



STATE OF MINNESOTA

Office of Governor Mark Dayton

130 State Capitol ♦ 75 Rev. Dr. Martin Luther King Jr. Boulevard ♦ Saint Paul, MN 55155

March 5, 2012

The Honorable Kurt Zellers
Speaker of the House
State Office Building, Room 463
100 Rev. Dr. Martin Luther King, Jr. Blvd.
St. Paul, Minnesota 55155

Dear Mr. Speaker:

I have vetoed and am returning Chapter 126, House File 1467. I greatly appreciate the House Author's sincere efforts to address the concerns of law enforcement organizations and to enlist my support. However, most of Minnesota's major law enforcement and public safety organizations remain strongly opposed to the bill and, I believe, their concerns must be honored.

The MN Police and Peace Officers Association, the MN Chiefs of Police, and the MN Sheriffs Association represent the men and women who risk their lives every day and night to protect the rest of us. When they strongly oppose a measure, because they believe it will increase the dangers to them in the performance of their duties, I cannot support it.

The US Bureau of Alcohol, Tobacco, and Firearms reports that in 2007, there were about 294 million guns in the United States: 106 million handguns, 105 million rifles, and 83 million shotguns. On a proportionate basis, that would mean there are over 5 million firearms in Minnesota. Clearly, the Second Amendment of the US Constitution is properly being supported by lawmakers and law enforcers throughout America.

The question addressed by this proposed legislation is: Under what circumstances can deadly force lawfully be used? Current Minnesota law already provides a definitive answer. **Minn. Stat., Sec. 624.711 DECLARATION OF POLICY** states:

"It is not the intent of the legislature to regulate shotguns, rifles and other longguns of the type commonly used for hunting and not defined as pistols or semiautomatic military-style assault weapons, or to place costs of administration upon those citizens who wish to possess or carry pistols or semiautomatic military-style assault weapons lawfully, or to confiscate or otherwise restrict the use of pistols or semiautomatic military-style assault weapons by law-abiding citizens."

Furthermore, the laws of Minnesota ensure the rights of most law-abiding citizens to carry firearms in their possessions outside their homes, by application to their County Sheriff. The law states that "A sheriff must issue a permit to an applicant if the person: (1) has training in the safe use of a pistol; (2) is at least 21 years old and a citizen or a permanent resident of the United States; (3) completes an application for a permit; (4) is not prohibited from possessing a firearm under certain sections of the law; (5) is not listed in the criminal gang investigative data system."

Current Minnesota law also defines the circumstances under which force can be used. **Minn. Stat., Sec. 609.06, subd. 1 AUTHORIZED USE OF FORCE**, says: "Reasonable force may be used upon or toward the person of another without the other's consent when certain circumstances exist or the actor reasonably believes them to exist." Those circumstances include: "... (3) when used by any person in resisting or aiding another to resist an offense against the person; or (4) when used by any person in lawful possession of real or personal property, or by another assisting the person in lawful possession, in resisting a trespass upon or other unlawful interference with such property...."

Further authorization for the use of deadly force is provided in **Minn. Stat., Sec. 609.065, JUSTIFIABLE TAKING OF LIFE**, which allows "the intentional taking of the life of another ... when necessary in resisting or preventing an offense which the actor reasonably believes exposes the actor or another to great bodily harm or death, or preventing the commission of a felony in the actor's place of abode."

The Minnesota Supreme Court's caselaw has defined when deadly force is reasonable. To justify the taking of a life, the "killing must have been done in the belief that it was necessary to avert death or grievous bodily harm"; the "judgment of the defendant as to the gravity of the peril to which he was exposed must have been reasonable under the circumstances"; the "defendant's election to kill must have been such as a reasonable man would have made in light of the danger to be apprehended." State v. Richardson, 670 N.W.2d 267, 277-78 (Minn. 2003).

The Supreme Court further states that, under current Minnesota law, there is no duty to retreat before using force when in one's home. "We agree that when acting in self-defense in the home, a person should not be required to retreat from the home before using reasonable force to defend himself, regardless of whether the aggressor is also rightfully in the home. Thus, we adopt the following rule: There is no duty to retreat from one's own home when acting in self-defense in the home, regardless of whether the aggressor is a co-resident. But the lack of a duty to retreat does not abrogate the obligation to act reasonably when using force in self-defense. Therefore, in all situations in which a party claims self-defense, even absent a duty to retreat, the key inquiry will still be into the reasonableness of the use of force and the level of force under the specific circumstances of each case." State v. Glowacki, 630 N.W.2d 392, 402 (Minn. 1991).

Thus, it appears clear to me that existing Minnesota Statutes and law already provide the authorizations for law-abiding citizens to use deadly force to defend themselves or others either inside or outside of their homes, so long as that use of deadly force constitutes "reasonable force." That, I believe, is a reasonable standard.

HF 1467 does go beyond current law by stating that an individual using deadly force would be presumed to possess a reasonable belief that there exists an imminent threat of substantial bodily harm, great bodily harm, or death to the individual or person. As the MN County Attorneys Association has noted, this change would effectively allow anyone to claim that he or she acted reasonably when using deadly force, making it virtually impossible to find him or her guilty of using excessive force. That change from the current standard seems, to me, ill-advised.

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Of additional concern to the MN Department of Public Safety is the provision in the bill, which mandates "universal reciprocity" of firearm carry permits from any other state "or other non-Minnesota governmental jurisdiction." **Minn. Stat., Sec. 624.714, subd. 16, Recognition of permits from other states** already requires the Commissioner of Public Safety to determine which states and other jurisdictions have permitting laws similar to Minnesota's and which do not. The Commissioner is further required to execute reciprocity agreements regarding carry permits with those states or jurisdictions, which do have similar permitting laws. Currently, Minnesota has such reciprocity agreements with 15 other states.

However, making all permits issued by other states and governmental jurisdictions valid in Minnesota would allow people to carry guns here under the considerably lower standards for the issuance of permits of some other states.

For these reasons, I have vetoed HF1467.

Sincerely,

A handwritten signature in black ink that reads "Mark Dayton". The signature is written in a cursive, flowing style.

Mark Dayton
Governor

cc: Senator Michelle L. Fischbach, President of the Senate
Senator David H. Senjem, Senate Majority Leader
Senator Thomas M. Bakk, Senate Minority Leader
Senator Gretchen Hoffman
Representative Paul Thissen, House Minority Leader
Representative Tony Cornish
The Honorable Mark Ritchie, Secretary of State
Mr. Cal R. Ludeman, Secretary of the Senate
Mr. Albin A. Mathiowetz, Chief Clerk of the House of Representatives