

BACKGROUND: What the 'municipal' section of Bill C-21 could mean for Ontario

Last updated: February 26, 2021

What is proposed in Bill C-21?

The federal government is proposing to make compliance with handgun storage and transport restrictions a condition of federal firearms licence in municipalities that pass bylaws to:

- 1) prohibit storage at home (i.e. owners must store handguns at a licensed business); or,
- 2) prohibit storage anywhere in a municipality, and transport to or from certain places in it.

For the purposes of this backgrounder, these will be referred to as 'handgun bylaws'. See *Appendix* for the text of Section 26 of Bill C-21.

How would it work?

Municipalities would notify the federal Minister that they have created handgun bylaws, and then the Registrar of Firearms would inform affected licence holders of the new conditions of licence (compliance required 180 days after the federal minister confirms that the bylaw conforms to federal law). The Commissioner of Firearms will maintain a public list where restrictions apply. Breach of a condition of federal licence carries a penalty of up to two years imprisonment and possible revocation of licence or registration certificate.

What is Ontario's role?

The federal government is not lending 'power' or federal authority to municipalities related to firearms. Bill C-21 would enable recognition and enforcement of handgun bylaws under federal authority. Nothing in Bill C-21 changes the province's jurisdiction over municipal bylaw making authority. Currently, it would appear that municipalities have authority under Ontario's The Municipal Act, 2001 to establish the handgun bylaws proposed in Bill C-21 under the general provisions of 'public safety' (e.g. Sections 10 (2)(6) and 11 (2)(6)).

What are Ontario's options?

If the current provincial legislation allows for municipalities to make the handgun bylaws, then the Government of Ontario could either 1) let it happen (status-quo), 2) establish provincial measures to limit municipal powers to create these specific handgun bylaws, or 3) establish provincial measures that would limit municipal powers to create any bylaws associated with firearms (e.g. handgun bylaws, discharge of firearms bylaws, etc.). Options 2 and 3 could include direct provincial oversight of decisions or prescribed limitations of bylaw-making authority using a policy instrument.

What are other provinces doing?

Saskatchewan has enacted legislation that clearly states that municipalities don't have the power to pass new bylaws respecting firearms unless provided for by regulation. This occurred in 2020 prior to Bill C-21.

In Alberta, a Private Members Bill (Bill 211, Municipal Government (Firearms) Amendment Act, 2020) was introduced in December 2020, that would require Lieutenant Governor in Council authorization for municipalities to pass a bylaw respecting firearms. This bill is expected to become law when the Alberta Legislature resumes (late February 2021).

What are the implications?

Small Business: The federally-proposed handgun bylaw (option 2) that would restrict storage and transportation anywhere within municipal boundaries would eliminate retail activity related to handguns and/or firearm ranges that permit handgun use. Many of these small businesses have not only invested in specific infrastructure (e.g. security, range specifications, etc.) and attracting handgun-related clientele, they can also service the needs of a much broader community, often doubling as the local hunting and fishing store or having range facilities used for other firearms. In some cases, the handgun component of these businesses may be the difference between them being viable and not viable. Also, many of these businesses serve people beyond the boundaries of the municipalities they are located in.

ONTARIO FEDERATION OF ANGLERS & HUNTERS



Ontario Conservation Centre

P.O. Box 2800, 4601 Guthrie Drive, Peterborough, Ontario K9J 8L5
Phone: (705) 748.6324 • Fax: (705) 748.9577 • Visit: www.ofah.org • Email: ofah@ofah.org

Volunteer-driven club ranges: Many non-commercial ranges are operated by community clubs (e.g. not a licensed business), and the proceeds from them are used to fund other club activities (e.g. community hatcheries, conservation projects, community events, etc.). Handgun ranges have proven to be a very important and area of growth for club activity and membership. Many club (and commercial) ranges are regularly used for training by enforcement officers, including those from federal, provincial, and community police services, as well as government agencies like the Ministry of Natural Resources and Forestry and Canada Border Services Agency. Without these ranges, clubs would lose an important source of revenue and many would no longer be viable.

Redundancy in regulation without value-added to public safety: Handgun ownership is highly regulated through federal licensing, specific training, registration of firearms, and strict conditions related to possession, storage, transportation (only to and from specified locations), and use (only at CFO-certified ranges). All firearm ranges are subject to ongoing and rigorous certification processes by the CFO to ensure they are operating safely. Many municipalities attempt to make firearms-related bylaws (e.g. discharge of firearms) to address perceived public safety concerns, and have no expertise or sound rationale to suggest that licensed and regulated use of firearms requires additional restrictions.

Implementation Realities: The first handgun bylaw option would require storage at 'businesses'. It isn't clear whether it would need to be a business or just a 'holder of a licence that authorizes it to store prohibited firearms or restricted firearms'. Regardless, there are likely very few businesses that have the necessary infrastructure, and it is even more unlikely that they would take on the liability and administration of it. It is even less likely if infrastructure upgrades are required. In addition, these businesses are not uniformly distributed and may not be within close enough proximity.

Enforcement/Non-compliance: This will require significant administration, oversight, and enforcement by Ontario's Chief Firearms Officer (CFO), that already have capacity constraints. Although this is a municipal bylaw, it will not be enforced by bylaw officers, so enforcement will be passed on to municipal/provincial/federal police services. Without significant additional investments, enforcing compliance of these bylaws will put further strain on community and provincial police services that could divert focus away from working to police criminal activity to ensure public safety.

Misuse of investments needed to reduce gun violence: If there is new federal (or municipal) funding that will be available for compliance of this additional layer of regulatory burden on licensed firearms owners, then it would be much better spent on policing actual criminal activity (related or unrelated to firearms), and/or programming to help address the social conditions that lead to violence in general.

Individual hardship: These bylaws will punish lifelong law-abiding citizens who have securely stored firearms and are not a threat to public safety. This could force an individual to give up/sell firearms because they don't have storage options outside of their municipality, and are not able to relocate. Some individuals have significant emotional and financial investments in their firearms with many being family heirlooms, or forming part of a collection.

What is the OFAH interest?

The OFAH has been the lead, and often only, firearms stakeholder that engages regularly in municipal firearms discussions in Ontario to clarify the misconceptions about firearms ownership and use, and to inform decision-making. For decades, we have experienced the misconceptions and impulse actions to address perceived issues relating to firearms. This federal proposal impacts handgun enthusiasts directly, as well as businesses and community clubs (some affiliated with the OFAH). It indirectly affects the broader fishing and hunting community (other firearms owners, hunters, sport shooters, anglers) who rely on those retailers and ranges. These municipal discussions will not be limited to handguns, and some will almost certainly explore broader ways to restrict all firearms.

What is the OFAH's preferred solution for Ontario?

The OFAH recommends that the province fully examine municipal bylaw-making authority under The Municipal Act, with an intent to provide more structured guidance and/or provincial oversight of decision-making. This would not be limited to the handgun bylaws proposed, but for all firearms-related bylaws.



Appendix: Text of Section 26 in Bill C-21

26 The Act is amended by adding the following after section 58:

Conditions — by-law

58.01 (1) Subject to subsection (2), the following conditions are attached to a licence authorizing an individual to possess a handgun:

(a) the individual must not — within the boundaries of a municipality — store a handgun at a place other than a business that is the holder of a licence that authorizes it to store prohibited firearms or restricted firearms, in the case where

(i) a by-law to that effect is in force in the municipality,

(ii) the municipality has notified the federal Minister, in the prescribed manner, of the passing of the by-law, and

(iii) the municipality has provided the prescribed information to the federal Minister, or a person designated by that Minister, in the prescribed manner;

(b) the individual must not store a handgun within the boundaries of a municipality and must not transport it to or from a place within those boundaries other than to or from a place a peace officer, firearms officer or chief firearms officer is located, to a port of exit in order to take it outside Canada, or from a port of entry in order to bring it inside Canada, in the case where

(i) a by-law to that effect is in force in the municipality,

(ii) the municipality has notified the federal Minister, in the prescribed manner, of the passing of the by-law, and

(iii) the municipality has provided the prescribed information to the federal Minister, or a person designated by that Minister, in the prescribed manner; and

(c) the individual must comply with any prescribed requirements relating to the storage — within the boundaries of a municipality — of a handgun, in the case where

(i) a by-law to that effect is in force in the municipality,

(ii) the municipality has notified the federal Minister, in the prescribed manner, of the passing of the by-law, and

(iii) the municipality has provided the prescribed information to the federal Minister, or a person designated by that Minister, in the prescribed manner.

Application of conditions

(2) The conditions referred to in paragraphs (1)(a) to (c) apply only if a period of 180 days has elapsed since the day on which a notice is sent by the federal Minister to a municipality under subsection (3).

Notice to municipality

(3) The federal Minister must notify the municipality once the federal Minister is satisfied that the criteria referred to in paragraph (1)(a), (b) or (c) has been met, as the case may be.

Notice — application of condition

(4) After a notification has been sent to a municipality under subsection (3), the Registrar must give notice, in the prescribed manner, to the holders of a registration certificate who store a handgun in the municipality in question, of

(a) the date on which a condition referred to in paragraph (1)(a), (b) or (c) applies; and

(b) the obligations with which the holders must comply.

Notice to federal Minister

(5) A municipality must notify the federal Minister, in the prescribed manner, once a by-law referred to in subsection (1) is no longer in force.

Notice to licence holders

(6) After a notice referred to in subsection (5) is received by the federal Minister or if the Registrar otherwise becomes aware that a by-law referred to in subsection (1) has ceased to be in force, the Registrar must give notice, in the prescribed manner, to the holders of a licence authorizing the holder to possess prohibited firearms or restricted firearms who reside in the municipality in question of the date on which a condition ceases to apply.

Exceptions

(7) The conditions referred to in paragraphs (1)(a) to (c) do not apply to a handgun

(a) that has been declared, in the prescribed manner, by an individual who holds a licence authorizing the individual to possess the handgun to be necessary for their training for a prescribed sporting competition;

(b) for which an individual holds an authorization to carry; or

(c) in the prescribed circumstances or for a prescribed purpose.

Publication by the Commissioner

(8) The Commissioner must maintain a publicly available list of the municipalities where a condition referred to in subsection (1) applies.