



February 4th, 2010

City of Campbell
351 Tenney Avenue
Campbell, OH 44405

Dear Mayor George Kiros,

Thank you for taking the time to respond to my letter from the 21st, and please thank Denise for taking the time to call me and explain the situation in Campbell. I was not aware of what led up to this legislation.

With that said, I believe that there is a fundamental misunderstanding of Ohio Law with respect to what the city is attempting to accomplish. Your initial ordinance created a licensing system and fees that are in direct violation of ORC 9.68 which specifically states "without further license" in paragraph (A).

I like to paraphrase Ohio's ORC 9.68 like this: The State of Ohio, in an effort to make gun laws consistent across the entire state, defines what is or is not lawful, mandated, prohibited, etc. with respect to firearms in Ohio and local governments may not conflict or compound upon State Laws.

The only area that a City such as Campbell has the authority to impact firearms in the form of ordinances is strictly within the limitations of a zoning ordinance. I believe that your ordinance 593.11 isn't even a zoning ordinance, but a general ordinance. In my opinion your ordinance fails the 9.68 test on two counts.

First, the State of Ohio does not prohibit sales; therefore you may not prohibit sales nor mandate licensing restrictions, or otherwise enact local licensing restrictions against firearms issues.

Second, if you were to adopt this legislation into some form of zoning ordinance, you would still be in violation of 9.68(D)(2) because you are creating a "defacto prohibition" on the sale of firearms and related components. State law clearly prohibits you from using a zoning ordinance to ban gun sales.

What you currently have adopted, and what you are proposing to amend the law with, is a clear violation of Ohio Law. I would encourage you to share this ordinance with your law director and the county prosecutor and seek their legal advice. I am confident that they will advise you that our interpretation of the law is accurate

You should also be aware of the fact that ORC 9.68(B) provides for financial relief in the event that an organization or entity such as ours finds it necessary to challenge an ordinance in court:

(B) In addition to any other relief provided, the court shall award costs and reasonable attorney fees to any person, group, or entity that prevails in a challenge to an ordinance, rule, or regulation as being in conflict with this section.

We would much rather the city repeal the ordinances in question to avoid costly and unnecessary litigation and would remind you that the Ohio Supreme Court has already ruled on our behalf in *Ohioans For Concealed Carry vs. City of Clyde*. It remains the precedent with respect to this area of Ohio Law.

Our general counsel has reviewed the issue and it is his general opinion at this point that your ordinance is in non-compliance with the law. On the following page I have provided you ORC 9.68 entirely.

Sincerely,

Jeff Garvas, President
Ohioans For Concealed Carry

9.68 Right to bear arms - challenge to law.

(A) The individual right to keep and bear arms, being a fundamental individual right that predates the United States Constitution and Ohio Constitution, and being a constitutionally protected right in every part of Ohio, the general assembly finds the need to provide uniform laws throughout the state regulating the ownership, possession, purchase, other acquisition, transport, storage, carrying, sale, or other transfer of firearms, their components, and their ammunition. Except as specifically provided by the United States Constitution, Ohio Constitution, state law, or federal law, a person, without further license, permission, restriction, delay, or process, may own, possess, purchase, sell, transfer, transport, store, or keep any firearm, part of a firearm, its components, and its ammunition.

(B) In addition to any other relief provided, the court shall award costs and reasonable attorney fees to any person, group, or entity that prevails in a challenge to an ordinance, rule, or regulation as being in conflict with this section.

(C) As used in this section:

(1) The possession, transporting, or carrying of firearms, their components, or their ammunition include, but are not limited to, the possession, transporting, or carrying, openly or concealed on a person's person or concealed ready at hand, of firearms, their components, or their ammunition.

(2) "Firearm" has the same meaning as in section 2923.11 of the Revised Code.

(D) This section does not apply to either of the following:

(1) A zoning ordinance that regulates or prohibits the commercial sale of firearms, firearm components, or ammunition for firearms in areas zoned for residential or agricultural uses;

(2) A zoning ordinance that specifies the hours of operation or the geographic areas where the commercial sale of firearms, firearm components, or ammunition for firearms may occur, provided that the zoning ordinance is consistent with zoning ordinances for other retail establishments in the same geographic area and does not result in a de facto prohibition of the commercial sale of firearms, firearm components, or ammunition for firearms in areas zoned for commercial, retail, or industrial uses.

Effective Date: 03-14-2007