

RHODE ISLAND ETHICS COMMISSION

Advisory Opinion No. 2025-35

Approved: May 20, 2025

Re: The Honorable Frank A. Ciccone, III

QUESTION PRESENTED:

The Petitioner, a legislator serving as a member of the Rhode Island Senate, a state elected position, requests an advisory opinion regarding whether he is prohibited by the Code of Ethics from participating in Senate discussions and voting on proposed legislation that defines various assault weapons and restricts the manufacture, sale, purchase, and possession of them, given that the Petitioner holds a license to deal firearms and would be subject to the legislation if it passes.

RESPONSE:

It is the opinion of the Rhode Island Ethics Commission that the Petitioner, a legislator serving as a member of the Rhode Island Senate, a state elected position, is not prohibited by the Code of Ethics from participating in Senate discussions and voting on proposed legislation that defines various assault weapons and restricts the manufacture, sale, purchase, and possession of them, notwithstanding that the Petitioner holds a license to deal firearms and would be subject to the legislation if it passes, given that the circumstances herein justify the application of the class exception as set forth in R.I. Gen. Laws § 36-14-7(b), and subject to the guidance herein.

The Petitioner is a legislator serving as a member of the Rhode Island Senate, representing District 7, encompassing Providence and Johnston. Originally elected in 2002, the Petitioner has served continuously since. He was recently elected to the position of Senate Majority Leader. The Petitioner informs that a piece of proposed legislation, for which he is not a sponsor, is currently pending in the Senate that, if passed, would establish the Rhode Island Assault Weapons Ban Act of 2025 (act). He further informs that the act would define various assault weapons and restrict the manufacture, sale, purchase, and possession of those assault weapons. The Petitioner explains that the act would afford the owner of an assault weapon lawfully possessed on or before the effective date of the act the options to: (i) within one year from the effective date of the act, register the weapon with the police department in the city or town where the person resides or, if there is no such police department or the person resides out of state, with the Rhode Island State Police; (ii) render the weapon permanently inoperable; (iii) surrender the weapon to the police department in

the city or town where the person resides or, if there is no such police department or the person resides out of state, with the Rhode Island State Police; (iv) surrender the weapon to any police station or other location designated as a site of a bona fide “gun buy-back” program under conditions ensuring safe transport; or (v) transfer or sell the weapon to a federally licensed firearm dealer or person or firm lawfully entitled to own or possess such weapon.

The Petitioner states that he holds a Federal Firearms License (FFL) to deal firearms other than destructive devices. He further states that there are 99 FFL holders in Rhode Island in total, all of whom would be subject to the legislation. The Petitioner explains that, of those 99 FFL holders, he is one of 80 who deal firearms other than destructive devices.¹ He further explains that the remaining 19 FFL holders are manufacturers of ammunition and firearms.² The Petitioner represents that he derives little, if any, income from firearm sales, and that it has never been his primary source of income. He clarifies that he mainly uses his license to complete a few transactions each year for friends and family. It is under this set of facts that the Petitioner seeks guidance from the Ethics Commission regarding whether he may participate in Senate discussions and voting on the proposed legislation.

A person subject to the Code of Ethics may not participate in any matter in which he has an interest, financial or otherwise, which is in substantial conflict with the proper discharge of his duties in the public interest. R.I. Gen. Laws § 36-14-5(a). A substantial conflict of interest occurs if a public official has reason to believe or expect that he, any person within his family, his business associate, or any business by which he is employed or which he represents, will derive a direct monetary gain or suffer a direct monetary loss by reason of his official activity. R.I. Gen. Laws § 36-14-7(a). Additionally, § 36-14-5(d) of the Code of Ethics prohibits a public official from using his position or confidential information received through his position to obtain financial gain, other than that provided by law, for himself, any person within his family, his business associate, or a business by which he is employed or which he represents.

Section 36-14-7(b) of the Code of Ethics, often referred to as the “class exception,” states that a public official will not have an interest which is in substantial conflict with the proper discharge of his official duties if any benefit or detriment accrues to him, or any person within his family, or any business associate, or any business by which he is employed or which he represents “as a member of a business, profession, occupation or group, or of any

¹ The Petitioner is one of 75 holders of a Class 1 FFL (Dealer in Firearms Other Than Destructive Devices). There are two holders of a Class 2 FFL (Pawnbroker in Firearms Other Than Destructive Devices), and three holders of a Class 8 FFL (Importer of Firearms Other Than Destructive Devices).

² There are 16 holders of a Class 7 FFL (Manufacturer of Firearms Other Than Destructive Devices), and three holders of a Class 6 FFL (Manufacturer of Ammunition for Firearms).

significant and definable class of persons within the business, profession, occupation or group, to no greater extent than any other similarly situated member of the business, profession, occupation or group, or of the significant and definable class of persons within the business, profession, occupation or group.” When determining whether particular circumstances justify the application of the class exception, the Ethics Commission considers the totality of those circumstances. Among the important factors to be considered are: 1) the description of the class; 2) the size of the class; 3) the function or official action being contemplated by the public official; and 4) the nature and degree of foreseeable impact upon the class and its individual members as a result of the official action.

The Ethics Commission has previously concluded that application of the class exception was justified in a number of matters involving proposed legislation. For example, in Advisory Opinion 2023-6, the Ethics Commission concluded that a member of the Rhode Island House of Representatives was not prohibited from submitting, discussing, and voting on legislation that would relieve all 130 members of two homeowner associations from the financial responsibility for the upkeep and maintenance of water pumping stations that were not physically located on homeowner association property, notwithstanding that the petitioner belonged to one of those homeowner associations. That petitioner was cautioned by the Ethics Commission that, should the proposed legislation be revised in such a way that it would impact a smaller class or subclass of homeowner association members, or impact the petitioner individually or differently than the other homeowner association members to which the legislation would apply, he should either refrain from submitting the bill, and/or recuse from participating in its consideration, or seek further guidance from the Ethics Commission. See also A.O. 2020-12 (concluding that a member of the Rhode Island Senate was not prohibited from submitting a bill which would allow volunteer firefighters who met certain requirements to utilize the State’s vehicle bid list to purchase discounted personal vehicles, notwithstanding that the petitioner was a volunteer firefighter, given that the proposed legislation would impact equally all volunteer firefighters in Rhode Island who met the requisite requirements, and that the petitioner would not be impacted to any greater extent than any other similarly situated firefighter in the subclass); A.O. 2008-25 (concluding that a member of the Rhode Island House of Representatives, who in his private capacity owned and operated a business that, among other things, sold and installed fire alarms, could participate in a floor vote regarding legislation that would require insurers of commercial properties to provide a premium credit for the installation of fire suppression equipment, because the legislation, if passed, would benefit the petitioner’s customers to no greater extent than any other commercial property owners who utilized other businesses to install fire safety equipment); A.O. 98-40 (concluding that a legislator serving in the Rhode Island House of Representatives, whose spouse was a dentist, could participate in proposed legislation prohibiting any non-licensed person from directing the practice of dentistry that would impact all dentists and dental hygienists equally and concluding that the contemplated legislative activity, which involved broad-based issues of public policy, was precisely the type of legislative activity contemplated by the class exception).

Here, the Petitioner is one of 99 members of the class of FFL holders who would be impacted by the passage of the act. The Petitioner would be impacted by the legislation to no greater extent than any other individual member of the class of 99 FFL holders or the subclass of 80 FFL holders who deal firearms other than destructive devices to which he belongs. It is therefore the opinion of the Ethics Commission that the specific facts of this case justify the application of the class exception set forth in § 36-14-7(b) and that the Petitioner is not prohibited by the Code of Ethics from participating in Senate discussions and voting on the proposed legislation. However, in the event that his participation at any point veers into revising the proposed legislation in such a way that it would impact a smaller class or subclass of FFL holders, or impact the petitioner individually or differently than the other FFL holders to which the legislation would apply, he should either recuse from participating in its consideration, or seek further guidance from the Ethics Commission. Recusals shall be made consistent with the provisions of R.I. Gen. Laws § 36-14-6.

This Advisory Opinion is strictly limited to the facts stated herein and relates only to the application of the Rhode Island Code of Ethics. Under the Code of Ethics, advisory opinions are based on the representations made by, or on behalf of, a public official or employee and are not adversarial or investigative proceedings. Finally, this Commission offers no opinion on the effect that any other statute, regulation, agency policy, ordinance, constitutional provision, charter provision, or canon of professional ethics may have on this situation.

Code Citations:

§ 36-14-5(a)

§ 36-14-5(d)

§ 36-14-6

§ 36-14-7(a)

§ 36-14-7(b)

Related Advisory Opinions:

A.O. 2023-6

A.O. 2020-12

A.O. 2008-25

A.O. 98-40

Keywords:

Class Exception