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ONE HUNDRED TENTH CONGRESS

# Congress of the United States

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### Statement of Rep. Henry A. Waxman Chairman, Committee on Oversight and Government Reform Substitute Amendment to the "National Capital Security Act" September 17, 2008

Mr. Chairman and my colleagues, the Supreme Court ruled in the *Heller* case that the District of Columbia could not ban handguns. The Court said that would violate the Second Amendment. The Supreme Court said individuals have a right to own a handgun. That's now the law of the land.

The District of Columbia has finalized the revision of its laws just today. And I defy any member of this body to say that the District of Columbia has failed to comply with the Second Amendment to the Constitution under the *Heller* decision.

I think that the District of Columbia has complied with the law. I know we heard from members that D.C. is unwilling to comply, and that D.C. is unwilling to live by the law of the land. Well, let us examine that D.C. law more carefully and since it was only finally enacted today, I would suggest that when this bill goes to the other body, senators hold this bill up and review that D.C. law.

Under *Heller*, the District of Columbia is not obligated to do all the things that are in this substitute. In fact, not one single provision of H.R. 6691 is required by the Second Amendment or the Supreme Court decision in the *Heller* case.

Let me just walk through it. One provision removes the District's long-standing ban on semiautomatic assault rifles and pistols. Well, there's nothing in the Second Amendment that guarantees an individual's right to high-powered military assault rifles capable of firing more than 30 rounds without reloading. There's certainly nothing in the *Heller* case that says that.

Evidently, the people who are offering this substitute don't like the fact that the D.C. government allowed semiautomatic firearm ownership but limited those firearms to magazines of 10 rounds. Well, there's nothing in the Constitution that says individuals must be allowed to have magazines that are able to fire 30 or more rounds.

One provision of this substitute removes the District's long-standing provision for a registration system which includes D.C.'s required background checks before someone can buy a gun. Well, there's nothing in the Second Amendment that says individuals have a right not to register their guns, and yet this substitute would wipe out that D.C. law.

Now, it was said by one of the advocates of this substitute that this burdensome requirement for registration was put malevolently in place by the District of Columbia. Well, I want you to know that it was also put in place by California, Connecticut, Maryland, New Jersey, Michigan, Chicago, Cleveland, New York City, and Omaha. And I don't think that any of those jurisdictions are violating the Second Amendment to the Constitution.

Another provision in this substitute would take away the ability of the District of Columbia's law enforcement, through its registration system, to be able to track and trace guns used in crimes. The registration system helps law enforcement figure out who bought the guns, who transferred them, and how they got into the hands of the criminal or terrorist. That's not in violation of the Second Amendment. And yet this substitute would repeal this ability to track and trace guns.

This amendment would allow people to obtain firearms without criminal background checks. And I don't know why the sponsors of this amendment think the Second Amendment requires that because it does not.

This amendment goes far beyond the *Heller* case. It goes far beyond the Second Amendment to the Constitution. It is gratuitously rewriting the law of the District of Columbia. It is not our job to rewrite a law passed by the people elected in the District of Columbia if that law complies with the Constitution of the United States. I urge that we reject the substitute amendment.