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Constitutional Carry Now Law in South Dakota

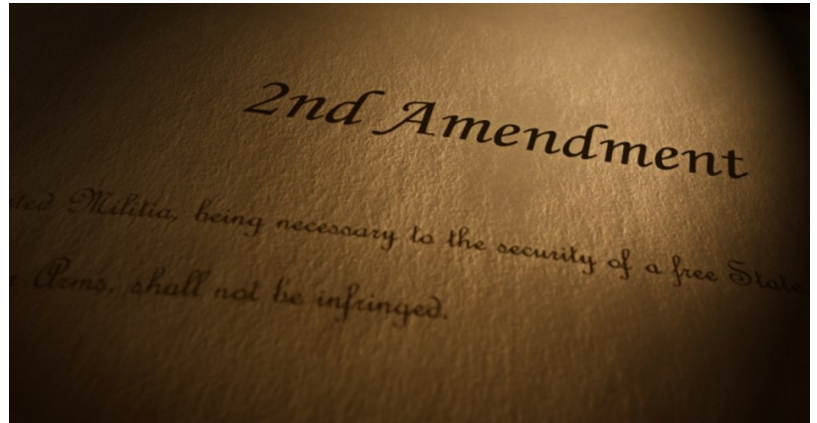
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In contrast to the push for stricter gun control — which is really people control — by the American Left, many state governments have pushed back, as is the case with South Dakota's new "constitutional carry" law.



It is fairly common for new state laws to take effect on July 1 (which begins a new "fiscal," or financial year for many states), and far too often these laws add yet another burden on that state's citizens. But with the passage of Constitutional Carry in South Dakota, the state has actually decreased the difficulty of its citizens to exercise a constitutionally-protected right — the right to keep and bear arms.

Under a constitutional carry law, it is legal to carry a concealed firearm, without a license.

Governor Kristi Noem signed the bill into law, saying, "I believe this legislation will further protect the Second Amendment rights of the citizens of South Dakota and this country." While the law only directly impacts the people of South Dakota, the more states that adopt such laws, the more difficult it becomes for any federal interference with a person's right to keep and bear arms.

The law repeals requirements — some going back over 100 years — that a person would have to obtain a license in order to carry a concealed weapon. Previously, a person could be charged with a misdemeanor for carrying a concealed handgun, or even to have one concealed in a vehicle without a permit. Open carrying of a firearm was already legal in South Dakota, without a license. If a person wants to carry in other states, the sheriff of the county can issue permits for reciprocity with states that still require a license.

The South Dakota Sheriffs' Association opposed the bill, and it only passed the Senate Judiciary Committee by a 4-3 vote. The whole Senate then passed the bill by 23-11, and then passed the House of Representatives, 47-23.

In a signing ceremony, Governor Noem praised the bill's passage. "More than 230 years ago, the Founding Fathers of our country penned the Constitution that has since laid the framework for centuries of policies. They so firmly believed in the importance of the freedom to bear arms that they enshrined it into the Constitution's Second Amendment." Noem added, "This constitutional carry legislation will further protect the Second Amendment rights of South Dakotans."

While some have debated the meaning of the Second Amendment, arguing that the Constitution only guarantees states the right to maintain a militia, but not the right of an individual citizen to keep and bear arms, history is not on their side. In colonial America, the term militia was understood to mean all adult able-bodied citizens, not the National Guard. In other words, when colonies and then states called out the militia, they were calling upon all the citizens of the states to join together, bringing their own



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weapons. Those who responded were the organized militia.

James Madison was the author of the Second Amendment, adopted in 1791. But a few years earlier, in *The Federalist*, Madison argued that Americans already had the right to bear arms. The Second Amendment was not added to the Constitution to give Americans the right to have a National Guard, or even for individual Americans to keep and bear arms, but rather was added to specifically prevent the new federal government from infringing upon a right Americans already possessed.

One would think that Madison had a better understanding of the purpose of the Second Amendment than modern liberal politicians, media personalities, or law professors — and Madison's understanding was that the people of the United States had a right to keep and bear arms.

Even after the U.S. Supreme Court ruled that the Second Amendment protected an individual right to keep and bear arms in the *Heller* case, those opposed to the right have continued to agitate for more restrictions on individual gun ownership, with some even calling for outright confiscation of firearms. No doubt more politicians would call for confiscation, despite the Second Amendment, if they thought they could get away with it.

As John Randolph of Roanoke, a 19th-century member of Congress from Virginia (and a cousin of Thomas Jefferson) said, the constitutional protections of our liberties are just words on parchment, if the American people do not continue to stand up for these rights.

Writing for the Tenth Amendment Center, Michael Maharrey explained the significance of actions like that of South Dakota in standing up for Second Amendment rights in the face of continued threatened encroachment by federal actions. "While permitless carry bills do not directly affect federal gun control, the widespread passage of permitless conceal carry laws in states subtly undermines federal efforts to regulate guns," noting that "a federal regulation becomes ineffective when states ignore it and pass laws encouraging the prohibited activity anyway."

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