



March 31, 2020
by email to Steve.Schewel@durhamnc.gov

Mayor Steve Schewel
City of Durham
101 City Hall Plaza
Durham, NC 27701

Re: Request to Update Stay at Home Order
and Re-Open Shuttered Gun Stores

Dear Mayor Schewel:

[Grass Roots North Carolina](#) and [Gun Owners of America](#) are nonprofit organizations representing the interests of many thousands of North Carolinians who value limited government and the right to keep and bear arms. Our members and supporters in the City of Durham have been extremely concerned about your recent statements purporting to close gun stores within the city pursuant to your [Stay at Home Order](#) issued March 25, 2020.

In our view, the closure provisions of your Stay at Home Order do not, on their face, apply to gun stores. Indeed, gun stores provide “necessary supplies and services” to enable persons to protect their and their families’ “health and safety,” as your order provides. Thus, there are good arguments that Second Amendment related businesses such as gun stores and ranges within the City of Durham are exempt from the Stay at Home Order. Moreover, applying the Stay at Home Order to gun stores would violate state law and both the federal and state constitutions.

Finally, we note that Section 3.E.2.a of your Proclamation excludes from its closing order the following category of businesses:

a. **CISA List.** On **March 19, 2020**, the U.S. Department of Homeland Security, Cybersecurity Infrastructure & Security Agency (CISA), issued a Memorandum on Identification of Essential Critical Infrastructure Workers During COVID-19 Response. The definition of Essential Businesses in this Order includes all the workers identified in that Memorandum. [Emphasis added.]

As you reportedly are aware, on Saturday, **March 28, 2020**, the Director of the Cybersecurity & Infrastructure Security Agency in the Office of the Director U.S. Department of Homeland Security made an important [update](#) to the March 19, 2020 CISA list. In the section on

Law Enforcement, Public Safety, and Other First Responders, the Director added the following groups now designated as Critical Infrastructure:

Workers supporting the operation of firearm or ammunition product manufacturers, retailers, importers, distributors, and shooting ranges.

Unfortunately, since your Stay at Home Order specifically references the “March 19, 2020” version of the CISA list, it would appear by its terms **not** to incorporate subsequently issued versions of the CISA list — including the March 28, 2020 version of the list.

On March 29, 2020, GRNC and GOA contacted Wake County, North Carolina officials, to raise similar concerns that statements by county officials had indicated that gun stores in Wake County were required to close under that county’s Proclamation. We also pointed out the updates to the CISA list, and asked the county to reconsider its interpretation of its Proclamation as applied to gun stores and related businesses.

Yesterday, March 30, 2020, we engaged in a productive dialogue with Wake County officials, who agreed that gun stores would be permitted to remain open during the county’s emergency declaration.

However, various news sources have since reported that, rather than following the reasoned judgment of Wake County, and the decision of federal officials to update the CISA list to protect Second Amendment businesses, you have chosen to double down on this attack on gun stores. You reportedly have said that “We are not going to reconsider gun store sales ... Like all non-essential retail businesses, they are to cease operations immediately.” And, when confronted with the updated CISA list issued by DHS, you reportedly criticized it as “overly inclusive,” and announced your intention not to update your order to include the updated list.

Based on these statements, and your refusal to exempt Second Amendment businesses from your Stay at Home Order, GRNC and GOA are in the process of preparing litigation to challenge your action on several bases, including those outlined above. We are planning on filing suit very soon to enjoin you from continuing to order gun stores to be closed.

However, we have directed our lawyers to delay filing that litigation until at least 12:00 noon on Thursday, April 2, 2020, to give you the opportunity to make the simple change, to update your Stay at Home Order to correspond to the current updated CISA list of March 28, 2020, or to issue a public statement to the effect that Second Amendment businesses may remain open under the existing Stay at Home Order. We request that you take this action without delay.

Please let us know by close of business tomorrow as to whether you will be making that change to your Stay at Home Order to permit the continued operation of essential Second Amendment businesses such as gun stores and ranges, so that we can avoid any unnecessary litigation. With best regards.

Sincerely,



Erich Pratt
Senior Vice President
Gun Owners of America



F. Paul Valone
President
Grass Roots North Carolina

cc: Kimberly Rehberg
Durham City Attorney
Durham City Council