

## HOUSE RESEARCH

## Information Brief

Deborah K. McKnight, Legislative Analyst  
296-5056

---

RIGHT TO ARMS:  
LITIGATION UNDER STATE CONSTITUTIONAL PROVISIONS

From time to time bills have been introduced proposing a state constitutional amendment guaranteeing the right to arms. This information brief answers three questions often asked about such a proposal:

- What kinds of statutes regulating weapons have been challenged under state right to arms constitutional provisions?
- Which ones have been upheld and which have been struck down?
- Does Minnesota have statutes similar to those challenged in other states?

A legal memorandum discussing case law on the validity of weapons regulations in states with a constitutional right to arms provision is available on request.

---

The chart on the next page is based on the decisions of state supreme and appellate courts in the thirty-seven states that guarantee the right to arms in their constitutions. (These states are listed in the appendix on page 3.) The chart indicates that most weapons regulations have been upheld against constitutional attack. Based on lawsuits elsewhere, none of Minnesota's current statutes would be invalidated if a right to arms amendment were adopted.

A more difficult question to answer is whether a right to arms amendment would limit the Legislature's regulatory power in the future. Courts might conclude that the amendment was intended to limit the Legislature's regulatory power to what existed at the time the amendment passed. Otherwise, it might seem there would be no reason to adopt the amendment. As a result, if an amendment passed, it might not be possible for the Legislature to enact new kinds of weapons regulations it might someday consider desirable.

---

LITIGATION UNDER RIGHT TO ARMS GUARANTEES

---

<u>LAWS CHALLENGED IN OTHER STATES</u>	<u>CASE RESULT</u>	<u>SIMILAR MINNESOTA LAW?</u>
--	------------------------	-------------------------------

Laws banning certain weapons

Person with prior history of DWI conviction or tendency to violent/emotionally unstable conduct may not obtain handgun license.	Valid	No
Aliens may not own or possess dangerous weapons.	Mixed <sup>1</sup>	No
No one may possess short-barrelled rifles, shotguns or machine guns.	Valid	Yes

Laws regulating how or where weapons may be possessed or used

Convicted felon may not possess a firearm anywhere except at home.	Valid	No. Felons may not possess a pistol anywhere for 10 years after conviction.
No one can carry a pistol, brass knuckles, or knife over a certain length on his or her person.	Valid	No <sup>2</sup>
No one may carry an unlicensed firearm on his or her person.	Valid	Yes
No one may carry even an unconcealed weapon on his or her person.	Valid	No
No one may possess, carry, or use a dangerous weapon except at home or at a shooting range.	Invalid	No
A hunting license may be suspended for violating hunting regulations.	Valid	Yes

---

<sup>1</sup>This kind of regulation may be invalid under the federal constitution's equal protection guarantee for aliens. See Deborah K. McKnight "Equal Protection: Standards Used in Judicial Review of State Legislation," Research Department Information Brief.

<sup>2</sup>Minnesota completely prohibits the possession of brass knuckles.

APPENDIX

The states that have a constitutional provision guaranteeing the right to arms are:

Alabama	Kentucky	Pennsylvania
Alaska	Louisiana	Rhode Island
Arizona	Maine	South Carolina
Arkansas	Massachusetts	South Dakota
Colorado	Michigan	Tennessee
Connecticut	Mississippi	Texas
Florida	Missouri	Utah
Georgia	Montana	Vermont
Hawaii	New Mexico	Virginia
Idaho	North Carolina	Washington
Illinois	Ohio	Wyoming
Indiana	Oklahoma	
Kansas	Oregon	