, Nebraska, New Jersey, New Mexico, Nevada, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, and Wyoming.

⁴⁶*Fla. Now tracks its Gun Permits Issued to Pa. Residents*, Philadelphia Daily News, Feb. 9, 2010.

⁴⁷*Man Charged in Slaying Had Fla. Gun Permit*, Philadelphia Daily News, Sept. 16, 2010.

⁴⁸*Can't Get a Gun here? No Problem: Florida Will Issue Permit, and Local Police Must Honor It. Phila. Authorities Are Irrate*, Philadelphia Daily News, Feb. 5, 2010.

So if we are not giving them a permit to carry, how is Florida allowed to override our decision?”⁴⁹

- Brian Grady, Deputy of the Special Operations Division of the Philadelphia District Attorney’s office, said that prosecutors identified Florida permits issued to Philadelphia residents whose permits have been revoked “more frequently than we would care to.”⁵⁰

The number of Texans who obtained permits from Utah, where the safety training requirements are significantly more lax, more than doubled from 2,173 in 2009 to 5,678 in 2010. In fact, in 2010, more than 70 percent of Utah’s carry permits were issued to non-residents.⁵¹ According to a 2002 study from the Violence Policy Center, Texas concealed handgun permit holders were arrested for weapon-related offenses at a rate of 81 percent higher than that of Texas’ general population.⁵²

By mandating concealed carry reciprocity, this bill also forces states to recognize permits issued by states that have seriously flawed permitting schemes, that do not track current permit holders or revocations, or allow dangerous people to slip through the cracks and carry concealed, loaded weapons in public. For example:

- Florida: According to a 2007 investigation by the *Florida Sun-Sentinel*, Florida granted permits to more than 1,400 people who pleaded guilty or no contest to felonies. These individuals were found to be responsible for homicide assaults, burglaries, sexual battery, drug possession and child molestation. Florida also gave permits to 216 people with outstanding warrants, 128 people with active domestic violence injunctions and 6 registered sex offenders.⁵³
- Tennessee: Tennessee state law gives authorities little flexibility to deny questionable applicants and poor information sharing between agencies allows prohibited individuals to obtain CCW permits.⁵⁴ According to a 2008 investigation by the Memphis Commercial Appeal, Tennessee Department of Safety did not conduct background checks on CCW permit holders seeking renewal from September 2006 and March 2008 when it lost its subscription to the FBI’s National Crime and Information Center database, though Tennessee could have accessed felony record from other state agencies.⁵⁵ Because Tennessee will grant permits to individuals with violent arrest records or misdemeanor convictions, the paper found that one individual obtained a permit despite the fact that he had 25 arrests on record.⁵⁶ And, at least 70

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Utah Draws Thousands for No-Shooting Required Gun Permit*, Reuters, Feb. 26, 2011.

⁵² License to Kill IV: More Guns, More Crime, Violence Policy Center, June 2002.

⁵³ Megan O’Matz & John Maines, *Investigation Reveals Criminal Pasts of Those Toting Guns*, South Florida Sun-Sentinel, Jan. 28, 2007.

⁵⁴ Marc Perrusquia, “*Armed and Dangerous: Dozens with Violent Histories Received Handgun Carry Permits*,” Memphis Commercial Appeal, Mar. 12, 2009, available at <http://www.commercialappeal.com/news/2009/mar/12/armed-and-dangerous-tennessee-gun-debate-prone/?print=1>.

⁵⁵ Megan Harris, *Felons Slip Through Cracks in System To Carry Firearms*, Memphis Commercial Appeal, Aug. 3, 2008, available at <http://www.commercialappeal.com/news/2008/aug/03/wrong-fingers-are-on-the-triggers>.

⁵⁶ Marc Perrusquia, “*Armed and Dangerous: Dozens with Violent Histories Received Handgun Carry Permits*,” Memphis Commercial Appeal, Mar. 12, 2009, available at <http://www.commercialappeal.com/news/2009/mar/12/armed-and-dangerous-tennessee-gun-debate-prone/?print=1>.

residents of Shelby County, TN were issued permits despite arrest histories that included robbery, assault and domestic violence.⁵⁷

- Indiana: In 2008 and 2009, 456 concealed carry applications were approved by the issuing agency, the Indiana State Police, despite the fact the local police departments recommended that these applicants be rejected.⁵⁸ Under Indiana state law, a person must be “of good character and reputation” to obtain a CCW permit, but the State Police have not denied a request based on that requirement since the 1980s. In addition, Indiana State Police have granted carry permits to those convicted of felonies that are treated as misdemeanors under alternative sentencing. The State Police are often unaware of an applicant’s arrest record because local police reports are rarely forwarded.
- Michigan: A 2011 series published by the Grand Rapids Press uncovered flaws with Michigan’s permit recordkeeping. In Michigan, county gun licensing boards are required to submit reports to the Michigan State Police on criminal and civil charges against permit holders. The State Police should then issue a public report each year.⁵⁹ However, the paper found that many convictions involving CCW permit holders go unreported by county gun boards and permits are not revoked. From 2006–2010, nearly 1,000 charges were filed against concealed carry permit holders though records show the dispositions of more than 700 cases were unaccounted for. These charges include assault and battery, home invasion, criminal sexual conduct and drug charges.⁶⁰
- Colorado: The state law that authorized the state’s concealed carry permitting database expired on July 1, 2011 and all records were subsequently purged.⁶¹ Prior to the law expiring, Colorado’s database was incomplete and the records it did contain included many inaccuracies, according to a state audit. Only 55 percent of CCW handgun permits issued in Colorado were represented in the database in part because Sheriffs were not required by law to report permitting information to the database.⁶² Of the records in the database, 63 percent contained inaccuracies or inconsistencies.⁶³ Even though Colorado law enforcement can access information about a permit holder by contacting the individual Sheriff

www.commercialappeal.com/news/2009/mar/12/armed-and-dangerous-tennessee-gun-debate-prone/?print=1.

⁵⁷*Id.*

⁵⁸Mark Alesia, *Should Men Like These Be Allowed To Carry a Gun*, Indianapolis Star, Oct. 11, 2009.

⁵⁹Blake Thorne *No Penalty, no problem: Counties frequently violate concealed gun law without consequence*, *Flint Journal*, June 26, 2011, available at http://www.mlive.com/news/index.ssf/2011/06/no_penalty_no_problem_counties.html.

⁶⁰John Agar, *Ready, Aim, Misfire: Analysis Finds Mistakes, Misunderstanding in Gun Reports*, Grand Rapids Press, June 27, 2011, available at http://www.mlive.com/news/index.ssf/2011/06/ready_aim_misfire_analysis_fin.html.

⁶¹Debi Brazzale, *Audit, Both Parties Cast Doubt on State’s Concealed-carry Database*, Colorado News Agency, Dec. 17, 2010, available at <http://www.coloradonewsagency.com/2010/12/17/audit-both-parties-cast-doubt-on-states-concealed-carry-database>.

⁶²Kirk Mitchell, *Colorado Gun-permit Database Incomplete, Riddled with Errors*, Denver Post, Dec. 20, 2010, available at http://www.denverpost.com/news/ci_16900805.

⁶³*Id.*

who granted the permit, it will presumably be difficult for out-of-state law enforcement to determine who to call.

Lax permitting standards and ineffective administration have serious consequences. Examples of individuals with violent records who were nonetheless able to obtain a permit to carry a concealed, loaded gun and who later committed crimes include the following.

- Domestic abuser: In 2009, Clinton Gallagher pled guilty to misdemeanor domestic violence, for which he lost his Missouri permit to carry concealed weapons. Gallagher then sued the county's sheriff's office to have his permit reinstated in 2010 and won the case. The court held that a misdemeanor domestic battery conviction does not prevent someone from possessing firearms in Missouri, even though a misdemeanor domestic violence conviction disqualifies a person from possessing a gun under federal law. In December 2010, Gallagher shot and killed his six-year-old son and then killed himself.⁶⁴
- Domestic battery: Jason Kenneth Hamilton was arrested in September 2005 for attempted strangulation of his girlfriend, which led to his conviction for misdemeanor domestic battery in June 2006. Hamilton was still able to obtain an Idaho permit to carry a handgun and in May 2007, Hamilton shot and killed his wife, a police officer, and a church sexton before killing himself. The county sheriff confirmed that Hamilton had a concealed weapons permit despite the domestic violence conviction that should have barred him from owning firearms.⁶⁵
- Attack on law enforcement: In 2005, Marqus Hill lost his permit to carry a handgun in Pennsylvania after being arrested for attempted murder and aggravated assault. The charges were eventually expunged, and during a hearing to have his permit reinstated in 2008, Hill assaulted a police officer and was found guilty of disorderly conduct. Hill then instead obtained his handgun permit from Florida in 2009, a state which has reciprocity with Pennsylvania. A year later, Hill killed an 18-year-old he suspected of breaking into his car, having shot him thirteen times with a handgun.⁶⁶
- Aggravated assault with a weapon: In 1997, William Garrido pled no contest to charges of aggravated assault with a weapon, for which he was sentenced to 2 months in jail and a year of probation in Florida. This should have either been the basis for revoking an existing permit to conceal and carry a handgun or preventing Garrido from obtaining a permit after the conviction. Garrido had a Florida permit to carry a handgun in 2008 when he shot and killed a fellow cab driver in Miami.⁶⁷

⁶⁴Clinton Gallagher's Wife Feared for Her Life, Kansas City News, Dec. 16, 2010; Court Documents Paint Picture in Lone Jack Killings," KCTV5.com, Dec. 15, 2010; Father, Son Deaths Rules Murder-Suicide in Lone Jack, Fox4KC.com, Dec. 15, 2010.

⁶⁵Shooter Linked to Aryans, Spokesman Review, May 23, 2007; Authorities Investigate Hamilton's Gun Purchase, Lewiston Morning Trib., May 24, 2007.

⁶⁶Was 13-shot Slaying of Burglar a Crime or Self-defense? Jury to Decide, Philadelphia Inquirer, Feb. 2, 2011.

⁶⁷Murder Charge for Cabbie, The Miami Herald, July 5, 2008.

- Unlawful weapon possession and DUI (Alcohol): In 1993, Michael Joe Hood was found guilty of unlawful weapon possession and drunken driving in Tennessee. Hood was issued a permit by the State to carry a handgun in 2008. Hood pled guilty to shooting and killing three people in March 2010, including his half sister, her 13-year-old son, and her ex-husband.⁶⁸
- DUI (Alcohol): Terrance Hough, Jr. obtained a permit to carry a handgun from Ohio in 2004 despite a prior alcohol-related DUI conviction in 1993. Three years later, on July 4th, Hough became enraged when his neighbors were setting off fireworks at a party. Hough shot and killed three people and injured two others.⁶⁹
- Protective order against domestic violence: From 1988 to 1990, one of Michael Leopold Phillips's ex-wives obtained an injunction for protection against domestic violence. Furthermore, since 1988, Phillips had three charges of domestic battery or assault on a spouse. In 1999, Phillips obtained a permit to carry a handgun from the State of Florida, which was renewed in 2006. Phillips shot and killed his current wife before killing himself in 2008.⁷⁰

II. IMPOSING CONCEALED CARRY RECIPROCITY ON STATES WILL ENDANGER LAW ENFORCEMENT OFFICERS

H.R. 822 would endanger law enforcement officers as they work to keep us safe. Policing our streets and making traffic stops are already perilous enough without increasing the number of guns officers encounter. The bill would make it nearly impossible to determine whether someone carrying a gun is doing so illegally. Officers would have to distinguish between real and fake carry permits issued not only by their own state, but by every state. And in many cases, whether a person is entitled to carry a gun would depend on their state of residence, which is impossible to verify rapidly.

In addition, there is no national database of permit holders, and not every state has a statewide database that can be accessed by out-of-state law enforcement. For example, Virginia has refused to grant reciprocity to Alabama, Colorado, Indiana, Georgia, Iowa, Idaho and New Hampshire because those states do not have the capacity to verify permits in response to queries by Virginia state police.

In fact, this past summer Colorado purged its statewide database of permit holders after its the legislature allowed its authorizing law to lapse.⁷¹ Even before the records were deleted, Colorado's database was riddled with inaccuracies. Only 55 percent of concealed carry handgun permits issued in Colorado were represented in the database,⁷² and of the records in the database, 63 percent

⁶⁸ *Murder Suspect Has Been under Suicide Watch*, The Tennessean, Apr. 6, 2010.

⁶⁹ *A Deadly Six Hours*, Cleveland Plain Dealer, July 6, 2007; *Hough Known for Bursts of Anger*, Cleveland Plain Dealer, July 7, 2007.

⁷⁰ *Murder, Suicide Cited in Deaths*, Palm Beach Post, Jan. 21, 2008.

⁷¹ Debi Brazzale, *Audit, Both Parties Cast Doubt on State's Concealed-carry Database*, Colorado News Agency, Dec. 17, 2010, available at <http://www.coloradonewsagency.com/2010/12/17/audit-both-parties-cast-doubt-on-states-concealed-carry-database>.

⁷² Kirk Mitchell, *Colorado Gun-permit Database Incomplete, Riddled with Errors*, Denver Post, Dec. 20, 2010, available at http://www.denverpost.com/news/ci__16900805.

contained inaccuracies or inconsistencies.⁷³ Even though Pennsylvania and Florida both participate in the public safety network, Nlets, which is supposed to provide information on concealed carry permits, police in Pennsylvania report that they rarely if ever use the system because it isn't timely enough for officers in serious or dangerous situations. Pennsylvania police report persistent problems with Florida's permit verification process, in one instance having to wait four hours to get confirmation of the validity of a permit despite telling the state that verification was urgent.

Other police officers report that out-of-state concealed carry permits can be impossible to verify during traffic stops and other high-risk situations. According to Karen Renshaw, Executive Director of the Colorado Association of Chiefs of Police, "varying state standards make it very difficult to know if a carry permit from another state is valid. If a police officer is unsure about whether a person is carrying a gun illegally, especially during a traffic stop, it may result in an escalating situation that could turn lethal."⁷⁴ According to David L. Maggard, Jr., President of the California Police Chiefs Association, "from a practical standpoint, there is currently no national data system that records legitimately issued concealed weapons permits making it impossible for the officer on the street to determine the validity of an individual's concealed weapons permit."⁷⁵

Inspecting a concealed carry permit is often the only tool an officer has to determine whether an individual is legally carrying a concealed firearm. According to Philadelphia Police Commissioner Charles Ramsey, this legislation "has no implementation system" and would "leave our officers, whose safety is our first priority, without a mechanism to determine if the permit they hold in their hands is real and valid."^{76,77}

III. LOOSENING RESTRICTIONS ON THE CARRYING OF CONCEALED GUNS IN PUBLIC DOES NOT IMPROVE PUBLIC SAFETY

Concealed carry laws have not made us safer. As a result, forcing states with strict permitting standards to recognize permits issued by states with weak standards would make us even less safe. Proponents of H.R. 822 have cited research by John Lott that has been widely discredited. In fact, as columnist Michelle Malkin has point-

⁷³ *Id.*

⁷⁴ Letter from Karen Renshaw, Executive Director, Colorado Chiefs of Police Association, to Senator Michael Bennet, concerning "Protect America's Police Officers, Our Citizens, and States Rights by OPPOSING the National Right-to-Carry Reciprocity Act of 2011 (H.R. 822), (August 19, 2011).

⁷⁵ Letter from David L. Maggard, President, California Chiefs of Police Association, to Senator Dianne Feinstein, concerning H.R. 822 (August 1, 2011).

⁷⁶ *National Right-to-Carry Reciprocity Act of 2011: Hearing on H.R. 822 Before the Subcomm. on Crime, Terrorism, and Homeland Security, of the H. Comm. on the Judiciary*, 112th Cong. (2011) (testimony of Charles H. Ramsey, Police Commissioner, Philadelphia Police Department).

⁷⁷ According to the Mayors Against Illegal Guns, the bill could allow gun traffickers who hold out-of-state permits to transport a load of guns through a state with impunity unless they were caught in the act of selling the guns. A September 2010 report by Mayors Against Illegal Guns called *Trace the Guns*, illustrated how traffickers already rely on states with weak laws as a source for the guns they sell illegally. In fact, 43,254 guns (30 percent of those found at crime scenes) crossed state lines before they were recovered. *Trace the Guns: The Link Between Gun Laws and Interstate Gun Trafficking*, Mayors Against Illegal Guns, (Sept. 2010). Traffickers often purchase guns in one state and then drive them hundreds of miles to other states to be resold to criminals. A trafficker could be aided by a concealed carry permit in such a circumstance. Letter from Thomas M. Menino, Mayor of Boston and Michael R. Bloomberg, Mayor of New York City (Co-Chairs of the Mayors Against Illegal Guns) to The Honorable John Boehner and The Honorable Nancy Pelosi (March 11, 2011).

ed out, Lott has been accused of fabricating a study on which he bases the claim that 98 percent of defensive gun uses involved mere brandishing, as opposed to shooting. Malkin reported that Lott incorrectly tried to attribute the data to three different studies, and when another researcher offered to independently verify Lott's findings, Lott claimed to have lost all of his data in a computer crash. He also could not produce any financial records, contemporaneous records or any of the students who supposedly worked on the survey.⁷⁸ Other studies conclude that guns are far more likely to be used in crime than in self-defense. One such study found that the number of criminal gun uses outnumbered the self-defense use of a gun by a factor of at least 4 to 1.⁷⁹

In 2009, the Violence Policy Center (VPC) began an ongoing research project to identify killings from May 2007 to the present involving citizens legally allowed to carry concealed handguns.⁸⁰ This project has shown that, since May 2007, at least 385 people—including 11 law enforcement officers—have been killed in incidents not ruled self-defense involving private citizens legally allowed to carry concealed handguns. In that time period, the VPC documented 275 incidents in 32 states. In nearly 80 percent of the incidents (217) the concealed carry killer has already been convicted (79), committed suicide (132), or was killed in the incident (six). Of the 54 cases still pending, the vast majority (44) of concealed carry killers have been charged with criminal homicide, three were deemed incompetent to stand trial, and seven incidents are still under investigation. Four incidents were fatal unintentional shootings involving the gun of the concealed handgun permit holder. Twenty of the incidents were mass shootings, resulting in the deaths of 89 victims.⁸¹

Because most state systems that allow the carrying of concealed handguns in public by private citizens release little data about crimes committed by them, the primary source for this information is published news reports. It is likely that the actual number of fatal incidents involving citizens legally allowed to carry concealed handguns is far higher.⁸² Expanding the weakest state standards of concealed carry laws will endanger even more of our citizens.

CONCLUSION

The answer to our national problem of gun violence is not that we need more people carrying concealed firearms on our streets. In 1 year on average, almost 100,000 people in America are shot or killed with a gun. Specifically, in 1 year, 31,224 people died from gun violence and 66,768 people survived gun injuries.⁸³ Gun vio-

⁷⁸ Michelle Malkin, *The Other Lott Controversy*, available at <http://www.wnd.com/index.php?pageId=17110>.

⁷⁹ D. Hemenway *et al.*, *Gun Use in the United States: Results From Two National Surveys*, available at <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC1730664>; *Comparing the Incidence of Self-Defense Gun Use and Criminal Gun Use*, available at http://www.hsph.harvard.edu/research/hicr/files/Bullet-ins_Spring_2009.pdf; Ian Ayres & John J. Donohue III, *Shooting Down the "More Guns, Less Crime" Hypothesis*, 55 *Stan L. Rev.* 1193 (2003).

⁸⁰ Violence Policy Center, *Concealed Carry Killers*, <http://www.vpc.org/ccwkillers.htm>.

⁸¹ *Id.*

⁸² *Id.*

⁸³ Brady Campaign to Prevent Gun Violence, *Gun Death & Injury Stat Sheet 2007–2009* (December 6, 2010), available at http://www.bradycampaign.org/xshare/Facts/Gun_Death_and_Injury_Stat_Sheet_2007_2009_FINAL.pdf (citing Ctr. for Disease Control & Prevention, Nat'l Ctr. for Injury Prevention & Control, *Injury Stats. Query & Rprt'g Sys.* (2010) (reporting information on deaths in 2007 and injuries in 2009)).

lence impacts society in countless ways beyond the loss of life and physical injuries to its victims: medical costs, costs of the criminal justice system, security precautions such as metal detectors, and reductions in quality of life because of fear of gun violence. These impacts are estimated to cost U.S. citizens \$100 billion annually.⁸⁴ We must not undermine the efforts of states to take measures to defend themselves against these harms.

States are in the best position to determine which measures best protect their citizens, based on the circumstances and judgments peculiar to each state, and the Second Amendment does not confer a right to carry concealed firearms in violation of state law standards enacted to enhance public safety. If a state, for example, determines that a person convicted of misdemeanor assault on a police officer should not be allowed to carry a concealed handgun within its border, Congress should not override this important public safety decision. As Commissioner Ramsey testified before the Subcommittee on Crime, Terrorism, and Homeland Security, “This bill would eliminate the right that states now have to set their own public safety laws, in consultation with law enforcement professionals. This legislation is not aligned with our vision for the future of policing. It is counter to what the field of law enforcement needs to create safer neighborhoods, towns and cities.”⁸⁵

For the forgoing reasons, we dissent.

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 HOWARD L. BERMAN.
 JERROLD NADLER.
 ROBERT C. “BOBBY” SCOTT.
 MELVIN L. WATT.
 ZOE LOFGREN.
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 MAXINE WATERS.
 STEVE COHEN.
 HENRY C. “HANK” JOHNSON, JR.
 PEDRO R. PIERLUISI.
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○

⁸⁴ Philip J. Cook & Jens Ludwig, *Gun Violence: The Real Costs* (Oxford University Press 2000).

⁸⁵ *The National Right-to-Carry Reciprocity Act of 2011: Hearing on H.R. 822 Before the Subcomm. on Crime, Terrorism, and Homeland Security of the H. Comm. on the Judiciary*, 112th Cong. (2011) (statement of Charles H. Ramsey, Police Commissioner, Philadelphia Police Department).