

# REPORT OF THE CHIEF LEGISLATIVE ANALYST

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DATE: March 16, 2017

TO: Honorable Members of the Rules, Elections, Intergovernmental Relations and Neighborhoods Committee

FROM: Sharon M. Tso   
Chief Legislative Analyst

Council File No: 17-0002-S30  
Assignment No: 17-02-0232

SUBJECT: Resolution (Krekorian - Martinez) to oppose H.R. 38 (Hudson)

CLA RECOMMENDATION: Adopt Resolution (Krekorian - Martinez) to include in the City's 2017 - 2018 Federal Legislative Program OPPOSITION to H.R. 38 (Hudson), the Concealed Carry Reciprocity Act of 2017.

## SUMMARY

On February 21, 2017, a Resolution (Krekorian - Martinez) was introduced to oppose H.R. 38, the Concealed Carry Reciprocity Act of 2017. The Resolution states that this act would force every state to recognize concealed-carry weapons (CCW) permits issued by other states, regardless of the permitting standards of the issuing state. The Resolution further states that while every state allows for the concealed carry of a firearm under some circumstances, each state has different requirements for a permit to be issued for concealed carry, and that some states do not require permits at all. The Resolution states that California, as well as many other states, prohibit out of state residents from carrying a concealed weapon without complying with their regulations.

The Resolution states that H.R. 38 would require all states to recognize so-called "constitutional" carry, which allows individuals to carry a firearms without receiving a permit or undergoing any training. The Resolution also states that this legislation would effectively override California and Los Angeles's laws, and severely limit the City's ability to prevent dangerous people from carrying loaded and concealed weapons in public. The Resolution, therefore, seeks an official position of the City of Los Angeles to oppose H.R. 38 (Hudson), the Concealed Carry Reciprocity Act of 2017.

## BACKGROUND

Under current California law, a county Sheriff or municipal Police Chief determines who is eligible to receive a concealed-carry weapons (CCW) permit. To obtain a permit, an individual must meet specific requirements, including having 'good cause' for carrying a concealed weapon, and must pass a training course. California's CCW rules are among the strictest in the United States, and the state does not recognize CCW permits from other states. Under current law, a person who has been issued a CCW permit in another state is prohibited from carrying a concealed weapon in California without first acquiring a CCW permit in California.

H.R. 38 (Hudson), the Constitutional Concealed Carry Reciprocity Act of 2017, would establish mandatory reciprocity for CCW permits across state lines, seriously undermining California's CCW regulations. This bill would allow individuals who receive a CCW permit in any state to

legally carry a concealed weapon in public in California. Further, H.R. 38 would allow individuals from states that allow their residents to carry concealed firearms without a CCW permit to carry a concealed weapon in California without obtaining a permit. H.R. 38 would severely undermine individual states' ability to regulate and control the issuance of CCW permits, infringes on the rights of states to regulate firearms, and would weaken CCW regulations throughout the United States.

H.R. 38 would negatively impact California's gun control policies, and effectively lets states with the least stringent CCW permit requirements to set the basic requirements for individuals who wish to carry a concealed weapon. Currently, a number of states bar certain individuals from obtaining a CCW. However, in some states, individuals who have been convicted of certain violent crimes, domestic abuse, stalking or other crimes can still legally carry a concealed weapon. H.R. 38 would allow these individuals, who would be barred from possessing a firearm in California if they were residents of the state, to carry a concealed weapon as long as they maintain their official residency outside of California. It is likely that H.R. 38 would result in individuals acquiring permits outside of California for the sole purpose of circumventing California's stricter CCW permit requirements

Further, H.R. 38 would allow individuals with CCW permits from other states to utilize high capacity magazines in their firearms while in California, undermining recent legislation which prohibits the possession of high capacity magazines in the state. This bill would pose a significant threat to public safety in the State of California, and seriously undermine regional efforts to reduce the number of guns on the street.

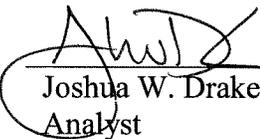
Various law enforcement agencies across the United States have also indicated that they are opposed to this legislation, including the Los Angeles Police Department (LAPD). Specifically, LAPD has indicated it is concerned with inconsistent or insufficient CCW permitting requirements.

DEPARTMENTS NOTIFIED

Police Department

BILL STATUS

01/03/2017	Bill introduced
01/03/2017	Referred to the House Committee on the Judiciary
01/12/2017	Referred to the Subcommittee on Crime, Terrorism, Homeland Security and Investigations

  
Joshua W. Drake  
Analyst

SMT:jwd

Attachments: Resolution (Krekorian - Martinez)  
H.R. 38 (Hudson)

RESOLUTION

WHEREAS, on January 3, 2017, Congressman Richard Hudson (R-NC) introduced HR 38, known as the Concealed Carry Reciprocity Act of 2017, which would force every state to recognize concealed carry permits by every other state, regardless of the permitting standards, or lack thereof, of that state; and

WHEREAS, while every state allows concealed carry under some circumstances, each state has different requirements on who is permitted to carry, what requirements are appropriate, and what type of training should be required of permit holders; and

WHEREAS, currently, many states, including California, prohibit out-of-state residents from carrying concealed weapons within their borders without complying with their own requirements; and

WHEREAS, the Concealed Carry Reciprocity Act of 2017 would force all states to recognize so-called "constitutional" or permitless carry, which allows gun owners to carry without receiving any permit or training; and

WHEREAS, the new bill also would override the Gun-Free School Zones Act, which makes it a federal crime to carry a gun in a school zone; and

WHEREAS, Los Angeles, like many other cities and states, requires applicants to demonstrate a specific need for obtaining a concealed-carry permit; and

WHEREAS, the bill would effectively override existing state and city laws and severely limit the city's ability to prevent dangerous people from carrying loaded, hidden firearms in public;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2017-2018 Federal Legislative Program OPPOSITION to HR 38, the Concealed Carry Reciprocity Act of 2017.

Presented by: Paul Krekorian  
PAUL KREKORIAN  
Councilmember, 2<sup>nd</sup> District

FEB 2 1 2017

Seconded by: [Signature]

[Signature]

ORIGINAL

115TH CONGRESS  
1ST SESSION

# H. R. 38

To amend title 18, United States Code, to provide a means by which non-residents of a State whose residents may carry concealed firearms may also do so in the State.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 2017

Mr. HUDSON (for himself, Mr. SMITH of Missouri, Mr. ABRAHAM, Mr. CUELLAR, Mr. GAETZ, Mr. HOLDING, Mr. KING of Iowa, Mr. LAMALFA, Mr. PALMER, Mrs. WAGNER, Mr. KINZINGER, Mr. THOMAS J. ROONEY of Florida, Mr. WALKER, Mr. PITTENGER, Mr. ADERHOLT, Mr. CARTER of Georgia, Mr. GRAVES of Georgia, Mr. ROGERS of Alabama, Mr. HENSARLING, Mr. LAMBORN, Mr. CRAMER, Mr. COOK, Mr. WESTERMAN, Mr. CHABOT, Mrs. WALORSKI, Mr. MULLIN, Mr. PALAZZO, Mr. FRANKS of Arizona, Mr. JODY B. HICE of Georgia, Mr. MEADOWS, Mr. WENSTRUP, Mr. WILLIAMS, Mr. SMITH of Texas, Mr. HUIZENGA, Mr. AMODEI, Mr. HUNTER, Mr. FARENTHOLD, Mr. JENKINS of West Virginia, Mr. EMMER, Mr. ROE of Tennessee, Mr. TIPTON, Mr. JOHNSON of Ohio, Mr. DESJARLAIS, Mrs. HARTZLER, Mr. DUNCAN of South Carolina, Mr. ZELDIN, Mr. YOHO, Mr. SANFORD, Mr. BRAT, Mr. PETERSON, Mr. DUFFY, Mr. YODER, Mr. BUCHANAN, Mr. COLE, Mr. NEWHOUSE, Mr. TURNER, Mr. BROOKS of Alabama, Mr. KATKO, Mr. RATCLIFFE, Mr. HILL, Mr. OLSON, Mr. HARPER, Mr. BUCK, and Mr. DIAZ-BALART) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To amend title 18, United States Code, to provide a means by which nonresidents of a State whose residents may carry concealed firearms may also do so in the State.

1       *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Concealed Carry Reci-  
5 procity Act of 2017”.

6 **SEC. 2. RECIPROCITY FOR THE CARRYING OF CERTAIN**  
7 **CONCEALED FIREARMS.**

8       (a) IN GENERAL.—Chapter 44 of title 18, United  
9 States Code, is amended by inserting after section 926C  
10 the following:

11 **“§ 926D. Reciprocity for the carrying of certain con-**  
12 **cealed firearms**

13       “(a) Notwithstanding any provision of the law of any  
14 State or political subdivision thereof (except as provided  
15 in subsection (b)) and subject only to the requirements  
16 of this section, a person who is not prohibited by Federal  
17 law from possessing, transporting, shipping, or receiving  
18 a firearm, who is carrying a valid identification document  
19 containing a photograph of the person, and who is car-  
20 rying a valid license or permit which is issued pursuant  
21 to the law of a State and which permits the person to  
22 carry a concealed firearm or is entitled to carry a con-  
23 cealed firearm in the State in which the person resides,  
24 may possess or carry a concealed handgun (other than a  
25 machinegun or destructive device) that has been shipped

1 or transported in interstate or foreign commerce, in any  
2 State that—

3 “(1) has a statute under which residents of the  
4 State may apply for a license or permit to carry a  
5 concealed firearm; or

6 “(2) does not prohibit the carrying of concealed  
7 firearms by residents of the State for lawful pur-  
8 poses.

9 “(b) This section shall not be construed to supersede  
10 or limit the laws of any State that—

11 “(1) permit private persons or entities to pro-  
12 hibit or restrict the possession of concealed firearms  
13 on their property; or

14 “(2) prohibit or restrict the possession of fire-  
15 arms on any State or local government property, in-  
16 stallation, building, base, or park.

17 “(c)(1) A person who carries or possesses a concealed  
18 handgun in accordance with subsections (a) and (b) may  
19 not be arrested or otherwise detained for violation of any  
20 law or any rule or regulation of a State or any political  
21 subdivision thereof related to the possession, transpor-  
22 tation, or carrying of firearms unless there is probable  
23 cause to believe that the person is doing so in a manner  
24 not provided for by this section. Presentation of facially  
25 valid documents as specified in subsection (a) is prima

1 facie evidence that the individual has a license or permit  
2 as required by this section.

3       “(2) When a person asserts this section as a defense  
4 in a criminal proceeding, the prosecution shall bear the  
5 burden of proving, beyond a reasonable doubt, that the  
6 conduct of the person did not satisfy the conditions set  
7 forth in subsections (a) and (b).

8       “(3) When a person successfully asserts this section  
9 as a defense in a criminal proceeding, the court shall  
10 award the prevailing defendant a reasonable attorney’s  
11 fee.

12       “(d)(1) A person who is deprived of any right, privi-  
13 lege, or immunity secured by this section, under color of  
14 any statute, ordinance, regulation, custom, or usage of any  
15 State or any political subdivision thereof, may bring an  
16 action in any appropriate court against any other person,  
17 including a State or political subdivision thereof, who  
18 causes the person to be subject to the deprivation, for  
19 damages or other appropriate relief.

20       “(2) The court shall award a plaintiff prevailing in  
21 an action brought under paragraph (1) damages and such  
22 other relief as the court deems appropriate, including a  
23 reasonable attorney’s fee.

24       “(e) In subsection (a):

1 “(1) The term ‘identification document’ means  
2 a document made or issued by or under the author-  
3 ity of the United States Government, a State, or a  
4 political subdivision of a State which, when com-  
5 pleted with information concerning a particular indi-  
6 vidual, is of a type intended or commonly accepted  
7 for the purpose of identification of individuals.

8 “(2) The term ‘handgun’ includes any magazine  
9 for use in a handgun and any ammunition loaded  
10 into the handgun or its magazine.

11 “(f)(1) A person who possesses or carries a concealed  
12 handgun under subsection (a) shall not be subject to the  
13 prohibitions of section 922(q) with respect to that hand-  
14 gun.

15 “(2) A person possessing or carrying a concealed  
16 handgun in a State under subsection (a) may do so in  
17 any of the following areas in the State that are open to  
18 the public:

19 “(A) A unit of the National Park System.

20 “(B) A unit of the National Wildlife Refuge  
21 System.

22 “(C) Public land under the jurisdiction of the  
23 Bureau of Land Management.

24 “(D) Land administered and managed by the  
25 Army Corps of Engineers.

1           “(E) Land administered and managed by the  
2 Bureau of Reclamation.”.

3           (b) CLERICAL AMENDMENT.—The table of sections  
4 for such chapter is amended by inserting after the item  
5 relating to section 926C the following:

“926D. Reciprocity for the carrying of certain concealed firearms.”.

6           (c) SEVERABILITY.—Notwithstanding any other pro-  
7 vision of this Act, if any provision of this section, or any  
8 amendment made by this section, or the application of  
9 such provision or amendment to any person or cir-  
10 cumstance is held to be unconstitutional, this section and  
11 amendments made by this section and the application of  
12 such provision or amendment to other persons or cir-  
13 cumstances shall not be affected thereby.

14           (d) EFFECTIVE DATE.—The amendments made by  
15 this section shall take effect 90 days after the date of the  
16 enactment of this Act.

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