

## 'Any person' has right to gun, says State of Montana

Montana claims 2nd Amendment questions already resolved

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Montana officials are saying that the **United States already has resolved any questions about the 2nd Amendment's application, defining that "any person" has the right to bears arms.** That's the issue at hand in a pending U.S. Supreme Court case originating in the District of Columbia, where authorities have banned handguns under the claim that such a limit is "reasonable" and therefore enforceable even given the rights granted by the 2nd Amendment. U.S. Rep. Virgil Goode, R-Va., has asked President Bush to order the U.S. Justice Department to submit a brief to the high court supporting the rights of individuals under the 2nd Amendment. A similar request already has been submitted by officials for the Gun Owners of America, whose executive director, Larry Pratt, warned: **"If the Supreme Court were to accept the Solicitor General's line of argument, D.C.'s categorical gun ban of virtually all self-defense firearms could well be found to be constitutional. ..."** He warned **such a precedent to affirm any and all gun restrictions if they are considered by a judge to be "reasonable" would place those rights on the lowest rung of the constitutional ladder.** "In contrast to other provisions in the Bill of Rights, which can only be trumped by 'compelling state interests,' the 2nd Amendment would be relegated to an inferior position at the lowest rung of the constitutional ladder, should the Justice Department prevail," said Pratt.

**But officials in Montana, including dozens of state lawmakers as well as Secretary of State Brad Johnson, have joined together in a statement that the U.S. already has determined the application, and 2nd Amendment rights apply to "any person."** In a joint resolution from the Montana leaders, including Congressman Denny Rehberg, they caution that **should the Supreme Court decide to change the U.S. interpretation of the 2nd Amendment and allow those rights to apply only collectively, it would violate the contract under which Montana entered the union as a state.** "The Montana Resolution cautions that a collective rights decision would violate the Montana contract for statehood because when that contract was entered the collective rights interpretation had not yet been invented and the individual rights view was an accepted part of the contract," an announcement from the leaders said. "A collective rights decision in [the pending court case] Heller would not only violate Montana's contract for statehood, but also Montana's customs, culture and heritage. We hope the Supreme Court will recognize and credit the contract argument, an argument unmentioned in any of the briefs submitted in the Heller case," said Gary Marbut, the president of the Montana Shooting Sports Association. The Montana contract is archived as Article I of the Montana Constitution. **At the time the then-territory's "Compact with the United States" was agreed to by Congress, the Montana Constitution included the "right of 'any person' to bear arms," the group said.** "Contracts must be implemented so as to effect the intent of the parties to the contract. **A collective rights decision by the court could also call into question the sanctity of contracts, considered to have been a bedrock principle of law for centuries," the group said.** The state was admitted to the union in 1889 under President Benjamin Harrison and he approved the state constitution proposal including the right to bear arms, the officials said. **Any other determination, they said, would "offend" the Compact, officials said.** "[That] language ... simply cannot be re-spun to somehow mean a right of state government," they said. It could not have referred to the National Guard, which wasn't created until years later, officials said. "Some speak of a 'living constitution,' the meaning of which may evolve and change over time. However, the concept of a 'living contract,' one to be disregarded or revised at the whim of one party thereto, is unknown. **A collective rights holding in Heller would not only open the Pandora's box of unilaterally morphing contracts, it would also poise Montana to claim appropriate and historically entrenched remedies for contract violation,"** the group said. Goode earlier wrote Bush that **under the perspective being promoted in the District of Columbia, a national ban on all firearms, including hunting rifles, could be considered valid.** The government's position is available [in a document](#) submitted by [by U.S. Solicitor General Paul D. Clement](#). He said since "unrestricted" private ownership of guns clearly threatens the public safety, the 2nd Amendment can be interpreted to allow a variety of gun restrictions. "Given the unquestionable threat to public safety that unrestricted private firearm possession would entail, various categories of firearm-related regulation are permitted by the Second Amendment," Clement wrote in the brief. Because of the specifics of **the D.C. case, the ultimate ruling is expected to address directly whether the 2nd Amendment includes a right for individuals nationwide to have a gun or whether local governments can approve whatever laws or ordinances they desire to restrict firearms.** The amendment reads, "A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed."



Montana Secretary of State  
Brad Johnson