

Gun Laws in the USA

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Gun law in the United States

U.S. Firearms Legal Topics

- Assault weapon
- ATF Bureau
- Brady Handgun Violence Prevention Act
- Concealed carry in the U.S.
- Domestic Violence Offender Gun Ban
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- An Act Concerning Gun Violence Prevention and Children's Safety

Gun law in the United States is defined by a number of state and federal statutes. In the United States of America, the protection against infringement of the right to keep and bear arms is addressed in the Second Amendment to the United States Constitution. While there have been vigorous debates on the nature of this right, there has been a lack of clear federal court rulings defining this right until recently. The individual right to bear arms for self-defense was affirmed in the landmark United States Supreme Court cases *District of Columbia v. Heller* in 2008, which overturned a handgun ban in the Federal District of Columbia, and *McDonald v. City of Chicago* in 2010, which incorporated the individual right to the states.

Federal gun laws are enforced by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF).^[1] Most federal gun laws were enacted through:^{[2][3]}

- National Firearms Act (1934)
- Omnibus Crime Control and Safe Streets Act of 1968 (1968)
- Gun Control Act of 1968 (1968)
- Firearm Owners Protection Act (1986)
- Gun-Free School Zones Act (1990) (ruled unconstitutional as originally written; has been upheld repeatedly after minor edits were made by Congress)
- Brady Handgun Violence Prevention Act (1993)
- Federal Assault Weapons Ban (1994–2004) (expired)



- Protection of Lawful Commerce in Arms Act (2005)

In addition to federal gun laws, all U.S. states and some local jurisdictions have imposed their own firearms restrictions.

History

In 1791, the U.S. adopted the Second Amendment which 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." And in 1792 the Congress enacted the Militia Acts of 1792, which conscripted every "free able-bodied white male citizen" into the militia and required such citizens to procure "a good musket or firelock, a sufficient bayonet and belt, two spare flints, and a knapsack, a pouch with a box therein to contain not less than twenty-four cartridges, suited to the bore of his musket or firelock, each cartridge to contain a proper quantity of powder and ball;..." (U.S. Statutes at Large, Vol. 1, 1st Session, Ch. 33)

In the 2008 case of *District of Columbia v. Heller*, the Supreme Court ruled that the Second Amendment protects an individual's right to own any gun for personal use, which is in common use by the citizenry at the time in question, unconnected with their service in a militia. It also specifically stated that individuals have the right to keep a loaded gun at home for self-defense.^[4] In 2010 the Supreme Court incorporated the right to apply to the states as well as the federal government in *McDonald v. Chicago*.

The Protection of Lawful Commerce in Arms Act (2005) gave firearms manufactures and dealers unique protection from lawsuits that derive from their use in crimes or accidents. They can still be held liable for criminal misconduct, defective products, or other forms of negligence.^{[5][6][7]}

Prohibited persons

The following list of prohibited persons^[8] are ineligible to own firearms under the Brady Handgun Violence Prevention Act.^[9]

- Those convicted of felonies and certain misdemeanors except where state law reinstates rights, or removes disability.
- Fugitives from justice
- Unlawful users of certain depressant, narcotic, or stimulant drugs
- Those adjudicated as mental defectives or incompetents or those committed to any mental institution and currently containing a dangerous mental illness.
- Non-US citizens, unless permanently immigrating into the U.S. or in possession of a hunting license legally issued in the U.S.
- Illegal Aliens
- Those who have renounced U.S. citizenship
- Minors defined as under the age of eighteen for long guns and the age of twenty-one for handguns, with the exception of Vermont, eligible at age sixteen.
- Persons convicted in any court of a misdemeanor crime of domestic violence (an addition)
- Persons under indictment for a crime punishable by imprisonment for more than one year are ineligible to receive, transport, or ship any firearm or ammunition

Those who already own firearms would normally be required to relinquish them upon conviction.

Acquiring from dealers

Provided that federal law and the laws of both the dealer's and purchaser's states and localities are complied with:

- An individual 21 years of age or older may acquire a handgun from a dealer federally licensed to sell firearms in the individual's state of residence.^[10]
- An individual 18 years of age or older may purchase a rifle or shotgun from a federally licensed dealer in any state. However, the applicant may not purchase a pistol gripped long gun that does not have a shoulder stock until he or she is 21 years of age.
- It shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer a firearm unless the federal firearms licensee receives notice of approval from a prescribed source approving the transfer.
- Sale of a firearm by a federally licensed dealer must be documented by a federal form 4473, which identifies and includes other information about the purchaser, and records the make, model, and serial number of the firearm. Sales to an individual of multiple handguns within a five-day period require dealer notification to the ATF. Violations of dealer record keeping requirements are punishable by a penalty of up to \$1000 and one year's imprisonment.
- Federal Form 4473 is retained by the dealer, and the ATF is not allowed to create an electronic registry of firearms purchases that could be used in law enforcement. Instead, the ATF queries dealers individually regarding purchases. The ATF obtains forms from dealers that have gone out of business, but it is not allowed to create an efficient electronic database of the information.^[11]
- A series of amendments to appropriations bills, the Tiahrt Amendments, restrict the use of information acquired by the ATF. The ATF cannot release anything but aggregate data to the public and the bureau from cannot use tracing data in some legal proceedings to suspend or revoke a dealer's license. These amendments require that records of background checks of gun buyers be destroyed within 24 hours of approval.^[11]
- An individual holding a Curio and Relics License (officially a Type 03 Federal Firearms License (FFL); also called a C&R) may directly purchase firearms that are 50 or more years old from anyone AND any firearm officially recognized by the ATF as a Curio and Relic (C&R).

Sales between individuals

For transactions that don't involve federal firearms licensees, such as private transactions, federal law is less strict when it comes to minimum age.

In a private transaction, federal law prohibits the transfer or the sale of a handgun or ammunition, for use only in handguns, to individuals under 18 years of age. Although, there are certain exceptions in federal law, that if met, would allow an individual to transfer a handgun or ammunition, for use only in handguns, to someone under 18 years of age.

There is no federal law concerning minimum age for the transfer or sale of a firearm that is not defined as a handgun, such as rifles, semiautomatic rifles, short-barreled rifles, shotguns, short-barreled shotgun, etc., for transactions that don't involve federal firearms licensees.^[12]

An individual who does not possess a federal firearms license may not sell a modern firearm to a resident of another state without first transferring the firearm to a dealer in the purchaser's state.^[1] Firearms received by bequest or intestate succession are exempt from those sections of the law which forbid the transfer, sale, delivery or transportation of firearms into a state other than the transferor's state of residence.^[1] Likewise, antique firearms are exempt from these sections of the law in most states. (Antique firearms are defined as those manufactured pre-1899 by US federal law, or modern replicas thereof that do not use cartridges. State law definitions on antique firearms vary considerably from state to state.)

Use of firearms

Provided that all other laws are complied with, an individual may temporarily borrow or rent a firearm for lawful purposes throughout the United States.

Under United States federal law, the use of a firearm in a violent or drug trafficking crime is punishable by a mandatory prison sentence of up to 20 years. The minimum is one month. A second conviction, if the firearm is an automatic weapon or is equipped with a suppressor, brings life imprisonment without release.

Antiques

- Under the United States Gun Control Act of 1968, antique firearms and replicas are largely exempted from the aforementioned restrictions. Antique firearms are defined as: any firearm with a frame or receiver manufactured in or before 1898 regardless of ignition system, or any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system, and any replica of an antique firearm if the replica is not designed or redesigned for using rimfire or conventional centerfire ammunition, or uses fixed ammunition, which is no longer manufactured in the United States and which is not readily available in the ordinary channels or commercial trade, any muzzle loading rifle, muzzle loading shotgun, or muzzle loading pistol, which is designed to use black powder, or a black powder substitute, and which cannot use fixed ammunition. (Note: Antique firearms exemptions vary considerably under state laws.)

Shipping firearms

- Firearms may not be mailed or shipped interstate from one non-FFL to another non-FFL but may be shipped intrastate. Personally owned rifles and shotguns may be mailed or shipped to an FFL in any state for any lawful purpose, including sale, repair, or customizing. An FFL may ship a firearm or replacement firearm of the same kind and type to a person from whom it was received. Under U.S. Postal regulations, handguns may be sent via the Postal Service only from one FFL to another FFL, or between authorized government officials.
- A person may ship a rifle or shotgun to himself, in care of a person who lives in another state, for purposes of hunting.
- Firearms delivered to a common carrier for shipment must be accompanied by a written declaration to the carrier of the contents of the shipment, if mailing to persons other than licensed importers, licensed manufacturers, licensed dealers, or licensed collectors. Notice to the carrier is not required when shipping to one of the licensed entities aforementioned. Letter from ATF summarizing shipping responsibilities under the law: Media:BATFE shipping letter.jpg

Transporting firearms

- Firearms are generally prohibited on property in any K-12 school. This is mostly governed by state law instead of federal law, although a federal law does bar most such possession. A small number of states will allow concealed carry by permit holders on school property. In Utah, public schools (higher education and K-12 that receive state funding) are specifically *required* to allow permit holders to carry concealed on campus.^[13] A larger number of states allow some gun owners, most often concealed carry permit holders, to have their guns in their vehicles while on campus to attend, or transport others to or from, a school event.
- A provision of federal law serves as a defense to state or local laws which would prohibit the passage of persons with firearms in interstate travel: *Notwithstanding any state or local law, a person shall be entitled to transport a firearm from any place where he may lawfully possess and transport such firearm to any other place where he may lawfully possess and transport such firearm if the firearm is unloaded and in a locked container. In vehicles without a locked container, the unloaded firearm shall be in a locked box other than the glove compartment or*

console.^[14]

- Federal law prohibits the carrying of any firearm, concealed or unconcealed, on or about the person or in carry-on baggage while aboard a commercial aircraft. The Transportation Security Administration (TSA) has established certain requirements for transporting firearms and ammunition. Firearms must be carried in a locked hard sided case. Ammunition must be declared and can be transported in checked baggage or in the same container as the firearm as long as the firearm is unloaded.
- Any passenger who owns or legally possesses a firearm being transported aboard any common or contract carrier for movement with the passenger in interstate or foreign commerce must deliver the unloaded firearm into custody of the pilot, captain, conductor, or operator of such common or contract carrier for the duration of the trip.
- The Wicker Amendment is United States federal legislation to allow rail travellers to put properly licensed, unloaded guns in checked Amtrak baggage.^{[15][16]} It reverses a decade-long ban on such carriage and came into effect on 15 December 2010. The policy change was promoted by the National Rifle Association and United States Senator Roger Wicker.^{[17][18]}

Ammunition

- As with firearms, shipments of ammunition must be accompanied by a written notice of the shipment's contents. It is unlawful for any licensed importer, dealer, manufacturer, or collector to transfer shotgun or rifle ammunition to anyone under the age of 18, or to transfer handgun ammunition to anyone under the age of 21.
- It is illegal to *commercially* manufacture or *commercially* import armor-piercing handgun ammunition as described in 18 U.S.C. chapter 44 §921 definitions (part 21). It is also illegal for *federally licensed dealers* to sell armor piercing handgun ammunition to anyone other than the government or law enforcement without keeping detailed records, or unless that dealer has a class 10 or 11 FFL and sells to another class 10 or class 11 FFL license holder as described in 18 U.S.C. chapter 44 §922 (b). Civilians in most states can legally possess pistol-caliber armor piercing ammunition. Only CA, IL, TX, KY, NJ, RI, FL, and Washington D.C. have laws restricting the use of such ammunition.

Dealers

- Persons who engage in the business of buying or selling firearms must be licensed by the ATF of the U.S. Department of Justice. A special class of "licensed collectors" provides for the purchase and sale of firearms designated by the ATF as "curios and relics."
- Violations of restrictions on Title II firearms and devices are punishable by a penalty of up to \$10,000 and 10 years imprisonment.

Carrying firearms for protection (federal law)

There is no federal law generally prohibiting the carry of firearms by citizens for protection or other lawful purposes, with limited exception in the Federal Gun-Free School Zones Act of 1990. Other statutes concerning Federal property such as military installations also address the carry of firearms. By tradition and as defined in the Constitution, laws describing the bearing of arms are exclusively the business of state legislatures.

See: Gun laws in the United States (by state)

The carry of firearms for protection and other lawful purposes is legal in forty-nine states, either under license or as a matter of course. Washington, D.C., and the State of Illinois are the only regions that both prohibit carry by statute, and neither issue a license exempting one from the statute.

Open carrying of firearms without any licensing requirement is legal in thirty-one states, including: Alabama; Alaska; Arizona; Arkansas; Colorado; Delaware; Idaho; Kansas; Kentucky; Louisiana; Maine; Michigan; Missouri;

Montana; Nebraska; Nevada; New Hampshire; New Mexico; North Carolina; Ohio; Oregon; Pennsylvania; South Dakota; Utah; Vermont; Virginia; Washington; West Virginia; Wisconsin and Wyoming. States urge caution while engaging in open carry to not cause a public disturbance, most under penalty of law.

Some of these states' statutes prohibit carry in vehicles without a license; concealment without a license; concealment generally; or other restrictions. It is strongly advised to be totally familiar with all aspects of gun law whether they affect you or not to be fully aware.

See: Open carry in the United States and Concealed Carry in the United States

Gun Free School Zones Act of 1990

The Federal Gun Free School Zone Act of 1990 severely limits where a person may legally carry a firearm by generally prohibiting carry within one-thousand (1000) feet of the **property-line** of any K-12 school in the nation.^[19] A State-issued permit to carry may exempt a person from this restriction depending on the laws of the State, and most issuing States qualify for this exception. However, according to ATF the exemption in Federal law is only applicable to permit holders while in the issuing State, and does not exempt travelers with out-of-state permits, even though the State may honor their permit through reciprocity agreements.

Notes

- [1] As status and responsibilities of the agency have changed over the years, it has used the acronyms ATF, BATF, BATFE and currently ATF.
- [2] <http://www.infoplease.com/spot/guntime1.html#1968>
- [3] http://www.policyalmanac.org/crime/archive/crs_federal_crime_policy.shtml
- [4] District of Columbia v. Heller Decision (<http://www.law.cornell.edu/supct/html/07-290.ZS.html>)
- [5] "Protection of Lawful Commerce in Arms Act" (<http://www.democraticunderground.com/10022006203>), Democratic Underground, December 16, 2012. Retrieved March 9, 2013.
- [6] Munoz, S. Why Isn't The Media Discussing The Unprecedented Law Giving Gun Makers And Dealers Immunity? (<http://mediamatters.org/blog/2012/12/19/why-isnt-the-media-discussing-the-unprecedented/191910>) Media Matters for America, December 19, 2012.
- [7] "President Bush Signs 'Protection of Lawful Commerce in Arms Act'" (<http://www.nra.org/Article.aspx?id=4228>), National Rifle Association. Retrieved March 9, 2012.
- [8] ATF Federal Firearms Regulations Reference Guide (<http://www.atf.gov/files/publications/download/p/atf-p-5300-4.pdf>)
- [9] <http://www.nra.org/federalfirearms.htm#summary>
- [10] <http://www.atf.gov/firearms/faq/faq2.htm#f6>
- [11] Goode, E. and Stolberg, S.G. Legal Curbs Said to Hamper A.T.F. in Gun Inquiries. (http://www.nytimes.com/2012/12/26/us/legislative-handcuffs-limit-atfs-ability-to-fight-gun-crime.html?pagewanted=all&_r=0) New York Times, December 25, 2012.
- [14] <http://www4.law.cornell.edu/uscode/18/926A.html> Title 18 § 926A, Interstate transportation of firearms
- [15] Becker, Bernie (September 16, 2009). "Senate Votes to O.K. Checked Guns on Amtrak" (<http://thecaucus.blogs.nytimes.com/2009/09/16/senate-votes-to-ok-guns-on-amtrak/>), *The New York Times*
- [17] Schone, Mark (December 9, 2009). "Congress: Passengers Can Bring Guns on Amtrak Trains" (<http://abcnews.go.com/Blotter/congress-passengers-bring-guns-amtrak-trains/story?id=9290167#.TxUjRvnW58R>), ABC News.
- [18] Wicker, Roger (December 9, 2009). "Wicker Hails Amtrak Secure Firearm Transport Provision as Important Second Amendment Victory" (http://wicker.senate.gov/public/index.cfm?FuseAction=NewsRoom.PressReleases&ContentRecord_id=7471a9ec-f4d3-75fd-d10d-a6f48058e47a&Region_id=&Issue_id), Roger Wicker's U.S. Senate web site

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- A Citizen's Guide to Federal Firearms Laws, National Rifle Association of America, Institute for Legislative Action, 2006.
- USA Carry — Concealed Firearm Laws, Information and Resources (<http://www.usacarry.com>)
- Reciprocity Map of the United States (http://www.usacarry.com/concealed_carry_permit_reciprocity_maps.html)
- Carryconcealed.net State Laws regarding CCW Permits World Gun Issues (Pro-Gun site) (<http://www.carryconcealed.net/index.php>)
- 2009 United States Traveler's Guide To The Firearm Laws of the 50 States (http://www.globaltrucker.com/products/2009_United_States_Traveler_s_Guide_To_The_Firearm_Laws_of_the_50_States-5830-0.html)
- Transporting Firearms Within The USA (<http://www.firearmstransport.com>)
- Implications for non-U.S. citizens (<http://www.vrolyk.org/guns/alien-laws.html>)
- US Concealed Carry: Resource for Concealed Carry Laws, Reciprocity, CCW Permits, Gun Safety (https://www.usconcealedcarry.com/travel/?utm_source=wikipedia&utm_medium=resource&utm_campaign=patseo/)

Gun laws in the United States by state

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• Second Amendment to the Constitution
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Gun laws in the United States regulate the sale, possession, and use of firearms and ammunition. State laws vary, and are independent of existing federal firearms laws, although they are sometimes broader or more limited in scope than the federal laws. For instance, some US states have created assault weapon bans that are similar to the expired federal assault weapons ban.

State level laws vary significantly in their form, content, and level of restriction. Forty-four states have a provision in their state constitutions similar to the Second Amendment to the U.S. Constitution. The exceptions are California,

Iowa, Maryland, Minnesota, New Jersey, and New York. In New York, however, the statutory civil rights laws contain a provision virtually identical to the Second Amendment.^{[1][2]} As well, the Supreme Court of the United States has held that the protections of the Second Amendment apply against state governments and their political subdivisions (see: *McDonald v. Chicago*).^[3]

Firearm owners are subject to the firearm laws of the state they are in, and not exclusively their state of residence. Reciprocity between states exists in certain situations, such as with regard to concealed carry permits. These are recognized on a state-by-state basis. For example, Idaho recognizes an Oregon permit, but Oregon does not recognize an Idaho permit. Florida issues a license to carry both concealed weapons and firearms, but others license only the concealed carry of firearms. Some states do not recognize out-of-state permits to carry a firearm at all, so it is important to understand the laws of each state when traveling with a handgun.^[4]

In many cases, state firearms laws can be considerably less restrictive than federal firearms laws. This does not confer any *de jure* immunity against prosecution for violations of the federal laws. However, state and local police departments are not legally obligated to enforce federal gun law as per the U.S. Supreme Court's ruling in *Printz v. United States*.^{[5][6]}

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Common subjects of state laws

Firearm related matters that are often regulated by state or local laws include the following:

- Some states and localities require that a person must obtain a license or permit in order to purchase or possess firearms.
 - Some states and localities require that individual firearms be registered with the police or with another law enforcement agency.
 - Most states allow some form of concealed carry, the carrying of a concealed firearm in public.
 - Many states allow some form of open carry, the carrying of an unconcealed firearm in public, on one's person or in a vehicle.
 - Some states have state preemption for many or all gun laws, which means that only the state can legally regulate firearms. In other states local governments can pass their own gun laws, more restrictive than those of the state.
 - Some states and localities place additional restrictions on certain semi-automatic firearms that they have defined as "assault weapons", or on magazines that can hold more than a certain number of rounds of ammunition.
 - NFA weapons are weapons that are heavily restricted at a federal level by the National Firearms Act of 1934 and the Firearm Owners Protection Act of 1986. These include automatic firearms (such as machine guns), short-barreled shotguns, and short-barreled rifles. Some states and localities place additional restrictions on such weapons.
 - Some states have enacted castle doctrine or "stand your ground" laws, which provide a legal basis for individuals to use deadly force in self-defense in certain situations, without a duty to flee or retreat if possible.
 - In some states, peaceable journey laws give additional leeway for the possession of firearms by travelers who are passing through to another destination.
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Alabama

Subject/Law	Long Guns	Handguns	Relevant Statutes	Notes
Permit to purchase required?	No	No		
Firearm registration?	No	No		
Owner license required?	No	No		
Carry permits issued?	No	Yes		Alabama is a "may issue" state for concealed carry. Permits are generally issued to qualified applicants.
Open carry permitted?	No	Yes		Open carry is generally permitted. Open carry in a vehicle without a concealed carry license is prohibited.
State preemption of local restrictions?	Yes	Yes		"The entire matter of handguns is reserved to the state legislature."
"Assault weapon" law?	No	No		
NFA weapons restricted?	No	No		

Alaska

Subject/Law	Long guns	Handguns	Relevant Statutes	Notes
State Permit to Purchase?	No	No	None	No
Firearm registration?	No	No	None	No
"Assault weapon" law?	No	No	None	No
Owner license required?	No	No	None	No
Carry permits issued?	No	Yes	AS 18.65.700 through 18.65.778	May carry concealed without permit, though permits can be issued for those who wish to have them.
Open Carry?	Yes	Yes		May carry openly without permit/license.
State Preemption of local restrictions?	Yes	Yes	AS 29.35.145	Municipalities may enact and enforce local regulations only if they are identical to, and provide the same penalty as, State law.
NFA weapons restricted?	No	No	None	No
Peaceable Journey laws?	No	No	None	Federal rules observed.

Arizona

Subject/Law	Long guns	Handguns	Relevant Statutes	Notes
State permit required to purchase?	No	No	None	No
Firearm registration required?	No	No	ARS 13-3101 [7]	State law duplicates some of the registration requirements of weapons regulated by the federal National Firearms Act (NFA).
"Assault weapon" prohibition or restrictions?	No	No	None	No
Magazine Capacity Restriction?	No	No		
Owner license required?	No	No	None	No
Concealed Carry Weapon (CCW) permits issued?	Yes	Yes	ARS 13-3112 [8] ARS 13-3102 [9]	In Arizona, a person over age 21 may legally carry a concealed firearm or deadly weapon without a permit within the state, except for certain prohibited locations, and must disclose the fact to a law enforcement officer if questioned. Although no longer required, a CCW permit may still be obtained and has certain advantages, including reciprocity with many other states having CCW laws.
Open carry allowed?	Yes	Yes		May carry openly without permit/license.
State preemption of local restrictions?	Yes	Yes	ARS 13-3108 [10]	
NFA weapons restricted?	No	No	ARS 13-3101 [7]	Automatic weapons, short barreled rifles/ shotguns, and sound suppressors are legal as long as they are registered with the NFA and are in compliance with federal law.
Peaceable journey laws?	No	No	None	Federal rules observed.

Arkansas

Subject/Law	Long guns	Handguns	Relevant Statutes	Notes
State Permit to Purchase?	No	No	None	No
Firearm registration?	No	No	None	No
"Assault weapon" law?	No	No	None	No
Magazine Capacity Restriction?	No	No		
Owner license required?	No	No	None	No

Carry permits issued?	No	Yes	5-73-301 - 5-73-320	Concealed carry requires a permit. Handgun open carry is not permitted.
Open Carry?	Yes	No		
State Preemption of local restrictions?	Yes	Yes	5-73-120	
NFA weapons restricted?	N/A	N/A	5-73-120	
Peaceable Journey laws?	?	Yes	5-73-120 (c)(4)	[Weapons are allowed if] The person is carrying a weapon when upon a journey, unless the journey is through a commercial airport when presenting at the security checkpoint in the airport or is in the person's checked baggage and is not a lawfully declared weapon;

California

Subject/Law	Long guns	Handguns	Relevant Statutes	Notes
State Permit to Purchase?	No	Partial*	§26500, §12071, §12082	All firearm sales (except long guns more than 50 years old) must be completed through a dealer. *Handgun purchases require a Handgun Safety Certificate and proof of residency.
Firearm registration?	No	Yes	§12025 [11] and §12031 [12]	All handgun serial numbers and sales are recorded by the state (registered) in the Department of Justice's Automated Firearms System. Long arm serial numbers are not recorded, only the sale. While there is no requirement for California residents to register previously owned handguns or firearms with law enforcement, §12025 and §12031 enhance several misdemeanor offenses to felonies if the handgun is not on file in the Department of Justice's Automated Firearms System. California §12025 states that handguns must be transported unloaded and in a locked box other than the glove compartment or utility box in a motor vehicle. New residents must register handguns (purchased outside of California) with DOJ within 60 days.
Owner license required?	No	No	None	
"Assault weapon" law?	Yes	Yes	§12280 [13], §12285 [13]	Illegal to possess, import, or purchase assault weapons and .50 BMG rifles, unless such weapons were acquired by the owner prior to June 1, 1989. Legally defined assault weapons and .50 BMG rifles listed by make and model by the DOJ must be registered. Their sale and transfer is prohibited. Military look-alike rifles that are not chambered for .50 BMG and are not on the DOJ roster are legal to purchase or possess, with some restrictions in configuration—known as "banned features." Active-duty military members residing out of state and assigned to duty in California may bring personally-owned assault weapons into the state. The military member's residence must be in a state that permits private citizens to own and possess assault weapons, and the firearms must be registered with the California Department of Justice prior to the servicemember's arrival in California by submitting the registration form with a copy of the member's Permanent Change of Station (PCS) orders.
Magazine Capacity Restriction?	Yes*	Yes*		*Illegal to buy, sell, loan, and transfer magazines capable of holding more than 10 rounds. Possession of magazines greater than 10 rounds is legal, so long as they are not used in conjunction with an "assault weapon" or a semi-automatic rifle equipped with a bullet button feature/modification.
Carry permits issued?	Yes	Yes	§12050	May issue, depending on jurisdiction. County sheriff's or local Police Chief's discretion, many counties are de facto "no-issue," while others are "shall-issue" in practice. CCW permits valid statewide. Out-of-state permits not valid in California.
Open Carry?	No*	No	§26350	Open carry of handguns was banned on August 2012. *Long guns may be carried in unincorporated rural areas where open carry is permitted by local ordinance.

State Preemption of local restrictions?	Yes	Yes	§53701 GC ^[14]	Most but not all local restrictions preempted.
Castle Doctrine Law?	Yes	Yes		California doesn't require a duty to retreat if you are in your own home or property that is owned and controlled by yourself.
NFA weapons restricted?	Yes	Yes	§12220, §12020	Possession of automatic weapons or short-barreled shotguns or rifles prohibited without DOJ "Dangerous Weapons Permit"; permission rarely granted outside of film industry. Suppressors (aka silencers) prohibited. AOW's (Any Other Weapons) permitted, except for "pen guns."
Peaceable Journey laws?	No	No	None	

Colorado

Subject/Law	Long guns	Handguns	Relevant Statutes	Notes
State Permit to Purchase?	No	No		
Firearm registration?	No	No		
"Assault weapon" law?	No	No		No except in the City and County of Denver
Magazine Capacity Restriction?	Yes	Yes		After July 1, 2013, magazines holding more than 15 rounds may not be sold or transferred within the state.
Owner license required?	No	No		
Concealed Carry permits issued?	Yes	Yes	CRS 18-12 [15]	Colorado is a "shall issue" state for concealed carry.
Open carry?	Yes	Yes	CRS 18-12 [15]	Legal without permit requirements except in the City and County of Denver.
Concealed within a vehicle?	Yes	Yes	CRS 18-12, 33-6-125	Without a round chambered (applies to rifles/shotguns, not pistols).
State Preemption of local restrictions?	Yes	Yes	CRS 18-12	Open carry and open car carry of a loaded firearm is prohibited in city and county of Denver, otherwise, local ordinances are preempted by state law.
NFA weapons restricted?	No	No		
Peaceable Journey laws?	Yes	Yes	CRS 18-12-105.6 [16]	Denver's restrictions on transport/possession of firearms in vehicles do not apply to persons traveling to or from other jurisdictions; see <i>Trinen v. City & County of Denver</i> , 53 P.3d 754
Castle Doctrine?	Yes	Yes		A legal resident of a property has the right to use deadly force to defend themselves, other occupants, and property from armed or unarmed intruders.
Stand Your Ground Law?	Yes	Yes		A person does not have to attempt to retreat from any place where they have a legal right to be before they may defend themselves or others with deadly force.

Connecticut

Subject/Law	Long guns	Handguns	Relevant statutes	Notes
State Permit to Purchase?	Yes	Yes	CGS 29–36(f), CGS 29–36(g)	Certificate of Eligibility for Pistol and Revolvers or Long Guns or Ammunition required to purchase handguns, long guns or ammunition. Applicants must complete an approved safety course, and pass a NICS background check prior to issuance of certificate. Certificate of Eligibility valid for five years. There is a 14-day waiting period for the purchase of long guns, with exceptions for peace officers, Active-Duty military members, and holders of carry permits and hunting licenses.
Firearm registration?	No	No	CGS 53–202	Registration required for assault weapons purchased before October 1, 1993 and for machine guns. There is a de facto registry of handguns and long guns maintained by the Department of Public Safety as any transfer, be it from a dealer or private party, must be accompanied by an authorization number issued by the DPS and a form containing personal and weapon identification (DPS-3-C) must be submitted to DPS and local police. This form is collected and maintained on all guns purchased from FFL dealers as well.
"Assault weapon" law?	Yes	Yes	CGS 53–202	Selective fire weapons, some .50 BMG variants, a list of specific restricted features and certain brands of semi-automatic assault weapons and weapon "types". List of banned weapons expanded on April 4, 2013 to include firearms with one defined feature; banned weapons lawfully possessed prior to this date must be registered with DESPP.
Magazine Capacity Restriction?	Yes	Yes		As of April 4, 2013, magazines holding more than 10 rounds are considered Large Capacity Magazines (LCM), and such magazines manufactured after that date may not be sold or transferred within the state. Existing owners of LCMs may possess such magazines if they register them with the Dept. of Emergency Services and Public Protection, within one year. Owners of registered LCMs may not loaded such magazines with more than 10 rounds except when inside the owner's home or on the premises of a licensed shooting range. Even if an individual has a permit to carry a pistol or revolver, they can never carry, other than at a shooting range, a pistol that has an LCM loaded with more than 10 bullets.
Owner license required?	No	No		
Carry permits issued?	No	Yes	CGS 29–28	May-Issue by statute, but Shall-Issue in practice. Permit needed to carry open or concealed. Exceptions for peace officers and Active-Duty military members. Out of state permits not valid in Connecticut, but nonresidents may apply for a Connecticut Nonresident carry permit through the mail.
Open Carry?	Yes	Yes		Legally allowed with permit/license, however local law enforcement have been known to confiscate openly carried weapons in ignorance of law. Courts however, revoke police confiscation once a valid carry permit has been verified and applicable court fees have been paid.
State Preemption of local restrictions?	Partial	Partial	CGS 29–28	State pre-emption of local ordinances not explicitly specified in state law, but established by court precedence.
NFA weapons restricted?	Yes	Yes	CGS 53–202(c)	SBR, SBS, DD, suppressors are legal, provided they also comply with the assault weapons provisions, unless purchased before October 1, 1993. Machine guns must not be select-fire, unless purchased before October 1, 1993.
Peaceable Journey laws?	No	No	CGS 29–38	Federal rules observed.

Delaware

Subject/Law	Long guns	Handguns	Relevant statutes	Notes
State Permit to Purchase?	No	No		
Firearm registration?	No	No		
"Assault weapon" law?	No	No		
Magazine Capacity Restriction?	No	No		
Owner license required?	No	No		
Carry permits issued?	Yes	Yes	11 Del.C. § 1441 ^[17]	Delaware is a "may issue" state for concealed carry. Permits are generally issued to qualified applicants.
Open Carry?	Yes	Yes		Open carry is generally permitted. Local prohibitions in effect before July 4, 1985 are not preempted.
State Preemption of local restrictions?	Yes*	Yes*		Complete preemption, except any local ordinances that were in effect before July 4, 1985 are still in effect and are not preempted.
NFA weapons restricted?	Yes	Yes		Civilian ownership for research purposes only.
Peaceable Journey laws?	No	No		Federal rules observed.

District of Columbia

Subject/Law	Long Guns	Handguns	Relevant Statutes	Notes
Permit to purchase?	Yes	Yes		The firearm registration process also serves as a permitting process.
Firearm registration?	Yes	Yes		All firearms must be registered with the Metropolitan Police Department. A background check, training, and testing of the gun owner are required.
"Assault weapon" law?	Yes	Yes		"Assault weapons" and .50 BMG rifles prohibited.
Magazine Capacity Restriction?	Yes	Yes		Illegal to possess or acquire magazines of more than 10 round capacity.
Owner license required?	Yes	Yes		The firearm registration process also serves as a licensing process.
Carry permits issued?	No	No		Concealed carry prohibited.
Open Carry?	No	No		Open carry prohibited.
NFA weapons restricted?	Yes	Yes		Automatic firearms prohibited.
Peaceable journey laws?	No	No		Possession of unregistered firearms prohibited for both residents and non-residents.

Florida

Subject/Law	Long guns	Handguns	Relevant Statutes	Notes
State license to Purchase?	No	No	None	
Firearm registration?	No	No	None	
"Assault weapon" law?	No	No	None	
Magazine Capacity Restriction?	No	No		
Owner license required?	No	No	None	
Carry licenses issued?	No	Yes	Chapter 790.06 ^[18]	Allows concealed possession of handguns, electronic weapons or devices, tear gas guns, knives, or billies, but not long guns or machine guns per Chapter 790.06(1) ^[18] . Concealed carry only; no open carry of firearms allowed, even with license, except when hunting, fishing, camping, or while practice shooting and while traveling to and from those activities.
Open Carry?	No*	No*	Chapter 790.053 ^[19]	*Florida allows the open carrying of firearms for certain purposes. They include fishing, hunting, sport shooting, or while camping.
State Preemption of local restrictions?	Yes	Yes	Chapter 790.33 ^[20]	
NFA weapons restricted?	No	No	None	
Peaceable Journey laws?	No	No	None	Federal rules observed.
Duty to inform?	No	No	None	Florida law does not require one to disclose their possession of a firearm on contact with Law Enforcement.

Georgia

Subject/Law	Long guns	Handguns	Relevant Statutes	Notes
State Permit to Purchase?	No	No	None	
Firearm registration?	No	No	None	
"Assault weapon" law?	No	No	None	
Magazine Capacity Restriction?	No	No		
Owner license required?	No	No	None	

Carry permits issued?	Yes	Yes	OCGA §16-11-129 [21]	Concealed or open carry allowed with permit. See also OCGA §43-38-10 [22] which is a special permit for armed security guards.
Open Carry?	Yes	Yes	OCGA §16-11-129 [21]	
State Preemption of local restrictions?	Yes	Yes	OCGA §16-11-173 [23]	Despite state preemption, several localities continue to have local gun restrictions. Recent court rulings have resulted in many of these ordinances being withdrawn.
NFA weapons restricted?	No	No	None	
Peaceable Journey laws?	No	No	None	Federal rules observed.
Unlicensed open carry?	Yes	No	OCGA 16-11-128 [24]	A Georgia Weapons License (GWL), or a recognized out-of-state permit, is required for open carry of any handgun outside of one's home, property, motor vehicle, or place of business.

Hawaii

Subject/Law	Long guns	Handguns	Relevant Statutes	Notes
State Permit to Purchase?	Yes	Yes		
Firearm registration?	Yes	Yes		Must be registered with county Police Chief within 5 days of purchase.
"Assault weapon" law?	No	Yes		Law bans "assault pistols" with two or more banned features. Does not apply to rifles or shotguns with a barrel length greater than 16 inches
Magazine Capacity Restriction?	No	Yes		Handgun magazines with a capacity of more than 10 rounds are prohibited
Owner license required?	Yes	Yes		
Carry permits issued?	No	Yes		Hawaii is a "may issue" state for concealed carry. The chief of police may grant a permit "in an exceptional case, when an applicant shows reason to fear injury to the applicant's person or property".
Open Carry?	No	Yes		Open carry is technically permitted with a concealed carry license, but is not generally practiced.
State Preemption of local restrictions?	Yes	Yes		Municipalities may enact and enforce local regulations only if they are identical to, and provide the same penalty as, State law.
NFA weapons restricted?	Yes	Yes		Machine guns, short barreled rifles, and short barreled shotguns are prohibited from the average citizen. Destructive devices, AOW's, and silencers/suppressors are allowed with proper tax stamp and NFA paperwork from the ATF
Peaceable Journey laws?	No	No	None	Federal laws observed.

Idaho

Subject/Law	Long guns	Handguns	Relevant statutes	Notes
State Permit to Purchase?	No	No		
Firearm registration?	No	No		
"Assault weapon" law?	No	No		
Magazine Capacity Restriction?	No	No		
Owner license required?	No	No		
Concealed Carry permits issued?	No	Yes		Permit needed to carry concealed, may carry openly in a vehicle or on foot. May carry concealed when outside the confines of a city or city limits, and not inside a vehicle while engaged in a lawful outdoor activity.[2]
Open Carry?	Yes	Yes		May carry openly without permit/license.
State Preemption of local restrictions?	Yes	Yes		
NFA weapons restricted?	No	No		Permitted as long such possession is in compliance with all federal regulations
Peaceable Journey laws?	No	No		Federal rules observed.

Illinois

Subject/Law	Long Guns	Handguns	Relevant Statutes	Notes
State permit to purchase?	Yes	Yes	430 ILCS 65 [25]	FOID required.
Firearm registration?	No	No	Chi. Mun. Code §8-20-110 [26]	The city of Chicago requires registration of firearms. Residents must complete a firearm safety course, pass a background check including fingerprinting, and pay a \$100 permit fee which is renewed every three years. Registration of any handgun assumes an additional one time fee of \$15.
"Assault weapon" law?	No	No	Cook Co. Code of Ord. §54-211 [27] Chi. Mun. Code §8-20-170 [28]	Cook County and the city of Chicago have separately banned the possession of "assault weapons".
Magazine capacity restriction?	No	No		Some local governments have magazine capacity limits for both pistols and long guns, including Chicago (12 rounds), Oak Park (10 rounds), Aurora (15 rounds), and Cook County (10 rounds).
Owner license required?	Yes	Yes	430 ILCS 65 [25]	FOID required.
Carry permits issued?	No	No		

Open carry?	No	No		
State preemption of local restrictions?	No	No		
NFA weapons restricted?	Yes	Yes	720 ILCS 5/24 [29] 720 ILCS 5/24-2 [30]	Automatic firearms, short-barreled shotguns, and silencers prohibited. Short-barreled rifles allowed only for Curios and Relics license holders or members of a bona fide military reenactment group. AOW (Any Other Weapon) and large-bore DD (Destructive Device) allowed with proper approval and tax stamp from ATF.
Peaceable journey laws?	No	No		Non-Illinois residents who are permitted to possess a firearm in their home state are not required to have a FOID card.

Indiana

Subject/Law	Long guns	Handguns	Relevant Statutes	Notes
State Permit to Purchase?	No	No	None	
Firearm registration?	No	No	None	
"Assault weapon" law?	No	No	None	
Magazine Capacity Restriction?	No	No		
Owner license required?	No	No	None	
Concealed Carry license issued?	No	Yes	IC 35-47-2-3	Shall-Issue. Officially "License to Carry Handgun"
Open Carry?	Yes	Yes	IC 35-47-2-3	May carry openly with license.
State Preemption of local restrictions?	Yes	Yes	IC 35-47-11.1-2	Enacted in 2011
NFA weapons restricted?	Yes	No	IC 35-47-5-10	Federal laws observed, with the exception that short barreled shotguns are not permitted.
Peaceable Journey laws?	No	No	None	Federal rules observed.

Iowa

Subject/Law	Long guns	Handguns	Relevant Statutes	Notes
State Preemption of local restrictions?	Yes	Yes		
State Permit to Purchase?	No	Yes	724.15 [31]	Concealed Carry permit may be used in lieu of purchase permit
Concealed carry permits issued?	No	Shall-Issue	724.4 [32]	Accepts permits from all states, Iowa residents must have Iowa permit
Open Carry?	Yes	Yes*		*May carry handguns openly with license.
Castle Doctrine	No (see Notes)		704 [33] 707.6 [34]	Civil immunity for use of "reasonable force" in self defense
Firearm registration?	No	No	–	

"Assault weapon" law?	No	No	–	
Magazine Capacity Restriction?	No	No		
Owner license required?	No	No		
NFA weapons restricted?	Yes		724.1 ^[35]	Complete prohibition

Kansas

Subject/Law	Long Guns	Handguns	Relevant Statutes	Notes
State permit to purchase?	No	No		
Firearm registration?	No	No		
"Assault weapon" law?	No	No		
Magazine Capacity Restriction?	No	No		
Owner license required?	No	No		
Carry permits issued?	No	Yes		
Open Carry?	Yes	Yes		May carry openly without permit/license.
NFA weapons restricted?	No	No		
Peaceable journey laws?	No	No		Federal rules observed.

Kentucky

Subject/Law	Long Guns	Handguns	Relevant Statutes	Notes
State permit to purchase?	No	No		
Firearm registration?	No	No		
"Assault weapon" law?	No	No		
Magazine Capacity Restriction?	No	No		
Owner license required?	No	No		
Concealed Carry permits issued?	No	Yes	KRS § 237.110 ^[36]	
Open Carry?	Yes	Yes		May carry openly without permit/license.
State preemption of local restrictions?	Yes	Yes	KRS § 65.870 ^[37]	Exception: KRS § 237.115 ^[38] allows the following entities to restrict concealed carry: <ul style="list-style-type: none"> • Postsecondary educational institutions • Any unit of government within the state in buildings that it owns, leases, or occupies – however, concealed carry is allowed in highway rest areas, public housing, and private dwellings
NFA weapons restricted?	No	No		

Peaceable journey laws?	No	No		Federal rules observed.
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Louisiana

Subject/Law	Long Guns	Handguns	Relevant Statutes	Notes
Permit to purchase required?	No	No		
Firearm registration?	No	No		
Owner license required?	No	No		
Carry permits issued?	No	Yes		Louisiana is a "shall issue" state for concealed carry.
Open carry permitted?	No	Yes		Open carry is generally permitted, but may be restricted by local governments with laws in place before July 15, 1985.
State preemption of local restrictions?	Yes	Yes		Local restrictions in place before July 15, 1985 are grandfathered in. Parishes may regulate hunting and the shooting of firearms.
"Assault weapon" law?	No	No		
Magazine Capacity Restriction?	No	No		
NFA weapons restricted?	Yes	Yes		Automatic firearms, short-barreled shotguns, short-barreled rifles, or silencers may not be possessed or transferred without permission of the Department of Public Safety, and must be registered with the Department.

Maine

Subject/Law	Long Guns	Handguns	Relevant Statutes	Notes
Permit to purchase required?	No	No		
Firearm registration?	No	No		
Owner license required?	No	No		
Carry permits issued?	No	Yes		Maine is a "shall issue" state for concealed carry.
Open carry permitted?	No	Yes		Open carry is generally permitted. Open carry in a vehicle is permitted only with a concealed carry license.
State preemption of local restrictions?	Yes	Yes		Local governments may restrict the discharge of firearms.
"Assault weapon" law?	No	No		
Magazine Capacity Restriction?	No	No		
NFA weapons restricted?	No	No		

Maryland

Subject/Law	Long Guns	Handguns	Relevant Statutes	Notes
Permit to purchase required?	No	Partial*		*Handgun purchases must be approved by the state police. Buyers of handguns must complete a training course or hold a concealed carry permit. Private sales of handguns are prohibited.
Firearm registration?	No	Yes		The state police maintain a permanent record of all handgun transfers.
Owner license required?	No	No		
Carry permits issued?	No	Yes		Maryland is a "may issue" state for concealed carry. Applicants must demonstrate a "good and substantial reason" to carry a handgun. Permits are normally very hard to obtain.
Open carry permitted?	No	Yes		Open carry is technically permitted with a concealed carry license, but is not generally practiced.
State preemption of local restrictions?	Yes	Yes		Maryland has state preemption for most but not all firearm laws.
"Assault weapon" law?	No*	Yes		*.50 BMG caliber rifles and certain other models are considered "regulated firearms". There is also a ban on "assault pistols".
Magazine Capacity Restriction?	Yes	Yes		Illegal to sell or manufacture magazines with a capacity of greater than 20 rounds within Maryland. However, possession of magazines greater than 20 rounds is legal
NFA weapons restricted?	No*	No*		*Automatic firearms must be registered with the state police and short barreled rifles and shotguns must be owned in compliance with federal law.

Massachusetts

Subject/Law	Long Guns	Handguns	Relevant Statutes	Notes
Permit to purchase required?	Yes	Yes		Firearm Identification (FID) or license to carry required.
Firearm registration?	No	No		
Owner license required?	Yes	Yes		Firearm Identification (FID) or license to carry required.
Carry permits issued?	No	Yes		Massachusetts is a "may issue" state for concealed carry. There are several different types of concealed carry licenses. CCW issuance varies within the state. Counties closer to large cities (like Boston) are de facto no-issue, whereas more rural (and some suburban) counties have shall/reasonable issuance policies. Restrictions can be put on any type of permit however, such as carrying concealed only while hunting or sport shooting. Permits are valid state wide as long as you are carrying in the manner you are allowed to.
Open carry permitted?	No	No		Open carry is permitted in some rural areas, but only with a concealed carry license. Open carry in a vehicle is not permitted even with a license
State preemption of local restrictions?	No	No		

"Assault weapon" law?	Yes	Yes		A list of of specific list of weapons from specific models and manufacturers and a two point "banned features" system is what defines an "assault weapon". These "assault weapons" are prohibited unless lawfully owned on or prior to September 13, 1994. Firearms not on the list and do not have two or more "banned features" are legal to purchase with an LTC-A, LTC-B or in some cases a standard FID.
Magazine Capacity Restriction?	Yes	Yes		Illegal to possess magazines of over 10 rounds capacity unless manufactured prior to 09/13/1994, and one has a LTC-A. Does not apply to tubular and .22 rimfire magazines.
NFA weapons restricted?	Yes	Yes		The possession of automatic firearms is only allowed with a permit, which is rarely granted. Silencers are restricted only for law enforcement. Some destructive devices are banned at the state level, while others are banned at a local level. DD's can be completely illegal or legal depending on what county you live in. SBR's, SBS's, and AOW's are allowed with proper approval from the ATF, provided they comply with the current assault weapon law.

Michigan

Subject/Law	Long Guns	Handguns	Relevant Statutes	Notes
Permit to purchase required?	No	Yes		A license to purchase or a concealed carry permit is required for the purchase of a handgun.
Firearm registration?	No	Yes		Handguns must be registered with the city chief of police or county sheriff.
Owner license required?	No	No		
Carry permits issued?	No	Yes		Michigan is a "shall issue" state for concealed carry.
Open carry permitted?	Yes	Yes		Open carry is generally permitted. Open carry in a vehicle is permitted only with a concealed carry license.
State preemption of local restrictions?	Yes	Yes		Local governments may restrict the discharge of firearms.
"Assault weapon" law?	No	No		
Magazine Capacity Restriction?	No	No		
NFA weapons restricted?	No	No		

Minnesota

Subject/Law	Long guns	Handguns	Relevant Statutes	Notes
State Permit to Purchase?	No	Yes	§624.7131 [39]	Permit to purchase required to transfer/purchase "military-style assault weapons" and handguns through FFL dealers. A permit to carry also acts as a permit to purchase for Minnesota residents. Traditional rifles and shotguns may be purchased without a permit. A permit is required for private transfers between individuals for the sale of a pistol or "semiautomatic military-style assault weapon".
Firearm registration?	No	No		
"Assault weapon" law?	No	No	§624.7131 [39]	Persons under the age of 21 prohibited from purchasing handguns. Persons 18 and older may purchase "assault weapons" with a permit to purchase (or permit to carry for persons 21 and older).
Magazine Capacity Restriction?	No	No		
Owner license required?	No	No		
Carry permits issued?	No	Yes	§624.714 [40]	Shall Issue. Minnesota Permit to Carry a Pistol required to carry handguns. Concealment is permitted but not required, but only handguns may be carried concealed.
Open Carry?	Yes	Yes	§624.7181 [41]	May carry openly with permit to carry. A carry permit also allows for open carry of long guns.
State Preemption of local restrictions?	Yes	Yes	§471.633 [42]	Municipalities may regulate the discharge of firearms within their borders.
NFA weapons restricted?	Yes	Yes	§609.67 [43]	Machine guns and short-barreled shotguns, unless designated Curios & Relics, are prohibited in most cases. Sound suppressors and some destructive devices are prohibited in most cases.
Peaceable Journey laws?	No	No		Federal rules observed.

Mississippi

Subject/Law	Long guns	Handguns	Relevant statutes	Notes
State Permit to Purchase?	No	No		
Firearm registration?	No	No		
"Assault weapon" law?	No	No		
Owner license required?	No	No		

Carry permits issued?	No	Yes		The Mississippi Department of Public Safety shall issue a license to carry a concealed pistol or revolver to a qualified applicant within 45 days. The license is valid for five years. Concealed carry is not allowed in a school, courthouse, police station, detention facility, government meeting place, polling place, establishment primarily devoted to dispensing alcoholic beverages, athletic event, parade or demonstration for which a permit is required, passenger terminal of an airport, "place of nuisance" as defined in Mississippi Code section 95-3-1, or a location where a sign is posted and clearly visible from at least ten feet away saying that the "carrying of a pistol or revolver is prohibited". A license to carry a pistol or revolver is NOT required for open carry. A license is not required for transporting a concealed or visible firearm in a vehicle.
Open Carry?	Yes	Yes	House Bill 2 of The 2013 Mississippi Legislature	Law goes into effect July 1, 2013
State Preemption of local restrictions?	Yes	Yes		No county or municipality may adopt any ordinance that restricts or requires the possession, transportation, sale, transfer or ownership of firearms or ammunition or their components. However, local governments may regulate the discharge of firearms, the carrying of firearms at a public park or public meeting, or the use of firearms in cases of insurrection, riots and natural disasters.
NFA weapons restricted?	No	No		Permitted as long such possession is in compliance with all federal regulations
Peaceable Journey laws?				

Missouri

Subject/Law	Long Guns	Handguns	Relevant Statutes	Notes
Permit to purchase required?	No	No		
Firearm registration?	No	No		
Owner license required?	No	No		
Carry permits issued?	No	Yes		Missouri is a "shall issue" state for concealed carry.
Open carry permitted?	No	Yes		Open carry is generally permitted, but may be restricted by local governments.
State preemption of local restrictions?	Yes	Yes		Local governments may regulate open carry and the discharge of firearms.
"Assault weapon" law?	No	No		
Magazine Capacity Restriction?	No	No		
NFA weapons restricted?	No	No		
Peaceable journey law?	Yes	Yes		

Montana

Subject/Law	Long guns	Handguns	Relevant statutes	Notes
State Permit to Purchase?	No	No		
Firearm registration?	No	No		
"Assault weapon" law?	No	No		
Magazine Capacity Restriction?	No	No		
Owner license required?	No	No		
Concealed Carry permits issued?	No	Yes		Montana is a "shall issue" state. Concealed carry without a permit is generally allowed outside city, town, or logging camp limits.
Open Carry?	Yes	Yes		May carry openly without permit/license.
State Preemption of local restrictions?	Yes	Yes	M.C.A 45-8-351	Complete state preemption of firearms laws except localities may regulate the carrying of concealed or openly carried firearms to a public assembly, a publicly owned building, a park under its jurisdiction or a school. Localities may also regulate the possession of firearms by felons, minors, illegal aliens, or the mentally incompetent.
NFA weapons restricted?	No	No		Permitted as long such possession is in compliance with all federal regulations.
Peaceable Journey laws?	Yes	Yes		

Nebraska

Subject/Law	Long Guns	Handguns	Relevant Statutes	Notes
Permit to purchase required?	No	Yes		A handgun certificate or a concealed carry permit is required for the purchase of a handgun.
Firearm registration?	No	No		
Owner license required?	No	No		
Carry permits issued?	No	Yes		Nebraska is a "shall issue" state for concealed carry.
Open carry permitted?	No	Yes		Open carry is generally permitted, but may be restricted by local governments. For open carry in a vehicle, the firearm must be clearly visible.
State preemption of local restrictions?	Yes	Yes		Nebraska has state preemption for most but not all firearm laws.
"Assault weapon" law?	No	No		
NFA weapons restricted?	No	No		

Nevada

Subject/Law	Long Guns	Handguns	Relevant Statutes	Notes
Permit to purchase required?	No	No		
Firearm registration?	No	No		Clark County requires the registration of handguns.
Owner license required?	No	No		
Carry permits issued?	No	Yes		Nevada is a "shall issue" state for concealed carry.
Open carry permitted?	Yes	Yes		Open carry is generally permitted. For open carry in a vehicle, the firearm must be clearly visible if upon the person.
State preemption of local restrictions?	Yes	Yes		Local authorities may regulate the discharge of firearms. Handgun registration in Clark County is grandfathered in.
"Assault weapon" law?	No	No		
Magazine Capacity Restriction?	No	No		
NFA weapons restricted?	No	No		

New Hampshire

Subject/Law	Long guns	Handguns	Relevant statutes	Notes
State Permit to Purchase?	No	No	NHRS XII §159:14 ^[44]	A concealed carry permit or that the buyer is "personally known" to the seller is required for purchase of a firearm from a non-licensed dealer.
Firearm registration?	No	No		
"Assault weapon" law?	No	No		
Magazine Capacity Restriction?	No	No		
Owner license required?	No	No		
Carry permits issued?	No	Yes	NHRS XII §159:6 ^[45]	License is shall-issue.
Open carry?	Yes	Yes	NHRS XII §159:6 ^[46] NHRS XVIII §207:7 ^[47]	Handgun open carry without license except in a motor vehicle. Loaded long guns prohibited from motor vehicles.
State Preemption of local restrictions?	Yes	Yes	NHRS XII §159:26 ^[48]	Includes knives.
NFA weapons restricted?	No	No		
Peaceable Journey laws?	No	No		

New Jersey

Subject/Law	Long guns	Handguns	Relevant statutes	Notes
State permit to Purchase?	Yes	Yes		A lifetime purchaser identification card is required for any firearm purchase. An additional permit is required for each handgun purchase. Only one handgun can be purchased within a 30 day period.
Firearm registration?	No	Yes		The NJ State police maintains a record of all handgun transfers, except for inherited firearms willed to the transferee. Firearm registration is voluntary, but since handgun purchase permits are also a form of register, there is de-facto mandatory handgun registration for handguns purchased in-state.
Owner license required?	No	No		
Carry permits issued?	No	Yes	N.J. Admin. Code § 13:54 ^[49]	New Jersey is a "may-issue" state for concealed carry. Permit applicants must "specify in detail the urgent necessity for self-protection, as evidenced by specific threats or previous attacks which demonstrate a special danger to the applicant's life that cannot be avoided by means other than by issuance of a permit to carry a handgun." As a result of this tough standard, New Jersey is effectively a "no issue" state unless one is a retired law enforcement officer.
Open carry?	No	Yes		Open carry is allowed only with a concealed carry permit, and is generally not practiced.
State preemption of local restrictions?	No	No		There is limited state preemption for some firearm laws.
"Assault weapon" law?	Yes	Yes	NJCC Title 2C:39-1	New Jersey prohibits the possession of certain named firearms or "substantially identical" firearms deemed to be "assault firearms", including possession of parts from which an assault firearm may be readily assembled. Firearms classed as assault firearms but acquired before May 1, 1990 and registered with the state are legal to possess.
Magazine Capacity Restriction?	Yes	Yes		Magazines limited to 15 rounds
NFA weapons restricted?	Yes	Yes		Possession of automatic firearms is prohibited without a state license, which is generally not granted.

New Mexico

Subject/Law	Long Guns	Handguns	Relevant Statutes	Notes
State permit to purchase?	No	No		
Firearm registration?	No	No		
"Assault weapon" law?	No	No		
Magazine Capacity Restriction?	No	No		

Owner license required?	No	No		
Carry permits issued?	No	Yes	NMSA 29–19–4	Shall-issue, with completion of 15-hour handgun safety course that includes live-fire instruction. Permit required to carry concealed loaded firearm on foot. No permit needed for open carry, concealed carry of an unloaded firearm, or transport of a loaded firearm either concealed or openly in a vehicle. Unlawfully carrying a concealed firearm is a petty misdemeanor that is punishable by up to 6 months in a county jail and/or a fine of up to \$500.
Open carry permitted?	Yes	Yes		
NFA weapons restricted?	No	No		
State pre-emption of local ordinances?	Yes*	Yes*		As stated in Article 2, Section 6 of the New Mexico Constitution. *Tribal laws on Native American reservations not pre-empted.
Castle Doctrine law?	No	No		No statutory protection from lawsuits arising from the use of lethal force in self-defense.
"Opt-Out" statute?	Yes	Yes	NMSA 29–19–12; NMSA 30–14–6	Property owners may prohibit the carrying of firearms onto property they lawfully possess by posting signage or verbally notifying persons upon entering the property. Violating these "gun-free" establishments is a 4th-degree felony punishable by up to 18 months imprisonment and/or a fine of up to \$5,000.
Peaceable journey laws?	No	No		Federal rules observed.

New York

Subject/Law	Long guns	Handguns	Relevant statutes	Notes
State Permit to Purchase?	No	Yes	S 265.20, S 265.01	No NYS permit is required for long guns. NYC residents though must apply for and receive a rifle/shotgun permit from the NYC police department and must register every long gun purchased with said permit with the NYC police department. Purchases are limited to one long gun per ninety day period. Handguns require a permit. Permits are issued by Superior Courts outside of New York City, with a background check on a "may issue" basis. There is an application fee for each Permit, as well as an amendment fee for each handgun added to the permit.
Firearm registration?	No*	Yes	S 700.00, S 265.01	No registration for long guns. All handguns must be registered under a license. There is a \$3 registration fee. Handguns are registered with purchase permit. The serial number and sale is noted down. It is illegal to possess any un-registered firearm. Antique weapons are exempted from this. All handguns must travel in the manner one's license is issued. No record is needed of previously owned handguns with laws enforcement. *All rifles classified as "assault weapons" must be registered with the state by January 15, 2014.
Owner license required?	No	Yes	S 265.20, S 265.01	No license is required for long guns. New York State has a handgun ban in place. Exceptions are to those who own a license. They are normally restricted to two types Target & Hunting and Unrestricted Carry. Target and hunting allows carry in that manner. Unrestricted allows carry at anytime. All permits not issued in New York City are not valid in there. Some places in the New York City area will often issue business carry license. These are issued to security guards, armed guards, and people who need to carry for a specific reason. Also some places will issue retired police officer permits. The minimum age to be issued a handgun license is 21 unless you are a former or current member of the armed forces or law enforcement.

Carry permits issued?	Yes	Yes	S 265.20, S 265.01	New York issues CCWs on a "may issue" basis. CCW Issuance is different by county. Generally it is harder to obtain a permit in counties closer to large New York cities. Most Counties that aren't apart of downstate New York have shall/reasonable issuance policies, but are may restrict where you can carry your weapon (such as only for target shooting or hunting). It is only a minor misdemeanor to carry out of the manner your license was issued in, but could cause it to be revoked. Concealed carry without any kind of permit can, and has been known, to be charged as a felony.
"Assault weapon" law?	Yes	Yes	S 265.00, S 265.02	Possession of assault weapons is prohibited, except for those legally possessed on January 15, 2013 and registered with the state by January 15, 2014. New York City, Buffalo, Albany, and Rochester have enacted their own assault weapon bans.
Magazine Capacity Restriction?	Yes	Yes		Magazine size limited to 10 rounds however, it is illegal to load more than 7 rounds into a magazine except when at shooting range, hunting, or in one's dwelling. Even if you have a concealed carry license you are only allowed to have only 7 rounds in a magazine. .22 caliber tubular magazines are exempt from the law.
NFA weapons restricted?	Yes	Yes	S 265.02, S 265.02	Machine guns, silencers, SBR, SBS, and DD are prohibited from the average citizen. Technically AOW's are permitted, but in practice virtually all CLEO's reject all applications for them.
Open Carry?	No*	No*	S 265.35, S 265.01	Open carry is effectively banned under state law. *However some counties (such as Delaware County) will issue permits to open carry, but not concealed carry. Licensed handgun owners have been known to open carry in that county
Castle Doctrine Law?	Yes*	Yes*	§ 35.20	*New York has a castle doctrine law. It allows self defense against home invasion.
State Preemption of local restrictions?	No	No	None	New York lacks state preemption. Places such as Buffalo ^[50] , Rochester ^[51] , Albany ^[52] , and most notably New York City have put in more restrictive gun laws, such as licensing of long guns and 5 round magazine limits.
Peaceable Journey laws?	Yes	Yes	S 265.10	With certain restrictions (see below), most notably magazines are not exempt.

North Carolina

Subject/Law	Long Guns	Handguns	Relevant Statutes	Notes
Permit to purchase required?	No	Yes		For handguns, a permit to purchase or a concealed handgun permit is required.
Firearm registration?	No	No*		*Durham county requires registration of handguns. The county sheriff must keep a record of handgun purchase permits.
Owner license required?	No	No		
Carry permits issued?	No	Yes		North Carolina is a "shall issue" state for concealed carry.
Open carry permitted?	No	Yes		Open carry is generally permitted, but may be limited by local governments.
State preemption of local restrictions?	Yes	Yes		North Carolina has state preemption for most but not all firearm laws.
"Assault weapon" law?	No	No		
NFA weapons restricted?	Yes	Yes		A permit to possess an NFA-compliant automatic firearm may be issued at the discretion of the county sheriff.

North Dakota

Subject/Law	Long Guns	Handguns	Relevant Statutes	Notes
Permit to purchase required?	No	No		
Firearm registration?	No	No		
Owner license required?	No	No		
Carry permits issued?	No	Yes		North Dakota is a "shall issue" state for concealed carry.
Open carry permitted?	Yes	Yes		Open carry of long guns is generally permitted. Open carry of handguns is permitted only with a concealed carry permit.
State preemption of local restrictions?	Yes	Yes		
"Assault weapon" law?	No	No		
Magazine Capacity Restriction?	No	No		
NFA weapons restricted?	No	No		NFA-compliant automatic firearms must be registered with the county sheriff and the state Bureau of Criminal Investigation.

Ohio

Subject/Law	Long guns	Handguns	Relevant Statutes	Notes
State Permit to Purchase?	No	No	None	
Firearm registration?	No	No	None	No
"Assault weapon" law?	No	No	None	Magazines holding over 31 rounds makes the weapon an "automatic firearm" subject to law accordingly
Owner license required?	No	No	None	No
Carry permits issued?	No	Yes	O.R.C. 2923.16	Shall Issue – 12 hour training required
Open carry?	Yes	Yes	O.R.C. 2923.16	Traditional open carry state. Restrictions in motor vehicle.
State Preemption of local restrictions?	Yes	Yes	O.R.C. 9.68	Full Preemption – Affirmed by City of Cleveland vs. State of Ohio
NFA weapons restricted?	Partial	Partial	O.R.C. 2923	It is a violation of state law to possess NFA weapons except as permitted by federal law.
Peaceable Journey laws?	No	No	None	Federal rules observed.

Oklahoma

Subject/Law	Long guns	Handguns	Relevant Statutes	Notes
State Permit to Purchase?	No	No	-	Private sales legal, no waiting period.
Firearm registration?	No	No	–	None
"Assault weapon" law?	No	No	–	None
Owner license required?	No	No	§21-1273, §21-1276, §21-1283,	None
Carry permits issued?	No	Yes	§21-1277, §21-1272, §21-1278, §21-1289, §21-1290	Concealed carry of loaded handguns permitted; open carry became lawful with permit as of November 1st, 2012. Unlicensed public carry of unloaded handguns and long arms by persons eligible to possess firearms is allowed under some circumstances.
State Preemption of local restrictions?	Yes	Yes	§21-1289.24	–
NFA weapons restricted?	No	No	§21-1289.18	Short barreled rifles and shotguns are illegal to possess under state law unless registered under the NFA, ownership and possession of automatic firearms is legal under state law.

Oregon

Subject/Law	Long guns	Handguns	Relevant statutes	Notes
State permit to purchase?	No	No		
Firearm registration?	No	No		
"Assault weapon" law?	No	No		
Owner license required?	No	No		
Carry permits issued?	No	Yes		Oregon is a "shall-issue" state.
Open carry?	Yes	Yes		Open carry is generally allowed. Localities that prohibit open carry include: Astoria, Beaverton, Independence, Newport, Oregon City, Portland, Salem, Tigard, and Multnomah County.
State preemption of local restrictions?	Yes	Yes		Does not apply to unlicensed open carry.
NFA weapons restricted?	No	No		Allowed as long as such items including machine gun lower receivers/automatics sears, short barreled rifles, short barreled shotguns, and suppressors are in compliance with federal law and registered to the NFA.
Peaceable journey laws?	Yes	Yes		

Pennsylvania

Subject/Law	Long guns	Handguns	Relevant statutes	Notes
State permit to purchase?	No	No		
Firearm registration?	No	No		
"Assault weapon" law?	No	No		
Owner license required?	No	No		
Carry permits issued?	Yes	Yes		License to Carry Firearms issued on a "shall-issue" basis.
Open carry?	Yes	Yes		Unlicensed open-carry everywhere except Philadelphia or in/on a vehicle.
State preemption of local restrictions?	Yes	Yes	18 Pa.C.S. § 6120	
NFA weapons restricted?	No	No		
Peaceable Journey laws?	Yes	Yes		

Rhode Island

Subject/Law	Long guns	Handguns	Relevant Statutes	Notes
State Permit to Purchase?	No	Yes	RI Gen. Stat. 11-47-35 [53]	All purchasers of handguns must complete and pass a safety exam managed by the RI Department of Environmental Management, at which time they will receive a DEM issued "blue card" allowing purchase. Exempt are active duty military members, law enforcement officers, and retired law enforcement officers.
Firearm registration?	No	No	RI Gen. Stat. 11-47-41 [54]	
"Assault weapon" law?	No	No	None	
Owner license required?	No	No	None	
Carry permits issued?	No	Yes	RI Gen. Stat. 11-47-11 [55] RI Gen. Stat. 11-47-18 [56]	Rhode Island is a "may issue" state for concealed carry. Licenses may be granted either by local authorities or by the state's attorney general's office. Permits are normally hard to obtain unless one is a retired LEO.
State Preemption of local restrictions?	Yes	Yes	RI Gen. Stat. 11-47-58 [57]	
Castle Doctrine Law?	Yes	Yes	[58]	No duty to retreat if you are in your home

NFA weapons restricted?	Yes	Yes	RI Gen. Stat. 11-47-8 [59] RI Gen. Stat. 11-47-20 [60]	It is a violation of state law to possess any NFA weapon or silencers with the exception of Class III FFLs.
Peaceable Journey laws?	No	Yes	RI Gen. Stat. 11-47-8 [59]	State law mirrors Federal law to a limited degree but does not make any provision for transport of rifles and explicitly states that an individual transporting a weapon must have a valid permit in another state. The State may also adhere to federal law but this is unclear and there does not appear to be any statewide policy. The Firearms owners protection act preempts this however, and the only known weapons that are illegal are NFA weapons.

South Carolina

Subject/Law	Long Guns	Handguns	Relevant Statutes	Notes
Permit to purchase required?	No	No		
Firearm registration?	No	No		
Owner license required?	No	No		
Carry permits issued?	No	Yes		South Carolina is a "shall issue" state for concealed carry.
Open carry permitted?	No	No		
State preemption of local restrictions?	Yes	Yes		
"Assault weapon" law?	No	No		
Magazine Capacity Restriction?	No	No		
NFA weapons restricted?	Yes	Yes		Possession of automatic firearms, short-barreled shotguns, or short-barreled rifles is generally prohibited.

South Dakota

Subject/Law	Long Guns	Handguns	Relevant Statutes	Notes
Permit to purchase required?	No	No		
Firearm registration?	No	No		
Owner license required?	No	No		
Carry permits issued?	No	Yes		South Dakota is a "shall issue" state for concealed carry.
Open carry permitted?	No	Yes		Open carry is generally permitted. For open carry in a vehicle, the firearm must be clearly visible.
State preemption of local restrictions?	Yes	Yes		
"Assault weapon" law?	No	No		
Magazine Capacity Restriction?	No	No		

NFA weapons restricted?	No	No		
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Tennessee

Subject/Law	Long guns	Handguns	Relevant Statutes	Notes
State Permit to Purchase?	No	No	None	No
Firearm registration?	No	No	None	No
"Assault weapon" law?	No	No	None	No
Magazine Capacity Restriction?	No	No		
Owner license required?	No	No	None	No
Carry permits issued?	No*	Yes	39-17-1351 [61]	Permits are "shall-issue". Concealed or open carry of a handgun is allowed with permit. *Loaded long gun carry is generally illegal. Those with a Handgun Carry Permit(HCP) holders may have loaded longs in a private vehicle so long as there is not a round in the chamber 39-17-1307(e) [62] There are also other exceptions (like for hunting) listed in 39-17-1307
State Preemption of local restrictions?	Yes	Yes	39-17-1314 [63]	Tennessee is an anomalous State. The Legislature made a loop hole for cities and municipalities with laws in effect prior to April 8, 1986. The local ordinances in effect before April 8, 1986 pre-empt State law see TCA 39-17-1314(a). Local governments may post signs per 39-17-1359 [64] to prohibit carry on government property, just like private property owners.
NFA weapons restricted?	No	No	None	On July 1, 2003 public chapter 275 is in effect. It requires the CLEO, chief law enforcement officer, to sign NFA paperwork in 15 days if the applicant is not prohibited from possessing firearms. see TCA 39-17-1361 .
Peaceable Journey laws?	No	No	None	Federal rules observed.
Self-Defense Law	Yes	Yes	39-11-611 [65]	There is not duty to retreat before using deadly force, as long as you are acting lawfully and are in a place you have a right to be in. It is presumed you had a reasonable fear of imminent death or serious bodily injury if someone unlawfully and forcibly enters a residence, business, dwelling or vehicle.

Texas

Subject/Law	Long guns	Handguns	Relevant Statutes	Notes
State Permit to Purchase?	No	No	None	Must be 18+ to purchase a long gun from a dealer or private seller, 21+ to purchase a handgun from a dealer, 18 to generally own and possess a firearm.
Firearm registration?	No	No	None	Federal law only; BATFE Form 4473 and NICS background check required to be completed when purchasing from a FFL dealer, which does not legally constitute "registration".
"Assault weapon" law?	No	No	None	Federal law only; with the expiration of the AWB, there are currently no such laws.
Magazine Capacity Restriction?	No	No		
Owner license required?	No	No	None	Proof of age/identity is required, and a concealed carry permit exempts the buyer from the NICS background check, but no specialized "firearm owner ID" is required to purchase.
Carry permits issued?	No	Yes	GC Ch. 411 Subch H, PC 46.15	Concealed carry of a handgun requires a "shall-issue" permit, and is subject to specific laws governing trespass while armed. Open carry of a handgun is prohibited with some exceptions (hunting, on one's own property). Open carry of a long gun is not specifically prohibited as PC 46.02 (unlawful carry of weapons) only mentions handguns, however it may be construed as "Disorderly Conduct".
Open Carry?	Yes	No	PC 46.02	
State Preemption of local restrictions?	Yes	Yes	LGC §229.001.	FIREARMS; EXPLOSIVES. (a) A municipality may not adopt regulations relating to the transfer, private ownership, keeping, transportation, licensing, or registration of firearms, ammunition, or firearm supplies. Municipal governments can enact regulations on the discharge of firearms (such as noise, nuisance or public safety ordinances); however, those laws are subject to and cannot preempt State law concerning justified use of a firearm.
NFA weapons restricted?	No	No	PC 46.01(9), PC 46.05	State law prohibits ownership outside of NFA compliance, calling possession while in compliance "a defense to prosecution."
Peaceable Journey laws?	Yes	Yes	PC 46.02, PC 46.15	A person may carry a loaded handgun without a permit while in or heading directly to a motor vehicle or watercraft they own or control. The statute does not specifically state the handgun must be concealed while heading to the vehicle or watercraft, and 46.02, which requires concealment of a handgun while in a motor vehicle or watercraft, is not applicable to a person while the person is traveling, pursuant to 46.15(b)(2).
Castle Doctrine?	Yes	Yes	PC 9.32	A person is presumed justified in using deadly force to protect themselves against an unlawful, forceful intrusion into their dwelling, or to prevent an unlawful, forceful attempt to remove a lawful occupant from the dwelling, or to prevent certain serious felonies such as burglary or arson. There is no duty to retreat from any place where the shooter has a legal right to be.
Stand Your Ground Law?	Yes	Yes	TPC 9.32	A person is allowed to use force to protect themselves from attackers.

Utah

Subject/Law	Long guns	Handguns	Relevant Statutes	Notes
State Permit to Purchase?	No	No	-	Private sales legal, no waiting period.
Firearm registration?	No	No	—	None
"Assault weapon" law?	No	No	—	None
Owner license required?	No	No	-	None
Carry permits issued?	Yes	Yes	-	Open carry allowed without permit and concealed carry of loaded firearm allowed with permit.
State Preemption of local restrictions?	Yes	Yes	-	Local authorities may regulate the discharge of firearms.
NFA weapons restricted?	No	No	-	Possession of NFA firearms in violation of federal law is a third degree felony under state law. However, possession and ownership of NFA firearms and items is legal under state law if federal requirements and laws are followed.
Peaceable Journey laws?	Yes	Yes	76-10-523 [66]	Persons exempt from weapons laws. (g) a nonresident traveling in or through the state, provided that any firearm is: unloaded; and securely encased as defined in Section 76-10-501. Handguns may be loaded in any vehicle under the person's control.
Castle Doctrine?	Yes	Yes	76-2-402 [67]	Force in defense of person—Forcible felony defined. A person is justified in threatening or using force against another when and to the extent that he or she reasonably believes [68] that force is necessary to defend himself or a third person against such other's imminent use of unlawful force. However, that person is justified in using force intended or likely to cause death or serious bodily injury only if he or she reasonably believes [68] that force is necessary to prevent death or serious bodily injury to himself or a third person as a result of the other's imminent use of unlawful force, or to prevent the commission of a forcible felony.
Stand Your Ground Law?	Yes	Yes	76-2-405 [69]	Force in defense of habitation. Non-lethal force is justified to prevent unlawful entry or attack upon the owner's habitation. Lethal force is justified only when the person defending the habitation reasonably believes [68] it is necessary to prevent violence or prevent the commission of a felony; it may be employed against an intruder when the intruder poses a threat of violence "against any person, dwelling, or being in the habitation", or the person defending the habitation reasonably believes [68] the purpose of entry is to commit a felony.

Vermont

Subject/Law	Long guns	Handguns	Relevant Statutes	Notes
State Permit to Purchase?	No	No	–	
Firearm registration?	No	No	–	
"Assault weapon" law?	No	No	–	
Magazine restriction?	No	No	-	
Owner license required?	No	No	–	
Carry permits issued?	No*	No*	–	*May carry open or concealed without permit as long as you are a citizen of the U.S. or a lawfully admitted alien.
Open carry?	Yes	Yes	-	Traditional open carry state
State Preemption of local restrictions?	Yes	Yes	-	Complete preemption
NFA weapons restricted?	No*	No*	-	*Silencers/Suppressors are prohibited. All other NFA weapons are allowed if owned in compliance with federal law.

Virginia

Subject/Law	Long Guns	Handguns	Relevant Statutes	Notes
Permit to purchase required?	No	No		
Firearm registration?	No	No		
Owner license required?	No*	No*		*Proof of age and citizenship required for the purchase of "assault weapons".
Carry permits issued?	No	Yes		Virginia is a "shall issue" state for concealed carry.
Open carry permitted?	Yes	Yes	§ 18.2-287.4. & § 18.2-282.	Open carry is permitted with the exception of "assault weapons" and shotguns with a 7+ round magazine in the cities of Alexandria, Chesapeake, Fairfax, Falls Church, Newport News, Norfolk, Richmond, and Virginia Beach and in the Counties of Arlington, Fairfax, Henrico, Loudoun, or Prince William. These restrictions do not apply to valid concealed carry permit holders. For open carry in a vehicle, the firearm must be clearly visible.
State preemption of local restrictions?	Yes	Yes		Virginia has state preemption for most but not all firearm laws.
"Assault weapon" law?	No*	No*		*Proof of age (18+ for long arms, 21+ for pistols) and proof of citizenship (or permanent residence license) are required for the purchase of "assault weapons". "Assault weapons" are defined as a semi-automatic, centerfire, firearm equipped with a folding/adjustable stock, equipped at the time with a magazine capable of holding 20+ rounds, or capable of accommodating a silencer/suppressor.
Magazine restriction?	No*	No*		*Magazines capable of holding 20+ rounds are legal but, they make the firearm an "assault weapon", subject to law accordingly.
NFA weapons restricted?	Yes	Yes		Automatic firearms must be registered with the state police. Plastic firearms and SOME destructive devices (such as the striker 12 shotgun) are prohibited outside law enforcement. SBS, SBR, AOW's, and silencers are legal with NFA paperwork.

Washington

Subject/Law	Long guns	Handguns	Relevant statutes	Notes
State Permit to Purchase?	No	No	-	
Firearm registration?	No	Partial	RCW 09.41.110(9)(a) and (b) [70]	Retail dealers must record and report all retail pistol sales to local police/sheriff and to state department of licensing.
Owner license required?	No	No	-	
"Assault weapon" law?	No	No	-	
Constitutional Right to Bear Arms?	Yes	Yes	WA Constitution art. 1 sec. 24 [71]	
Carry permits issued?	No	Yes	RCW 09.41.050 [72] CCW Reciprocity [73]	Washington is a "shall-issue" state and will grant concealed carry permits to all applicants that meet the criteria. There are no training requirements.
Open carry?	Yes	Yes	RCW 09.41.050 (in vehicle) [72]	Open carry is lawful in Washington without any permit. Open carry of a loaded handgun in a vehicle is legal only with a concealed pistol license. Open carry of a loaded long gun in a vehicle is illegal, regardless of CPL possession.
State Preemption of local restrictions?	Yes	Yes	RCW 09.41.290 [74] RCW 09.41.300 [75]	State Law does not allow more restrictive local laws.
NFA weapons restricted?	Yes	Yes	RCW 09.41.190 [76] RCW 09.41.220 [77] RCW 09.41.225 [78] RCW 09.41.250(1)(c) [79]	Machine guns and short-barreled rifles or shotguns are illegal for non-law-enforcement possession. Silencers are lawful to possess and use if registered properly with ATF.
Peaceable Journey laws?	No	No	RCW 09.41.050 [72] RCW 09.41.060 [80] 18 USC § 926A [81] CCW Reciprocity [73]	Federal travel-with-a-firearm laws apply. Some out-of-state CCW licenses valid, otherwise carry must be open or, in a vehicle, unloaded.

West Virginia

Subject/Law	Long Guns	Handguns	Relevant Statutes	Notes
Permit to purchase required?	No	No		
Firearm registration?	No	No		
Owner license required?	No	No		
Carry permits issued?	No	Yes		West Virginia is a "shall issue" state for concealed carry.
Open carry permitted?	No	Yes		Open carry is generally permitted, but some local restrictions are grandfathered in.
State preemption of local restrictions?	Yes	Yes		Local laws in place before June 1, 1999 are valid.
"Assault weapon" law?	No	No		

NFA weapons restricted?	No	No		
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Wisconsin

Subject/Law	Long guns	Handguns	Relevant Statutes	Notes
Constitutional Right to Bear Arms	Yes		1:22 ^[82]	"The people have the right to keep and bear arms for security, defense, hunting, recreation or any other lawful purpose."
State Preemption of local restrictions?	Yes	Yes	66.0409 ^[83]	
State Permit to Purchase?	No	No	175.35 ^[84]	48 hour waiting period on handguns
Concealed carry license issued?	No	Yes	175.60 ^[85]	May carry openly without a license (except in taxpayer-owned buildings, school zones, and "taverns").
Castle Doctrine/Self Defense Statutes	Yes		895.62 ^[86]	Immunity from prosecution and civil damages in the home, with conditions and exceptions
			939.48 ^[87]	No duty to retreat in the "dwelling" or owned/operated place of business. "Reasonable belief of grievous harm or death". No deadly force solely to protect property. No provocation. 3rd party protection.
			940.01 ^[88]	"the state must prove beyond a reasonable doubt that the facts constituting the defense did not exist in order to sustain a finding of guilt"
Firearm registration?	No	No	–	
"Assault weapon" law?	No	No	–	
Magazine restrictions?	No	No		
Owner license required?	No	No	941.29 ^[89]	
NFA weapons restricted?	Machine Guns restricted, exceptions apply		941.298 ^[90] 941.26 ^[91]	Silencers, SBR, and SBS allowed if NFA rules followed, otherwise felony

Wyoming

Subject/Law	Long guns	Handguns	Relevant Statutes	Notes
State Permit to Purchase?	No	No		
Firearm registration?	No	No		
"Assault weapon" law?	No	No		
Magazine Capacity Restriction?	No	No		
Owner license required?	No	No		
Carry permits issued?	Yes	Yes		May carry open or concealed without permit. Permits issued to those who wish to have them.
Open carry?	Yes	Yes		

State Preemption of local restrictions?	Yes	Yes		
NFA weapons restricted?	No	No		

References

- [7] <http://www.azleg.state.az.us/ars/13/03101.htm>
- [8] <http://www.azleg.state.az.us/ars/13/03112.htm>
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External links

- U.S. Bureau of Alcohol, Tobacco, Firearms & Explosives – State Laws and Published Ordinances – Firearms (<http://www.atf.gov/publications/download/p/atf-p-5300-5/atf-p-5300-5.pdf>)
- National Rifle Association – State Firearms Laws (<http://www.nraila.org/gun-laws/state-laws.aspx>)
- Law Center to Prevent Gun Violence – Gun Laws by State (<http://smartgunlaws.org/search-gun-law-by-state/>)
- USA Carry – Concealed Firearm Information and Resources (<http://www.usacarry.com>)
- CarryConcealed.net – Concealed carry laws and maps (<http://www.carryconcealed.net/>)
- US Concealed Carry - Concealed carry laws, maps, and information (<https://www.usconcealedcarry.com/travel/>)
- OpenCarry.org – Open carry laws and maps (<http://www.opencarry.org>)
- Firearms Transport – Laws by state (<http://www.firearmstransport.com/>)

.50 Caliber BMG Regulation Act of 2004

.50 Caliber BMG Regulation Act of 2004



An act to amend Sections 245, 12011, 12022, 12022.5, 12275, 12275.5, 12280, 12285, 12286, 12287, 12288, 12288.5, 12289, and 12290 of, and to add Section 12278 to, the Penal Code, relating to firearms.

Enacted by	California State Legislature
Date enacted	June 4, 2004 (Assembly) August 23, 2004 (Senate, amended) August 25, 2004 (Senate, concurrence)
Date signed	September 13, 2004
Introduced by	Paul Koretz (D-42nd-Los Angeles)

U.S. Firearms Legal Topics

- Assault weapon
- ATF Bureau
- Brady Handgun Violence Prevention Act
- Concealed carry in the U.S.
- Domestic Violence Offender Gun Ban
- Federal Assault Weapons Ban
- Federal Firearms License
- Firearm case law
- Firearm Owners Protection Act
- Gun Control Act of 1968
- Gun laws in the U.S.—by state
- Gun laws in the U.S.—federal
- Gun politics in the U.S.
- National Firearms Act (NFA)
- NY SAFE Act (New York)
- Second Amendment to the Constitution
- Straw purchase
- Sullivan Act (New York)
- Violent Crime Control Act
- An Act Concerning
Gun Violence Prevention and Children's Safety

The **.50 Caliber BMG Regulation Act of 2004** is a law in the state of California that effectively banned all .50 BMG-caliber rifles from being sold in the state. The law took effect on January 1, 2005.^[1]

Background

The legislature of California declared that "proliferation and use" of .50 BMG rifles posed a terrorist threat, as well as a threat to the "health, safety, and security of all residents" of California.^[1] The act required existing .50 BMG rifles to be registered with the state and prohibited the sale of any rifle after the ban went into effect. To quote the state web site, the act "regulates the .50 BMG rifles in essentially the same manner as assault weapons."^[2] The law specifically allowed a registration period of one year, now passed, to register any such firearms, after which unregistered weapons would become illegal firearms.

Definitions

.50 BMG rifles are defined in the act as "a centerfire rifle that can fire a .50 BMG ."^[2]

"50 BMG cartridge" is defined as a cartridge that is designed and intended to be fired from a centerfire rifle and that meets all of the following criteria: (1) It has an overall length of 5.54 inches (141 mm) from the base to the tip of the bullet. (2) The bullet diameter for the cartridge is from .510 to, and including, .511-inch (13.0 mm). (3) The case base diameter for the cartridge is from .800-inch (20.3 mm) to, and including, .804 inch. (4) The cartridge case length is 3.91 inches (99 mm). (PC § 12278.)^[3]

Exceptions

The law does not apply to the law enforcement officers with permission from their employing agencies.^[3]

Exceptions are granted to rifles classified as antiques or Curio and Relics as defined by the BATFE.^[3]

Out-of-state owners may bring .50 BMG rifles into the state for shooting competitions.^[3]

Limited exceptions are granted for exhibitions, displays, and education projects sponsored by law enforcement or government agencies.^[3]

Controversy

As a result of the ban, the Barrett Firearms Company announced it would no longer sell to or service any of its rifles in the possession of any California government agency.^[4]

Despite the legislature's claim of a terrorist threat, as of 2012, there have been no terrorist attacks involving a .50 BMG. In fact, not only has the .50 BMG never been used to harm or kill anyone in California, there is no record of a .50 BMG rifle ever being used in the United States to commit a crime.^{[5][6][7]}

Alternative cartridges

The .510 DTC Europ has since been introduced to take advantage of the highly specific language used in the act. The round provides almost identical ballistics and performance, but cannot be used in weapons chambered for .50 BMG.

Barrett has since produced the .416 Barrett, a necked-down .50 BMG case using a .416 caliber bullet, which is not subject to the .50 BMG Act because of the smaller caliber. It has the benefit of having a flatter trajectory than the .50 BMG.

References

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- [2] " Frequently Asked Questions - .50 BMG Rifle Registration (<http://ag.ca.gov/firearms/50bmgfaqs.php>)" at California State Attorney General web site.
- [3] California Firearms Laws Summary Booklet 2007 (<http://ag.ca.gov/firearms/forms/pdf/Cfl2007.pdf>) p. 15.
- [4] " Draws the Line (<http://www.thegunzone.com/rkba/rkba-50.html>)" by Ronnie Barrett (Owner/CEO Barrett Firearms) in The Gun Zone
- [5] " California Bans Gun Never Used for Crime (<http://guncontrolpolicy.com/commentary/3.html>)"
- [6] " CALIFORNIA LEGISLATURE BANS .50 CALIBER GUNS; BILL NOW HEADS TO GOVERNOR SCHWARZENEGGER'S DESK (http://www.gunshopfinder.com/legislativenews/schwarzenegger8_25_04.html)"
- [7] " An Investigation of Fifty Caliber Rifle Capabilities (<http://www.mega.nu/50calreport.html>)"

External links

- Text of Law (<http://www.fiftycal.org/AB50/ALLVERSIONSAB50.pdf>)
- California Department of Justice Firearms Division (<http://caag.state.ca.us/firearms/>)

AB 1471

AB 1471 or **AB 1471 Crime Gun Identification Act of 2007** is legislation passed by the California State Senate on September 6, 2007 and then by the California State Assembly on September 10, 2007, with votes of 21–17 and 43–29 respectively.^[1]

It was then signed into law by Governor Arnold Schwarzenegger on October 13, 2007, becoming the first legislation of its kind to enact Firearm microstamping. Its implementation was then placed on hold.^[2]

California's "unsafe firearm" laws, which include AB 1471, do not apply to any firearms used or purchased by any law enforcement agency.^[3]

Purpose

AB 1471 changes California definitions of "unsafe handgun" and also requires that:

"7) Commencing January 1, 2010, for all semiautomatic pistols that are not already listed on the roster pursuant to Section 12131, it is not designed and equipped with a microscopic array of characters that identify the make, model, and serial number of the pistol, etched or otherwise imprinted in two or more places on the interior surface or internal working parts of the pistol, and that are transferred by imprinting on each cartridge case when the firearm is fired, provided that the Department of Justice certifies that the technology used to create the imprint is available to more than one manufacturer unencumbered by any patent restrictions. The Attorney General may also approve a method of equal or greater reliability and effectiveness in identifying the specific serial number of a firearm from spent cartridge casings discharged by that firearm than that which is set forth in this paragraph, to be thereafter required as otherwise set forth by this paragraph where the Attorney General certifies that this new method is also unencumbered by any patent restrictions."^[4]

Implementation

Implementation of AB 1471 is currently on hold pending investigations into the feasibility of microstamping and patent encumbrment.^[5]

The Calguns Foundation, a gun rights group, paid to extend the lapsing patent on the technology to further delay the law from taking effect. Gene Hoffman, chairman of the group said, "It was a lot cheaper to keep the patent in force than to litigate over the issues." Hoffman added that he believed the law amounted to a gun ban in California. Todd Lizotte, the engineer who developed the technology, said he wanted the patents to lapse and the technology to be in the public domain.^[6]

References

- [1] "Microstamping Legislation Approved by California State Legislature." Coalition to Stop Gun Violence Press Release. 10 September 2007. (<http://www.csgv.org/site/apps/nl/content2.asp?c=muLYJ7MMKrH&b=2768811&ct=4406131>) Press Release
- [2] "Governor Schwarzenegger Signs Historic Crime-Fighting Legislation Into Law." Coalition To Stop Gun Violence Press Release. 14 October 2007 (<http://www.csgv.org/site/apps/nl/content2.asp?c=muLYJ7MMKrH&b=2768811&ct=4515013>) Press Release
- [3] Cal. P.C. § 12125(b)(4)
- [4] California Legislation "Crime Gun Identification Act of 2007" AB 1471. Legislation (http://www.leginfo.ca.gov/pub/07-08/bill/asm/ab_1451-1500/ab_1471_bill_20070711_amended_sen_v96.html)

AB 2062

A.B. No. 2062 is a bill introduced by Assemblyman Kevin de León (D) in the California State Assembly on 19 February 2008, and has since undergone review and amendments, and passed vote, in the California Assembly Committee on Public safety, the Assembly Committee on Appropriations, on the Assembly Floor, and in the State Senate Committee on Public safety. It is now under review in the State Senate Committee on Appropriations.^[1] Taking effect on 1 July 2009 if successful, the bill would limit the sale of ammunition to no more than 50 rounds per month per person. The purchaser is required to apply for an ammunition permit costing US\$50, and is subjected to a \$3 transaction tax for each purchase. The purchaser is furthermore required to document the transaction and register into a database the type of ammunition and quantity purchased, in addition to the buyer's personal information, including but not limited to the driver's license number and Social Security number. The bill mandates that ammunition dealers store ammunition behind the counter, or otherwise restrict access by customers.

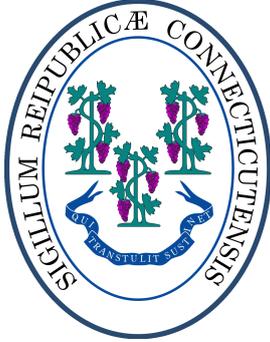
Future legal action

California gun owners and numerous firearm enthusiast groups, upset by legislation they consider unconstitutional and tantamount to a restriction of federal Second Amendment rights, have begun consolidating legal elements towards a case against the state of California. Basis cited for such action include the legal precedent set in a 1983 Supreme Court ruling concerning the taxation of ink as a suppression of federal First Amendment rights.^[2]

References

- [1] http://info.sen.ca.gov/pub/07-08/bill/asm/ab_2051-2100/ab_2062_bill_20080626_status.html
- [2] MINNEAPOLIS STAR V. MINNESOTA COMM'R, 460 U. S. 575 (1983) - US Supreme Court Cases from Justia & Oyez (<http://supreme.justia.com/us/460/575/>)

An Act Concerning Gun Violence Prevention and Children's Safety

An Act Concerning Gun Violence Prevention and Children's Safety	
 <p>Seal of Connecticut</p>	
Connecticut General Assembly	
Territorial extent	State of Connecticut
Enacted by	Governor Dannel Malloy
Date enacted	April 4, 2013 ^[1]
Date passed	April 3, 2013 ^[1]
Date assented to	April 4, 2013 ^[1]
Introduced by	Rep. Brendan Sharkey ^[1]
Introduced by	Sen. Donald Williams ^[1]
Status: In force	

An Act Concerning Gun Violence Prevention and Children's Safety,^[1] also known as **Connecticut Senate Bill No. 1160**,^[1] is a bill concerning gun laws in Connecticut. The legislation was introduced by Senator Donald Williams in the state senate and by House Speaker Brendan Sharkey in the state House of Representatives.^[1] It was cosponsored by Rep. Ezequiel Santiago, Rep. Matthew Ritter, Rep. Matthew Lesser, Rep. Larry B. Butler, Rep. Auden Grogins, Rep. Patricia A. Dillon, Rep. Catherine F. Abercrombie, and Senator Andres Ayala.^[1] The bill passed the Senate by a vote of 26 to 10 and the House of Representatives by a vote of 105-54 on April 3, 2013.^{[1][2]}

The law is considered the "toughest", "strongest" and "most comprehensive" legislation relating to gun control in the United States, according to media outlets and advocacy groups.^{[1][2][3]} The legislation was introduced in response to the Sandy Hook Elementary School shooting, which occurred on December 14, 2012.^[1] Perpetrator Adam Lanza shot and killed 26 people, including 20 children, after murdering his mother and stealing her legally purchased firearms.^[1]

Provisions

The law includes the following provisions regarding specific gun types and firearm magazines, among others:

- Prohibit any sales of gun magazines or clip that holds more than ten rounds. The law bans and future sales, current owners can keep their magazines over ten rounds.^[1]
- Extends the law definition of an assault rifle and expands the list of state-banned assault weapons.^[1]
- Requires all gun sales to include a background check, including a criminal and mental check.^[1]

The law also includes the following precautionary measures:

- The creation of a database of people convicted of weapons charges.^[1]
- Requires certificates for gun sales, including ammunition sales.^[1]
- Increases penalties for gun-related charges.^[1]
- Schools within Connecticut, including colleges and universities, would be required to create security plans. School faculty would also go through first aid and mental health training.^[1]
- Increases punishments for bullying.^[1]

Reactions

Many politicians and groups praised the new law. Connecticut Governor Dannel Malloy said that "this is a profoundly emotional day for everyone in this room".^[1] Joe Aresimowicz, Connecticut House of Representatives Majority Leader, said about the law, "I pray today's bill — the most far-reaching gun safety legislation in the country — will prevent other families from ever experiencing the dreadful loss that the 26 Sandy Hook families have felt".^[1] The selectman for Newtown, Pa Llodra, said she was "pleased" with the new law.^[1]

Many parents of Sandy Hook victims backed the legislation. Parents Jimmy Greene and Nelba Marquez-Greene said that the "cooperative spirit" of the Connecticut General Assembly and governor "should be a model for Congress, when the Senate considers legislation next week to reduce gun violence".^[1] The National Rifle Association, an advocacy group to promote the Second Amendment, criticized the new law. Executive Vice President Wayne LaPierre said that the new law is a part of a "decade-long agenda against firearms".^[1] President of the NRA David Keene said the legislation was "a real threat".^[1] President Barack Obama announced that he would make a speech about gun control at the University of Hartford in West Hartford.^[1]

References

Concealed carry in the United States

U.S. Firearms Legal Topics
• Assault weapon
• ATF Bureau
• Brady Handgun Violence Prevention Act
• Concealed carry in the U.S.
• Domestic Violence Offender Gun Ban
• Federal Assault Weapons Ban
• Federal Firearms License
• Firearm case law
• Firearm Owners Protection Act
• Gun Control Act of 1968
• Gun laws in the U.S.—by state
• Gun laws in the U.S.—federal
• Gun politics in the U.S.
• National Firearms Act (NFA)
• NY SAFE Act (New York)
• Second Amendment to the Constitution
• Straw purchase
• Sullivan Act (New York)
• Violent Crime Control Act
• An Act Concerning Gun Violence Prevention and Children's Safety

Concealed carry, or **CCW** (carrying a concealed weapon), refers to the practice of carrying a handgun or other weapon in public in a concealed manner, either on one's person or in close proximity. Not all weapons that fall under CCW controls are lethal. For example, in Florida, carrying pepper spray in more than a specified volume (2 oz.) of chemical requires a CCW permit, whereas anyone may legally carry a smaller, so-called, “self-defense chemical spray” device hidden on their person without a CCW permit.^[1]

While there is no federal law specifically addressing the issuance of concealed carry permits, 49 states have passed laws allowing citizens to carry certain concealed firearms in public, either without a permit or after obtaining a permit from local government and/or law enforcement.^[1] Illinois is the only state without such a provision – but its long-standing ban on concealed weapons was recently overturned in a federal appeals court, on constitutional grounds, so that Illinois will be required to draft a concealed carry law by June 9, 2013 (which may be appealed in the U.S. Supreme Court).^[1]

The states give different terms for licenses or permits to carry a concealed firearm, such as a Concealed Handgun License/Permit (CHL/CHP), Concealed Carry Weapons (CCW), Concealed (Defensive/Deadly) Weapon Permit/License (CDWL/CWP/CWL), Concealed Carry Permit/License (CCP/CCL), License To Carry (Firearms) (LTC/LTCF), Carry of Concealed Deadly Weapon license (CCDW), Concealed Pistol License (CPL), etc. Thirteen states use a single permit to regulate the practices of both concealed and open carry of a handgun.

Some states publish statistics indicating how many residents hold permits to carry concealed weapons, and their demographics. For example, Florida has issued 2,031,106 licenses since adopting its law in 1987, and had 843,463 licensed permit holders as of July 31, 2011.^[2] Reported permit holders are predominantly male.^[3] Some states have reported the number of permit holders increasing over time.^[4] “With hard numbers or estimates from all but three of the 49 states that have laws allowing for issuance of carry permits, the GAO reports that there were about 8 million active permits in the United States as of December 31, 2011. That's about a million more than previous estimates by

scholars." [5]

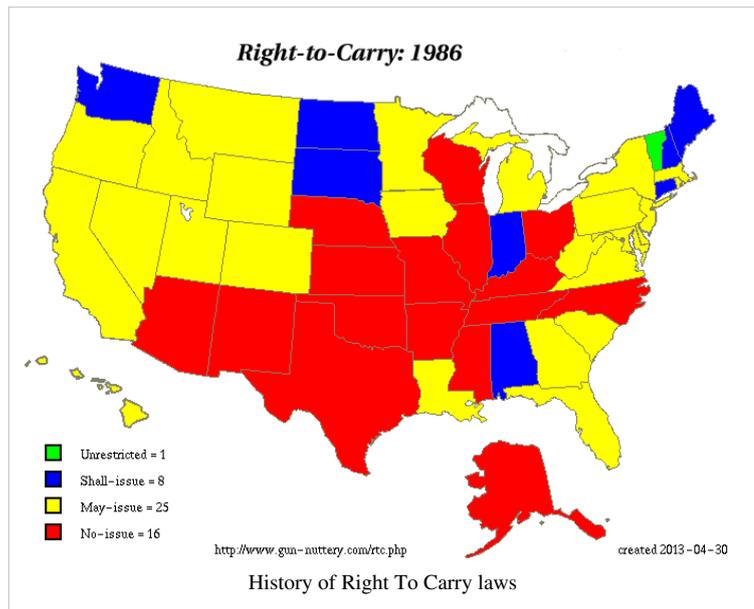
The number of permits revocations is typically small.^{[2][6][7]} The grounds for revocation in most states, other than expiration of a time-limited permit without renewal, is typically the commission of a gross misdemeanor or felony by the permit holder. While these crimes are often firearm-related (including unlawful carry), a 3-year study of Texas crime statistics immediately following passage of CHL legislation found that the most common crime committed by CHL holders that would be grounds for revocation was actually DUI, followed by unlawful carry and then aggravated assault. The same study concluded that Texas CHL holders were always less likely to commit any particular type of crime than the general population, and overall were 13 times less likely to commit any crime.^[8]

History

Laws banning the carrying of concealed weapons were passed in Kentucky and Louisiana in 1813, and other states soon followed: Indiana (1820), Tennessee and Virginia (1838), Alabama (1839), and Ohio (1859). Similar laws were passed in Texas, Florida, and Oklahoma.^[9]

State laws

Regulations differ widely by state, with most states currently maintaining a "Shall-Issue" policy. As recently as the mid-'90s most states were No-Issue or May-Issue, but over the past 30 years states have consistently migrated to less restrictive alternatives. For detailed information on individual states' permitting policies, see Gun laws in the United States by state.



Permitting policies

Jurisdiction ^[1]	Shall-issue	May-issue	Unrestricted	No-issue	Disputed
Alabama	In practice	✗			✗
Alaska	✗		✗		
Arizona	✗		✗		
Arkansas	✗				
California		✗			
Colorado	✗				
Connecticut	In practice	✗			✗
Delaware	In practice	✗			✗

District of Columbia				X	
Florida	X				
Georgia	X				
Hawaii		X		In practice	
Idaho	X				
Illinois			Some counties in practice	X	X ^[10]
Indiana	X				
Iowa	X				
Kansas	X				
Kentucky	X				
Louisiana	X				
Maine	X				
Maryland		X		In practice	X ^[11]
Massachusetts		X			
Michigan	X				
Minnesota	X				
Mississippi	X				
Missouri	X				
Montana	X		Outside of city limits		
Nebraska	X				
Nevada	X				
New Hampshire	X				
New Jersey		X		In practice	
New Mexico	X				
New York		X			X ^{[12][13]}
North Carolina	X [□]				
North Dakota	X				
Ohio	X				
Oklahoma	X				
Oregon	X				
Pennsylvania	X				
Puerto Rico		X		In practice	
Rhode Island	Local permits	X			X
South Carolina	X				
South Dakota	X				
Tennessee	X [□]				
Texas	X				
Utah	X [□]				

Vermont			X		
Virginia	X ^[14]				
Washington	X				
West Virginia	X				
Wisconsin	X				
Wyoming	X		X WY Residents Only		
US Military installations		X			

↳Status of concealed carry, by state or other jurisdiction

State regulations relating to the issuance of concealed carry permits generally fall into four categories described as Unrestricted, Shall Issue, May issue and No Issue.

Unrestricted

An Unrestricted jurisdiction is one in which no permit is required to carry a concealed handgun. This is sometimes called Constitutional carry.

Among U.S. states, Alaska, Arizona, Arkansas, Vermont and Wyoming allow residents to carry a concealed firearm without a permit.^{[15][16][17]} These states also allow the open carry of a handgun without a permit.

Vermont does not have any provision for issue of concealed-carry licenses, as none has ever been necessary. As such, Vermont residents wishing to carry handguns in other states must acquire a license from a state which is valid in their destination. A popular choice is Florida's concealed handgun permit, which is valid for nonresident holders in 28 other states. Alaska, Arizona, and Wyoming all previously had concealed-carry license requirements prior to adoption of unrestricted carry laws, and continue to issue licenses on a "shall-issue" basis for the purposes of inter-state reciprocity (allowing residents of the state to travel to other states with a concealed weapon, abiding by that state's law).

In Montana, Utah, South Carolina, and New Hampshire, bills are being discussed that would allow unrestricted carry.^{[17][18][19][20]} Montana currently allows concealed carry without a permit in places outside of any incorporated municipality.

The Federal Gun Free School Zones Act limits where an unlicensed person may carry; carry of a weapon, openly or concealed, within 1000 feet of a school zone is prohibited, with exceptions granted in the Federal law to holders of valid State-issued weapons permits (State laws may reassert the illegality of school zone carry by license holders), and under LEOSA to current and honorably retired law enforcement officers (regardless of permit, usually trumping State law).

Shall-Issue

A Shall-Issue jurisdiction is one that requires a permit to carry a concealed handgun, but where the granting of such permits is subject only to meeting determinate criteria laid out in the law; the granting authority has no discretion in the awarding of the permits, and there is no requirement of the applicant to demonstrate "good cause". The laws in a Shall-Issue jurisdiction typically state that a granting authority *shall issue* a permit if the criteria are met, as opposed to laws in which the authority *may issue* a permit at their discretion.

Typical permit requirements include residency, minimum age, submitting fingerprints, passing a computerized instant background check (or a more comprehensive manual background check), attending a certified handgun/firearm safety class, passing a practical qualification demonstrating handgun proficiency, and paying a required fee. These requirements vary widely by jurisdiction, with some having few or none of these and others having most or all.

The following are undisputed Shall-Issue states: Alaska, Arizona, Arkansas, Colorado, Florida, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Mexico, North Carolina,^[1] North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee,^[1] Texas, Utah,^[1] Virginia, Washington, West Virginia, Wisconsin, and Wyoming.^[1]

Certain states and jurisdictions, while "may-issue" by law, direct their issuing authorities to issue permits to all or nearly all qualified applicants, and as such they are considered "shall-issue" in practice. Alabama, Connecticut, and certain cities and counties in California and New York are examples, with Connecticut having a two-tiered system of temporary (90-day) and permanent (5-year) licenses, the permanent licensing process considered to be shall-issue in practice. In Connecticut, issuance of the temporary permit from local authorities is not a prerequisite to obtain the regular permit; however one must apply for the temporary permit and wait for a decision from local authorities before applying for the regular permit. Normally, the regular permit is generally granted for applicants that meet statutory criteria regardless of whether the temporary permit is issued or denied.

May-Issue

A *May-Issue* jurisdiction is one that requires a permit to carry a concealed handgun, and where the granting of such permits is partially at the discretion of local authorities (frequently the sheriff's department or police), with a few states consolidating this discretionary power under state-level law enforcement. The law typically states that a granting authority "may issue" a permit if various criteria are met, or that the permit applicant must have "good cause" (or similar) to carry a concealed weapon. In most such situations, self-defense in and of itself oftentimes does not satisfy the "good cause" requirement.

The following are "may-issue" states: Alabama, California, Connecticut, Delaware, Hawaii, Maryland, Massachusetts, New Jersey, New York, and Rhode Island.

A state that is *de jure* a *May-Issue* jurisdiction may range anywhere from *Shall-Issue* to *No-Issue* in practice,^{[[21]} i.e., *Permissive May-Issue* to *Restrictive May-Issue*, based on each licensing authority's willingness to issue permits to applicants:

- Alabama, Connecticut and Delaware are regarded as *Permissive May-Issue* states, where the issuing authorities are generally directed by their superiors to approve applications that meet all non-discretionary criteria.
- Hawaii, Maryland, New Jersey, and Puerto Rico are considered *Restrictive May-Issue* states, where issuing authorities are directed to deny most or all applications, either based on hard-to-meet "good cause" requirements or agency policies specifically prohibiting issue. Additionally, Rhode Island (for state permits), Maryland and New Jersey require the applicant provide substantive evidence of a clear and immediate threat on their lives that exists outside of their home at the time the permit application is filed.
- California, Massachusetts, Rhode Island and New York vary within state; Inland California, rural portions of Massachusetts, and Upstate New York are Permissive, while the New York City, Boston, Los Angeles, and San Francisco metropolitan areas are Restrictive.
- Rhode Island state law is two-tier; local authorities are directed by state law and court precedent (*Archer v McGarry*) to practice shall-issue permitting policy, but the Attorney General's office has discretionary authority over state-issued permits (required for open carry in general and for concealed carry outside the resident's home jurisdiction), and some local jurisdictions, at the recommendation of the AG, still refer all applicants to the AG's office and the "may-issue" state-level system in violation of *Archer*.^[22]

In some *May-Issue* jurisdictions, permits are only issued to individuals with celebrity status, have political connections, or have a high degree of wealth.^{[23][24][25]} In some such cases, issuing authorities charge arbitrarily-defined fees that go well beyond the basic processing fee for a CCW permit, thereby making the CCW permit unaffordable to most applicants.

May-issue permitting policies are currently under legal challenge in California, Maryland and New York; the case of *Woollard v. Sheridan* was decided in favor of a Maryland resident who was denied a permit renewal due to lack of "good cause" in accordance with Maryland law. The 4th Circuit Court of Appeals overturned the District Court's previous ruling and reinstated Maryland's requirement for "good cause" on March 21, 2013; the plaintiffs in the case plan to appeal the circuit court's ruling to the United States Supreme Court. New York's similar "good cause" requirement is also under challenge in *Kachalsky v. Cacase*, currently pending *certiorari* before SCOTUS. Additionally, the case *Perulta v. County of San Diego* that is being heard by the Ninth Circuit U.S. Court of Appeals is challenging discretionary issue laws in California.

While members of the Armed Services receive extensive small arms training, United States Military installations have some of the most restrictive rules for the possession, transport, and carrying of personally-owned firearms in the country. Overall authority for carrying a personally-owned firearm on a military installation rests with the installation commander, although the authority to permit individuals to carry firearms on an installation is usually delegated to the Provost Marshal. Military installations do not recognize state-issued concealed carry permits, and state firearms laws generally do not apply to military bases, regardless of the state in which the installation is located. Federal law (18 USC, Section 930) generally forbids the possession, transport, and carrying of firearms on military installations without approval from the installation commander. Commanders are given wide discretion in establishing firearms policies for their respective installations, and installation policies can vary from *No-Issue* for most bases to *Shall-Issue* in rare circumstances. Installations that do allow the carrying of firearms typically restrict carrying to designated areas and for specific purposes (i.e., hunting or officially-sanctioned shooting competitions in approved locations on the installation). Installation commanders may require the applicant complete extensive firearms safety training, undergo a mental health evaluation, and obtain a letter of recommendation from his or her unit commander (or employer) before such authorization is granted. Personnel that reside on a military installation are typically required to store their personally-owned firearms in the installation armory, although the installation commander or provost marshal may permit a servicemember to store his or her personal firearms in their on-base dwelling if he or she has a gun safe or similarly-designed cabinet where the firearms can be secured. Prior to 2011, military commanders could impose firearms restrictions to servicemembers residing off-base, such as mandatory registration of firearms with the base Provost Marshal, restricting or banning the carrying of firearms by servicemembers either on or off the installation regardless of whether the member had a state permit to carry, and requiring servicemembers to have a gun safe or similar container to secure firearms when not in use. A provision was included in the National Defense Authorization Act for Fiscal Year 2011 that limited commanders' authority to impose restrictions on the possession and use of firearms by servicemembers who reside off-base.

No-Issue

A *No-Issue* jurisdiction is one that – with very limited exceptions – does not allow any private citizen to carry a concealed handgun in public. The term refers to the fact that no concealed carry permits will be issued (or recognized).

Illinois and the District of Columbia are *No-Issue* jurisdictions by law, and forbid both open and concealed carry except under a very limited set of circumstances. In practice, the situation for concealed carry in Illinois is less clear, as a growing number of rural counties in Illinois are refusing to enforce the statewide ban on firearms carry, thereby creating de-facto *Unrestricted* counties alongside local jurisdictions that enforce the state's ban on concealed carry. The District of Columbia recently lost a Supreme Court case relating to restrictions on ownership and possession of firearms (*District of Columbia v. Heller*), however, the case did not specifically address the question of public carry, either open or concealed. And in December 2012, the Seventh Circuit Court of Appeals ruled in the case of *Moore v. Madigan* that the right to self-defense is "broader than the right to have a gun in one's home." With Judge Richard Posner writing for the majority, the court gave the Illinois legislature 180 days to "craft a new gun law that will impose reasonable limitations, consistent with the public safety and the Second Amendment ... on the carrying of guns in public." Notwithstanding enactment of a concealed carry law or a future court order concerning firearms

carry, Illinois will technically become an "Unrestricted" carry state on June 9, 2013.^[26] While technically *May-Issue* under state law, Hawaii, Maryland, New Jersey, and certain cities and counties within California and New York are *No-Issue* jurisdictions in practice, with governmental policy directing officials with discretionary power to rarely or never issue licenses.

Limitations on CCW Permits

Most *May-Issue* jurisdictions, and even a few *Shall-Issue* jurisdictions allow issuing authorities to impose limitations on CCW permits, such as the type and caliber of handguns that may be carried (Texas, Massachusetts, New Mexico), restrictions on places where the permit is valid (New York, Rhode Island), limitations on magazine size (Massachusetts, New York), or limitations on the number of firearms that may be carried concealed by a permit-holder at any given time.

Training requirements

Some states require concealed carry applicants to certify their proficiency with a firearm through some type of training or instruction. Certain training courses developed by the National Rifle Association that combine classroom and live-fire instruction typically meet most state training requirements. Some states recognize prior military or police service as meeting training requirements.^[27]

Classroom instruction would typically include firearm mechanics and terminology, cleaning and maintenance of a firearm, concealed carry legislation and limitations, liability issues, carry methods and safety, home defense, methods for managing and defusing confrontational situations, and practice of gun handling techniques without firing the weapon. Most required CCW training courses devote a considerable amount of time to liability issues.

Depending on the state, a practical component during which the attendee shoots the weapon for the purpose of demonstrating safety and proficiency, may be required. During range instruction, applicants would typically learn and demonstrate safe handling and operation of a firearm and accurate shooting from common self-defense distances. Some states require a certain proficiency to receive a passing grade, whereas other states (e.g., Florida) technically require only a single-shot be fired to demonstrate handgun handling proficiency.

CCW training courses are typically completed in a single day and are good for a set period, the exact duration varying by state. Some states require re-training, sometimes in a shorter, simpler format, for each renewal. An example of a training organization is the Midwest Carry Academy which specializes in practical shooting and defensive training.

A few states, e.g., South Carolina, recognize the safety and use-of-force training given to military personnel as acceptable in lieu of formal civilian training certification. Such states will ask for a military ID (South Carolina) for active persons or DD214 for honorably discharged persons. These few states will commonly request a copy of the applicant's BTR (Basic Training Record) proving an up-to-date pistol qualification. Active and retired law enforcement officers are generally exempt from qualification requirements, due to a federal statute permitting retired law enforcement officers to carry concealed weapons in the United States.^[28]

Virginia recognizes eight specific training options to prove competency in handgun handling, ranging from DD214 for honorably discharged military veterans, to certification from law enforcement training, to firearms training conducted by a state or NRA certified firearms instructor including electronic, video, or on-line courses. While any one of the eight listed options will be considered adequate proof, individual circuit courts may recognize other training options.^[27]

Reciprocity

Many jurisdictions have established arrangements where they recognize or honor permits or licenses issued by other jurisdictions with comparable standards, for instance in regard to marriage or driver's licenses. This is known as Reciprocity and is based on U.S. Constitution "full faith and credit" provision.^[29] Due to the nature of gun politics, reciprocity in regard to weapons carry permits or licenses has been controversial.

Reciprocal recognition of concealed carry privileges and rights vary state-to-state, are negotiated between individual states, and sometimes additionally depend on the residency status of the license holder.^[1] While 37 states have reciprocity agreements with at least one other state and several states honor all out-of-state concealed carry permits, some states have special requirements like training courses or safety exams, and therefore do not honor permits from states that do not have such requirements for issue. Some states make exceptions for persons under the minimum age (usually 21) if they are active or honorably-discharged members of the military or a police force (the second of these two is allowed under Federal law). States that do not have this exemption generally do not recognize any license from states that do. An example of this is the State of Washington's refusal to honor any Texas CHL as Texas has the military exception to age.^[30]

Florida (Resident), Michigan and Missouri hold the widest reciprocity of all the states in the U.S. with the number of other states honoring their permits at 37,^{[31][32]} followed by Alaska at 35^[33] then Florida (Non-Resident) and Utah at 33,^{[34][35]} Both Michigan and Missouri, however, do not issue permits to non-residents, and some states that honor Utah permits do *not* extend that to include Utah's non-resident permits. Also, effective May 10, 2011, Utah requires that non-resident applicants, who reside in states that have reciprocity with Utah, must first obtain the CCW permit from their state of residence before applying for the Utah permit.^[36]

Although carry may be legal under State law in accordance with reciprocity agreements, the Federal Gun Free School Zones Act subjects an out-of-state permit holder to federal felony prosecution if they carry a firearm within 1000 feet of any K-12 school's property line.

Restricted Premises

While generally a concealed carry permit allows the permit holder to carry a concealed weapon in public, a state may restrict carry of a firearm including a permitted concealed weapon while in or on certain properties, facilities or types of businesses that are otherwise open to the public. These areas vary by state (except for the first item below; Federal offices are subject to superseding Federal law) and can include:

- **Federal government facilities**, including post offices, IRS offices, federal court buildings, military/VA facilities and/or correctional facilities, AmTrak trains and facilities, and Corps of Engineers-controlled property (carry in these places is prohibited by Federal law and preempts any existing State law). Carry on land controlled by the Bureau of Land Management (federal parks and wildlife preserves) is allowed by Federal law as of the 2009 CARD Act, but is still subject to State law. However, carry into restrooms or any other buildings or structures located within federal parks is illegal in the United States, despite concealed carry being otherwise legal in federal parks with a permit recognized by the state in which the federal park is located. Similarly, concealed carry into caves located within federal parks is illegal.
- **State government facilities**, including courthouses, DMV/DoT offices, police stations, correctional facilities, and/or meeting places of government entities (exceptions may be made for certain persons working in these facilities such as judges, lawyers, and certain government officials both elected and appointed)
- **Venues for political events**, including rallies, parades, debates, and/or polling places
- **Educational institutions** including elementary/secondary schools and colleges. Some states have "drop-off exceptions" which only prohibit carry inside school buildings, or permit carry while inside a personal vehicle on school property. Utah & Colorado currently do not restrict concealed weapons (in hands of permit holders) on State Universities and College Campuses. Utah also allows permit holders to carry handguns in elementary/secondary schools.^[37]

- **Public interscholastic and/or professional sporting events** and/or venues (sometimes only during a time window surrounding such an event)
- **Amusement parks, fairs, parades and/or carnivals**
- **Businesses that sell alcohol** (sometimes only "by-the-drink" sellers like restaurants, sometimes only establishments defined as a "bar" or "nightclub")
- **Hospitals** (even if hospitals themselves are not restricted, "teaching hospitals" partnered with a medical school are sometimes considered "educational institutions"; exceptions are sometimes made for medical professionals working in these facilities)
- **Churches**, mosques and other "Houses of worship," usually at the discretion of the church clergy (Ohio allows with specific permission of house of worship)
- **Municipal mass transit vehicles or facilities**
- **Sterile areas of airports**

"Opt-Out" statutes ("gun-free zones")

Arizona, Arkansas, Connecticut, Kansas, Louisiana, Michigan, Minnesota, Missouri, Nebraska,^[38] Nevada, New Mexico, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and Wisconsin all allow private businesses to post a specific sign (language and format vary by state) prohibiting concealed carry, violation of which, in some of these states, is grounds for revocation of the offender's concealed carry permit and criminal prosecution. Other states, such as Virginia, enforce only trespassing laws when a person violates a "Gun Free Zone" sign. By posting the signs, businesses create areas where it is illegal to carry a concealed handgun similar to regulations concerning schools, hospitals, and public gatherings. In addition to signage, virtually all jurisdictions allow some form of oral communication by the lawful owner or controller of the property that a person is not welcome and should leave. This notice can be given to anyone for any reason (except for statuses that are protected by the Federal Civil Rights Act of 1964 and other CRAs, such as race), including due to the carrying of firearms by that person, and refusal to heed such a request to leave may constitute trespassing. In some jurisdictions trespass by a person carrying a firearm may have more severe penalties than "simple" trespass, while in other jurisdictions, penalties are lower than for trespass.^[39]

There is considerable dispute over the effectiveness of such "gun-free zones". Opponents of such measures, such as OpenCarry.org, state that, much like other *malum prohibitum* laws banning gun-related practices, only law-abiding individuals will heed the signage and disarm. Individuals or groups intent on committing far more serious crimes, such as armed robbery or murder, will not be deterred by signage prohibiting weapons. Further, the reasoning follows that those wishing to commit mass murder might *intentionally* choose gun-free venues like shopping malls, schools and churches (where weapons carry is generally prohibited by statute or signage) because the population inside is disarmed and thus less able to stop them.

In some states, business owners have been documented posting signs that appear to prohibit guns, but legally do not because the signs do not meet local or state laws defining required appearance, placement, or wording of signage. Such signage can be posted out of ignorance to the law, or intent to pacify gun control advocates while not actually prohibiting the practice. The force of law behind a non-compliant sign varies based on state statutes and case law. Some states interpret their statutes' high level of specification of signage as evidence that the signage must meet the specification exactly, and any quantifiable deviation from the statute makes the sign non-binding. Other states have decided in case law that if efforts were made in good faith to conform to the statutes, the sign carries the force of law even if it fails to meet current specification. Still others have such lax descriptions of what is a valid sign that virtually any sign that can be interpreted as "no guns allowed" is binding on the license holder.

Federal law

Gun Control Act of 1968

The Gun Control Act passed by Congress in 1968 lists felons, illegal aliens, and other codified persons as prohibited from purchasing or possessing firearms. During the application process for concealed carry states carry out thorough background checks to prevent these individuals from obtaining permits. Additionally the Brady Handgun Violence Prevention Act created an FBI maintained system in 1994 for instantly checking the backgrounds of potential firearms buyers in an effort to prevent these individuals from obtaining weapons.

Law Enforcement Officer's Safety Act

In 2004, the United States Congress enacted the Law Enforcement Officers Safety Act, 18 U.S. Code 926B and 926C. This federal law allows two classes of persons – the "qualified law enforcement officer" and the "qualified retired law enforcement officer" - to carry a concealed firearm in any jurisdiction in the United States, regardless of any state or local law to the contrary, with certain exceptions.

Federal Gun Free School Zones Act

The Federal Gun Free School Zone Act limits where a person may legally carry a firearm. It does this by making it generally unlawful for an armed citizen to be within 1000 feet (extending out from the property lines) of a place that the individual knows, or has reasonable cause to believe, is a K-12 school. Although a State-issued carry permit may exempt a person from this restriction in the State that physically issued their permit, it does not exempt them in other States which recognize their permit under reciprocity agreements made with the issuing State. The law's failure to provide adequate protection to LEOSA qualified officers, licensed concealed carry permit holders, and other armed citizens, is an issue that the United States Congress so far has not addressed.

Federal property

Some federal statutes restrict the carrying of firearms on the premises of certain Federal properties such as military installations or land controlled by the USACE.^[40]

National park carry

On May 22, 2009, President Barack Obama signed H.R. 627, the "Credit Card Accountability Responsibility and Disclosure Act of 2009," into law. The bill contained an amendment introduced by Senator Tom Coburn (R-OK) that prohibits the Secretary of the Interior from enacting or enforcing any regulations that restrict possession of firearms in National Parks or Wildlife Refuges, as long as the person complies with laws of the state in which the unit is found.^[41] This provision was supported by the National Rifle Association and opposed by the Brady Campaign to Prevent Gun Violence, the National Parks Conservation Association, and the Coalition of National Park Service Retirees, among other organizations.^{[42][43]} As of February 2010 concealed handguns are for the first time legal in all but 3 of the nation's 391 national parks and wildlife refuges so long as all applicable federal, state, and local regulations are adhered to.^[44] Hawaii is a notable exception. Concealed and open carry are both illegal in Hawaii for all except retired military or law enforcement personnel. Previously firearms were allowed into parks non-concealed and unloaded.

Full faith and credit (CCW permits)

Attempts were made in the 110th Congress, United States House of Representatives (H.R. 226) and the United States Senate (S. 388), to enact legislation to compel complete reciprocity for concealed carry licenses. Opponents of national reciprocity have pointed out that this legislation would effectively require states with more restrictive standards of permit issuance (e.g., training courses, safety exams, "good cause" requirements, et al.) to honor permits from states with more liberal issuance policies. Supporters have pointed out that the same situation already occurs with marriage licenses, adoption decrees and other state documents under the "full faith and credit" clause of the Constitution.^[45] Some states have already adopted a "full faith and credit" policy treating out-of-state carry permits the same as driver's license or marriage license without federal legislation mandating such a policy.^[46]

Legal issues

Court rulings

Prior to the 1897 supreme court case *Robertson v. Baldwin*^[47], the federal courts had been silent on the issue of concealed carry. In the dicta from a maritime law case the Supreme Court commented that state laws restricting concealed weapons do not infringe upon the right to bear arms protected by the Federal Second Amendment.^[1]

In the majority decision in the 2008 Supreme Court case of *District of Columbia v. Heller*, Justice Antonin Scalia wrote;

"Like most rights, the Second Amendment right is not unlimited. It is not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose: For example, concealed weapons prohibitions have been upheld under the Amendment or state analogues ... The majority of the 19th-century courts to consider the question held that prohibitions on carrying concealed weapons were lawful under the Second Amendment or state analogues."^[48]

Heller was a landmark case because for the first time in United States history a Supreme Court decision defined the right to bear arms as constitutionally guaranteed to private citizens rather than a right restricted to "well regulated militia[s]". The Justices asserted that sensible restrictions on the right to bear arms are constitutional, however, an outright ban on a specific type of firearm, in this case handguns, was in fact unconstitutional. The decision is limited because it only applies to federal enclaves such as the District of Columbia.

On June 28, 2010, the U.S. Supreme Court struck down the handgun ban enacted by the city of Chicago, Illinois, in *McDonald v. Chicago*, effectively extending the *Heller* decision to states and local governments nationwide.^[49] Banning handguns in any jurisdiction has the effect of rendering invalid any licensed individual's right to carry concealed in that area except for federally exempted retired and current law enforcement officers and other government employees acting in the discharge of their official duties.

Legal liability

Even when self-defense is justified, there can be serious civil or criminal liabilities related to self-defense when a concealed carry permit holder brandishes or fires his/her weapon. For example, if innocent bystanders are hurt or killed, there could be both civil and criminal liabilities even if the use of deadly force was completely justified.^{[50][51]} Some states technically allow an assailant who is shot by a gun owner to bring civil action. In some states, liability is present when a resident brandishes the weapon, threatens use, or exacerbates a volatile situation, or when the resident is carrying while intoxicated. It is important to note that simply pointing a firearm at any person constitutes felony assault with a deadly weapon unless circumstances validate a demonstration of force. A majority of states who allow concealed carry, however, forbid suits being brought in such cases, either by barring lawsuits for damages resulting from a criminal act on the part of the plaintiff, or by granting the gun owner immunity from such a civil suit if it is found that he or she was justified in shooting.

Simultaneously, increased passage of "Castle Doctrine" laws allow persons who own firearms and/or carry them concealed to use them without first attempting to retreat. The "Castle Doctrine" typically applies to situations within the confines of one's own home.^[52] Nevertheless many states have adopted escalation of force laws along with provisions for concealed carry. These include the necessity to first verbally warn a trespasser or lay hands on a trespasser before a shooting is justified (unless the trespasser is armed or assumed to be so). This escalation of force does not apply if the shooter reasonably believes a violent felony has been or is about to be committed on the property by the trespasser. Additionally some states have a duty to retreat provision which requires a permit holder, especially in public places, to vacate him or herself from a potentially dangerous situation before resorting to deadly force. The duty to retreat does not restrictively apply in a person's home or business though escalation of force may be required. In 1895 the Supreme Court ruled in *Beard v. U.S.* that if an individual does not provoke an assault and is residing in a place they have a right to be then they may use considerable force against someone they reasonably believe may do them serious harm without being charged with murder or manslaughter should that person be killed.^[53] However in all states except for Texas lethal force is not justifiable solely for the purpose of defending property.^[54] In those 49 states, lethal force is only authorized when serious harm is presumed to be imminent.

Even given these relaxed restrictions on use of force, using a handgun must still be a last resort in some jurisdictions; meaning the user must reasonably believe that nothing short of deadly force will protect the life or property at stake in a situation. Additionally, civil liabilities for errors that cause harm to others still exist, although civil immunity is provided in the Castle Doctrine laws of some states (e.g., Texas).^[55]

Penalties for carrying illegally

Based on state law, the penalty for illegally carrying a firearm varies widely throughout the United States, ranging from a petty misdemeanor punishable by a fine, to a felony conviction and mandatory incarceration, depending on the state. Similarly, actual enforcement of laws restricting or prohibiting open or concealed carry also varies greatly between localities. Authorities in jurisdictions that favor strong gun control policies will typically prosecute people for the mere fact they were carrying a firearm in an unlawful manner, regardless of actual intent. In jurisdictions that favor individual gun rights, authorities will typically not prosecute someone for illegally carrying a firearm, unless the individual clearly demonstrates some form of malicious intent. Typical policies that are used to determine who can legally carry concealed weapons are a prohibition of concealed carry, discretionary licensing, non-discretionary licensing, minimum age requirements (e.g., 18 or 21 years), successful completion of an instructor-led course, and marksmanship/handling qualification on a firing range. Less common is unregulated, legal concealed carry such as in Vermont, Alaska, Arizona, Wyoming, and unincorporated rural areas of Montana.

In the United States no convicted felon may purchase, transfer, or otherwise be in the possession of any firearm.^[56] Illegally concealing a handgun is a felony in many states therefore conviction of such a crime would automatically result in the forfeiture of a citizen's gun rights for life nationwide.^{[57][58]} Additional state penalties for unlawful carry of a concealed firearm can be severe with punishments including expensive fines, extended jail time, loss of voting rights, and even passport cancellation.^[59] A federal penalty of ten years in prison has been enacted for those found to be in possession of either firearms or ammunition while subject to a protection or restraining order.^[60] Such an order is grounds for the revocation of any concealed carry permit and the outright denial of any person's new application while the order is active. Weapon possession, in the context of concealed weapons, is a crime of that circumstance in which a person who is not legally authorized to carry a concealed weapon is found in possession of such a weapon. In the United States this can be interpreted as the possession of a firearm by a person legally disqualified from doing so under the Gun Control Act. These prohibited individuals include those who have been dishonorably discharged from the military, those who have been convicted of misdemeanor domestic violence, unlawful immigrant aliens, and individuals who have renounced their United States citizenship. None of these individuals are eligible for concealed weapons permits and may be punished not only for unlawful concealed carry of a handgun but for unlawful possession of a firearm.^{[61][62][63][64]} Depending on state law, it can apply to concealed carry of otherwise illegal knives such as stiletos, dirks or switchblades.^{[65][66][67]}

Citizens holding concealed carry permits may be prosecuted for failing to adhere to state and federal rules and regulations concerning the lawful exercise of carrying a concealed weapon. Some states do not allow the carrying of more than one concealed firearm by permit holders. Concealing two handguns, for example, might constitute a violation of law resulting in permit revocation or criminal charges. Carrying a handgun in the glove box of a vehicle, though commonly regarded as safe and legal, is considered illegal concealment in some states and could be punishable as a felony offense among non-permit holders.^[68] When arrested for any firearms offense the weapon(s) in question will be confiscated and could be destroyed upon conviction.^[1] While legally carrying concealed outside of one's particular state of residence, such as in a state which grants reciprocity to the bearer's permit, he or she must comply with all regulations in the state in which they are currently carrying even if those rules and regulations differ from those of the individual's permit issuing state. Some states require that a person carrying a concealed weapon immediately declare this fact to any law enforcement officer they may encounter in the line of their official duties.^[69] This provision most commonly applies to traffic stops and police questioning but is required upon approach of an officer by the person who is carrying concealed.^[70] Failure to comply with this provision is an arrestable misdemeanor and additionally may require the mandatory revocation of the licensee's permit. However simply passing an officer on the street, even at close distance, does not generally require the declaration of a concealed weapon. Carry of a concealed weapon by a licensed individual where prohibited is generally referred to as illegal weapon possession. In some states, no person may be in the public possession of a firearm while under the intoxicating effects of narcotics (whether prescribed or otherwise) or alcohol (usually defined as .01% BAC but up to .05% BAC in some areas).^{[71][72]}

Even in localities where concealed carrying is permitted, there may be legal restrictions on where a person may carry a concealed weapon unless state law overrides a business posting that no firearms are allowed.

The city of Chicago, Illinois as well as the District of Columbia had previously banned handguns completely within their respective jurisdictions. However, two recent Supreme Court cases have effectively deemed those statutes to be illegal (see above).^[73]

Lastly, some states regulate which firearms may be concealed by a particular permit holder. Texas, for example, differentiates between semi-automatic and non-semi-automatic firearms, and an "NSA"-class permit holder cannot carry an autoloading handgun (restricting them largely to revolvers).^[74] Texans who qualify with a revolver are only allowed to carry a revolver; if they qualify with a semi-automatic, they can carry either a semi-automatic or a revolver.^[75] Other restrictions seen in certain states include restricting the user to a gun no more powerful than they used when qualifying, or to one or more specific guns specified by the permit holder when applying. New York prohibits certain specific makes and models of pistols (mostly Saturday Night Specials) and will not issue a permit for those specific weapons^[citation needed]. Maryland has banned Saturday Night Specials completely.^[76] Other states ban the carrying of handguns with large-capacity magazines. In most states, though, a CCW permit holder is limited only by what they can conceal while wearing particular clothing.

Research on the efficacy of concealed carry

In Florida, which in 1987 introduced the "shall-issue" concealed carry law used as a model for other states, one study found that crimes committed against residents dropped markedly upon the general issuance of concealed-carry licenses.^[77] However, another study suggests that in most states with shall-issue laws, there were increases in crime of all types.^[1]

In a 1998 book, *More Guns, Less Crime*, economics researcher John Lott's analysis of crime report data claims a statistically significant effect of concealed carry laws on crime, with more permissive concealed carry laws correlated with a decrease in overall crime. Lott studied FBI crime statistics from 1977 to 1993 and found that the passage of concealed carry laws resulted in a murder rate decrease of 8.5%, rape rate decrease of 5%, and aggravated assault reduction of 7%.^[1]

In a 2003 article, Yale Law professors John J. Donohue III and Ian Ayres have claimed that Lott's conclusions were largely the result of a limited data set and that re-running Lott's tests with more complete data (and nesting the separate Lott and Mustard level and trend econometric models to create a hybrid model simultaneously calculating level and trend) yielded none of the results Lott claimed.^[77] However Lott has recently updated his findings with further evidence. According to the FBI, during the first year of the Obama administration the national murder rate declined by 7.4% along with other categories of crime which fell by significant percentages.^[78] During that same time national gun sales increased dramatically. According to Mr. Lott 450,000 more people bought guns in November 2008 than November 2007 which represents a 40% increase in sales, a trend which continued throughout 2009.^[79] The drop in the murder rate was the biggest one-year drop since 1999, another year when gun sales soared in the wake of increased calls for gun control as a result of the Columbine shooting.^[80]

In an interview by *The Chronicle of Higher Education*, Ayres and Donohue stated that "There are many factors that people might weigh in deciding whether to pass these laws or not, but this idea that there is a statistical basis for thinking that these laws will reduce crime simply is not true." When asked about Lott's response to their work, Donohue states: "There's really nothing they can say, It's sort of like we caught them failing to carry the 1." He later went on to acknowledge that, "Mr. Lott's research has convinced his peers of at least one point: No scholars now claim that legalizing concealed weapons causes a major *increase* in crime." ^[81]

The National Research Council, the working arm of the National Academy of Sciences, claims to have found "no credible evidence" either supporting or disproving Lott's thesis.^[79] However, James Q. Wilson wrote a dissenting opinion in which he argued that all of the Committee's own estimates confirmed Lott's finding that right-to-carry laws had decreased the murder rate and most of Lott's statistical analysis was inscrutable and survive virtually every reanalysis done by the committee.^[80] On the Ayres and Donohue hybrid model showing more guns-more crime, the NAS panel stated: "The committee takes no position on whether the hybrid model provides a correct description of crime levels or the effects of right-to-carry laws."^[81] In an article for *ALER*, Donohue claimed the NRC results published from the hybrid model "could not be replicated on its data set".^[82] Lott replicated the NRC's results using the NRC's copy of the Ayres & Donohue model and data set, pointing out that the model used for the *ALER* article was different and introduced a truncation bias.^[83]

A 2008 article by Carlisle E. Moody and Thomas B. Marvell uses a more extensive data set and projects effects of the Ayres and Donohue hybrid model beyond a five-year span. Though their data set renders an apparent reduction in the cost of crime, Donohue and Ayres point out that the cost of crime increased in 23 of the 24 jurisdictions under scrutiny. Florida was the only jurisdiction showing positive effects from Shall-Issue Laws. Donohue and Ayres question the special case of Florida as well.^[84]

Using publicly available media reports, the Violence Policy Center claims that from May 2007 through the end of 2009, concealed carry permit holders in the U.S. have killed at least 117 individuals, including 9 law enforcement officers (excluding cases where individuals were acquitted, but including pending cases). There were about 25,000 murders by firearm that period,^{[85][86]} meaning that concealed carry permit holders committed less than 0.01% of the murders by firearm. Furthermore, a large number of the victims were killed in extended suicides, most of which took place in the home of the shooter, where arms can be possessed without special permits. VPC also includes in its numbers several homicides using only long guns and several instances of accidental discharge.^[87]

According to FBI Uniform Crime Reports (UCR), in 2011 there were 12,664 murders and 653 justifiable homicides (of which 393 were performed by law enforcement) in the United States. Over previous years this reflects a decline in criminal homicide and an increase in homicides reported as justifiable (for 2008 UCR listed 14,180 murders, 616 justifiable homicides (of which 371 were by law enforcement). The UCR states that the justifiable homicide statistic does not represent eventual adjudication by medical examiner, coroner, district attorney, grand jury, trial jury or appellate court.^[88] Few US jurisdictions allow a police crime report to adjudicate a homicide as justifiable and in any given year fifteen to twenty states do not report such statistics to FBI UCR, resulting in an undercount in the UCR table. The vast majority of defensive gun uses (DGUs) do not involve killing or wounding an attacker, with

government surveys showing 108,000 (NCVS) to 23 million (raw NSPOF) DGUs per year,^[89] with ten private national surveys showing 764,000 to 3.6 million DGU per year.^[90]

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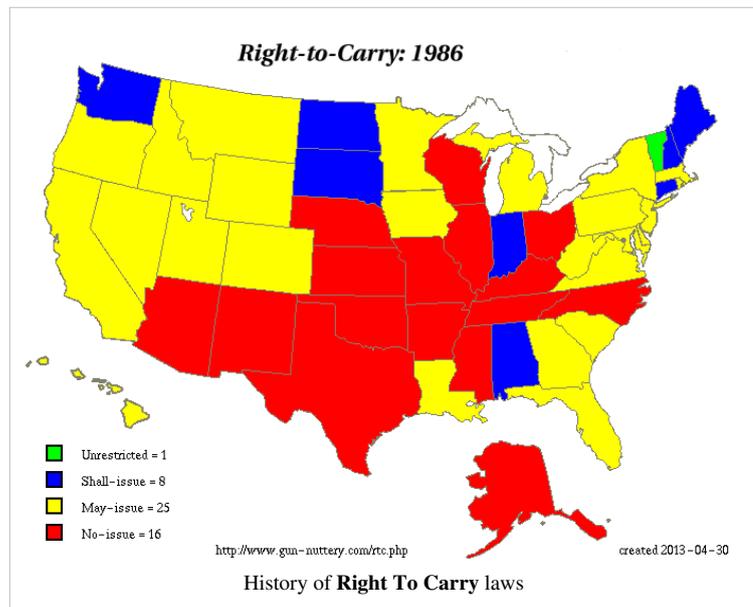
Constitutional Carry

Constitutional Carry is a situation within a jurisdiction in which the carrying of concealed firearms is generally not restricted by the law. When a state or other jurisdiction has adopted Constitutional Carry, it is legal for law-abiding citizens to carry a handgun, firearm, or other weapon concealed with or without an applicable permit or license. The scope and applicability of such laws or proposed legislation can vary from state to state.

U.S. States which have implemented Constitutional Carry

Vermont

For many decades, the only state to allow "Constitutional Carry" of a handgun (i.e. without any government permit) was Vermont. From the formation of the 13 original states, "constitutional carry" was the law in all states until the 1800s. By the 20th century, all states except Vermont had enacted concealed carry bans, with the exemption in most states for those citizens with a permit. Due to it's tightly worded state constitution, Vermont has never been able to have a restriction on the method of how one could carry a firearm, and thus, in this regard, Vermont stood entirely separate from the rest of the United States for quite some time. Because of this, Constitutional Carry is still referred to by some as "Vermont carry".



Alaska

On June 11, 2003, Alaska Governor Frank Murkowski signed House Bill 102 which removed the requirement to obtain a concealed weapons permit in order to carry a concealed firearm. The law went into effect September 9, 2003.

- Alaska law allows police officers to disarm citizens if the officer feels it's necessary for safety. However it has become a widespread practice for the police to temporarily confiscate firearms and run the numbers through a local and national database even though the law does not specifically provide for this.

Arizona

On April 16, 2010, Arizona Governor Jan Brewer signed Senate Bill 1108 which acted similarly to Alaska's bill.^[1] The law went into effect July 29, 2010.

Wyoming

On March 2, 2011 Wyoming Governor Matt Mead signed legislation to allow Constitutional Carry.^{[2][3]} The law officially went into effect on July 1, 2011. Under the law residents can carry concealed or openly without a permit but visitors to the state must have a valid concealed carry permit from a jurisdiction that is recognized by the State of Wyoming.

- While Wyoming does have the resident limitation it is similar to Vermont in that the police may not disarm a citizen just because they "feel" it's necessary.

Arkansas

On April 4, 2013 Arkansas Governor Mike Beebe signed legislation to allow Constitutional Carry.^{[4][5]} The law decriminalizes the carry of handguns for self-defense purposes, and puts the burden upon a prosecutor to prove criminal intent of a person carrying a handgun. Also, there are no specifications whether a legally carried handgun should be carried openly or concealed; thus it is considered Constitutional Carry. This law will go into effect in July 2013.

Idaho (parts of)

Idaho allows Constitutional Carry within a person's place of abode, fixed place of business, or on property which a person has ownership or leasehold interest.^[6] Additionally, a person may carry a concealed weapon without a license when outside of city limits and when not in a vehicle.^[7] A firearm may be legally concealed when in a vehicle, either inside or outside city limits, as long as the firearm is disassembled or unloaded.^[8]

Montana (parts of)

In addition to Montana's concealed weapons permit system, state law allows for Constitutional Carry through an exemption to the ban on carrying concealed weapons outside the official boundaries of a city or town.^[9] In 2011 Montana HB 271 was vetoed by Governor Brian Schweitzer (D) which would have expanded it to all areas of the state.^[10]

Illinois (parts of)

Illinois has no state preemption of local laws, which mean individual counties may exempt themselves completely from state restrictions. Several county district attorneys have stated that they will no longer enforce state concealed carry restrictions. This effectively means that these counties have constitutional carry. Extreme caution is urged however as gun attitudes vary wildly by county, from pro-gun attitudes in rural counties to extremely anti-gun attitudes in urban counties such as Cook County (Chicago). Anyone considering concealed carry in Illinois is urged

to determine the specific laws in the county in which they plan to carry.

New Mexico (unloaded)

Under New Mexican law a person may carry a concealed weapon without a permit so long as the gun is unloaded. It is perfectly legal to carry ammunition as well as a loaded magazine so long as it's not inserted into the weapon. This method of concealed carry has additional restrictions not found in permitted carry such as all the same restrictions that apply to open carry.

U.S. States considering Constitutional Carry

Louisiana

In 2012 both houses of the Louisiana legislature passed a constitutional amendment that would limit the government's capacity to regulate firearms, this could lead to the elimination of the requirement for a permit in order to carry a firearm concealed, as well as many other state and local restrictions on firearms except for local and parish discharge laws. On November 6, 2012 Louisiana adopted the Amendment. Act 874 (SB 303) with 73.46% supporting the measure(1333276 votes yes, 481703 voted no). The new law takes effect in January.^[11]

The amendment supersedes previous language that expressly allows for the regulation of concealed carry and requires strict scrutiny of additional firearms restrictions. Louisiana state law currently requires a permit to carry a firearm concealed. If overturned by a future state supreme court ruling, Louisiana would become the de facto fifth Constitutional Carry state.^[12]

Kentucky

Legislation was introduced in Kentucky to allow Constitutional Carry in early 2011. Representative Mike Harmon introduced that bill in 2011. That bill failed to get out of committee. In early 2012 Rep. Harmon introduced a similar, but more comprehensive bill with several cosponsors. That bill has yet to be voted on.

Colorado

Legislation was introduced in Colorado to allow Constitutional Carry in early 2011. The bill passed the House with a vote of 40-25 but did not move in the Senate. Currently Colorado issues CCWs on a shall-issue basis and open carry is legal without a permit.^[13] The Colorado Legislature begins its 2012 session on January 11.

Iowa

Both a bill^[14] and a constitutional amendment^[15] were introduced in Iowa to allow constitutional carry. Currently Iowa issues concealed-carry weapons permits on a shall-issue basis. Open carry is legal with a permit in cities, outside of cities no permit is required.

Georgia

Legislation was introduced in Georgia^[16] to allow Constitutional Carry. Currently Georgia issues concealed carry weapons permits on a shall-issue basis and open carry is only legal with a permit.

New Hampshire

Two competing bills have been introduced in New Hampshire in 2011 which would implement Constitutional Carry. On March 15, 2011 HB330 passed out of the House.^[17]

On January 5, 2012 the New Hampshire house moved forward with an amended version of HF 536 as well.^[18] Constitutional Carry is now before the State Senate, Governor John Lynch has expressed his opposition to the bill.^[19]

New Hampshire currently issues concealed carry "pistol & revolver" licenses on a shall-issue basis and open carry is legal without a license.^[20]

Ohio

The current version of Constitutional Carry is HB 256.^[21] Vermont style carry has been proposed several times in Ohio, going back to 1995.^[22]

Pennsylvania

HB 2176 was introduced in Pennsylvania in March 2012 to allow constitutional carry.^[23] Representative Rick Saccone introduced that bill. Currently Pennsylvania issues license to carry firearms (LTCF) on a shall-issue basis and open carry is legal on foot in Pennsylvania everywhere except for the City of Philadelphia. In order to carry a loaded firearm (open or concealed) in a vehicle; in the City of Philadelphia; or off of your residential or business property during a declared state of emergency, you must possess a LTCF. This legislation would remove all of these restrictions as well.

South Carolina

Legislation was introduced in South Carolina in early 2012 to allow constitutional carry. Currently South Carolina issues concealed carry weapons on a shall-issue basis and open carry is illegal.^[24]

South Dakota

Legislation was introduced in South Dakota in 2012 that would remove the penalty for carrying a concealed handgun without a permit. The Bill is HF 1015.^[25]

Tennessee

Legislation was introduced in Tennessee early in 2011 to allow Constitutional Carry.

Bill Summary

This bill authorizes any resident of Tennessee who is a United States citizen or permanent lawful resident, who has reached 21 years of age, and who is not prohibited from purchasing or possessing a firearm under state or federal law, to carry a firearm in this state except as otherwise prohibited by law. A handgun carry permit would not be required to carry a handgun in this state if a person meets these requirements. A resident of this state who is so authorized to carry a handgun may carry a handgun in any other state with which this state has entered into an agreement of reciprocity for handgun permits.^[26]

Currently Tennessee issues Handgun Carry Permits on a shall-issue basis. Concealed or open carry is only legal with a permit.^[27]

Virginia

Legislation was introduced in Virginia, HF 139, to allow Constitutional Carry in early 2012. The bill provides that any person who may lawfully possess a firearm in Virginia may carry it hidden from common observation.^[28] In 2011 HB 2069 was left in the Militia, Police, and Public Safety subcommittee.^[29] Open carry in Virginia without a permit is already legal as long as the firearm holds less than 20 rounds or if a shotgun less than 7 rounds.^[1]

North Carolina

Legislation was introduced in North Carolina to allow Constitutional Carry on March 25, 2013. The Enabling Heros Act of 2013 was introduced by Jeff Tarte, Shirley B. Randleman, Andrew C. Brock. The Bill is S410.^[30]

That bill has yet to be voted on.

U.S. States with legislation that did not become law

Montana

Montana introduced a bill early in 2011 to allow constitutional carry. The bill passed the House with a vote of 55-45, and passed the Senate with a vote of 29-21.^{[31][32]} Montana HB 271 was vetoed by Governor Brian Schweitzer on May 10, 2011^[10] and was unable to gather the necessary 2/3 majority to overturn the veto.^[33] Montana is currently a shall-issue state for concealed weapon permits and open carry is legal without a permit.^[34]

Idaho

Idaho introduced a bill early in 2011 to allow constitutional carry. Currently Idaho issues CCWs on a shall-issue basis and open carry is legal without a permit.^[35]

Kentucky

Kentucky representative Mike Harmon KY Politician introduced a bill to allow Constitutional Carry early in 2011 and reintroduced a similar bill in 2012. Kentucky currently issues concealed carry weapons permits on a shall-issue basis and open carry is legal without a permit.^[36]

Nevada

In early 2011 Nevada senators James Settelmeier and John Lee introduced Senate Bill 126 which would allow non-weapon specific concealed carry licensing. Nevada is currently a shall-issue state for concealed carry weapons permits and open carry is lawful without a permit.^[37]

Oregon

Oregon introduced a bill early on Jan. 11, 2011 which would grant "rights given to concealed handgun licensee to any person who may lawfully purchase and possess firearm."^[38] According to the bill's author, Representative Kim Thatcher, HB 2790 did not gain enough support to progress out of the House Judiciary Committee, and is effectively dead.

West Virginia

West Virginia introduced legislation to allow Constitutional Carry at the beginning of 2011. Currently West Virginia issues concealed carry weapons permits on a shall-issue basis and open carry is legal without a permit.^[39]

Utah

Utah issues concealed carry weapons permits on a shall-issue basis and open carry is legal without a permit provided that the firearm is kept in a state where two actions must take place before the weapon will fire. There is no such restriction for concealed carry weapons permit holders.^[40] On 21 January 2013, Rep. John Mathis, R-Vernal, reintroduced legislation to allow Constitutional Carry.^[41] Although the bill was passed by the legislature, it was vetoed by Governor Herbert.^[42]

Wisconsin

In July 2011 Governor Scott Walker signed the nation's 49th Concealed Carry law.^[43] The bill, SB-93 originally did not require permits.^[44]

References

[10] <http://data.opi.mt.gov/bills/2011/AmdHtmH/HB0271GovVeto.pdf>

[11] http://staticresults.sos.la.gov/11062012/11062012_Statewide.html

[27] Tenn. Code Ann. § 39-17-1351

[32] http://www.mtstandard.com/news/state-and-regional/article_91af16b9-41a4-58aa-ab65-126c61a2b789.html

[33] [http://laws.leg.mt.gov/laws11/LAW0210W\\$BSIV.ActionQuery?P_BILL_NO1=0271&P_BLTP_BILL_TYP_CD=HB&Z_ACTION=Find](http://laws.leg.mt.gov/laws11/LAW0210W$BSIV.ActionQuery?P_BILL_NO1=0271&P_BLTP_BILL_TYP_CD=HB&Z_ACTION=Find)

[41] <http://le.utah.gov/~2013/bills/static/HB0076.html>

District of Columbia v. Heller

<i>District of Columbia v. Heller</i>	
 Supreme Court of the United States	
Argued March 18, 2008 Decided June 26, 2008	
Full case name	<i>District of Columbia, et al. v. Dick Anthony Heller</i>
Docket nos.	07-290 ^[1]
Citations	554 U.S. 570 (<i>more</i>) 128 S. Ct. 2783; 171 L. Ed. 2d 637; 2008 U.S. LEXIS 5268; 76 U.S.L.W. 4631; 21 Fla. L. Weekly Fed. S 497
Prior history	Provisions of the Firearms Control Regulations Act of 1975 infringe an individual's right to bear arms as protected by the Second Amendment. District Court for the District of Columbia reversed.
Procedural history	Writ of Certiorari to the U.S. Court of Appeals for the District of Columbia Circuit
Argument	Oral argument ^[2]
Opinion Announcement	Opinion announcement ^[3]
Holding	
The Second Amendment guarantees an individual's right to possess a firearm unconnected with service in a militia, and to use that arm for traditionally lawful purposes, such as self-defense within the home. United States Court of Appeals for the District of Columbia Circuit affirmed.	
Court membership	
<p style="text-align: center;">Chief Justice John G. Roberts</p> <p style="text-align: center;">Associate Justices John P. Stevens · Antonin Scalia Anthony Kennedy · David Souter Clarence Thomas · Ruth Bader Ginsburg Stephen Breyer · Samuel Alito</p>	
Case opinions	
Majority	Scalia, joined by Roberts, Kennedy, Thomas, Alito
Dissent	Stevens, joined by Souter, Ginsburg, Breyer
Dissent	Breyer, joined by Stevens, Souter, Ginsburg
Laws applied	
U.S. Const. amend. II; D.C. Code §§ 7-2502.02(a)(4), 22-4504, 7-2507.02	

District of Columbia v. Heller, 554 U.S. 570 (2008), was a landmark case in which the Supreme Court of the United States held that the Second Amendment to the United States Constitution protects an individual's right to possess a

firearm for traditionally lawful purposes, such as self-defense within the home and within federal enclaves. The decision did not address the question of whether the Second Amendment extends beyond federal enclaves to the states,^[4] which was addressed later by *McDonald v. Chicago* (2010). It was the first Supreme Court case in United States history to decide whether the Second Amendment protects an individual right to keep and bear arms for self-defense.^[5]

On June 26, 2008, the Supreme Court affirmed the Court of Appeals for the D.C. Circuit in *Heller v. District of Columbia*.^{[6][7]} The Court of Appeals had struck down provisions of the Firearms Control Regulations Act of 1975 as unconstitutional, determined that handguns are "arms" for the purposes of the Second Amendment, found that the District of Columbia's regulations act was an unconstitutional banning, and struck down the portion of the regulations act that requires all firearms including rifles and shotguns be kept "unloaded and disassembled or bound by a trigger lock." "Prior to this decision the Firearms Control Regulation Act of 1975 also restricted residents from owning handguns except for those registered prior to 1975."^[8]

Lower Court Background

In 2002, Robert A. Levy, a Senior Fellow at the Cato Institute, began vetting plaintiffs with Clark M. Neily III for a planned Second Amendment lawsuit that he would personally finance. Although he himself had never owned a gun, as a Constitutional scholar he had an academic interest in the subject and wanted to model his campaign after the legal strategies of Thurgood Marshall, who had successfully led the challenges that overturned school segregation.^[1] They aimed for a group that would be diverse in terms of gender, race, economic background, and age, and selected six plaintiffs from their mid-20s to early 60s, three men and three women, four white and two black:^[1]

- Shelly Parker – a software designer and former nurse who had been active in trying to rid her neighborhood of drugs. Parker is a single woman whose life had been threatened on numerous occasions by drug dealers who had sometimes tried to break into her house.^{[9][10]}
- Tom G. Palmer – a colleague of Robert A. Levy at the Cato Institute and the only plaintiff that Levy knew before the case began.^[1] Palmer, who is gay, defended himself with a 9mm handgun in 1982. While walking with a friend in San Jose, California, he was accosted by a gang of about 20 young men who used profane language regarding his sexual orientation and threatened his life. When he produced his gun, the men fled. Palmer believes that the handgun saved his life.^{[11][12]}
- Gillian St. Lawrence – a mortgage broker who lives in the Georgetown section of D.C. and who owns several legally registered long guns which she uses for recreation in nearby Chantilly, Virginia. It had taken St. Lawrence two years to complete the registration process. She wanted to be able to use these guns to defend herself in her home and to be able to register a handgun.^[13]
- Tracey Ambeau (now Tracey Hanson) – an employee of the U.S. Department of Agriculture. Originally from St. Gabriel, Louisiana, she lives in the Adams Morgan neighborhood of D.C. with her husband, Andrew Hanson, who is from Waterloo, Iowa. They live in a high-crime neighborhood near Union Station in D. C. She grew up around guns and wanted one to defend her home.^{[14][1]}
- George Lyon – a communications lawyer who had previously contacted the National Rifle Association about filing a lawsuit to challenge the D.C. gun laws. Lyon held D.C. licenses for a shotgun and a rifle, but wanted to have a handgun in his home.^[15]
- Dick Heller – a licensed special police officer for the District of Columbia. For his job, Heller carried a gun in federal office buildings, but was not allowed to have one in his home.^[16] Heller had lived in southeast D.C. near the Kentucky Courts public housing complex since 1970 and had seen the neighborhood "transformed from a child-friendly welfare complex to a drug haven". Heller had also approached the National Rifle Association about a lawsuit to overturn the D.C. gun ban, but the NRA declined.^[1]

Previous federal case law pertaining to the question of an individual's right to bear arms included *United States v. Emerson*, 270 F.3d 203 (5th Cir. 2001) which supported the right and *Silveira v. Lockyer*, 312 F.3d 1052 (9th Cir.

2002) which opposed the right. The Supreme Court ruling in *United States v. Miller*, 307 U.S. 174 (1939) was interpreted to support both sides of the issue.

District Court

In February 2003, the six residents of Washington, D.C. filed a lawsuit in the District Court for the District of Columbia, challenging the constitutionality of provisions of the Firearms Control Regulations Act of 1975, a local law (part of the District of Columbia Code) enacted pursuant to District of Columbia home rule. This law restricted residents from owning handguns, excluding those grandfathered in by registration prior to 1975 and those possessed by active and retired law enforcement officers. The law also required that all firearms including rifles and shotguns be kept "unloaded and disassembled or bound by a trigger lock."^[1] They filed for an injunction pursuant to 28 U.S.C. § 2201^[17], 2202, and 42 U.S.C. § 1983^[18]. District Court Judge Ricardo M. Urbina dismissed the lawsuit.

Court of Appeals

On appeal, the U.S. Court of Appeals for the D.C. Circuit reversed the dismissal in a 2–1 decision. The Court of Appeals struck down provisions of the Firearms Control Regulations Act as unconstitutional. Judges Karen L. Henderson, Thomas B. Griffith and Laurence H. Silberman formed the Court of Appeals panel, with Senior Circuit Judge Silberman writing the court's opinion and Circuit Judge Henderson dissenting.

The court's opinion first addressed whether appellants have standing to sue for declaratory and injunctive relief in section II (slip op. at 5–12). The court concluded that of the six plaintiffs, only Heller – who applied for a handgun permit but was denied – had standing.

The court then held that the Second Amendment "protects an individual right to keep and bear arms", saying that the right was "premised on the private use of arms for activities such as hunting and self-defense, the latter being understood as resistance to either private lawlessness or the depredations of a tyrannical government (or a threat from abroad)." They also noted that though the right to bear arms also helped preserve the citizen militia, "the activities [the Amendment] protects are not limited to militia service, nor is an individual's enjoyment of the right contingent upon his or her continued or intermittent enrollment in the militia." The court determined that handguns are "Arms" and concluded that thus they may not be banned by the District of Columbia; however, they said that Second Amendment rights are subject to reasonable restrictions.

The court also struck down the portion of the law that requires all firearms including rifles and shotguns be kept "unloaded and disassembled or bound by a trigger lock." The District argued that there is an implicit self-defense exception to these provisions, but the D.C. Circuit rejected this view, saying that the requirement amounted to a complete ban on functional firearms and prohibition on use for self-defense.^[19]

Section 7-2507.02, like the bar on carrying a pistol within the home, amounts to a complete prohibition on the lawful use of handguns for self-defense. As such, we hold it unconstitutional.

Henderson's dissent

In her dissent, Circuit Judge Henderson stated that Second Amendment rights did not extend to residents of Washington D.C., writing:

To sum up, there is no dispute that the Constitution, case law and applicable statutes all establish that the District is not a State within the meaning of the Second Amendment. Under *United States v. Miller*, 307 U.S. at 178, the Second Amendment's declaration and guarantee that "the right of the people to keep and bear Arms, shall not be infringed" relates to the Militia of the States only. That the Second Amendment does not apply to the District, then, is, to me, an unavoidable conclusion.^[20]

Petition for rehearing

In April 2007, the District and Mayor Adrian Fenty petitioned for rehearing *en banc*, arguing that the ruling creates inter- and intra-jurisdictional conflict.^[21] On May 8, the Court of Appeals for the D.C. Circuit denied the request to rehear the case, by a 6–4 vote.

Supreme Court

The defendants petitioned the United States Supreme Court to hear the case. The plaintiffs did not oppose but, in fact, welcomed the petition. The Supreme Court agreed to hear the case on November 20, 2007.^[22] The court rephrased the question to be decided as follows:

The petition for a writ of certiorari is granted limited to the following question: Whether the following provisions, D.C. Code §§ 7-2502.02(a)(4), 22–4504(a), and 7-2507.02, violate the Second Amendment rights of individuals who are not affiliated with any state-regulated militia, but who wish to keep handguns and other firearms for private use in their homes?

This represented the first time since the 1939 case *United States v. Miller* that the Supreme Court had directly addressed the scope of the Second Amendment.^[1]

Amicus curiae briefs

Because of the controversial nature of the case, it garnered much attention from many groups on both sides of the gun rights issue. Many of those groups filed *amicus curiae* (friend of the court) briefs, about 47 urging the court to affirm the case and about 20 to remand it.^[23]

A majority of the members of Congress^[1] signed the brief authored by Stephen Halbrook advising that the case be affirmed overturning the ban on handguns not otherwise restricted by Congress.^[1] Vice President Dick Cheney joined in this brief, acting in his role as President of the United States Senate, and breaking with the George W. Bush administration's official position.^[1] The Republican candidate for President, Arizona Senator John McCain, also signed the brief. The Democratic candidate, then Illinois Senator Barack Obama, did not.^[1]

A majority of the states signed the brief of Texas Attorney General Greg Abbott advising that the case be affirmed, while at the same time emphasizing that the states have a strong interest in maintaining each of the states' laws prohibiting and regulating firearms.^{[1][24][25]} Law enforcement organizations, including the Fraternal Order of Police and the Southern States Police Benevolent Association, also filed a brief urging that the case be affirmed.^[26]

A number of organizations signed friend of the court briefs advising that the case be remanded, including the United States Department of Justice^[1] and Attorneys General of New York, Hawaii, Maryland, Massachusetts, New Jersey, and Puerto Rico.^[27] Additionally, friend of the court briefs to remand were filed by a spectrum of religious and anti-violence groups,^[28] a number of cities and mayors,^[29] and many police chiefs and law enforcement organizations.^[30]

Oral arguments

The Supreme Court heard oral arguments in the case on March 18, 2008. Both the transcript^[31] and the audio^[32] of the argument have been released. Each side was initially allotted 30 minutes to argue its case, with U.S. Solicitor General Paul D. Clement allotted 15 minutes to present the federal government's views.^[1] During the argument, however, extra time was extended to the parties, and the argument ran 23 minutes over the allotted time.^[33]

Walter E. Dellinger of the law firm O'Melveny & Myers, also a professor at Duke University Law School and former Acting Solicitor General, argued the District's side before the Supreme Court. Dellinger was assisted by Thomas Goldstein of Akin Gump Strauss Hauer & Feld, Robert Long of Covington & Burling and D.C. Solicitor General Todd Kim. The law firms assisting the District worked *pro bono*.^[34]

Alan Gura, of the D.C.-based law firm Gura & Possessky, was lead counsel for Heller, and argued on his behalf before the Supreme Court.^[35] Robert Levy, a senior fellow at the Cato Institute, and Clark Neily, a senior attorney at the Institute for Justice, were his co-counsel.^{[36][1]}



Robert A. Levy (left) and Alan Gura, counsel for Heller.

Decision

The Supreme Court held:^[37]

- (1) The Second Amendment protects an individual right to possess a firearm unconnected with service in a militia, and to use that arm for traditionally lawful purposes, such as self-defense within the home. Pp. 2–53.
 - (a) The Amendment's prefatory clause announces a purpose, but does not limit or expand the scope of the second part, the operative clause. The operative clause's text and history demonstrate that it connotes an individual right to keep and bear arms. Pp. 2–22.
 - (b) The prefatory clause comports with the Court's interpretation of the operative clause. The "militia" comprised all males physically capable of acting in concert for the common defense. The Antifederalists feared that the Federal Government would disarm the people in order to disable this citizens' militia, enabling a politicized standing army or a select militia to rule. The response was to deny Congress power to abridge the ancient right of individuals to keep and bear arms, so that the ideal of a citizens' militia would be preserved. Pp. 22–28.
 - (c) The Court's interpretation is confirmed by analogous arms-bearing rights in state constitutions that preceded and immediately followed the Second Amendment. Pp. 28–30.
 - (d) The Second Amendment's drafting history, while of dubious interpretive worth, reveals three state Second Amendment proposals that unequivocally referred to an individual right to bear arms. Pp. 30–32.
 - (e) Interpretation of the Second Amendment by scholars, courts and legislators, from immediately after its ratification through the late 19th century also supports the Court's conclusion. Pp. 32–47.
 - (f) None of the Court's precedents forecloses the Court's interpretation. Neither *United States v. Cruikshank*, 92 U. S. 542 , nor *Presser v. Illinois*, 116 U. S. 252 , refutes the individual-rights interpretation. *United States v. Miller*, 307 U. S. 174 , does not limit the right to keep and bear arms to militia purposes, but rather limits the type of weapon to which the right applies to those used by the militia, i.e., those in common use for lawful purposes. Pp. 47–54.

(2) Like most rights, the Second Amendment right is not unlimited. It is not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose: For example, concealed weapons prohibitions have been upheld under the Amendment or state analogues. The Court's opinion should not be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons and the mentally ill, or laws forbidding the carrying of firearms in sensitive places such as schools and government buildings, or laws imposing conditions and qualifications on the commercial sale of arms. Miller's holding that the sorts of weapons protected are those "in common use at the time" finds support in the historical tradition of prohibiting the carrying of dangerous and unusual weapons. Pp. 54–56.

(3) The handgun ban and the trigger-lock requirement (as applied to self-defense) violate the Second Amendment. The District's total ban on handgun possession in the home amounts to a prohibition on an entire class of "arms" that Americans overwhelmingly choose for the lawful purpose of self-defense. Under any of the standards of scrutiny the Court has applied to enumerated constitutional rights, this prohibition – in the place where the importance of the lawful defense of self, family, and property is most acute – would fail constitutional muster. Similarly, the requirement that any lawful firearm in the home be disassembled or bound by a trigger lock makes it impossible for citizens to use arms for the core lawful purpose of self-defense and is hence unconstitutional. Because Heller conceded at oral argument that the D. C. licensing law is permissible if it is not enforced arbitrarily and capriciously, the Court assumes that a license will satisfy his prayer for relief and does not address the licensing requirement. Assuming he is not disqualified from exercising Second Amendment rights, the District must permit Heller to register his handgun and must issue him a license to carry it in the home. Pp. 56–64.

The Opinion of the Court, delivered by Justice Scalia, was joined by Chief Justice John G. Roberts, Jr. and by Justices Anthony M. Kennedy, Clarence Thomas and Samuel A. Alito Jr.^[38]

Issues addressed by the majority

The core holding in *D.C. v. Heller* is that the Second Amendment is an individual right intimately tied to the natural right of self-defense.

The Scalia majority invokes much historical material to support its finding that the right to keep and bear arms belongs to individuals; more precisely, Scalia asserts in the Court's opinion that the "people" to whom the Second Amendment right is accorded are the same "people" who enjoy First and Fourth Amendment protection: "The Constitution was written to be understood by the voters; its words and phrases were used in their normal and ordinary as distinguished from technical meaning.' *United States v. Sprague*, 282 U. S. 716, 731 (1931); see also *Gibbons v. Ogden*, 9 Wheat. 1, 188 (1824). Normal meaning may of course include an idiomatic meaning, but it excludes secret or technical meanings...."

With that finding as anchor, the Court ruled a total ban on operative handguns in the home is unconstitutional, as the ban runs afoul of both the self-defense purpose of the Second Amendment – a purpose not previously articulated by the Court – and the "in common use at the time" prong of the *Miller* decision: since handguns are in common use, their ownership is protected.

The Court applies as remedy that "[a]ssuming that Heller is not disqualified from the exercise of Second Amendment rights, the District must permit him to register his handgun and must issue him a license to carry it in the home." The Court, additionally, hinted that other remedy might be available in the form of eliminating the license requirement for carry in the home, but that no such relief had been requested: "Respondent conceded at oral argument that he does not 'have a problem with ... licensing' and that the District's law is permissible so long as it is 'not enforced in an arbitrary and capricious manner.' Tr. of Oral Arg. 74–75. We therefore assume that petitioners' issuance of a license will satisfy respondent's prayer for relief and do not address the licensing requirement."

In regard to the scope of the right, the Court wrote, in an obiter dictum, "Although we do not undertake an exhaustive historical analysis today of the full scope of the Second Amendment, nothing in our opinion should be

taken to cast doubt on longstanding prohibitions on the possession of firearms by felons and the mentally ill, or laws forbidding the carrying of firearms in sensitive places such as schools and government buildings, or laws imposing conditions and qualifications on the commercial sale of arms."^[39]

The Court also added dicta regarding the private ownership of machine guns. In doing so, it suggested the elevation of the "in common use at the time" prong of the *Miller* decision, which by itself protects handguns, over the first prong (protecting arms that "have some reasonable relationship to the preservation or efficiency of a well regulated militia"), which may not by itself protect machine guns: "It may be objected that if weapons that are most useful in military service – M16 rifles and the like – may be banned, then the Second Amendment right is completely detached from the prefatory clause. But as we have said, the conception of the militia at the time of the Second Amendment's ratification was the body of all citizens capable of military service, who would bring the sorts of lawful weapons that they possessed at home."^[40]

The Court did not address which level of judicial review should be used by lower courts in deciding future cases claiming infringement of the right to keep and bear arms: "[S]ince this case represents this Court's first in-depth examination of the Second Amendment, one should not expect it to clarify the entire field." The Court states, "If all that was required to overcome the right to keep and bear arms was a rational basis, the Second Amendment would be redundant with the separate constitutional prohibitions on irrational laws, and would have no effect."^[41] Also, regarding Justice Breyer's proposal of a "judge-empowering 'interest-balancing inquiry,'" the Court states, "We know of no other enumerated constitutional right whose core protection has been subjected to a freestanding 'interest-balancing' approach."^[42]

Dissenting opinions

In a dissenting opinion, Justice John Paul Stevens stated that the court's judgment was "a strained and unpersuasive reading" which overturned longstanding precedent, and that the court had "bestowed a dramatic upheaval in the law".^[1] Stevens also stated that the amendment was notable for the "omission of any statement of purpose related to the right to use firearms for hunting or personal self-defense" which was present in the Declarations of Rights of Pennsylvania and Vermont.^[1]

The Stevens dissent seems to rest on four main points of disagreement: that the Founders would have made the individual right aspect of the Second Amendment express if that was what was intended; that the "militia" preamble and exact phrase "to keep and bear arms" demands the conclusion that the Second Amendment touches on state militia service only; that many lower courts' later "collective-right" reading of the *Miller* decision constitutes *stare decisis*, which may only be overturned at great peril; and that the Court has not considered gun-control laws (e.g., the National Firearms Act) unconstitutional. The dissent concludes, "The Court would have us believe that over 200 years ago, the Framers made a choice to limit the tools available to elected officials wishing to regulate civilian uses of weapons.... I could not possibly conclude that the Framers made such a choice."

Justice Stevens' dissent was joined by Justices David Souter, Ruth Bader Ginsburg, and Stephen Breyer.

Justice Breyer filed a separate dissenting opinion, joined by the same dissenting Justices, which sought to demonstrate that, starting from the premise of an individual-rights view, the District of Columbia's handgun ban and trigger lock requirement would nevertheless be permissible limitations on the right.

The Breyer dissent looks to early municipal fire-safety laws that forbade the storage of gunpowder (and in Boston the carrying of loaded arms into certain buildings), and on nuisance laws providing fines or loss of firearm for imprudent usage, as demonstrating the Second Amendment has been understood to have no impact on the regulation of civilian firearms. The dissent argues the public safety necessity of gun-control laws, quoting that "guns were responsible for 69 deaths in this country each day."

With these two supports, the Breyer dissent goes on to conclude, "there simply is no untouchable constitutional right guaranteed by the Second Amendment to keep loaded handguns in the house in crime-ridden urban areas." It proposes that firearms laws be reviewed by balancing the interests (i.e., "'interest-balancing' approach") of Second

Amendment protections against the government's compelling interest of preventing crime.

The Breyer dissent also objected to the "common use" distinction used by the majority to distinguish handguns from machineguns: "But what sense does this approach make? According to the majority's reasoning, if Congress and the States lift restrictions on the possession and use of machineguns, and people buy machineguns to protect their homes, the Court will have to reverse course and find that the Second Amendment does, in fact, protect the individual self-defense-related right to possess a machine-gun...There is no basis for believing that the Framers intended such circular reasoning."^[43]

Non-party involvement

The National Rifle Association (NRA) was initially not supportive of the case. One view is that it feared the case might not be successful. Another view is that it feared it would be successful and gut its fund raising mission by deciding favorably the ultimate issue. The NRA ultimately decided it could not be a mere observer without raising questions so it signaled its support for the plaintiffs. It allocated no money for the effort.^[citation needed]

The Brady Campaign to Prevent Gun Violence lobbied to have the D.C. gun laws changed so the case would not be eligible to be heard by the Supreme Court.^[citation needed]

National Rifle Association

Attorney Alan Gura, in a 2003 filing, used the term "sham litigation" to describe the NRA's attempts to have *Parker* (aka *Heller*) consolidated with its own case challenging the D.C. law. Gura also stated that "the NRA was adamant about not wanting the Supreme Court to hear the case".^[44] These concerns were based on NRA lawyers' assessment that the justices at the time the case was filed might reach an unfavorable decision.^[45] Cato Institute senior fellow Robert Levy, co-counsel to the *Parker* plaintiffs, has stated that the *Parker* plaintiffs "faced repeated attempts by the NRA to derail the litigation."^[46] He also stated that "The N.R.A.'s interference in this process set us back and almost killed the case. It was a very acrimonious relationship."^[]

Wayne LaPierre, the NRA's chief executive officer, confirmed the NRA's misgivings. "There was a real dispute on our side among the constitutional scholars about whether there was a majority of justices on the Supreme Court who would support the Constitution as written," Mr. LaPierre said. Both Levy and LaPierre said the NRA and Mr. Levy's team were now on good terms.^[]

Elaine McArdle wrote in the *Harvard Law Bulletin*: "If *Parker* is the long-awaited "clean" case, one reason may be that proponents of the individual-rights view of the Second Amendment – including the National Rifle Association, which filed an amicus brief in the case – have learned from earlier defeats, and crafted strategies to maximize the chances of Supreme Court review." The NRA did eventually support the litigation by filing an amicus brief with the Court arguing that the plaintiffs in *Parker* had standing to sue and that the D.C. ban was unconstitutional under the Second Amendment.^[47]

Chris Cox, executive director of the NRA's Institute for Legislative Action, had indicated support of federal legislation which would repeal the D.C. gun ban. Opponents of the legislation argued that this would have rendered the *Parker* case moot, and would have effectively eliminated the possibility that the case would be heard by the Supreme Court.^[48]

Immediately after the Supreme Court's ruling, the NRA filed a lawsuit against the city of Chicago over its handgun ban, followed the next day by a lawsuit against the city of San Francisco over its ban of handguns in public housing.^[49]

Brady Campaign to Prevent Gun Violence

The Brady Campaign to Prevent Gun Violence opposed the arguments made by the plaintiffs in *Parker*, and filed amicus curiae against those arguments in both the District and Circuit courts.

Paul Helmke, the president of the Brady Campaign, suggested to D.C. before the Court granted certiorari that it modify its gun laws rather than appeal to the Supreme Court.^[50] Helmke has written that if the Supreme Court upholds the Circuit court ruling, it "could lead to all current and proposed firearms laws being called into question."^[51]

After the ruling, Paul Helmke stated that, "the classic 'slippery slope' argument", "that even modest gun control would lead down the path to a complete ban on gun ownership", "is now gone." Helmke added that, "The Court also rejected the absolutist misreading of the Second Amendment that some use to argue 'any gun, any time for anyone,' which many politicians have used as an excuse to do nothing about the scourge of gun violence in our country and to block passage of common sense gun laws."^[52]

Reactions

To the lower court rulings

Various experts expressed opinions on the D.C. Circuit's decision.

Harvard Law School professor Laurence Tribe contended that the Second Amendment protects an individual right, and predicted that if *Parker* is reviewed by the Supreme Court "there's a really quite decent chance that it will be affirmed."^[47] However, Professor Tribe has also argued that the District's ban on one class of weapons does not violate the Second Amendment even under an individual rights view.^[52]

Erwin Chemerinsky, then of Duke Law School and now dean of the University of California, Irvine School of Law, argued that the District of Columbia's handgun laws, even assuming an "individual rights" interpretation of the Second Amendment, could be justified as reasonable regulations and thus upheld as constitutional. Professor Chemerinsky believes that the regulation of guns should be analyzed in the same way "as other regulation of property under modern constitutional law" and "be allowed so long as it is rationally related to achieving a legitimate government purpose."^[53] However, the dicta in *Heller* seems to defeat Chemerinsky's view (stated prior to the decision), in that the majority suggests that applying a mere rational basis analysis is an incorrect reading of the Constitution and would, in fact, defeat the entire purpose of the Second Amendment.^[41]

To the Supreme Court rulings

Cato Institute senior fellow Robert Levy, co-counsel to the *Parker* plaintiffs, agreed with the court's ruling but describes that his interpretation of the Second Amendment would not preclude all governmental regulation of private ownership of weapons:

Even the NRA concedes that you can't have mad men running around with weapons of mass destruction. So there are some restrictions that are permissible and it will be the task of the legislature and the courts to ferret all of that out and draw the lines. I am sure, though, that outright bans on handguns like they have in D.C. won't be permitted. That is not a reasonable restriction under anybody's characterization. It is not a restriction, it's a prohibition.^[54]

Clark Neily, an attorney for Dick Heller in this case, has said regarding *Heller*:

America went over 200 years without knowing whether a key provision of the Bill of Rights actually meant anything. We came within one vote of being told that it did not, notwithstanding what amounts to a national consensus that the Second Amendment means what it says: The right of the people to keep and bear arms shall not be infringed. Taking rights seriously, including rights we might not favor personally, is good medicine for the body politic, and *Heller* was an excellent dose.^[55]

Richard Posner, judge for the United States Court of Appeals for the Seventh Circuit, compares *Heller* to *Roe v. Wade*, stating that it created a federal constitutional right that did not previously exist, and he asserts that the originalist method – to which Justice Antonin Scalia claims to adhere – would have yielded the opposite result of the majority opinion.

The text of the amendment, whether viewed alone or in light of the concerns that actuated its adoption, creates no right to the private possession of guns for hunting or other sport, or for the defense of person or property. It is doubtful that the amendment could even be thought to require that members of state militias be allowed to keep weapons in their homes, since that would reduce the militias' effectiveness. Suppose part of a state's militia was engaged in combat and needed additional weaponry. Would the militia's commander have to collect the weapons from the homes of militiamen who had not been mobilized, as opposed to obtaining them from a storage facility? Since the purpose of the Second Amendment, judging from its language and background, was to assure the effectiveness of state militias, an interpretation that undermined their effectiveness by preventing states from making efficient arrangements for the storage and distribution of military weapons would not make sense.^[56]

J. Harvie Wilkinson III, chief judge of United States Court of Appeals for the Fourth Circuit, consents to Posner's analysis, stating that *Heller* "encourages Americans to do what conservative jurists warned for years they should not do: bypass the ballot and seek to press their political agenda in the courts."^[57]

Jeffrey M. Shaman, law professor at DePaul University, delivered a strong criticism of the majority opinion in *Heller*, stating that Scalia's "exposition of the Second Amendment in *Heller* is bad history – simplistic analysis that ignores the complexities of historical research."^[58]

Justice Scalia's extreme version of originalism is based on the misguided belief that the original meaning of the Constitution is fixed in history and can be objectively determined by searching historical records. It is incorrect to believe that the Constitution can be interpreted simply by reference to the original understanding of the document. Blindly following the presumed meaning of constitutional provisions formulated in reaction to past conditions and attitudes that have long since changed does not, in the end, effectuate the original understanding. Nor is it very likely to be an effective means of dealing with contemporary problems. Justice Scalia's brand of originalism is dysfunctional, an instance of cultural lag whereby the meaning of the Constitution is left dormant while the world changes around it.^[58]

Post ruling impacts

In the District of Columbia

The D.C. government has indicated it will continue to utilize zoning ordinances to prevent firearms dealers from operating and selling to citizens residing in the District, meaning it will continue to be difficult for residents to legally purchase guns in the District.^[59] Additionally, the District enacted new firearms restrictions in an effort to cure the constitutional defects that the Supreme Court had identified in *Heller*, specifically three new provisions: (1) the firearms registration procedures; (2) the prohibition on assault weapons; and (3) the prohibition on large capacity ammunition feeding devices. In response, Dick Heller challenged these new restrictions filing a civil suit named *Heller v. District of Columbia* (Civil Action No. 08-1289 (RMU), No. 23., 25) where he requested a summary judgment to vacate the new prohibitions. On March 26, 2010, the D.C. District Judge Ricardo M. Urbina denied Dick Heller's request and granted the cross motion, finding that the court "*concludes that the regulatory provisions that the plaintiffs challenge permissibly regulate the exercise of the core Second Amendment right to use arms for the purpose of self-defense in the home.*"^[1]

Dick Heller's application to register his semi-automatic pistol was rejected because the gun was a bottom-loading weapon, and according to the District's interpretation, all bottom-loading guns, including magazine-fed non-assault-style rifles, are outlawed because they are grouped with machine guns.^[60] Revolvers will likely not fall

under such a ban.^[1]

On December 16, 2008 the D.C. Council unanimously passed the Firearms Registration Emergency Amendment Act of 2008^[61] which addresses the issues raised in the Heller Supreme Court decision, and also puts in place a number of registration requirements to update and strengthen the District's gun laws.^[1]

Scalia's opinion for the majority provided 2nd Amendment protection for commonly used and popular handguns but not for atypical arms or arms that are used for unlawful purposes such as short-barreled shotguns. Scalia stated: "Whatever the reason, handguns are the most popular weapon chosen by Americans for self-defense in the home, and a complete prohibition of their use is invalid." "We think that Miller's "ordinary military equipment" language must be read in tandem with what comes after: "[O]rdinarily when called for [militia] service [able-bodied] men were expected to appear bearing arms supplied by themselves and of the kind in common use at the time." 307 U. S., at 179." "We therefore read Miller to say only that the Second Amendment does not protect those weapons not typically possessed by law-abiding citizens for lawful purposes, such as short-barreled shotguns." "It may be objected that if weapons that are most useful in military service – M-16 rifles and the like – may be banned, then the Second Amendment right is completely detached from the prefatory clause. But as we have said, the conception of the militia at the time of the Second Amendment's ratification was the body of all citizens capable of military service, who would bring the sorts of lawful weapons that they possessed at home to militia duty."^[62]

Lower Federal Courts

Since the June 2008 ruling, over 80 different cases have been heard in lower federal courts on the constitutionality of a wide variety of gun control laws.^[1] These courts have heard lawsuits in regard to bans of firearm possession by felons, drug addicts, illegal aliens, and individuals convicted of domestic violence misdemeanors.^[1] Also, cases have been heard on the constitutionality of laws prohibiting certain types of weapons, such as machine guns, sawed-off shotguns and/or specific types of weapons attachments. In addition, courts have heard challenges to laws barring guns in post offices and near schools and laws outlawing "straw" purchases, carrying of concealed weapons, types of ammunition and possession of unregistered firearms.^[1]

The courts have upheld most of these laws as being constitutional.^[1] The basis for the lower court rulings is the paragraph near the end of the Heller ruling that states:

Nothing in our opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons and the mentally ill, or laws forbidding the carrying of firearms in sensitive places such as schools and government buildings, or laws imposing conditions on the commercial sale of arms.^[63]

Consistently since the Heller ruling, the lower federal courts have ruled that almost all gun control measures as presently legislated are lawful and that according to UCLA professor of constitutional law Adam Winkler: "What gun rights advocates are discovering is that the vast majority of gun control laws fit within these categories."^[1]

Robert Levy, the executive director of the Cato Institute who funded the Heller litigation has commented on this passage describing constitutionally acceptable forms of prohibitions of firearms: "I would have preferred that that not have been there," and that this paragraph in Scalia's opinion "created more confusion than light."^[1]

Similar to the lifting of gun bans mentioned previously in the settlements of lawsuits filed post-*Heller*, in *US v. Arzberger*, also decided post-*Heller*, it was noted:

To the extent, then, that the Second Amendment creates an individual right to possess a firearm unrelated to any military purpose, it also establishes a protectible liberty interest. And, although the Supreme Court has indicated that this privilege may be withdrawn from some groups of persons such as convicted felons, there is no basis for categorically depriving persons who are merely accused of certain crimes of the right to legal possession of a firearm.^[64]

New York

Mayor of New York City Michael Bloomberg said that "all of the laws on the books in New York State and New York City" would be allowed by the ruling as "reasonable regulation."^[65] Robert Levy has stated that the current New York City gun laws are "not much different" from the D.C. ban that has been overturned.^[66] The National Rifle Association and other gun-rights advocates have not ruled out suing New York City, especially over the definition of "reasonable regulation".^[67]

Southern District of New York Magistrate Judge James Francis has said that, prior to *Heller*, it would not have been considered unreasonable to require a defendant to surrender a firearm as a condition of pretrial release. Specifically, according to Judge Francis:^[68]

This all changed, with the recent U.S. Supreme Court decision in *District of Columbia v. Heller*; 128 S.Ct. 2783 (2008), where the court changed the course of Second Amendment jurisprudence by creating what he said was a "protectible liberty interest" in the possession of firearms. Thus, in the absence of an individualized determination at a bail hearing, requiring the defendant to give up any firearms violates due process.

Maloney v. Rice (a.k.a. *Maloney v. Cuomo* and *Maloney v. Spitzer*)^[69], 554 F.3d 56 (2d. Cir. 2009) originally held that the 2nd Amendment does not apply to the states in the Second Circuit. The case involved a state ban on Nunchaku sticks (a martial arts weapon) in New York. In a memorandum opinion dated June 29, 2010, the Supreme Court vacated the Second Circuit decision in *Maloney* and remanded for further consideration in light of the holding in *McDonald v. Chicago* that the Second Amendment *does* apply to the states. The Second Circuit has remanded the case to the trial court.

Illinois

The NRA has filed five related lawsuits since the *Heller* decision.^[70] In four Illinois lawsuits, the NRA sought to have the Second Amendment incorporated by the Fourteenth Amendment, causing the Second Amendment to apply to state and local jurisdictions and not just to the federal government.^[71] Three Illinois lawsuits have been negotiated and settled out of court involving agreements that repeal gun ban ordinances and did not result in incorporation of the Second Amendment to state and local jurisdictions. The fourth NRA lawsuit against Chicago was rejected.^[72] The NRA appealed the case to the 7th Circuit Court of Appeals. On June 2, 2009, the Court of Appeals affirmed the district court's decision, based on the theory that *Heller* applied only to the Federal Government (including the District of Columbia), and not to states or their subordinate jurisdictions.^[citation needed] This opinion directly conflicts with the 9th Circuit Court of Appeals's earlier decision, holding that *Heller* applies to states as well.^[citation needed]

On June 28, 2010, the Supreme Court reversed the Court of Appeals for the Seventh Circuit's decision in *McDonald v. Chicago* and remanded it back to Seventh Circuit to resolve conflicts between certain Chicago gun restrictions and the Second Amendment. Chicago's handgun law was likened to the D.C. handgun ban by Justice Breyer.^[72]

Similarly, three Illinois municipalities with gun control measures on the books that previously had banned all handguns have rescinded their handgun bans.^{[73][74][75][76]} These cities were Morton Grove, Illinois,^[76] Wilmette, another Illinois village,^[77] and Evanston, Illinois which enacted a partial repeal of their handgun ban.

In *Ezell v. Chicago*^[78], decided July 6, 2011, the Seventh Circuit reversed a district court decision that the post-*McDonald* measures adopted by the City of Chicago were constitutional. The Chicago law required firearms training in a shooting range in order to obtain a gun permit, but also banned shooting ranges within the City of Chicago. The City had argued that applicants could obtain their training at gun ranges in the suburbs. The opinion noted that Chicago could not infringe Second Amendment rights on the grounds that they could be exercised elsewhere, any more than it could infringe the right to freedom of speech on the grounds that citizens could speak elsewhere.

California

On January 14, 2009, in *Doe v. San Francisco Housing Authority*, the San Francisco Housing Authority reached a settlement out of court with the NRA, which allows residents to possess legal firearms within a SFHA apartment building. The San Francisco lawsuit resulted in the elimination of the gun ban from the SF Housing Authority residential lease terms. Tim Larsen speaking for the Housing Authority said that they never intended to enforce its 2005 housing lease gun ban against law-abiding gun owners and have never done so.^[79]

Legacy

Initial reaction has deemed the *Heller* ruling to be of great significance, though it remains too soon to tell what the long term effects may be.^[1] Sanford Levinson has written that he is inclined to believe that the *Heller* will be relatively insignificant to the practice of law in the long run but that it will have significance to other groups interested in cultural literacy and constitutional designers.^[1]

In 2009, both Levinson and Mark Tushnet speculated that it is quite unlikely that the case would be studied as part of casebooks of future law schools.^[1] As was predicted,^[1] a large surge of court cases was seen in lower federal courts in the aftermath of the 2008 ruling. As of March 2009[80], over 80 cases had been filed seeking to overturn existing gun laws.^[1]Wikipedia:Manual of Style/Dates and numbers#Precise language

The decision in *McDonald v. Chicago*, which was brought in response to *Heller* and decided in 2010, did invalidate much of Chicago's gun purchase and registration laws, and has called into question many other state and local laws restricting purchase, possession and carry of firearms.

Notes

[1] <http://www.supremecourt.gov/Search.aspx?FileName=/docketfiles/07-290.htm>

[2] http://www.oyez.org/cases/2000-2009/2007/2007_07_290/argument/

[3] http://www.oyez.org/cases/2000-2009/2007/2007_07_290/opinion/

[6] 478 F.3d 370 (D.C. Cir. 2007), *cert. denied*, 128 S. Ct. 2994 (2008)

[7] *Misc. order Certiorari Denied p.2* (<http://www.supremecourt.gov/orders/courtorders/062708pzz.pdf>); Court: A constitutional right to a gun (<http://www.scotusblog.com/wp/court-a-constitutional-right-to-a-gun>)

[8] <http://web.ebscohost.com/ehost/pdfviewer/pdfviewer?vid=4&hid=17&sid=dc74adc3-b638-4709-8e19-a08f3f262c3e%40sessionmgr4>

[9] Doherty 2009, pp. 29–30.

[11] Doherty 2009, pp. 30–31.

[13] Doherty 2009, pp. 35–37.

[14] Doherty 2009, pp. 37–38.

[15] Doherty 2009, pp. 34–35.

[16] Doherty 2009, pp. 39–41.

[17] <http://www.law.cornell.edu/uscode/28/2201.html>

[18] <http://www.law.cornell.edu/uscode/42/1983.html>

[19] Parker Opinion, *Opinion of the Court*, p. 57. "He simply contends that he is entitled to the possession of a 'functional' firearm to be employed in case of a threat to life or limb. The District responds that, notwithstanding the broad language of the Code, a judge would likely give the statute a narrowing construction when confronted with a self-defense justification. That might be so, but judicial lenity cannot make up for the unreasonable restriction of a constitutional right. Section 7-2507.02, like the bar on carrying a pistol within the home, amounts to a complete prohibition on the lawful use of handguns for self-defense. As such, we hold it unconstitutional."

[20] Page III-17 of dissent.

[21] Petition for rehearing en banc for the District of Columbia ([http://www.scotusblog.com/movabletype/archives/Parker rehearing denial.pdf](http://www.scotusblog.com/movabletype/archives/Parker%20rehearing%20denial.pdf))

[22] Cert. granted, *District of Columbia v. Heller*, 128 S. Ct. 645 (2007).

[32] Video available at rtsp://video.c-span.org/archive/sc/sc031808_2amendment.rm

[37] *Heller* Opinion, *Opinion of the Court*, pp. 1–3.

[38] *Heller* Opinion, *Opinion of the Court*, p. 3.

[39] *Heller* Opinion, *Opinion of the Court*, p. 54.

[40] *Heller* Opinion, *Opinion of the Court*, p. 55.

[41] *Heller* Opinion, *Opinion of the Court*, pp. 56–57.

[42] *Heller* Opinion, *Opinion of the Court*, p. 62.

- [43] Heller Opinion, *Breyer, J., dissenting*, p. 42.
- [44] *Both Sides Fear Firing Blanks if D.C. Gun Case Reaches High Court* (<http://www.law.com/jsp/article.jsp?id=1185527215310>), Tony Mauro, *Legal Times* (<http://www.legaltimes.com/>), July 30, 2007
- [45] *NRA Had High Court Misgivings* (http://www.abajournal.com/news/nra_had_high COURT_misgivings/), Debra Cassens Weiss, *ABA Journal*, July 30, 2007
- [46] Levy, Robert A. "Should Congress or the courts decide D.C. gun ban's fate?" (http://www.examiner.com/a-653443-Robert_A_Levy_Should_Congress_or_the_courts_decide_D_C_gun_ban_s_fate_.html), *The Washington Examiner*, April 3, 2007.
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- [50] *Washington Gun Ban Under Fire* (<http://ap.google.com/article/ALeqM5iIfPpSjPKLwSwZfD7tFDFDNi8PmQD8S2J2700>), Associated Press
- [51] *Taking Aim at Judicial Activism* (<http://www.bradycampaign.org/blog/2007/03/14/taking-aim-at-judicial-activism/>), Helmke's blog at bradycampaign.org
- [52] "Sanity and the Second Amendment" (http://online.wsj.com/article/SB120459428907209205.html?mod=opinion_main_commentaries) by Laurence H. Tribe, *The Wall Street Journal*, March 4, 2008
- [53] *A Well-Regulated Right to Bear Arms* (<http://www.washingtonpost.com/wp-dyn/content/article/2007/03/13/AR2007031301508.html>), Erwin Chemerinsky, *The Washington Post*, March 14, 2007
- [54] *Interview: The Way of the Gun* (http://www.motherjones.com/interview/2007/02/robert_levy.html), Leigh Ferrara, *MotherJones.com*, April 19, 2007
- [55] *District of Columbia v. Heller: The Second Amendment Is Back, Baby* by Clark Neily, September 8, 2008
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- [64] *United States v. Arzberger* (<http://www.volokh.com/files/arzberger.pdf>); 08 Cr. 894, p. 24.
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- [74] NRA-ILA press release – *Evanston Amends Gun Ban* (<http://www.nraila.org/Legislation/Read.aspx?ID=4140>)
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- Case Overview (<http://www.gunfacts.info/pdfs/misc/Heller - Media Briefing Book - public.pdf>)
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Firearms Control Regulations Act of 1975

The **Firearms Control Regulations Act of 1975** was passed by the District of Columbia city council on September 24, 1976.^[1] On June 26, 2008, in the historic case of *District of Columbia v. Heller*, the Supreme Court of the United States determined that the ban and trigger lock provision violate the Second Amendment. The law banned residents from owning handguns, automatic firearms, or high-capacity semi-automatic firearms, as well as prohibited possession of unregistered firearms. Exceptions to the ban were allowed for police officers and guns registered before 1976. The law also required firearms kept in the home to be "unloaded, disassembled, or bound by a trigger lock or similar device";^[2] this was deemed to be a prohibition on the use of firearms for self-defense in the home.^[1]

Constitutionality

Washington, D.C.'s gun laws are considered by many to be the strictest in the United States, and have been challenged as infringing on constitutional rights protected by the United States Constitution's Second Amendment.^{[3][4][5][6]} On March 9, 2007, portions of the law were declared unconstitutional by a three-judge panel of the United States Court of Appeals, in a 2-1 ruling in the case *District of Columbia v. Heller*.^[7] The District subsequently applied for a rehearing en banc, which was denied, and appealed the decision to the Supreme Court of the United States. On June 26, 2008, the Court determined that the ban and trigger lock provision violate the Second Amendment.^[8] However, the ruling does not prohibit all forms of gun control; laws requiring firearm registration remain in place as does the city's assault weapon ban.^[9]

References

FOID (firearms)

FOID is an acronym for **Firearm Owners Identification**. To legally possess or purchase firearms or ammunition, residents of the state of Illinois are required to have a FOID card.^[1] (The term is alternatively pronounced "a foid card" or "an F.O.I.D. card".) The law has been in effect since 1968.^[1]

The FOID card is issued by the Illinois State Police, who first perform a check of the applicant on the National Instant Criminal Background Check System (NICS), an electronic database maintained by the FBI. Grounds for disqualification include a conviction for a felony or for an act of domestic violence, a conviction for assault or battery within the last five years, or being the subject of an order of protection. The police also check an Illinois Department of Human Services database, to disqualify any applicant who has been adjudicated as a mental defective, or who has been a patient of a mental institution within the last five years.^[2] Mental health professionals are required to inform state authorities about patients who display violent, suicidal or threatening behavior, for inclusion in the Human Services database.^[3] The police may also check other sources of information. There are additional requirements for applicants under the age of 21.^[4]

A FOID card legally must be granted within 30 days from the date the application is received, unless the applicant does not qualify. However, by January 2006, the backlog had increased and the State Police were taking as long as 50 days, in violation of the law, to issue or deny the FOID.^[1] Cards issued on or after June 1, 2008 are valid for ten years; cards issued prior to June 1, 2008 are valid for five years.^[2] The application fee for the card is ten dollars. The FOID card will be revoked before its expiration if the individual becomes disqualified as described above.

Illinois law requires that, when a firearm is sold by a Federal Firearms License (FFL) holder or at a gun show, the seller perform a dial-up inquiry to the State Police to verify that the buyer's FOID card is valid. This additional check is known as the Firearm Transfer Inquiry Program (FTIP).^{[5][6]} At the time of the inquiry, the police perform an

automated search of several criminal and mental health databases, including the federal NICS database.^[1] (Generally, FFLs in all states must request a background check through the NICS before selling a firearm; however in some states non-FFL purchasers who possess certain state-issued firearms permits, e.g., a permit to carry a concealed handgun, may purchase firearms from FFLs without undergoing a point-of-sale NICS check.)^{[7][8]}

In 2011, in the case of *People v. Holmes*, the Illinois Supreme Court ruled that non-Illinois residents who are permitted to possess a firearm in their home state are not required to have an Illinois FOID card when in possession of firearms or ammunition in Illinois.^{[9][10]}

Notes

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McDonald v. Chicago

<i>McDonald v. Chicago</i>	
 Supreme Court of the United States	
Argued March 2, 2010 Decided June 28, 2010	
Full case name	<i>Otis McDonald, et al. v. City of Chicago, Illinois, et al.</i>
Docket nos.	08-1521 ^[1]
Citations	561 U.S. 3025 (<i>more</i>) 130 S. Ct. 3020; 177 L. Ed. 2d 894
Prior history	Judgment for defendants, 617 F. Supp. 2d 752 (N.D. Ill. 2008), aff'd, 567 F.3d 856 (7th Cir.), cert. granted, 557 U. S. ____ (2009)
Argument	Oral argument ^[2]
Holding	
The Second Amendment right to keep and bear arms for self defense in one's home is fully applicable to the states through the Fourteenth Amendment. Court of Appeals for the Seventh Circuit reversed and remanded.	
Court membership	
<p style="text-align: center;">Chief Justice John G. Roberts</p> <p style="text-align: center;">Associate Justices John P. Stevens · Antonin Scalia Anthony Kennedy · Clarence Thomas Ruth Bader Ginsburg · Stephen Breyer Samuel Alito · Sonia Sotomayor</p>	
Case opinions	
Majority	Alito, joined by Roberts, Scalia, Kennedy (all); Thomas (all except parts II-C, IV and V)
Concurrence	Scalia
Concurrence	Thomas
Dissent	Stevens
Dissent	Breyer, joined by Ginsburg, Sotomayor
Laws applied	
U.S. Const. amend. II, XIV	

McDonald v. Chicago, 561 U.S. 3025 (2010), is a landmark^[1] decision of the Supreme Court of the United States that determined whether the Second Amendment applies to the individual states. The Court held that the right of an individual to "keep and bear arms" protected by the Second Amendment is incorporated by the Due Process Clause

of the Fourteenth Amendment and applies to the states. The decision cleared up the uncertainty left in the wake of *District of Columbia v. Heller* as to the scope of gun rights in regard to the states.

Initially the Court of Appeals for the Seventh Circuit had upheld a Chicago ordinance banning the possession of handguns as well as other gun regulations affecting rifles and shotguns, citing *United States v. Cruikshank*, *Presser v. Illinois*, and *Miller v. Texas*.^[3] The petition for certiorari was filed by Alan Gura, the attorney who had successfully argued *Heller*, and Chicago-area attorney David G. Sigale.^[4] The Second Amendment Foundation and the Illinois State Rifle Association sponsored the litigation on behalf of several Chicago residents, including retiree Otis McDonald.

The oral arguments took place on March 2, 2010.^{[5][6]} On June 28, 2010, the Supreme Court, in a 5–4 decision, reversed the Seventh Circuit's decision, holding that the Second Amendment was incorporated under the Fourteenth Amendment thus protecting those rights from infringement by local governments.^[7] It then remanded the case back to Seventh Circuit to resolve conflicts between certain Chicago gun restrictions and the Second Amendment.

Cause

In *McDonald v. City of Chicago*, 561 U.S. 3025, 130 S.Ct. 3020, 177 L.Ed.2nd 894 (2010), Chicago resident Otis McDonald, a 76 year old (in 2010) retired maintenance engineer, had lived in the Morgan Park neighborhood since buying a house there in 1971.^[1] McDonald decried the decline of his neighborhood, describing it as being taken over by gangs and drug dealers. His lawn was regularly littered with refuse and his home and garage had been broken into a combined five times, with the most recent robbery committed by a man McDonald recognized from his own neighborhood.^[1] An experienced hunter, McDonald legally owned shotguns, but believed them too unwieldy in the event of a robbery, and wanted to purchase a handgun for personal home defense. Due to Chicago's requirement that all firearms in the city be registered, yet refusing all handgun registrations after 1982 when a citywide handgun ban was passed, he was unable to legally own a handgun. As a result, in 2008, he joined three other Chicago residents in filing a lawsuit which became *McDonald v. Chicago*.^[1]

McDonald v. Chicago as compared to *NRA v. Chicago*

Despite being consolidated at the U.S. Court of Appeals for the 7th Circuit, the cases are different in scope in terms of the specific regulations challenged and the legal argument for applying the Second Amendment against state and local governments. The Second Amendment Foundation brought the *McDonald* case to the Supreme Court with its lead attorney Alan Gura. The cases were appealed separately to the U.S. Supreme Court.^[8]

- McDonald Petition for Certiorari ^[9]
- Chicago Brief in Opposition to Cert Petition ^[10]

Regulations challenged

McDonald challenged four broad aspects of Chicago's gun registration law, which, according to the plaintiffs:^[11]

- Prohibit the registration of handguns, thus effecting a broad handgun ban
- Require that guns be registered prior to their acquisition by Chicago residents
- Mandate that guns be re-registered annually, with another payment of the fee
- Render any gun permanently non-registrable if its registration lapses

Legal basis for incorporation

All of the post-*Heller* cases, including *McDonald*, *NRA v. Chicago*, *Nordyke* and *Maloney*, argued that the Second Amendment, in addition to applying to federal jurisdictions, should also be applied against state and local governments, using a judicial process called selective incorporation. Selective incorporation involves convincing the court that a right is "fundamental" by being "implicit in the concept of ordered liberty" or "deeply rooted in our nation's history and traditions" as defined most recently in the Supreme Court case *Duncan v. Louisiana*, 391 U.S. 145^[12] (1968).

In addition to claiming the Second Amendment should be incorporated through the selective incorporation process, *McDonald* is unique among post-*Heller* gun cases in that it asked the court to overturn the *Slaughter-House Cases*, 83 U.S. 36^[13] (1873). *Slaughter-House* determined that the 14th Amendment's Privileges or Immunities Clause did not apply the Bill of Rights to the actions of states (and by extension, local governments). If it had been overturned, the Selective Incorporation process may have become unnecessary, since the entire Bill of Rights, including the 2nd Amendment, would arguably be applied to the states.^{[14][15]}

In attempting to overturn *Slaughter-House*, this case garnered the attention and support of both conservative and liberal legal scholars interested in its potential application in areas outside of firearms law. Their interest was that if *Slaughter-House* had been overturned, it would have been possible that constitutional guarantees such as the right to a jury in civil cases, right to a grand jury in felony cases, and other parts of the Bill of Rights, as well as future court rulings and existing federal precedent, not universally guaranteed in actions by the states, would have been applied against the states automatically.^{[16][17][18]}

In his concurring opinion, Justice Thomas alone supported overturning the *Slaughter-House* and *Cruikshank* decisions,^[19] proposing that "the right to keep and bear arms is a privilege of American citizenship that applies to the States through the Fourteenth Amendment's Privileges or Immunities Clause."^[20]

Amici curiae

Thirty-three *amici curiae* ("friends of the court") briefs for this case were filed with the Clerk of the Supreme Court.^[21]

One of these briefs was filed by U.S. senators Kay Bailey Hutchison (R, TX) and Jon Tester (D, MT) and U.S. representatives Mark Souder (R, IN) and Mike Ross (D, AR) asking the Supreme Court to find in favor of the petitioners and rule that the Second Amendment does apply to the states.^[22] The brief was signed by 58 senators and 251 representatives, more members of Congress than any *amicus curiae* brief in history.^[23] Furthermore, thirty-two states under the aegis of Texas (and California independently) also filed *amici curiae*.^[24] [Wikipedia:Please clarify](#)^[24]

Decision

Writing for the majority, Justice Alito held that the Due Process Clause of the Fourteenth Amendment incorporates the Second Amendment right recognized in *Heller*.^[25] Writing a concurring opinion, Justice Thomas reached the same conclusion regarding the incorporation issue on different grounds: Privileges or Immunities Clause of the Fourteenth Amendment.^[26] The plurality decision also reaffirmed that certain firearms restrictions mentioned in *District of Columbia v. Heller* are assumed permissible and not directly dealt with in this case.^[27] Such restrictions include those to "prohibit...the possession of firearms by felons or mentally ill" and "laws forbidding the carrying of firearms in sensitive places such as schools and government buildings, or laws imposing conditions and qualifications on the commercial sale of arms".^[27]

Dissents

Justice Stevens wrote a lengthy dissenting opinion. Among his disagreements with the majority was the statement that incorporation was not at issue in this case. Citing *Cruikshank*, Stevens wrote, "The so-called incorporation question was squarely and, in my view, correctly resolved in the late 19th century." In addition, he argues against incorporation, taking issue with the methodology of the majority opinions.

Justice Breyer wrote, "In sum, the Framers did not write the Second Amendment in order to protect a private right of armed self defense. There has been, and is, no consensus that the right is, or was, 'fundamental.'"^[28]

Reception

The initial reactions of the Court's ruling were favorable from both the National Rifle Association^[1] and the Brady Campaign to Prevent Gun Violence.^[1] Both issued statements to the public that they feel they were vindicated by the Court's holding. However, the court did not include a "clarification of the standard for review" as requested by the Brady group in their amicus brief.^[1] In a discussion on the day of the ruling Wayne LaPierre of the NRA and Paul Helmke of the Brady Center both agreed that the Court's ruling protected specifically against bans on handguns for self-protection in the home. But as to the general question of gun laws not covered in *McDonald*; a large number of lawsuits are needed in order to determine whether any other existing gun regulations might also be unconstitutional. Wayne LaPierre expressed caution that the NRA has "a lot of work ahead" attempting to overturn other gun control regulations not covered by *McDonald*, while Paul Helmke said that he expected that the NRA is "going to lose most of those lawsuits".^[1]

Related cases

The day after *Heller* was filed the National Rifle Association filed five similar lawsuits challenging local gun bans:

- *Guy Montag Doe v. San Francisco Housing Authority*
- Three unnamed suits against the Chicago suburbs of Evanston, Morton Grove and Oak Park^[29]
- *NRA v. Chicago* – eventually merged with *McDonald*.

Other notable post-*Heller* Second Amendment court cases:

- *Nordyke v. King*, 563 F.3d 439 (9th. Cir. 2009) Held that the 2nd Amendment did apply to the states in the Ninth Circuit, though the ruling was vacated for *en banc* reconsideration, and the Alameda County, California prohibition of firearms on county property remained constitutional until overturned by *McDonald v. Chicago*.
- *Maloney v. Rice (a.k.a. Maloney v. Cuomo and Maloney v. Spitzer)*^[69], 554 F.3d 56 (2d. Cir. 2009) Held that the 2nd Amendment does not apply to the states in the Second Circuit. The case involved a state ban on Nunchaku sticks (a martial arts weapon). In a memorandum opinion dated June 29, 2010, the Supreme Court vacated the Second Circuit decision in *Maloney* and remanded for further consideration in light of *McDonald's* holding that the Second Amendment *does* apply to the states.
- *State of Washington v. Sieyes*^[30] The Washington Supreme Court held that the 2nd Amendment is incorporated and applies to Washington State, via the Due Process Clause of the Fourteenth Amendment. Superseded by, but consistent with, *McDonald*.
- *The Commonwealth V. Runyan*^[31], 456 Mass. 230 (2010) The Supreme Judicial Court of Massachusetts held that *Heller* did not apply to the Massachusetts state legislature and that the gun locks ordered under Massachusetts law are different from those regulated in *Heller*. Partially overturned by *McDonald*; The decisions made in *Heller* do apply to the State of Massachusetts (as with all States), but the gun lock requisite under MA law may indeed differ enough from D.C.'s statute to be found constitutional.
- In *Ezell v. Chicago*^[32], decided July 6, 2011, the Seventh Circuit^[32] reversed a district court decision that the post-*McDonald* measures adopted by the City of Chicago were constitutional. The Chicago law required firearms training in a shooting range in order to obtain a gun permit, but also banned shooting ranges within the City of

Chicago. The City had argued that applicants could obtain their training at gun ranges in the suburbs. The opinion noted that Chicago could not infringe Second Amendment rights on the grounds that they could be exercised elsewhere, any more than it could infringe the right to freedom of speech on the grounds that citizens could speak elsewhere.

- In *Moore v. Madigan*, the United States Court of Appeals for the Seventh Circuit issued a ruling in December 2012 that will require the Illinois Legislature to modify existing State law to adopt a concealed carry law to allow the denizens of Illinois the right to bear arms outside of the home. In February 2013, the entire Court of Appeals decided to let stand the December 2012 decision of a three-judge panel.^{[33][34]}

References

- [1] <http://www.supremecourt.gov/Search.aspx?FileName=/docketfiles/08-1521.htm>
- [2] http://www.oyez.org/cases/2000-2009/2009/2009_08_1521/argument
- [3] *National Rifle Ass'n of Amer., Inc. v. City of Chicago*,
- [9] http://www.chicagoguncase.com/wp-content/uploads/2009/06/mcdonald_cert_petition1.pdf
- [10] http://www.chicagoguncase.com/wp-content/uploads/2009/08/chicago_bio.pdf
- [12] <https://supreme.justia.com/us/391/145/case.html>
- [13] <https://supreme.justia.com/us/83/36/case.html>
- [14] "[T]he words 'No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States' seems to me an eminently reasonable way of expressing the idea that henceforth the Bill of Rights shall apply to the States." Erwin Chemerinsky et al., *Constitutional Law* § 6.3.2 (3d ed. 2006) (*quoting Duncan v. Louisiana*, 391 U.S. 145, 166 (1968) (Black, dissenting))
- [15] More precisely, the Privileges or Immunities Clause would incorporate the first eight amendments of the Bill of Rights; since the 9th and 10th Amendments refer to the unenumerated rights of individuals and reserved powers of the states respectively, their incorporation, at least for the 10th Amendment, would be paradoxical or meaningless.
- [19] slip op., at 52-54 (Thomas, J., concurring)
- [20] slip op., at 1 (Thomas, J., concurring)
- [23] Sen. Kay Bailey Hutchinson press release (<http://hutchison.senate.gov/pr112309a.html>), November 23, 2009
- [24] <http://www.chicagoguncase.com/case-filings/#SupremeCourt>
- [25] *McDonald*, at ___-___ (slip op., at 44)
- [26] SCOTUS blog (<http://www.scotusblog.com/2010/06/privileges-or-immunities-clause-alive-again/>)
- [27] *McDonald*, at ___-___ (slip op., at 39-40)
- [30] <http://caselaw.findlaw.com/wa-supreme-court/1508445.html>
- [31] <http://www.mass.gov/mdaa/court-decisions/list-by-case-name/m-thru-s/commonwealth-v-runyan.html>
- [32] <http://www.lb7.uscourts.gov/documents/10-3525op.pdf>
- [33] *Moore v. Madigan*, key points (<http://www.volokh.com/2012/12/11/moore-v-madigan-key-points/>)
- [34] Appeals court won't reconsider concealed carry ruling (<http://www.suntimes.com/news/18403664-418/appeals-court-wont-reconsider-concealed-carry-ruling.html>), Chicago Sun Times, 22 Feb 2013.

External links

- Official slip opinion from the U.S. Supreme Court (<http://www.supremecourt.gov/opinions/09pdf/08-1521.pdf>)
- SCOTUS Transcript of Oral Arguments in *McDonald v. Chicago* (http://www.supremecourt.gov/oral_arguments/argument_transcripts/08-1521.pdf)
- Case history by *Chicago* magazine (<http://www.chicagogmag.com/Chicago-Magazine/January-2010/In-Their-Sights-Lawsuit-challenging-Chicagos-1982-handgun-ban-to-be-heard-by-Supreme-Court/>)
- Arms Keepers (<http://www.ArmsKeepers.org>), an organization that has filed a brief supporting McDonald's request that the Supreme Court hear the case
- ChicagoGunCase.com (<http://www.ChicagoGunCase.com/>) case history by a group supporting gun rights
- Case filings and court opinions for *McDonald v. Chicago* including the original complaint and subsequent filings (<http://www.chicagoguncase.com/case-filings/>)
- NRA Complaint against Chicago (<http://www.nraila.org/media/PDFs/chicago.pdf>)
- NRA Complaint against Evanston (<http://www.nraila.org/media/PDFs/evanston.pdf>)

- NRA Complaint against Morton Grove (<http://www.nraila.org/media/PDFs/morton.pdf>)
- NRA Complaint against Oak Park (<http://www.nraila.org/media/PDFs/oakpark.pdf>)

Missouri Proposition B (1999)

Proposition B in Missouri was a failed 1999 ballot measure that would have required local police authorities to issue concealed weapons permits to eligible citizens. It was a contentious issue and was narrowly rejected at the time by the electorate, but the legislature later approved similar legislation in 2003.

Supporters

Support for concealed carry laws in Missouri grew gradually throughout the 1990s. In 1991, a group to promote such laws called "the conference" was formed and that nickname was used until the Missouri Legislative Issues Council (MOLIC) was formed in 1995 for official recognition. Support for these laws increased in part as a response to the Brady Handgun Violence Prevention Act and other national gun control efforts.

After author/columnist John Ross made his attempts to convince Missouri legislators, other supporters also emerged. The NRA formed Missourians *Against* Crime (MAC) in 1998 as their spokesman into Missouri. This created an issue with the MOLIC membership. Negative campaigns seldom succeed in Missouri. The MOLIC organization was transformed into Missourians *for* Personal Safety (MPS) for the 1998 Proposition B campaign with Steve McGhee as the President. These combined efforts brought notoriety to Greg Jeffery, attorney/author Kevin Jamison, and Tim Oliver, to the forefront of their local/regional news media. As the Missouri Sport Shooting Association (MSSA), joined (unofficially) in support, they all proceeded with their regional campaigning attempts. Eventually, more and more individuals heard of these volunteers/members and took up the task to support the proposition with smaller meetings and neighborhood 'grass roots' action groups.

Police Officers generally supported the measure: "*In a recent poll, more than eighty-five percent of our 1352 members favored Right-to-Carry.*", Letter to St. Louis Police Chief Ron Henderson, from Sgt. John J. Johnson, President St. Louis Police Officers Association, 1/23/99."^[1]

The Gateway Civil Liberties Alliance (GCLA) arose after the failure to pass the proposition in 1999; forming itself from MOLIC, MPS, and with WMSA giving support, to become the leadership and legislative clearing house for the 2003 success in passing a shall-issue law. Frequent trips to Jefferson City by Greg Jeffery (GCLA cofounder) earned him the nickname 'braintrust' to a newly created law that was adopted by Missouri in 2003.^[1]

Opponents

Handgun Control, Inc., saw this as their test case before the elections in 2000 to exercise their political influence^[2] and lobbied hard to defeat the referendum.^[3] Political notables included the Clinton/Gore Administration^[4] with Attorney General Janet Reno playing a secondary role to Hillary Clinton's activism, Governor Mel Carnahan and his daughter Robin Carnahan, the 1994 appointed^[5] Secretary of State, Rebecca Cook,^[6] and State Auditor, Claire McCaskill.

Robin Carnahan chaired the Safe Schools and Workplaces Committee (SSWC) and orchestrated television ads against the proposition. Also, on the weekend prior to voting day, that organization coordinated the taped phone message from Hillary Clinton to automatically dial 75,000 homes statewide with the message, "just too dangerous for Missouri families."^[1]

Ballot language

The General Assembly approved the following ballot language:

"Shall state or local law enforcement agencies be authorized to issue permits to law-abiding citizens at least twenty-one years of age to carry concealed firearms outside their home for personal protection after having passed a state and federal criminal background check and having completed a firearms safety training course approved by the Missouri Department of Public Safety?"

After a lawsuit filed by the opponents of the measure, the language was changed. The final text read:

"Shall sheriffs, or in the case of St. Louis County, the chief of police, be required to issue permits to carry concealed firearms to citizens who apply if various statutory requirements are satisfied?" Because of the discretion given to local law enforcement to verify the accuracy of applications, the costs are uncertain. Application fees are estimated to cover most costs for the first three years. Subsequently, local governments, as a whole, may incur costs from \$500,000 to \$1,000,000 annually, not covered by fees."

Missouri Sport Shooting Association President Kevin Jamison described it as, "The opposition conducted a poll of the ballot language which determined that 60% of the state would vote in favor of License to Carry. Outraged that the people might "speak wrong", the Governor's lawyer filed a suit with the Missouri Supreme Court to change the ballot language. The defendants in the suit were Attorney General Jay Nixon and State Auditor Claire McCaskill."^[7]

Campaign controversies

The use of official government resources by opponents of the measure was controversial.

"Missouri's two US Attorneys are using the Justice Department's name and facilities to lobby against the state's concealed weapons ballot issue. Using official department letterhead, the attorneys, Edward Dowd and Stephen Hill, urged sheriffs and police chiefs across the state to rally resistance against Proposition B, which is on the ballot this April. Dowd's office is operating an 800 number which people can call to obtain anti-prop B campaigning materials. Calls to the 800 number, 1-800-214-2690, are answered with "US Attorneys Office." "^[8]

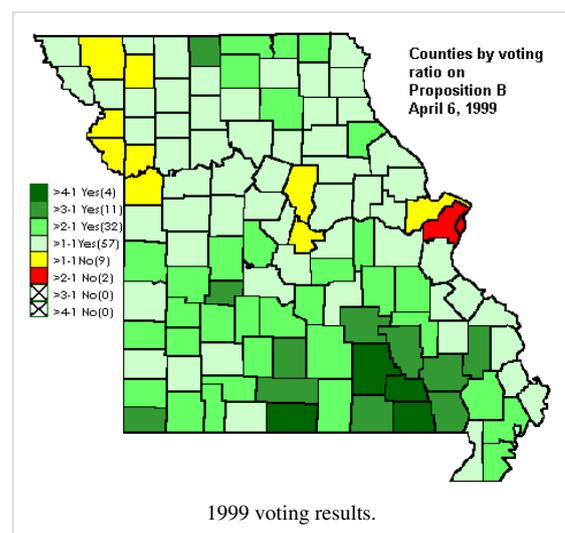
Some advertisements used in the campaign were deceptive, particularly an opposition ad^[9] that implied Missourians would be allowed to carry Uzis^[10] that continued into 2000.^[8]

Results

Proposition B gained 634,361 votes in favor (48.3%) and 678,256 votes against (51.7%), thus being defeated by a margin of 3.3%.^[11]

The majority of voters in rural Missouri voted in favor of Proposition B. However, urban voters, particularly in St. Louis and Kansas City, tipped the balance against Proposition B. 74.1% of the voters in the city of St. Louis, 69.5% in St. Louis County, and 71.6% in Kansas City opposed Proposition B.^[12]

In 2003, after ignoring the results of Proposition B, the Missouri General Assembly passed new laws to enable shall-issue permits.^[13]



Participant Roles during 1999

The following persons played important roles in the creation of law in the State of Missouri. This is not their biography but an outline of the positions held during the 1999 Proposition B campaigns.

John Ross

Pro-2nd Amendment activist.

John Ross Author/Columnist^[9]

Concealed Firearms Instructor

1998 Chairman/Co-founder; Missouri Legislative Issues Council (MOLIC).

Co-founder; Missourians for Personal Safety (MPS)^[10]

Supporter, Missouri Sport Shooting Association (MSSA)^[11]

Kevin Jamison

Pro-2nd Amendment activist.

Attorney/Author^[12]

Co-founder; Missouri Legislative Issues Council (MOLIC)

Co-founder; Missourians for Personal Safety (MPS)^[10]

2006 President, Missouri Sport Shooting Association (MSSA)^[11]

Tim Oliver

Pro-2nd Amendment activist.

Conceal Carry Firearms Instructor^[13]

Co-founder; Missouri Legislative Issues Council (MOLIC)

Co-founder; Missourians for Personal Safety (MPS)^[10]

Supporter; Missouri Sport Shooting Association (MSSA)^[11]

Greg Jeffery

Pro-2nd Amendment activist.

Co-founder; Missouri Legislative Issues Council (MOLIC)

Co-founder; Missourians for Personal Safety (MPS)^[10]

Supporter, Missouri Sport Shooting Association (MSSA)^[11]

Co-founder The Gateway Civil Liberties Alliance (GCLA)^[14]

Legislative Consultant to Missouri Law makers.

Steve McGhee

Pro-2nd Amendment activist.

NRA Master Training Counselor/Instructor^[15]

1998 President, Missouri Sport Shooting Association (MSSA)^[11]

1999 President/Co-founder; Missourians for Personal Safety (MPS)^[10]

Campaign Funding

Pro-2nd Amendment	□
NRA	+\$3 Million

Pro-Gun Control	[16]
Out of State	\$399,079
In State	\$164,000

Carnahan Participation

Pro-Gun Control activist.^[17] Governor Mel Carnahan pledged neutrality.

Robin Carnahan chaired the Safe Schools and Workplaces Committee (SSWC)

1999 Federal Participation

Pro-Gun Control activist.

US Attorneys: (established 1-800-214-2690)^[18]

Edward Dowd (Eastern Missouri)

Stephen Hill (Western Missouri)

1999 White House Participation

Pro-Gun Control & Brady Handgun Violence Prevention Act activist.

President Clinton signed Federal assault weapons ban in 1993 which expired in 2004.

Hillary Clinton gave a taped voice message to condemn Prop B.

References

- [2] 1983 The Center to Prevent Handgun Violence (CPHV), an educational outreach organization dedicated to reducing gun violence, is founded as a sister organization to HCI. (source: HCI)
- [4] "Clinton's Administration is easily the most reckless in interfering with the integrity of Federal investigative agencies since that of Richard Nixon." -- NY Times editorial, "White House Ethics Meltdown", 3/4/94
- [6] There was debate to which office held more influence between Secretary of State and/or the State Auditor. Most political watchers agreed that the Secretary of State had the authority to change the ballot language used (without review) in 1999.
- [7] THE MISSOURI MIRACLE by K. L. Jamison
- [8] May 4, 2000: HCI releases a new television ad featuring video footage of a senior NRA official boasting that, if George W. Bush is elected President, the NRA will be working out of the White House. (source: HCI)
- [9] About John Ross (<http://wetinkpro.com/john/site/about.php>)
- [10] MOCCW - Concealed Carry in Missouri (<http://www.mocccw.org/>)
- [11] Missouri Sport Shooting Association for the State of Missouri (<http://www.missourisportshooting.org>)
- [12] Kevin L. Jamison, Attorney At Law | Welcome (<http://www.kljamisonlaw.com/>)
- [13] Tim Oliver's LTC - News & Information (<http://www.learntocarry.com/news/>)

[14] New and Improved! Welcome to G.C.L.A (<http://www.gclastl.org/>)

[15] McGhee Training Services of Missouri (<http://www.mcgheetraining.com/index.html>)

[17] NRAFAX Alert - Carnahan defeats Prop. B. (<http://www.mocccw.org/nrapropb.html>) MPS/MOCCW. Retrieved on 2006-09-18.

External links

- Coalition to Stop Gun Violence (http://www.csgv.org/news/headlines/ap5_6_99.cfm) about 1999 Results
- Missouri **D+** status with HCI (<http://www.stategunlaws.org/viewstate.php?st=MO>)
- 1999 Proposition B (<http://www.mocccw.org/ccwlawta.html>)
- MISSOURI CCW REFERENDUM (<http://www.mocccw.org/jamison.html>)
- A Statistician Explains a Conundrum (<http://www.john-ross.net/race&rtc.htm>)
- The End of a Personal Twelve-Year Odyssey (<http://www.john-ross.net/ccw03.htm>)
- Missouri makes history again (<http://archives.thedaily.washington.edu/2000/110800/N9.Carnahan.html>)
Dead man elected
- 2003 Missouri Law (<http://www.moga.state.mo.us/STATUTES/C571.HTM>)
- CCW FAQ to HCI (<http://www.bradycampaign.org/facts/faqs/?page=ccwfaq>)
- Q&A Missouri information (<http://www.missouricarry.com/forums/>)
- Brady Campaign History (<http://www.bradycampaign.org/about/index.php?pagename=history>) aka HCI
History
- Shall issue (<http://www.rkba.org/research/cramer/shall-issue.html>)
- Voter Fraud (<http://www.ejfi.org/Voting/Voting-9.htm#pgfId-1429716>)
- How to steal an election (<http://www.ejfi.org/Voting/Voting-10.htm#pgfId-1399102>)
- Missouri becomes 36th information (<http://www.nraila.org/CurrentLegislation/Read.aspx?ID=896>)
- Handgun Law information (<http://www.handgunlaw.us/>)

Montana Firearms Freedom Act

The **Montana Firearms Freedom Act** ^[1] is an attempt to limit federal jurisdiction over firearms in the state of Montana.

Provisions

The law declares that firearms manufactured in the state of Montana after October 1, 2009, and which remain in the state, are exempt from United States federal firearms regulations, provided that these items are clearly stamped "Made in Montana" on a central metallic part.

It applies to all firearms other than fully automatic weapons, firearms that cannot be carried and used by one person, and firearms with a bore diameter greater than 1½ inch which use smokeless powder. It also applies to ammunition (except exploding projectiles), and accessories such as suppressors.^[1]

The law has no requirements for registration, background checks or dealer licensing.

Legislative history

The bill was introduced January 13, 2009 by Joel Boniek, Gerald Bennett, Edward Butcher, Aubyn Curtiss, Lee Randall and Wendy Warburton. It was signed in to law by Governor Brian Schweitzer on April 15, 2009 and became effective on October 1, 2009.

This law has been assigned Chapter 205 in Title 30, of the Montana Code Annotated.^[2]

Rationale

The legislature declares that the authority for this law is derived from the Second, Ninth and Tenth amendments from the Bill of Rights to the United States Constitution. This act reaffirms the right of the people to keep and bear arms. It guarantees to the people rights not mentioned in the constitution, as well as to the states and their people all powers not granted to the federal government elsewhere in the constitution. The law also states that Article II, section 12, of the Montana constitution prohibits government interference with the right of individual Montana citizens to keep and bear arms.

Some supporters assert that the legislation is also about curbing excessive Federal regulation in areas such as education, animal management and intrastate trade.^[1]

The drafters of the law intend setting off a legal challenge with the Bureau of Alcohol, Tobacco, Firearms and Explosives.^[1]

Support in other states

Similar laws were subsequently passed in Alaska, Arizona, Idaho, South Dakota, Utah, Tennessee, and Wyoming.^[3] Attempts to do so have also been made in Florida, Georgia, Indiana, Kentucky, Louisiana, Michigan, Minnesota, Missouri, New Hampshire, Ohio, Oklahoma, Pennsylvania, South Carolina, Texas, Virginia, West Virginia and Washington.^[1]

ATF response

On July 16, 2009, the Bureau of Alcohol, Tobacco, Firearms and Explosives published an open letter to Montana Federal Firearms Licensees, clarifying the bureau's position on the Montana Firearms Freedom Act. According to this letter, "...because the Act conflicts with Federal firearms laws and regulations, Federal law supersedes the Act, and all provisions of the Gun Control Act and the National Firearms Act, and their corresponding regulations, continue to apply." The letter then summarizes ATF requirements for FFL holders.^[4]

On August 24, 2009, the Montana Shooting Sports Association and the Second Amendment Foundation announced that they were planning on filing a lawsuit on October 1, 2009 — the date that the Montana Firearms Freedom Act became effective — to stop federal regulations from being enforced for the firearms covered under the new state law.^[5]

Legal challenge

Plaintiffs filed suit in support of the law, in federal district court, on October 1, 2009. These plaintiffs are the Montana Shooting Sports Association, the Second Amendment Foundation, and MSSA president Gary Marbut. The legal complaint states that Marbut "wishes to manufacture and sell small arms and small arms ammunition to customers exclusively in Montana, pursuant to the MFFA, without complying with the NFA or the GCA, or other applicable federal laws."^{[6][7][8][9]}

On September 29, 2010, U.S. District Court Judge Donald Molloy dismissed the suit "for lack of subject matter jurisdiction and failure to state a claim."^[10]

The Plaintiffs have filed an appeal^[11] with the United States Court of Appeals for the Ninth Circuit. Oral arguments in *MSSA v. Holder* are scheduled to be heard by the Ninth Circuit on March 4, 2013, in Portland, Oregon.

References

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External links

- Orbach, Callahan & Lindemmen (2010), "Arming States' Rights: Federalism, Private Lawmakers, and the Battering Ram Strategy" (<http://ssrn.com/abstract=1696012>), *Arizona Law Review*, vol. 52.
- The Firearms Freedom Act (<http://www.firearmsfreedomact.com>)
- A Gun Activist Takes Aim at U.S. Regulatory Power, *Wall Street Journal* (2011) (<http://online.wsj.com/article/SB10001424052702304584404576442440490097046.html>)

Mulford Act

The **Mulford Act** was a 1967 California bill prohibiting the public carrying of loaded firearms. Named after Republican assemblyman Don Mulford, the bill garnered national attention after the Black Panthers marched on the California Capitol to protest the bill.^[11] The bill was signed by Republican California Governor Ronald Reagan and became California penal code 12031^[1] and 171(c)^[2].

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Nunn v. Georgia

Nunn v. State, 1 Ga. (1 Kel.) 243 (1846) was a Georgia state supreme court ruling that a state law ban on handguns was an unconstitutional violation of the Second Amendment. This was the first gun control measure to be overturned on second amendment grounds.^[1]

“The right of the whole people, old and young, men, women and boys, and not militia only, to keep and bear arms of every description, and not such as are used by the militia, shall not be infringed.”^[1]

“Our opinion is, that any law, State or Federal, is repugnant to the Constitution, and void, which contravenes this right, originally belonging to our forefathers, trampled under foot by Charles I. and his two wicked sons and successors, re-established by the revolution of 1688, conveyed to this land of liberty by the colonists, and finally incorporated conspicuously in our own Magna Charta! and Lexington, Concord, Camden, River Raisin, Sandusky, and the laurel-crowned field of New Orleans, plead eloquently for this interpretation!”^[1]

Background

In 1837, Georgia passed a law banning the sale and carry of certain types of weapons included Bowie and other types of knives, and pistols. Hawkins H. Nunn was charged and convicted for carrying a pistol in violation of the law.^[2] He appealed the ruling, claiming the state law was a violation of the Second Amendment to the United States Constitution. He did not make a claim under the Georgia constitution because Georgia, unlike many other states, did not have a similar protection of the right to bear arms within its constitution.^[3]

Ruling

The Nunn court ruled that while the legislature could prohibit the concealed carry of weapons, it could not prohibit the open carry of weapons. To do so would be a violation of the Second Amendment right to carry weapons for self-defense. As there was no proof that Nunn had been carrying his pistol concealed, the conviction was overturned.

“We are of the opinion, then, that so far as the act of 1837 seeks to suppress the practice of carrying certain weapons secretly, that it is valid, inasmuch as it does not deprive the citizen of his natural right of self-defence, or of his constitutional right to keep and bear arms. But that so much of it, as contains a prohibition against bearing arms openly, is in conflict with the Constitution, and void; and that, as the defendant has been indicted and convicted for carrying a pistol, without charging that it was done in a concealed manner, under that portion of the statute which entirely forbids its use, the judgment of the court below must be reversed, and the proceeding quashed.”^[1]

Legal Analysis

The court relied on guidance from other state decisions and general theories of rights to explain its decision.

Other State Courts

The Nunn court referenced *Bliss v. Commonwealth*, 12 Ky. (2 Litt.) 90, 13 Am. Dec. 251 (1822) and *State v. Reid*, 1 Ala. 612, 35 Am. Dec. 44 (1840). In *Bliss*, the defendant was charged with carrying a weapon concealed, in violation of a Kentucky statute. The *Bliss* court invalidated the law as a diminution of the Kentucky constitution which provided, “that the right of the citizens to bear arms in defence of themselves and the State, shall not be questioned.” The court reasoned that the right as defined has no limits and “in fact consists of nothing else but the liberty.” Any restriction on the right, including the prohibition of concealed carry was a violation of the right.^[3]

In contrast the court in *Reid* upheld a similar ban on concealed carry. The Alabama constitution read, “that every citizen has a right to bear arms in defence of himself and the State.” The *Reid* court held that the law “to suppress the

evil practice of carrying weapons secretly,” did not violate the Alabama constitution. While the legislature could not prevent the carrying of arms, it did retain the right “to enact laws in regard to the manner in which arms shall be borne.” Because the restriction on concealed carry was not a prohibition on the right, it was within the ambit of the legislature to restrict concealed carry.^[4]

Fundamental Rights

The Nunn court recognized that Reid and Bliss were applying clauses in state constitutions. But, their decisions were relevant to Georgia because the state constitutional protection of the right to keep and bear arms was not a newly given right, but was a recitation of an already existent right.

“It is true, that these adjudications are all made on clauses in the State Constitutions; but these instruments confer no new rights on the people which did not belong to them before. When, I would ask, did any legislative body in the Union have the right to deny to its citizens the privilege of keeping and bearing arms in defence of themselves and their country?”^[5]

The court held that the Second Amendment to the United States Constitution protected the rights of Georgia citizens because free people have the right to self-defense. The fact that Georgia did not have a constitutional amendment did not empower the Georgia legislature to infringe on the right. The right is fundamental, and no free society could exist where the right was prohibited.^[1]

“But admitting all this, does it follow that because the people refused to delegate to the general government the power to take from them the right to keep and bear arms, that they designed to rest it in the State governments? Is this a right reserved to the States or to themselves? Is it not an unalienable right, which lies at the bottom of every free government? We do not believe that, because the people withheld this arbitrary power of disfranchisement from Congress, they ever intended to confer it on the local legislatures. This right is too dear to be confided to a republican legislature.”^[6]

The court also held that the whole people, not just militia were afforded the right to keep and bear arms. And the type of arms was not restricted only to those borne by the militia but arms of every type and description.

“The right of the whole people, old and young, men, women and boys, and not militia only, to keep and bear arms of every description, and not such merely as are used by the militia, shall not be infringed, curtailed, or broken in upon, in the smallest degree; and all this for the important end to be attained: the rearing up and qualifying a well-regulated militia, so vitally necessary to the security of the free State.”^[1]

The court’s concept of rights meant that other portions of the Bill of Rights would also apply to the States. For example, the court explained that the right to peaceably assemble, protected under the First Amendment, was applicable to both the national and state governments. The court also cited to the New York case of *People vs. Goodwin*, 18 John. Rep. 200 (N.Y.Sup. 1820) which applied Fifth Amendment double jeopardy prohibitions to New York state court operations. The court explained how to determine which constitutional provisions apply to the state and which applied only the federal government; the relevant question is whether the concepts in the constitution were confined only to the national government or if they could be extended to the states as well. Citing *Goodwin*:

“These general and comprehensive expressions extend the provisions of the constitution of the United States to every article which is not confined, by the subject matter, to the national government, and is equally applicable to the states.”

Modern Significance

The Nunn court's decision has continuing relevance to the ongoing debate over gun rights. The Supreme Court in its ruling in *Heller v. District of Columbia* said "Nunn" *Perfectly captured the way in which the operative clause of the Second amendment furthered the purpose announced in the prefatory clause.*^[1] The Nunn court concept of fundamental rights was relevant to determine whether or not the Second Amendment is a restriction only on the federal government or whether the right to keep and bear arms is a fundamental right that cannot be infringed by the state governments.

Nor is the right involved in this discussion less comprehensive or valuable: "The right of the people to bear arms shall not be infringed." The right of the whole people, old and young, men, women and boys, and not militia only, to keep and bear arms of every description, not such merely as are used by the militia, shall not be infringed, curtailed, or broken in upon, in the smallest degree; and all this for the important end to be attained: the rearing up and qualifying a well-regulated militia, so vitally necessary to the security of a free State. Our opinion is, that any law, State or Federal, is repugnant to the Constitution, and void, which contravenes this right, originally belonging to our forefathers, trampled under foot by Charles I. and his two wicked sons and successors, reestablished by the revolution of 1688, conveyed to this land of liberty by the colonists, and finally incorporated conspicuously in our own Magna Charta! And Lexington, Concord, Camden, River Raisin, Sandusky, and the laurel-crowned field of New Orleans, plead eloquently for this interpretation! And the acquisition of Texas may be considered the full fruits of this great constitutional right.^[7]

References

[1] Nunn, 1 Ga. 243 at 251.

[2] Section 1st enacts, "that it shall not be lawful for any merchant or vender of wares or merchandize in this State, or any other person or persons whatever, to sell, or to offer to sell, or to keep or to have about their persons, or elsewhere, any of the herein-after-described weapons, to wit: Bowie or any other kinds of knives, manufactured and sold for the purpose of wearing or carrying the same as arms of offence or defence; pistols, dirks, sword-canes, spears, &c., shall also be contemplated in this act, save such pistols as are known and used as horseman's pistols," &c. Nunn, 1 Ga. 243 at 246.

[3] Nunn, 1 Ga. 243 at 247-48.

[4] Nunn, 1 Ga. 243 at 248-49.

[5] Nunn, 1 Ga. 243 at 249.

[6] Nunn, 1 Ga. 243 at 250.

External links

- Nunn v. State on Guncite.com (<http://www.guncite.com/court/state/1ga243.html>)
- Guns in the Dock (<http://www.davekopel.com/2A/Mags/Guns-in-the-Dock.htm>)

NY SAFE Act

NY SAFE Act	
	
New York State Legislation	
Full name	New York Secure Ammunition and Firearms Enforcement Act
Status	In force
Signed into law	January 15, 2013
Governor	Andrew Cuomo
Associated bills	Gun Legislation Bill ^[1]

U.S. Firearms Legal Topics
• Assault weapon
• ATF Bureau
• Brady Handgun Violence Prevention Act
• Concealed carry in the U.S.
• Domestic Violence Offender Gun Ban
• Federal Assault Weapons Ban
• Federal Firearms License
• Firearm case law
• Firearm Owners Protection Act
• Gun Control Act of 1968
• Gun laws in the U.S.—by state
• Gun laws in the U.S.—federal
• Gun politics in the U.S.
• National Firearms Act (NFA)
• NY SAFE Act (New York)
• Second Amendment to the Constitution
• Straw purchase
• Sullivan Act (New York)
• Violent Crime Control Act
• An Act Concerning Gun Violence Prevention and Children's Safety

The **New York Secure Ammunition and Firearms Enforcement Act of 2013** commonly known as the **NY SAFE Act** is a gun control law in the state of New York. The law was passed by the New York State Legislature on January 15, 2013, and was signed into law by Governor of New York Andrew Cuomo on the same day.^[1]

The legislation was written in response to the Sandy Hook Elementary School shooting in Newtown, Connecticut.^[1] It was sponsored by State Senator Martin Golden. It passed the New York State Senate on Monday, January 14, and the State Assembly on Tuesday, January 15.^[1] Governor Andrew Cuomo signed the bill into law half an hour after it passed the legislature.^[1] Cuomo described the law as the "toughest" gun control law in the United States.^{[1][2]}

The NY SAFE Act contains a number of firearms regulations, and a severability provision, in case the broad prohibitions against weapons are invalidated by the courts.

Provisions

The SAFE Act includes the following provisions:^{[3][4]}

- Bans possession of any "high-capacity magazines" regardless of when they were made or sold. The maximum capacity for a detachable magazine is reduced from ten rounds to seven. Magazines owned before passage of the SAFE Act able to hold seven to ten rounds can be possessed, but cannot be loaded with more than seven rounds. .22 caliber tubular magazines are exempt from this limit. Previously legal "pre-1994-ban" magazines with a capacity of 30 rounds are not exempt, and must be sold within one year to an out-of-state resident or turned into local authorities. The magazine limit took effect April 15, 2013.^[5] Ten round magazines can still be fully loaded at firing ranges or in shooting competitions. In March 2013, the magazine limit provision was scaled back, allowing ten round magazines to continue to be sold, but still only loaded with seven rounds outside of ranges and competitions.^[6]
- Ammunition dealers are required to do background checks, similar to those for gun buyers. Dealers are required to report all sales, including amounts, to the state. Internet sales of ammunition are allowed, but the ammunition will have to be shipped to a licensed dealer in New York state for pickup. Ammunition background checks will begin January 15, 2014.^[7]
- Requires creation of a registry of assault weapons. Those New Yorkers who already own such weapons would be required to register their guns with the state. Registry began on April 15, 2013 and must be completed before January 15, 2014.^[6]
- Requires designated mental health professionals who believe a mental health patient made a credible threat of harming others to report the threat to a mental health director, who would then have to report serious threats to the state Department of Criminal Justice Services. A patient's gun could be taken from him or her.
- Stolen guns are required be reported within 24 hours. Failure to report can result in a misdemeanor.
- Reduces definition of "assault weapon" from two identified features to one. The sale and/or transfer of newly defined assault weapons is banned within the state, although sales out of state are permitted. Possession of the newly-defined assault weapons is allowed only if they were possessed at the time that the law was passed, and must be registered with the state within one year.
- Requires background checks for all gun sales, including by private sellers - except for sales to members of the seller's immediate family. Private sale background checks began March 15, 2013.^[7]
- Guns must be "safely stored" from any household member who has been convicted of a felony or domestic violence crime, has been involuntarily committed, or is currently under an order of protection.^[7] Unsafe storage of assault weapons is a misdemeanor.
- Bans the Internet sale of assault weapons.
- Increases sentences for gun crimes, including upgrading the offense for taking a gun on school property from a misdemeanor to a felony.^[1]
- Increases penalties for shooting first responders (Webster provision) to life in prison without parole.
- Limits the state records law to protect handgun owners from being identified publicly. However, existing permit holders have to opt into this provision by filing a form within 120 days of the law's enactment.^[citation needed] There also may exist issues with respect to "registered" owners in the new regulations vs "permit" holders under previous law.
- Requires pistol permit holders or owners of registered assault weapons to have them renewed at least every five years.

Criticisms

The law came under criticism immediately in the form of public protest in Albany, New York, on January 19, 2013, attended by several thousand protesters.^[8]

The law was criticized as "rushed through" by the state legislature without consideration of whether it would criminalize Police and other law enforcement officers who carry firearms with magazines with a larger capacity than those allowed for civilians.^[1] Police officers are not explicitly exempted from some of the law's provisions, and the governor's office is planning on working with the state legislature to amend the legislation. Technically, the pre-existing exemption from the previous 10 round limit may cover law enforcement.^[1] On January 18, 2013, Governor Cuomo's spokesman said police officers possessing magazines with more than seven bullets would not be deemed to be in violation of the law.^[9]

Retired police officers do not appear to be excluded from any of the laws provisions, but they are working to exempt them.^[10]

The New York State Sheriffs' Association issued a statement criticizing several aspects of the legislation. Included among them is their belief that "the new definition of assault weapons is too broad, and prevents the possession of many weapons that are legitimately used for hunting, target shooting and self defense." The new seven round magazine limit was also criticized, but the statement did express support on the issue of tougher penalties for illegal use of firearms.^[11]

Some mental health experts have expressed concerns that the law might interfere with their treatment of potentially dangerous individuals, or discourage such people from seeking treatment.^[1]

Others have claimed that this is a back door ban on handgun sales, noting that seven round magazines simply do not exist for many popular models.^[12] After realizing seven-round magazines do not exist for most firearms, New York governor Andrew Cuomo reversed his position on the seven-round limit, stating, "There is no such thing as a seven-bullet magazine [sic]. That doesn't exist, so you really have no practical option." He went on to say the state needs to allow the sale of handguns and rifles with ten-round magazines, but requires the people of New York only load seven rounds in them, except at shooting ranges and competitions. He claimed the law is still enforceable.^[13]

Cuomo and New York State Senate leaders planned an indefinite suspension of the seven-round magazine limit until they could rewrite the measure.^[14] In March 2013 during budget negotiations, Cuomo and lawmakers agreed to continue to allow 10-round magazines to be sold, but could still only be loaded with 7 bullets.^[6]

As of March 22, 2013 51 of New York's 58 counties (when counting New York City's five boroughs as a single entity) have passed official resolutions in direct opposition of the NY SAFE Act; some of these counties have directed their law enforcement officials to not enforce the SAFE Act within their jurisdictions. Two other counties have pending resolutions opposing while Albany county had a proclamation by the minority also opposing. Nassau, Suffolk and Westchester counties have yet to act in any official manner.^[15] While no official proclamation has been made, New York City is not expected to offer any opposition given Mayor Michael Bloomberg's public support of the bill and help in drafting the legislation.^[16]

Legal challenges

On Tuesday, January 29, 2013, attorney James D. Tresmond, Esq. of Hamburg, NY filed a lawsuit in New York State Supreme Court before the Honorable Diane Devlin, making this the first legal challenge to the NY SAFE Act to be heard in any court. Further proceedings are scheduled for April 25, 2013 at 9:30 a.m.^[17] Also on the same day The New York State Rifle and Pistol Association filed a notice of legal claim.^[18]

On February 28, 2013, the New York State Supreme Court issued an order saying that the state must show that the law does not violate the constitution. If the state is unable to do so, the court will issue an injunction against its implementation on April 29, 2013.^{[19][20]}

On March 11, 2013, the United States Department of Veterans Affairs announced that it would not follow the provision of the NY SAFE Act requiring mental health professionals to report patients who seem more likely to hurt themselves or others. A Department spokesman stated that federal laws protecting the privacy of veterans take precedence over state laws. Advocates for military veterans had expressed concern that the reporting requirement would deter some people from seeking needed treatment.^[21]

Robert L. Schulz from "We the People of New York" filed a lawsuit asking for an injunction against the law, saying that the law was passed in violation of the New York constitution. The suit alleges that Governor Cuomo's use of a "message of necessity" to waive the 3 day waiting period for passing legislation was improper. State supreme court judge Thomas McNamara denied the injunction saying "Concerns raised should be issues raised in elective process. This is not a judicial issue." and "The Court of Appeals has been clear, is clear, that judicial intervention or judicial review of a message of necessity is not allowed"^[22] Another judge has ordered both sides to argue their case in the Appellate Division of the State Supreme Court.^{[23][24]}

Impact

In 2013, Serbu Firearms refused to sell their model BFG-50A semi-automatic .50 rifles to the New York City Police Department after the passage of the NY SAFE Act that classified their weapon as an assault rifle.^{[[]]}

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Open carry in the United States

In the United States, **open carry** is shorthand terminology for "openly carrying a firearm in public", as distinguished from concealed carry, where firearms cannot be seen by the casual observer.

The practice of open carry, where gun owners openly carry firearms while they go about their daily business, has seen an increase in the U.S. in recent years.^{[1][2]} This has been marked by a number of organized events intended to increase the visibility of open carry and public awareness about the practice.^[3] Proponents of open carry point to history and statistics, noting that criminals usually conceal their weapons.^[2] Encouraged by groups like OpenCarry.org, GeorgiaCarry.org and some participants of the Free State Project, open carry has seen a revival in recent years,^{[3][4]} but it is not yet clear if this represents just a short-term trend.^{[5][6]}

The gun rights community has been mixed in its response. Alan Gottlieb of the Second Amendment Foundation and the NRA have been cautious in expressing support,^[7] while special-interest groups such as the aforementioned OpenCarry.org and GeorgiaCarry.org, and certain national groups such as the Gun Owners of America (GOA) have been more outspoken in favor of the practice.

Open carry is strongly opposed by gun control groups such as the Brady Campaign and the Coalition to Stop Gun Violence.^[7]



A man openly carrying a handgun in a Burger King in Eagle, Colorado.

Jurisdictions in the United States

In the United States, the laws concerning open carry vary by state and sometimes by municipality.

Definitions

Open carry

The act of publicly carrying a firearm on one's person in plain sight.

Plain sight

Broadly defined as not being hidden from common observation; varies somewhat from state to state.

Preemption

In the context of open carry: the act of a state legislature passing laws which limit or eliminate the ability of local governments to regulate the possession or carrying of firearms.

Prohibited persons

People prohibited by law from carrying a firearm. Typical examples are felons, those convicted of a misdemeanor of domestic violence, those found to be addicted to alcohol or drugs, and those who have been involuntarily committed to a mental institution.

Categories of law

Today in the United States, the laws vary from state to state regarding open carry of firearms. The categories are defined as follows:

Permissive open carry states

A state has passed full preemption of all firearms laws. They permit open carry to all non-prohibited citizens without permit or license. Open carry is lawful on foot and in a motor vehicle. It must be noted that while open carry may be legal in such jurisdictions per se, persons openly carrying firearms may be detained and cited by law enforcement officials for disorderly conduct or disturbing the peace in certain locations and circumstances where openly carrying could cause public alarm.

Licensed open carry states

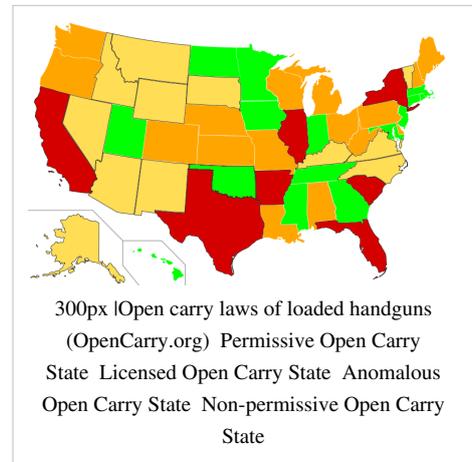
A state has passed full preemption of all firearms laws. They permit open carry of a handgun to all non-prohibited citizens once they have been issued a permit or license. Open carry of a handgun is lawful on foot and in a motor vehicle.

Anomalous open carry states

In these states, open carry of a handgun is generally lawful, but the state may lack preemption or there may be other significant restrictions. The limitations and/or lack of pre-emption may mean that certain areas of these states are, in their judicial system and law enforcement societies, not very friendly towards the practice, although this is not true in all of these states.

Non-permissive open carry states

In these states, open carry of a handgun is not lawful, or is only lawful under such a limited set of circumstances that public carry is prohibited. Such limited circumstances may include when hunting, or while traveling to/from hunting locations, while on property controlled by the person carrying, or for lawful self-defense.



Rural open carry states

In these states, open carry is generally permitted only in unincorporated areas of counties where population densities are below statutorily-defined thresholds, and local authorities have enacted ordinances permitting open carry in such jurisdictions (California). As such, these states are also regarded as Non-Permissive open carry states.

Constitutional implications

Open carry has never been ruled out as a right under the Second Amendment of the U.S. Constitution by any court. In the majority opinion in the case of *District of Columbia v. Heller* (2008), Justice Antonin Scalia wrote concerning the entirety of the elements of the Second Amendment; "We find that they guarantee the individual right to possess and carry weapons in case of confrontation." However, Scalia continued, "Like most rights, the Second Amendment right is not unlimited. It is not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose."^[1]

Forty-three states' constitutions recognize and secure the right to keep and bear arms in some form, and none of those prohibit the open carrying of firearms. Five state constitutions provide that the state legislature may regulate the manner of carrying or bearing arms, and advocates argue that none rule out open carry specifically. Nine states' constitutions indicate that the *concealed* carrying of firearms may be regulated and/or prohibited by the state legislature. Open carry advocates argue that, by exclusion, open carrying of arms may *not* be legislatively controlled in these states. But this is not settled law.^[citation needed]

Section 1.7^[9] of Kentucky's state constitution only empowers the state to enact laws prohibiting "concealed carry".

Open carry demonstrations and events

- May 2, 1967 openly armed members of the Black Panther Party marched on the California State capitol^[10] in opposition to the then-proposed Mulford Act prohibiting the public carrying of loaded firearms. After the march in the state capitol building, the law was quickly enacted.^[11]
- On June 16, 2000, the New Black Panther Party along with the National Black United Front and the New Black Muslim Movement protested the death sentencing conviction of Gary Graham, by openly carrying shotguns and rifles at the Texas Republican National convention in Houston, Texas.^[12]
- In 2003, gun rights supporters in Ohio used a succession of Open Carry "Defense Walks" attempting to persuade the Governor to sign concealed carry legislation into law.^[1]
- The legality of open carry of certain firearms in Virginia was reaffirmed after several 2004 incidents in which citizens openly carrying firearms were confronted by local law enforcement. The Virginia law prohibits the open carry, in certain localities, of any semiautomatic weapon holding more than 20 rounds or a shotgun that holds more than seven rounds, without a concealed carry permit.^[1]
- In 2008, Clachelle and Kevin Jensen, of Utah, were photographed together openly carrying handguns in the Salt Lake City International Airport near a "no weapons" sign. The photo led to an article in *The Salt Lake Tribune* about the airport's preempted "no weapons" signs. After a few weeks, the city removed the signs.^[13]WP:NOTRS
- In 2008, Zachary Mead was detained in Richmond County, Georgia by law enforcement for openly carrying a firearm. The weapon was seized. The organization GeorgiaCarry.org filed a lawsuit on behalf of Mead. The court declared that the seizure was a violation of the Fourth Amendment to the United States Constitution, awarded court costs and attorney fees to Mead, and dismissed the remaining charges with prejudice.^[14]
- In 2008, Brad Krause of West Allis, Wisconsin was arrested by police for alleged disorderly conduct while openly carrying a firearm while planting a tree on his property. A court later acquitted him of the disorderly conduct charge, observing in the process that in Wisconsin there is no law dealing with the issue of unconcealed

weapons.^[1]

- On April 20, 2009, Wisconsin Attorney General J.B. Van Hollen issued a memorandum to district attorneys stating that open carry was legal and in and of itself does not warrant a charge of disorderly conduct. Milwaukee police chief Ed Flynn instructed his officers to take down anyone with a firearm, take the gun away, and then determine if the individual could legally carry it until they could make sure the situation is safe.^[1]
- On May 31, 2009, Washington OpenCarry members held an open carry protest picnic at Silverdale's Waterfront Park, a county park. Attendees openly carried handguns in violation of posted regulations prohibiting firearms at the park.^[15] Washington state law allows the open carrying of firearms and specifically preempts local ordinances more restrictive than the state's, such as the one on the books for Kitsap county. Shortly after the protest Kitsap county commissioners voted to amend KCC10.12.080^[16] to remove the language that banned firearms being carried in county parks. KCC10.12.080 Was amended on July 27, 2009 and as of May 31, 2012 most of the signs in the county still read that firearms are prohibited despite numerous attempts to get the county to update the signs. The amendment is listed as it reads in meeting minutes from July 2009^[17]

KCC10.12.080 Amendment: It is unlawful to shoot, fire or explode any firearm, firecracker, fireworks, torpedo or explosive of any kind ~~or to carry any firearm~~ or to shoot or fire any air gun, BB gun, bow and arrow or use any slingshot in any park, except the park director may authorize archery, slinging, fireworks and firing of small bore arms at designated times and places suitable for their use.

- In July 2009, an open carry event organized by OpenCarry.org took place at Pacific Beach, San Diego, California, where citizens carrying unloaded pistols and revolvers were subjected to Section 12031(e) inspections of their firearms on demand by police officers. The officers were obviously well-briefed on the details of the law, which allows Californians to openly carry only unloaded guns and allows carry of loaded magazines and speedloaders.^[1]
- On August 11, 2009, William Kostric, a New Hampshire resident, Free State Project participant, and former member of We The People [18]'s Arizona Chapter,^[19] was seen carrying a loaded handgun openly in a holster while participating in a rally outside a town hall meeting hosted by President Barack Obama at Portsmouth High School in New Hampshire. Kostric never attempted to enter the school, but rather stood some distance away on the private property of a nearby church, where he had permission to be. He held up a sign that read "It's Time to Water the Tree of Liberty!".^[1]
- On August 16, 2009, "about a dozen" people were noted by police to be openly carrying firearms at a health care rally across the street from a Veterans of Foreign Wars Convention in the Phoenix Convention Center, where President Barack Obama was giving an address.^[20] While the Secret Service was "very much aware" of these individuals, Arizona law does not prohibit open carry.^[21] No crimes were committed by these protesters, and no arrests were made.^[22] In an interview with Fox News, commentator James Wesley Rawles characterized the Phoenix protesters as "merely exercising a pre-existing right". When he was asked about open carry, "but...without a permit?" Rawles opined, "We *have* a permit--it is called the Second Amendment."^[23]
- On January 30, 2010 Members of Michigan Open Carry were eating at a local Ponderosa Steakhouse in Lansing, Michigan when local police responded and forced them to leave.^[24] A person rumored to be a United States Marine was carrying an AR-15 at this open carry event. A brief verbal argument ensued between the leader of the open carry group and the Lansing Police Department. No arrests were made; some of the law enforcement officers at the scene were given reprimands^[citation needed] for their actions arising from the incident.
- In May 2010, Jesus C. Gonzalez was arrested and charged with homicide in a shooting which occurred while he was carrying a handgun. Gonzalez was involved in two prior arrests for disorderly conduct, based on his open carry practice. He filed a lawsuit claiming fourth and fourteenth amendment violations. His suit and appeal were both dismissed. Gonzalez was convicted on lesser charges, including reckless homicide.^[25]
- The Starbucks coffee chain has been the target of several boycotts arranged by gun control groups to protest Starbucks' policy of allowing concealed and open carry weapons in stores, if allowed by local laws. A counter

boycott was proposed for Valentines Day of 2012 to show support from gun owners for Starbucks, with the use of two dollar bills to represent Second Amendment rights.

Diversity in State Laws

State laws on open carry vary widely. Six states and the District of Columbia fully prohibit the open carry of handguns. On the other side, twelve states permit open carry of a handgun without requiring the citizen to apply for any permit or license. Thirteen states require some form of permit (often the same permit as allows a person to carry concealed), and the remaining seventeen states, though not prohibiting the practice in general, do not preempt local laws or law enforcement policies, and/or have significant restrictions on the practice, such as prohibiting it within the boundaries of an incorporated urban area. Illinois allows open carry on private property only.^[26]

As of August, 2009, four states that currently restrict open carry as a remnant of the post-Civil war Reconstruction era^[27] (Texas, South Carolina, Oklahoma and Arkansas) are considering making it again legal.^{[1][28]} Bills were drafted in the Texas Legislature for the 2009 and 2011 sessions, backed by proponents such as OpenCarry.org, but did not make it to the floor.

On October 11, 2011, California Governor Jerry Brown signed into law that it would be a "misdemeanor to openly carry an exposed and unloaded handgun in public or in a vehicle." This does not apply to the open carry of rifles or long guns or persons in rural areas where permitted by ordinance.

On November 1st, 2011, Wisconsin codified open carry and recognized its legality by adding a sub section to its Disorderly Conduct statute (947.01). Subsection 2 reads "Unless other facts and circumstances that indicate a criminal or malicious intent on the part of the person apply, a person is not in violation of, and may not be charged with a violation of, this section for loading, carrying, or going armed with a firearm, without regard to whether the firearm is loaded or is concealed or openly carried."

2012 May 15: Gov. Mary Fallin signed Senate Bill 1733, the Oklahoma Self Defense Act, which will allow people with Oklahoma concealed weapons permits to open carry if they so choose. The law took effect in November, 2012. "Under the measure, businesses may continue to prohibit firearms to be carried on their premises. SB 1733 prohibits carrying firearms on properties owned or leased by the city, state or federal government, at corrections facilities, in schools or college campuses, liquor stores and at sports arenas during sporting events."^[29]

Federal Gun Free School Zones Act

The Federal Gun Free School Zones Act limits where a person may legally carry a firearm by generally prohibiting carry within one-thousand (1000) feet of the **property-line** of any K-12 school in the nation with private property excluded.^[30] A State-issued permit to carry may exempt a person from this restriction depending on the laws of the State, and most issuing States qualify for this exception. However, according to BATFE the exception in Federal law is only applicable to permit holders while in the State that physically issued their permit, and does not exempt people with out-of-state permits, even when their permit is recognized through State reciprocity agreements. BATFE letter explaining reciprocity of CCW permit holders and how it applies to Gun-Free School Zones.

Declared unconstitutional. "The Court today properly concludes that the Commerce Clause does not grant Congress the authority to prohibit gun possession within 1,000 feet of a school, as it attempted to do in the Gun-Free School Zones Act of 1990, Pub. L. 101-647, 104 Stat. 4844."^[31]

References

- [9] Seventh: The right to bear arms in defense of themselves and of the State, subject to the power of the General Assembly to enact laws to prevent persons from carrying **concealed weapons**.
- [12] State GOP Convention/ Tense moment as protesters clash with delegate/ Controversy surrounding execution comes to convention (http://www.chron.com/CDA/archives/archive.mpl?id=2000_3222302).*Houston Chronicle*. Retrieved on 10-01-2009.
- [13] " 'Gun owners miffed by SLC airport's confusing no-firearms signs (<http://forum.opencarry.org/forums/showthread.php?40986-Gun-owners-miffed-by-SLC-airport-s-confusing-no-firearms-signs>)"
- [14] " Order and Judgment in the United States District Court for the Southern District of Georgia Augusta Division (http://www.georgiacarry.com/county/richmond_carry/Doc 11 Consent Order.pdf)
- [18] <http://www.givemeliberty.org/>
- [20] (<http://www.google.com/hostednews/ap/article/ALeqM5hctDBUKMR4V-IGBrEQcYNO0ooBQAD9A4TG402>)
- [26] "Illinois AUUW statute" (<http://ilga.gov/legislation/ilcs/fulltext.asp?DocName=072000050K24-1.6>)
- [29] *Oklahoma Welcome*, "Oklahoma Gov. Mary Fallin signs open-carry gun bill into law ", retrieved 2012 May 18 (<https://oklahomawelcome.com/local/oklahoma-gov-mary-fallin-signs-open-carry-gun-bill-into-law.html>)

External links

- Alabama Open Carry - Alabama open carry laws, documents & tools, and user forums on open carry (<http://www.alabamaopencarry.com>)
- OpenCarry.org - site with state-by-state maps of open carry laws; and user forums on open carry (<http://opencarry.org>)
- LaOpenCarry.org - Louisiana Open Carry Awareness League (<http://laopencarry.org>)
- California Open Carry (<http://californiaopencarry.org/>)
- Responsible Citizens of California - A "Right-to-Carry" Non-Profit political organization (<http://responsiblecitizensofcalifornia.org/>)
- South Bay Open Carry - Southern California Open Carry Group (<http://www.southbayopencarry.org/>)
- Michigan Open Carry Inc. - Covering everything Open Carry in Michigan (<http://www.michiganopencarry.org/>)
- Strengthen gun laws, or weaken them? (<http://moneyedpoliticians.net/2011/01/14/strengthen-our-gun-laws-or-weaken-them/>)
- Kids book on open carry - Great source on open carry info (<http://www.myparentsopencarry.com/>)
- Open Carry Handbook, Michigan. Citizens League for Self Defense (<http://www.citizensleaguesd.com/p/store.html>)
- (<http://www.ohioopencarry.org/legality-open-carry-ohio>)

Roberti-Roos Assault Weapons Control Act of 1989

The **Roberti-Roos Assault Weapons Control Act of 1989**, or AWCA, enacted by the state of California in the United States, banned over fifty specific brands and models of firearms. While mostly rifles, some were pistols and shotguns. These semi-automatic firearms were classified as assault weapons under the law. The act also restricted magazines that can hold more than 10 rounds of ammunition. Firearms and magazines that were legally owned at the time the law was passed were grandfathered in if they were registered with the California Department of Justice.^{[1][2]}

Many other similar models from other manufacturers existed at the time, these were not banned: AWCA banned only specifically named assault weapons. A few of these weapons, in fact, were not even pistol-gripped 'ugly' guns: for example, the Springfield Armory BM59 (essentially an M-1 Garand with detachable magazine), and the SKS with detachable magazine were both banned by this act. Yet these firearms are topologically similar to current California-legal detachable-magazine rifles like the M1A, Ruger Mini 14, and Kel-Tec SU-16.

California Penal Code References

California Penal Code references used to describe various assault weapons.

Category I assault weapons are those specifically named by make and model in Penal Code §30510 (and echoed in California Code of Regulation §979.10). These firearms are assault weapons at even the bare receiver/frame level – regardless of any particular characteristic features. Thus an Uzi receiver would be banned by name, but a similar Group Industries receiver would be legal (as long as offending Category III features were not added).



The Colt AR-15 Sporter SP1 Carbine is a semi-automatic rifle that is classified as an assault weapon under the California law.

Category II assault weapons consist of the AR15 and AK "series" of firearms. While AR and AK series were named in the original Roberti-Roos laws, due to various key court decisions about "series" membership it's useful to refer to them as their own category, though these guns really have just fallen back into the Roberti-Roos list once listed by CalJustice.

Category III assault weapons are defined by characteristic features listed in PC 30515: The *Roberti-Roos Assault Weapons Control Act of 1989*, its subsequent augmentation in 1999, and the .50 Caliber BMG Regulation Act of 2004 has led to many restrictions on semi-automatic firearms.

Named Weapons banned

The term assault weapon means the following designated semiautomatic firearms as defined by Penal Code section 30510:

(a) All of the following specified rifles:

(1) All AK series including, but not limited to, the models identified as follows:

(A) Made in China AK, AKM, AKS, AK47, AK47S, 56, 56S, 84S, and 86S.

(B) Norinco 56, 56S, 84S, and 86S.

(C) Poly Technologies AKS and AK47.

(D) MAADI AK47 and ARM.

- (2) IMI UZI and Galil.
 - (3) Beretta AR-70.
 - (4) CETME Sporter.
 - (5) Colt AR-15 series.
 - (6) Daewoo K-1, K-2, Max 1, Max 2, AR 100, and AR110C.
 - (7) Fabrique Nationale FAL, LAR, FNC, 308 Match, and Sporter.
 - (8) MAS 223.
 - (9) HK-91, HK-93, HK-94, and HK-PSG-1.
 - (10) The following MAC types:
 - (A) RPB Industries Inc, sM10 and sM11.
 - (B) SWD Incorporated M11.
 - (11) SKS with detachable magazine.
 - (12) SIG AMT, PE-57, SG 550, and SG 551.
 - (13) Springfield Armory BM59 and SAR-48.
 - (14) Sterling MK-6.
 - (15) Steyer AUG.
 - (16) Valmet M62S, M71S, and M78S.
 - (17) Armalite AR-180.
 - (18) Bushmaster Assault Rifle.
 - (19) Calico M-900.
 - (20) J&R ENG M-68.
 - (21) Weaver Arms Nighthawk.
- (b) All of the following specified pistols:
- (1) IMI UZI.
 - (2) Encom MP-9 and MP-45.
 - (3) The following MAC types:
 - (A) RPB Industries Inc, sM10 and sM11.
 - (B) SWD Incorporated M-11.
 - (C) Advance Armament Inc, M-11.
 - (D) Military Armament Corp. Ingram —11.
 - (4) Intratec TEC-9.
 - (5) Sites Spectre.
 - (6) Sterling MK-7.
 - (7) Calico M-950.
 - (8) Bushmaster Pistol.
- (c) All of the following specified shotguns:
- (1) Franchi SPAS 12 and LAW 12.
 - (2) Striker 12.
 - (3) The Streetsweeper type S/S Inc, SS/12.
-

Weapons banned by Characteristics

In addition to a lengthy list of specific firearms that are banned by name, the following firearms are banned by characteristic:

- (1) *A semiautomatic, centerfire rifle that has the capacity to accept a detachable magazine and any one of the following:*
 - (A) A pistol grip that protrudes conspicuously beneath the action of the weapon.
 - (B) A thumbhole stock.
 - (C) A folding or telescoping stock.
 - (D) A grenade launcher or flare launcher.
 - (E) A flash suppressor.
 - (F) A forward pistol grip.
- (2) *A semiautomatic, centerfire rifle that has a fixed magazine with the capacity to accept more than 10 rounds.*
- (3) *A semiautomatic, centerfire rifle that has an overall length of less than 30 inches [762 mm].*
- (4) *A semiautomatic pistol that has the capacity to accept a detachable magazine and any one of the following:*
 - (A) A threaded barrel, capable of accepting a flash suppressor, forward handgrip, or silencer.
 - (B) A second handgrip.
 - (C) A shroud that is attached to, or partially or completely encircles, the barrel that allows the bearer to fire the weapon without burning his or her hand, except a slide that encloses the barrel.
 - (D) The capacity to accept a detachable magazine at some location outside of the pistol grip.
- (5) *A semiautomatic pistol with a fixed magazine that has the capacity to accept more than 10 rounds.*
- (6) *A semiautomatic shotgun that has both of the following:*
 - (A) A folding or telescoping stock.
 - (B) A pistol grip that protrudes conspicuously beneath the action of the weapon, thumbhole stock, or vertical handgrip.
- (7) *A semiautomatic shotgun that has the ability to accept a detachable magazine.*
- (8) *Any shotgun with a revolving cylinder.*

***Kasler* decision**

The California Supreme Court handed down its decision in *Kasler v. Lockyer* in August 2000. The original suit, in the mid-1990s, attacked the constitutionality of California's 1989 Roberti-Roos assault weapons ban. The Court held against the plaintiffs; one resulting aspect of this decision was that the AWCA '89 "series" terminology used for AR and AK type weapons applied to all similar weapons, regardless of nomenclature (manufacturer, model number, version, variant, etc.) This was of significance because, during the 1990s, tens of thousands of AR15-style and AK-style firearms were sold in California quite legally. For example, Colt sold the "Sporter" and "Match Target" rifles after the AR15 itself was banned by AWCA '89. The *Kasler* decision declared all such guns as assault weapons, triggering a requirement that they be specially registered with CalJustice. For intents and purposes *Kasler* declared all AK-style receivers and AR-style lower receivers as "named" assault weapons – regardless of presence of any attached characteristic features (pistol grips, folding stocks, etc.).^[3]

Harrott v. Kings County decision

However, in a contravening ruling, in June 2001, the California Supreme Court handed down its decision in *Harrott v. County of Kings* (25 P.3d 649 (Cal. 2001)). This ruling determined the following:

- a) Determination of "series" membership is difficult enough that owners and law enforcement should merely have to consult a list of specific makes and models (in California Code of Regulation) to know if their gun is a banned assault weapon.
- b) Trial courts cannot determine if a given firearm/receiver is a member of AR or AK "series". Banned weapons in AR/AK "series" must be specifically banned by make and model, and the DOJ must promulgate these banned firearms.
- c) DOJ does have authority to 'identify' and promulgate new members of the AR & AK "series" itself – and this power is only for AR and AK series members.
- d) DOJ cannot ban other weapons outside the AR/AK series, but must instead begin an "add-on" procedure filed in certain superior courts, as specified in PC 30520. Here, DOJ can seek a temporary, then permanent, declaration that given firearms are assault weapon.
- e) The DOJ determination of AR/AK "series" membership is challengeable.

As a result, the new category of OLL firearms, (off list lower), was realized. These OLL's are quite closely form, fit and functional doubles of the ban listed lowers. However, being of other manufacturing origins, they can not be treated as contraband. This has enabled law abiding Americans residing in ban states to buy and/or build sporting firearms very similar to the ban listed firearms without persecution. The stipulations are that these OLL firearms must further avoid meeting the feature-based criteria, ("evil-features"), of alleged "assault weapons" in order to be legally possessed by non-Class 3 license owners or those who registered in California prior to the 2000 deadline. As a further exception though, OLL-based firearms may be built in disregard of the "evil-feature" requirements if equipped with either a fixed magazine or a modification of the magazine release mechanism which requires the use of a "tool" to release the magazine from the firearm. Some of the "evil features" include: Bayonet lug, flash hider, telescoping stock and pistol grip. Commercially available magazine release modifying products are today generically referred to as "bullet buttons". These devices are available in many styles to fit many different types of magazine releases and are manufactured under many different trade names and manufacturers.

References

- [1] "Assault Weapons Identification Guide" (<http://oag.ca.gov/sites/all/files/pdfs/firearms/forms/awguide.pdf>), California Department of Justice. Retrieved January 25, 2013.
- [2] "Firearms Laws – 2007" (<http://ag.ca.gov/firearms/forms/pdf/Cfl2007.pdf>), California Department of Justice. Retrieved January 25, 2013.
- [3] "Kasler v. Lockyer Assault Weapons List" (<http://oag.ca.gov/sites/all/files/pdfs/firearms/infobuls/kaslist.pdf>), California Department of Justice, October 2, 2000. Retrieved January 25, 2013.

External links

- "CALIFORNIA PENAL CODE" (<http://www.leginfo.ca.gov/cgi-bin/calawquery?codesection=pen>), *Part 6, Title 4, Div. 10, Chap. 2. ASSAULT WEAPONS AND .50 BMG RIFLES* (California Legislative Counsel), 2013
 - Article 1. §30500-30530* (<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=pen&group=30001-31000&file=30500-30530>) General Provisions
 - Article 2. §30600-30675* (<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=pen&group=30001-31000&file=30600-30675>) Unlawful Acts Relating to Assault Weapons and .50 BMG Rifles
 - Article 3. §30710-30735* (<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=pen&group=30001-31000&file=30710-30735>) SKS Rifles

Article 4. §30800 (<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=pen&group=30001-31000&file=30800>) Assault Weapon or .50 BMG Rifle Constituting Nuisance

Article 5. §30900-30965 (<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=pen&group=30001-31000&file=30900-30965>) Registration of Assault Weapons and .50 BMG Rifles and Related Rules

Article 6. §31000-31005 (<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=pen&group=30001-31000&file=31000-31005>) Permits for Assault Weapons and .50 BMG Rifles

Article 7. §31050-31055 (<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=pen&group=31001-32000&file=31050-31055>) Licensed Gun Dealers

Article 8. §31100-31115 (<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=pen&group=31001-32000&file=31100-31115>) Miscellaneous Provisions

San Francisco Proposition H (2005)

U.S. Firearms Legal Topics

- Assault weapon
- ATF Bureau
- Brady Handgun Violence Prevention Act
- Concealed carry in the U.S.
- Domestic Violence Offender Gun Ban
- Federal Assault Weapons Ban
- Federal Firearms License
- Firearm case law
- Firearm Owners Protection Act
- Gun Control Act of 1968
- Gun laws in the U.S.—by state
- Gun laws in the U.S.—federal
- Gun politics in the U.S.
- National Firearms Act (NFA)
- NY SAFE Act (New York)
- Second Amendment to the Constitution
- Straw purchase
- Sullivan Act (New York)
- Violent Crime Control Act
- An Act Concerning
Gun Violence Prevention and Children's Safety

Proposition H was a local ordinance on the November 8, 2005 ballot in San Francisco, California, which gained national attention for banning the otherwise legal ownership and sales of firearms. The measure won by a majority (out of a ~805,235 San Francisco city population,^[1] the votes for "yes" was only 123,033, less than 15.28% of population, while the votes for "no" represent less than 11.16% of the population) vote but was later struck down as unlawful in Superior Court.

Proposition summary

Proposition H sought to restrict handgun possession among San Francisco residents within city limits to police and certain security professionals, and to ban the manufacture, distribution, sale and transfer of firearms and ammunition within the city. Limited exceptions to the proposition would have allowed residents to possess handguns only if required for specific professional purposes. For example, San Francisco residents who are security guards, peace officers, or active members of the U.S. armed forces would be permitted to possess handguns while on duty. The San Francisco Board of Supervisors enacted penalties for violation of this ordinance, including mandatory jail time. Until April 1, 2006, residents would have been able to surrender their handguns to any district station of the San Francisco Police Department or the San Francisco Sheriff's Department without penalty (no refund of buying cost was planned).

The main sponsors

The measure was placed on the ballot with supporting signatures from Supervisors Tom Ammiano, Chris Daly, Bevan Dufty and Matt Gonzalez.^[2]

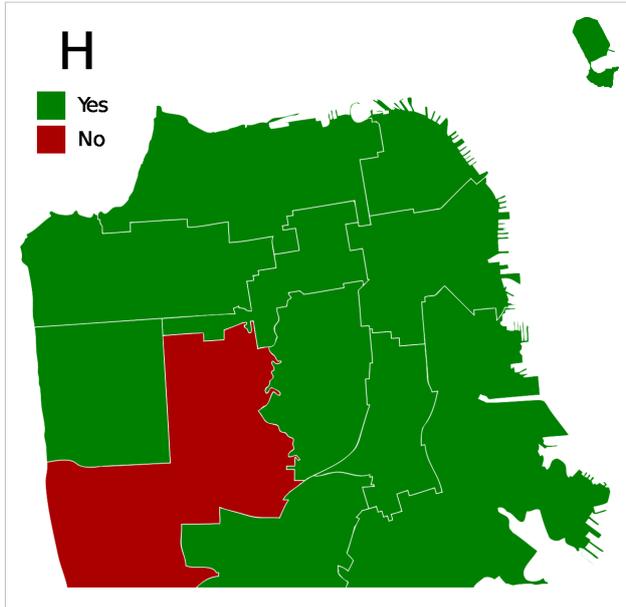
Supervisor Michela Alioto-Pier initially supported the ordinance but formally withdrew her sponsorship on February 23, 2005.

Groups in opposition

- San Francisco Chronicle
 - San Francisco Examiner
 - Asian Week
 - Frontlines
 - The Argonaut
 - San Francisco Deputy Sheriff's Association
 - San Francisco Police Officer's Association
 - San Francisco Veteran Police Officers Association
 - BART Police Officers SEIU Local 1008
 - California Association of Highway Patrolmen
 - Fraternal Order of Police (California State Lodge)
 - Chinese American Democratic Club
 - Coalition For SF Neighborhoods
 - The Haight Ashbury Neighborhood Council
 - Mexican American Political Association
 - Outer Mission Residents Association
 - Richmond District Democratic Club
 - San Francisco Housing Rights Association
 - San Francisco Pink Pistols
 - The National Rifle Association
-

Results at the polls

The City population of San Francisco is at least 805,235, without counting people not registered, or travelling/working in the metro area.^[1]



Proposition H		
Choice	Votes	Percentage
✓ Yes	123,033	57.79%
No	89,856	42.21%
Invalid or blank votes	16,825	7.32%
Total votes	229,714	100.00%
Voter turnout		53.61%

Demise in the courts

Proposition H would have taken effect January 1, 2006, but enforcement was suspended by litigation.

On June 13, 2006, in the case of Fiscal v. City and County of San Francisco (Case No. CPF-05-505960), San Francisco Superior Court Judge James Warren struck down the ban, saying local governments have no such authority under California law. Judge Warren sided with the National Rifle Association, Second Amendment Foundation, and other petitioners represented by Chuck Michel of Trutanich-Michel, LLP ^[3], in Long Beach, California, who sued on behalf of gun owners, advocates and dealers the day after the measure passed.^[4] Judge Warren wrote in his 30-page ruling that "Proposition H is adjudged invalid as preempted by state law."^[2]

The judge's decision was not without precedent considering a California appeals court nullified an almost identical San Francisco gun ban on exactly the same grounds in 1982.^[5]

The City appealed Judge Warren's ruling, but lost by a unanimous decision from the three judge panel in the Court of Appeals issued on January 9, 2008. On February 19, 2008, San Francisco asked the California Supreme Court to review Court of Appeal's decision. The state Supreme Court reached a unanimous decision on April 9, 2008 that rejected the city's appeal and upheld the lower courts' decision.

In October 2008, San Francisco was forced to pay a \$380,000 settlement to the National Rifle Association and other plaintiffs to cover the costs of litigating Proposition H.^[6]

References

- [1] http://en.wikipedia.org/wiki/San_Francisco
- [2] http://www.sfgov.org/site/cityattorney_page.asp?id=41352
- [3] <http://trutanichmichel.com>
- [4] <http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2006/06/13/SFGUN.TMP>
- [5] <http://www.foxreno.com/news/9358918/detail.html?rss=reno&psp=news>
- [6] Matier, Phillip; Andrew Ross (October 27, 2008) "Newsom's city car makes trip to his wedding." (<http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2008/10/27/BADT13NUQI.DTL&hw>) *San Francisco Chronicle*. (Retrieved on 11-2-08.)

External links

- Full text of Proposition H (<http://www.sfcap.org/proposition.htm>)
- Full text of San Francisco's appeal of the court's decision (<http://www.sfgov.org/site/uploadedfiles/cityattorney/PROPHOPB.pdf>)
- Voters take stand against guns, recruiting at schools (<http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2005/11/09/BAG9RFKD1C82.DTL>)
- Judge invalidates Prop. H handgun ban (<http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2006/06/13/SFGUN.TMP>)
- San Francisco Board of Supervisors website (<http://www.sfgov.org/bos>)
- National Rifle Association website (<http://www.nra.org/home.aspx>)

Shannon's law (Arizona)

Shannon's law refers to specific changes in Arizona statutes, enacted in 2000, making it a felony offense to discharge firearms randomly into the air.^[1]

History

Shannon's law is named after Shannon Smith, a fourteen-year-old Phoenix girl killed by a stray bullet in June 1999. Smith's parents, after being informed that the assailant's activity constituted, at most, a misdemeanor offense, advocated stronger penalties, to prevent future tragedies of this kind.

Their campaign took them all over Arizona, and their efforts were supported by city councils of medium-sized Arizona cities such as Tucson. Then-Governor Jane Hull also joined them in their cause. After the Arizona legislature failed to pass the law twice in 1999, it finally received both state senate and state house approval in April, 2000, and was enacted in that July. The NRA supported the law and worked in cooperation to form the 'Shannon's Law'^{[2][3]}

Current

Violation of *Shannon's law* is defined as a felony offense in Arizona. However, as with most felony offenses in U.S. jurisdictions, a person charged with this offense can strike a plea bargain with prosecutors, and may be eligible for only a misdemeanor conviction. The decision of whether such an offer is available lies solely in the hands of the prosecutor, and presently these offenses are being charged as "dangerous" offenses, thereby making the accused ineligible for probation under state law, requiring a prison sentence even for a first offense.

On December 31, 2003, police in the city of Glendale began using equipment which alerted them to the location from which a shot was fired. As random discharge of firearms are common in some areas of the U.S. on New Year's Eve, Fourth of July, and other holidays, four arrests of *Shannon's law* violators were made that night, and it is expected that more Arizona police departments will receive similar equipment.

Shannon Smith

Shannon Smith had been an award-winning athlete and honor student, and had graduated from the eighth grade a few weeks prior to her death. While she stood in her backyard talking on the telephone with a friend, a stray bullet hit her in her head, causing instant death. Smith's death sparked a furor among Arizona residents. Her funeral was attended by approximately 1,300 mourners. A monument, made with melted metal from confiscated firearms, was raised in her honor at her middle school by her classmates and friends. Tens of thousands of dollars in donations for the monument were primarily raised by Shannon's friends and classmates holding car washes.

After being informed by the police that random discharge of firearms was a simple misdemeanor, Smith's parents resolved to change the laws and ran a statewide campaign advocating harsher punishment for random shooters. Their campaign gained support from such people as then-Governor Jane Dee Hull. In April 2000, "Shannon's law" was passed.

References

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Students for Concealed Carry

Students for Concealed Carry	
Logo of Students for Concealed Carry.	
Abbreviation	SCC
Motto	"Supporting Self-Defense on Campus"
Formation	2007
Type	Non-Profit
Legal status	Active
Membership	40,000+
Website	www.concealedcampus.org ^[1] www.facebook.com/ConcealedCampus ^[2]

Students for Concealed Carry, formerly Students for Concealed Carry on Campus, is a national grassroots, non-partisan organization of U.S. college students, faculty, staff, and others who support allowing law-abiding citizens with concealed carry permits to bring their legal guns to campus for the purpose of self-defense. In addition to using traditional methods to attract students, the organization also makes use of a Facebook page, which has more than 18,000 likes.^[1]

History

The group was created following the April 16, 2007 shooting at Virginia Tech^[1] and as of August 2007, there were chapters at more than 60 colleges nationwide.^[1] As of April 2008, there were official chapters at over 215 campuses and members at hundreds of campuses without official chapters, for a total of more than 25,000 members nationwide.^[1] That figure represented an increase of more than 5,000 over the previous month,^[1] and membership has grown substantially following the shooting at Northern Illinois University.^{[1][2]} As of March 2009, the group had official chapters at 363 campuses in 46 states and the District of Columbia, and membership had grown to over 38,000.^[1] The group differs from other gun rights advocacy groups in that it chooses to maintain a narrow focus on the issue of concealed carry by licensed individuals on college campuses, refusing to take official positions on other gun-related issues. Also, unlike other gun rights groups, SCC chooses to focus on statistical, fact-based arguments, rather than arguments that revolve around the U.S. Second Amendment.^[1]

Laws vary from state to state in the United States of America, however 30 states statutorily ban weapons at post-secondary schools. Of the 20 states where licensed concealed carry is not legally forbidden, 19 allow schools to adopt their own gun policies. It is exceedingly rare for schools in these 19 states to allow licensed concealed carry by rule. The two best-known examples are Colorado State University, and Blue Ridge Community College, in Weyers Cave, Virginia. Utah is the only state that specifically requires public universities to allow licensed concealed carry on their grounds.^[1] Further, a 2003 study revealed that 150 major colleges and universities restricted firearms in some form. A total of 82 banned guns completely, 25 required them to be stored in a central facility, and another 27 restricted possession to certain groups such as ROTC units and shooting teams.^[1]

In December 2010, the organization officially changed their name from "Students for Concealed Carry on Campus," to "Students for Concealed Carry."

Activities

One of the organization's forms of protest is called an "empty holster protest", designed to spark discussion about the issue. During a week-long protest in October 2007, students nationwide participated.^[1] The main issue raised was the question of why individuals who have been trained and licensed, by a state agency, to carry concealed handguns in most other unsecured locations (locations without metal detectors—office buildings, movie theaters, grocery stores, shopping malls, restaurants, churches, banks, etc.) are prohibited from carrying concealed handguns on most college campuses.^[1] The second "empty holster protest" was held April 21 to April 25, 2008.

The group held a third protest April 5 to April 9, 2010, stating that "Until they can take responsibility for our safety and guarantee our protection, colleges can't be allowed to deny us the right to self-defense."^[1] According to the event's Facebook page, 1,500 students across more than 125 colleges participated.^[3]

On December 11, 2008, Mountain States Legal Foundation filed suit against the University of Colorado on behalf of SCC and its members.^[4] The suit seeks to resolve inconsistencies between state law and campus policies and protect the right of self-defense guaranteed by the Concealed Carry Act and the Colorado Constitution.^[5] On April 15, 2010, the Colorado Court of Appeals ruled in favor of SCC.^[6] Subsequently, numerous colleges and universities in Colorado have repealed bans on licensed concealed carry, including: Colorado State University, Arapahoe Community College, Colorado Northwestern Community College, Community College of Aurora, Community College of Denver, Front Range Community College, Lamar Community College, Morgan Community College, Northeastern Junior College, Otero Junior College, Pikes Peak Community College, Pueblo Community College, Red Rocks Community College, Trinidad State Junior College, and Aims Community College.^{[7][8]}

Support

As of May 28, 2009, the group's membership consisted of approximately 44,240 college students, college faculty members, parents of college students, and concerned citizens (about 90% college students and 10% faculty, parents, and concerned citizens). Aside from earning the endorsement of every major gun rights organization in the United States, SCC also lists among its supporters prominent state and municipal politicians (i.e., Texas Governor Rick Perry; Georgia State Representative Timothy Bearden; Mayor of San Marcos, TX—home of Texas State University—Susan Narvaiz), law enforcement officials (i.e., San Marcos, TX, Police Chief Howard Williams), and members of the media (i.e., Glenn Beck, John Stossel, G. Gordon Liddy, Lou Dobbs).^[citation needed] In Virginia, Virginia Gun Training offered free courses to college students.

Opposition

The group encounters opposition from some students,^[1] administrators^[1] and other campus staff,^[1] who believe that allowing permit holders to carry concealed handguns on college campuses would lead to increased violence and accidental shootings. The group says these opinions are "uninformed."^{[1][1][1]}

The group has also faced strong opposition from traditional gun control groups, such as the Brady Campaign to Prevent Gun Violence.^[1] The Brady Campaign's criticisms include accusations that the group is funded directly by the firearms industry. In a press release challenging the Brady Campaign to "prove it," Students for Concealed Carry on Campus categorically denied accusations that it is or ever has been organized or funded by the gun industry or the gun lobby. In the press release, SCC offered to turn over all of their financial records to the media if the Brady Campaign to Prevent Gun Violence would do the same. The press release also contained an open invitation to the Brady Campaign's board of directors to debate SCC's board of directors on the campus of any college in the United States. As of August 27, 2008, the Brady Campaign had not responded to either of these challenges.^{[1][1]}

References

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- [5] (<http://www.concealedcampus.org/pdf/SCCCLitigationBackgrounder.PDF>)
- [6] Court of Appeals No. 09CA1230, Students for Concealed Carry on Campus, LLC, a Texas limited liability company; Martha Altman; Eric Mote; and John Davis (http://www.courts.state.co.us/Courts/Court_of_Appeals/opinion/2010/09CA1230.pdf)
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- [8] Colorado community college system, Violence/firearms on campus (<http://www.cccs.edu/SBCCOE/Policies/SP/PDF/SP19-10.pdf>)

External links

- Students for Concealed Carry website (<http://www.concealedcampus.org>)
- Concealed Carry on College Campuses - The "Guns on Campus" Debate (<http://www.campuscarry.com>)

Sullivan Act

U.S. Firearms Legal Topics

- Assault weapon
- ATF Bureau
- Brady Handgun Violence Prevention Act
- Concealed carry in the U.S.
- Domestic Violence Offender Gun Ban
- Federal Assault Weapons Ban
- Federal Firearms License
- Firearm case law
- Firearm Owners Protection Act
- Gun Control Act of 1968
- Gun laws in the U.S.—by state
- Gun laws in the U.S.—federal
- Gun politics in the U.S.
- National Firearms Act (NFA)
- NY SAFE Act (New York)
- Second Amendment to the Constitution
- Straw purchase
- Sullivan Act (New York)
- Violent Crime Control Act
- An Act Concerning
Gun Violence Prevention and Children's Safety

The **Sullivan Act**, also known as the **Sullivan Law**, is a gun control law in New York State. Upon first passage, the Sullivan Act required licenses for New Yorkers to possess firearms small enough to be concealed. Possession of such firearms without a license was a misdemeanor, and carrying them was a felony. The possession *or* carrying of weapons such as brass knuckles, sandbags, blackjacks, bludgeons or bombs was a felony, as was possessing or carrying a dagger, "dangerous knife" or razor "with intent to use the same unlawfully". Named for its primary legislative sponsor, state senator Timothy Sullivan, a notoriously corrupt Tammany Hall politician, it dates to 1911, and is still in force, making it one of the older existing gun control laws in the United States.

The law went into effect on August 31, 1911, and resulted from political pressure upon prominent New Yorkers, including Sullivan, in the form of letters and recommendations from George Petit le Brun, who worked in the city's coroner's office, after a "brazen early afternoon" murder-suicide near Gramercy Park. He "reasoned that the time had come to have legislation passed that would prevent the sale of pistols to irresponsible persons." Only five state Senators voted against it. According to Richard F. Welch who wrote a 2009 biography of Sullivan, "If there were political benefits from doing the right thing, what was the problem? But all the available evidence indicates that Tim's fight to bring firearms under control sprang from heartfelt conviction."^[1] Walsh, Michael.

For handguns, the Sullivan Act qualifies as a *may issue* act, meaning the local police have discretion to issue a concealed carry license, as opposed to a *shall issue* act, in which state authorities *must* give a concealed handgun license to any person who satisfies specific criteria, often a background check and a safety class.

New York City license holders

Outside of New York City, the practices for the issuance of concealed carry licenses vary from county to county within New York State. In New York City, the licensing authority is the police department, which rarely issues carry licenses to anyone except retired police officers, celebrities, or others with political connections. Critics of the law have alleged that New Yorkers with political influence, wealth, or celebrity appear to be issued licenses more liberally.^[2] In recent years, the *New York Post*, the *New York Sun*, and other newspapers have periodically obtained the list of licensees through Freedom of Information Law requests and have published the names of individuals they consider to be wealthy, famous, or politically connected that have been issued carry licenses by the city police department.^{[3][4]}

Controversy

Some question the constitutionality of the act, due to the Second Amendment of the U.S. Constitution.^[citation needed] While the Supreme Court has only recently ruled that the Second Amendment prevents localities from enacting outright handgun bans, (*See: Incorporation*), the question of whether the Second Amendment provides grounds to invalidate local gun control laws like the Sullivan Act may be addressed given the recent decision by the United States Court of Appeals for the District of Columbia Circuit in *Parker v. District of Columbia*, which was affirmed by the Supreme Court in the case *District of Columbia v. Heller*. Other critics have argued the arbitrary nature of the law violates New York State constitution protections of due process and equal justice.^[5]

Many believe the act was to discriminate against immigrants in New York, particularly Italians,^[citation needed] as the first person arrested under the law was mobster Giuseppe Costabile. Whether this was part of the law's intent, it was passed on a wave of anti-immigrant rhetoric as a measure to disarm an alleged criminal element.^[citation needed] The police granted the licenses, and could easily discriminate against "undesirable" elements.

Statistics showed^[citation needed] that gun murders in New York had risen 50 percent from 1910–1911; indeed, in 1910, mayor William Jay Gaynor was shot and seriously wounded (he later died from the wound; see Timeline of New York City crimes and disasters), and there were public calls for regulation of handguns.

References

Notes

- [1] Duffy, Peter. "100 Years Ago, the Shot That Spurred New York's Gun-Control Law" (<http://cityroom.blogs.nytimes.com/2011/01/23/100-years-ago-the-shot-that-spurred-new-yorks-gun-control-law/>), *New York Times* (January 23, 2011)
- [2] Snyder, Jeffrey R. "Fighting Back: Crime, Self-Defense, and the Right to Carry a Handgun" (<https://www.cato.org/pubs/pas/pa-284.html>) at Cato.org
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- [5] Novak, Suzanne. "Why the New York State System for Obtaining a License to Carry a Concealed Weapon is Unconstitutional" (<http://www.saf.org/LawReviews/Novak1.html>), *Fordham Urban Law Journal* (November, 1998)

Transport Assumption

The **transport assumption**, otherwise known as the **traveler assumption**, is an American legal doctrine of gun use which states that a person lawfully possessing a firearm that is found in a personal vehicle must be assumed to be transporting the weapon, which is legal for a lawful firearms owner to do. This doctrine is generally given as an exception or affirmative defense to state or local laws that otherwise restrict or prohibit possession of a concealed weapon.

Purpose

The transport assumption provides a specific yet broad definition of "travelling" as "carrying a firearm within a personal or authorized vehicle". Previously, definitions of transportation or travel were more specific or non-existent, and case law and judicial interpretation of the statute generally inferred long-distance travel and required the firearm be secured and placed in the trunk or cargo area of the vehicle. Through this narrow definition, law enforcement officers often abused gun possession/carry laws to intimidate or discriminate, sometimes leading to arrest and prosecution of persons found with a firearm in their vehicle on charges of unlawful possession, unlawful carry, or brandishment of a firearm.

Concealed Carry in vehicles

This doctrine, as codified and interpreted by some jurisdictions, grants citizens the ability to carry a concealed weapon in a personal vehicle without a permit, even if the state otherwise requires a permit to carry a concealed weapon or bans concealed carry altogether. The traveler assumption is generally combined with Castle Doctrine to argue this ability; Castle Doctrine states that a person is justified in using deadly force to prevent death, bodily injury, and many times loss or damage of property while in one's home, business or vehicle, however in many cases unlicensed concealed carry of the firearm outside the home was previously illegal. The traveler assumption forces law enforcement officials to assume a gun found in a vehicle is being transported and therefore lawful, unless there is compelling evidence to the contrary. The combination thus allows an individual to lawfully keep a weapon in a vehicle to defend themselves and their vehicle. Usually the weapon must be kept out of plain sight unless in a state allowing open carry. Few States have this law on their books.^[1]

Examples In Law

- Texas: Penal Code §46.02. In part, "A person commits an offense if the person intentionally, knowingly, or recklessly carries on or about his or her person a handgun, illegal knife, or club if the person is not: (1) on the person's own premises or premises under the person's control; or (2) inside of or directly en route to a motor vehicle that is owned by the person or under the person's control", unless the person carries inside a motor vehicle and "the handgun is in plain view".^[2] In summary, while in or heading directly to or from a motor vehicle, a person in Texas may keep a concealed firearm accessible. Open carry is illegal in Texas, so the weapon must be hidden.
- Florida: Statutes §790.25. In part, "it is lawful and is not a violation of s. 790.01 for a person 18 years of age or older to possess a concealed firearm or other weapon for self-defense or other lawful purpose within the interior of a private conveyance, without a license, if the firearm or other weapon is securely encased or is otherwise not readily accessible for immediate use".^[3] Section 790.001(17) defines the term "securely encased" to mean "in a glove compartment, whether or not locked; snapped in a holster; in a gun case, whether or not locked; in a zippered gun case; or in a closed box or container which requires a lid or cover to be opened for access."^[4] In summary, you may keep a gun in its holster or in the glove compartment of a car in Florida.
- New Mexico: From the NM DPS website: "New Mexico law allows a person to have a concealed loaded firearm in his/her vehicle (including motorcycles and bicycles). If you are not licensed to carry concealed in this State, you may not have the weapon concealed on your person when you exit your vehicle or motorcycle".^[5] New Mexico also allows open carry in most public places including vehicles.
- Arizona: Statutes 13-3102: Subsection A, Paragraph 2 prohibits in part "Carrying a deadly weapon without a permit pursuant to section 13-3112 concealed within immediate control of any person in or on a means of transportation", however Subsection F states in part that "Subsection A, paragraph 2 of this section shall not apply to a weapon or weapons carried in a case, holster, scabbard, pack or luggage that is carried within a means of transportation or within a storage compartment, map pocket, trunk or glove compartment of a means of transportation".^[6] Similar to Florida therefore, a gun may be kept in a holster or glove compartment. Arizona also allows open carry in most public places including vehicles.
- California: Section 12025 states in part "(a) A person is guilty of carrying a concealed firearm when he or she ... (1) Carries concealed within any vehicle which is under his or her control or direction any pistol, revolver, or other firearm capable of being concealed upon the person". However, Section 12025.5 says "A violation of Section 12025 is justifiable when a person who possesses a firearm reasonably believes that he or she is in grave danger because of circumstances forming the basis of a current restraining order issued by a court against another person or persons who has or have been found to pose a threat to his or her life or safety", and Sections 12026 and 12026.1 exempt those travelling through or temporarily in the State, and also exempt weapons kept in a locked container such as the trunk of a car.^[7] Therefore, in most situations a handgun cannot be kept available for defense purposes in a vehicle, but a weapon in a locked case is legal to have in a vehicle.

References

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- [7] California Statutes Sections 12020-12040: Dangerous Weapons Control Laws (<http://www.ag.ca.gov/firearms/dwcl/12020.htm>)

Uniform Firearms Act

Criminal law
Part of the common law series
Element (criminal law)
<ul style="list-style-type: none"> • <i>Actus reus</i> • <i>Mens rea</i> • Causation • Concurrence
Scope of criminal liability
<ul style="list-style-type: none"> • Complicity • Corporate • Vicarious
Seriousness of offense
<ul style="list-style-type: none"> • Felony • Misdemeanor
Inchoate offenses
<ul style="list-style-type: none"> • Attempt • Conspiracy • Solicitation
Offence against the person
<ul style="list-style-type: none"> • Assault • Battery • Criminal negligence • False imprisonment • Kidnapping • Mayhem • Sexual assault
<p style="text-align: center;"><i>Homicide crimes</i></p> <ul style="list-style-type: none"> • Murder • Felony murder • Manslaughter • Negligent homicide • Vehicular homicide
Crimes against property
<ul style="list-style-type: none"> • Arson

<ul style="list-style-type: none"> • Blackmail • Burglary • Embezzlement • Extortion • False pretenses • Fraud • Larceny • Possessing stolen property • Robbery • Theft
Crimes against justice
<ul style="list-style-type: none"> • Compounding • Misprision • Obstruction • Perjury • Malfeasance in office • Perverting the course of justice
Defences to liability
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Other common law areas
<ul style="list-style-type: none"> • Contracts • Evidence • Property • Torts • Wills, trusts and estates
Portals
<ul style="list-style-type: none"> • Criminal justice • Law

The **Uniform Firearms Act (UFA)** is a set of statutes in the Commonwealth of Pennsylvania that defines the limits of Section 21 of the Pennsylvania Constitution, the right to bear arms, which predates the United States Constitution and reads: "The right of the citizens to bear arms in defense of themselves and the State shall not be questioned." The laws range in scope from use of force in self-defense situations, to specific categories citizens that are ineligible to purchase or possess firearms.

UFA for Pennsylvania is generally a more liberal interpretation of the Right to Bear Arms, in that it does not prohibit the sale and transfer of Class III NFA firearms, contains no duty for a citizen lawfully carrying a weapon to notify

law enforcement, and mandates shall-issue licenses to carry firearms to eligible citizens.

Object of the laws

The object of concealed weapons statutes is to protect the public by preventing an individual from having at hand, a weapon of which the public is unaware.^[1] The Pennsylvania Uniform Firearms Act (Pa. UFA) follows the practice of the majority of states in prohibiting and criminalizing the carrying of concealed weapons.^[2] However, the title of the law is a bit of a misnomer as the Pa. UFA does not follow the *Model Penal Code*.^[3] The Pa. UFA,^[4] prohibits the carrying of certain firearms in vehicles or concealed on the person without a license; prohibits ownership or possession of firearms by certain persons; provides for the licensing for concealed carry; provided strictures for dealers in firearms and; provides penalties for violations of the law. The regulation of firearms in the Commonwealth is preempted by the Legislature.^[5] That means that local municipalities, including the large municipalities, cannot regulate firearms as this is the sole province of the State Legislature.^[6] By way of illustration, a Philadelphia ordinance requiring a city license to transfer a firearm was held to be *ultra-vires* and struck down.^[7] Notwithstanding Sec. 6108 makes it a violation of State law to carry a firearm,^[8] rifle or shotgun, at any time on the public street or public property of any city of the first class (currently only Philadelphia), without first obtaining a license to carry a firearm.

The Pa. UFA at Sec. 6106 (a), provides that no person shall carry a firearm in any vehicle or concealed on or about his person, except in his place of abode or fixed place of business, without a license to do so. Carrying a gun in the trunk of an automobile has been held to be a violation of the law,^[9] but the Commonwealth has to establish that the person had both the power of control over the weapon and the intention to exercise that control.^[10] The burden of proof of the fact that a person carried a firearm outside of his place of abode or fixed place of business without a license rests with the Commonwealth.^[11] Where the Commonwealth cannot prove that a person carried a concealed weapon, it may nonetheless prove that the firearm was carried without a license as that offense does not require intent.^[12]

Concealment as an offense is factually specific and for a jury to decide.^[13] Where there is no evidence of an attempt to conceal a weapon, there cannot be a conviction.^[14]

The Pa. UFA^[15] prohibits the making of a loan secured by a firearm and from lending or giving a firearm to another in contravention of the law with the purpose to prevent persons with disabled (a term indicating the loss of a civil right) from possessing firearms from obtaining them by loan, gift or other transfer. However, a 2005 amendment,^[16] provides that nothing in this section prohibits the relinquishing of a firearm for safekeeping.^[17]

Licensing Procedures and Guidelines

UFA establishes mandatory, state-wide procedures for issuing a license to carry firearms. No municipality may establish their own rules regarding firearms, and changes to any firearms-related regulations must go through the Pennsylvania General Assembly. The act outlines the express right to a license in §6109:

"A license to carry a firearm shall be for the purpose of carrying a firearm concealed on or about one's person or in a vehicle and shall be issued if, after an investigation not to exceed 45 days, it appears that the applicant is an individual concerning whom no good cause exists to deny the license."

Comity and Reciprocity

Once a permit to carry a concealed firearm is issued in Pennsylvania in accordance with the requirement and strictures of the law, pursuant to Sec. 6109 (k) (2) and any agreements brokers between the Attorney General of the Commonwealth and the appropriate legislatively authorizes official in a sister State, that license will be recognized in those subscribing States. This is called “reciprocity” and it is enjoyed (at this time) with the States listed below. Under Pennsylvania law, there are six categories of firearms reciprocity status.^[18] We address only five since the excluded category are States where reciprocity is not granted.

written reciprocity agreements with Pennsylvania

Category 1: States that have entered into written reciprocity agreements with Pennsylvania.^[19] These agreements provide for reciprocal recognition of valid permits issued by both states. Recognition in Pennsylvania is based on the individual's issuance of a valid permit by the reciprocal contracting state, and not on the permit holder's place of residence:

- Alaska
- Florida
- Georgia
- Kentucky
- Michigan
- Missouri
- New Hampshire
- North Carolina
- Oklahoma
- South Dakota
- Tennessee
- Texas
- Virginia
- West Virginia
- Wyoming

statutory reciprocity based on the determination of the Attorney General that the other state has granted reciprocity to Pennsylvania

Category 2: States that have statutory reciprocity under 6106(b)(15) of the Uniform Firearms Act.^[20] The following states have been granted statutory reciprocity without a formal written agreement,^[21] based on the determination of the Attorney General that the other state has granted reciprocity to Pennsylvania license holders, and that the other state's laws governing firearms are similar:

- Colorado
- Idaho
- Louisiana
- Montana
- North Dakota
- Utah

Unilateral reciprocity granted by another state for Pennsylvania

Category 3: Unilateral reciprocity granted by another state for Pennsylvania license holders. This category encompasses states which allow an individual issued a valid License To Carry Firearms from Pennsylvania to carry a firearm while in those respective states:

- Indiana

.

Category 6: Carry permitted without permit (allows possession or carrying of a concealed firearm without a license/permit):

- Vermont
- Arizona
- Wyoming

.

Application states

Category 4: Pennsylvanians may apply for a permit from another state ("Application states"):

- Maine
- Massachusetts
- Maryland
- Washington (State)

Cities of the First Class exception

The act does not address the carrying of firearms in the open (also known as "open carry"). Thus it is legal to do so without a permit. However, the act states that any person may not carry a firearm in a city of the first class (Philadelphia is the only one in the Commonwealth) without a permit or falling under an exception. While carrying a firearm in the open in Philadelphia is legal for license holders, it is not a commonly-used carrying technique. Philadelphia law enforcement officers are likely to detain an individual who is openly carrying a firearm.

The open carry of a firearm in the rest of the state is widely practiced and generally well-accepted by local law enforcement.^[citation needed]

Criminal Violations

Should a citizen break one or more of the enumerated statutes in the UFA, they are subject to penalties outlined in the act. Police and court officers commonly refer to the charges collectively as VUFA; or, Violation of the Uniform Firearms Act. Penalties depend on the severity of the infraction.

Some jurisdictions within the Pennsylvania Unified Court System have set up specialized court sessions to deal with violations of the Uniform Firearms Act. For example, the First Judicial District of Pennsylvania has allocated "Gun Court" sessions for defendants accused of violating certain parts of UFA. Upon conviction, the defendants can be sentenced to serve Probation under the supervision of special Gun Court Probation Officers.

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- [3] Comment, 1972, Sec. 6102.
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- [5] Sec. 6120
- [6] 18 Pa. C.S.A. Sec. 67120(a).
- [7] *Schneck v. Phila.*, 383 A.2d 227 (Pa. Comwlth 1978).
- [8] (defined by Sec 6102 and including a handgun, pistol or revolver)
- [9] *Com. v. Carrington*, 324 A.2d 531 (Pa. Super. 1974)
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- [12] *Com. v. Pauze*, 70 D&C 2d 368 (CCP 1975).
- [13] *Com v. Scott* 436 A.2d 607 (Pa. 1981); 43 ALR 2d 492.
- [14] *Com. v. Williams* 346 A.2d 308 (Pa. Super. 1975).
- [15] 18 Pa. C.S.A. Sec. 6115
- [16] 18 Pa. C.S.A. Sec. 6115 (b)(4)
- [17] 23 PA. C.S.A. Sec. 6108.3
- [18] See website of the Attorney General of the Commonwealth of Pennsylvania.
- [19] 18 Pa.C.S.A. § 6109(k)
- [20] 18 Pa. C.S.A. 6106(b)(15)
- [21] 18 Pa.C.S.A. 6106(b)(15)

External links

- Commonwealth of Pennsylvania Constitution (http://sites.state.pa.us/PA_Constitution.html)
- Cross-linked Uniform Firearms Act from the Pennsylvania Firearm Owners Association (<http://reference.pafoa.org/statutes/PA/18/II/G/61/A/uniform-firearms-act/>)
- Uniform Firearms Act (http://www.acslpa.org/html/pa_uniform_firearms_act1.html)
- PSP: Carrying Firearms (<http://www.psp.state.pa.us/psp/cwp/browse.asp?A=15&BMDRN=2000&BCOB=0&C=70426/>)

Uniform Machine Gun Act

The **Uniform Machine Gun Act** was drafted and published by the National Conference of Commissioners on Uniform State Laws.^[1] Maryland (1939), South Dakota (1939), Arkansas (1947), Montana (1947), Wisconsin (1947), Connecticut (1947), and Virginia (1950) adopted the act as law.^[2]

References

- [1] 15 Mont. L. Rev. 15 (1954) Montana and the Uniform Laws; Toelle, J. Howard
- [2] University of Pennsylvania Law Review Note, 98 (1950): 905. Restrictions on the Right to Bear Arms: State and Federal Firearms Legislation (<http://www.saf.org/LawReviews/FJK.htm>)

External links

- National Conference of Commissioners on Uniform State Laws (<http://www.nccusl.org>)

Unintended Consequences (novel)

Unintended Consequences is a novel by John Ross, first published in 1996 by Accurate Press.^[1] The story chronicles the history of the gun culture, gun rights and gun control in the United States from the early 1900s through the late 1990s. Although clearly a work of fiction, the story is heavily laced with historical information, including real-life historical figures who play minor supporting roles. The novel also features unusually detailed and intricate facts, figures and explanations of many firearms-related topics. The cover has a picture of Lady Justice being assaulted by an ATF agent.

The novel is currently out of print.

Background

The story hinges upon the enactment and subsequent unintended consequences of several important pieces of U.S. gun control legislation and regulation: the National Firearms Act of 1934, the Gun Control Act of 1968, the Firearm Owners Protection Act of 1986, the Assault Weapons Importation Ban enacted by Presidential executive order in 1989 and the Federal Assault Weapons Ban of 1994.

Its thesis, as discussed in the *Author's Note - A Warning and Disclaimer* in the beginning of the book, is that enough bullying, by what is widely perceived as a hostile occupation government, will inevitably end in revolt if the occupied area is large enough and has a culture that is significantly different from the occupying state, and that this revolt will be undefeatable if the rebels use very low-tech "leaderless resistance."

Major characters

Henry Bowman is the principal character, although the story begins in 1906, long before Bowman's birth on January 10, 1953. The story is told primarily from his perspective when he is in his early forties. Bowman grows up in the St. Louis, Missouri area, where much of the story takes place. He is a trained geologist, a self-taught expert marksman, a firearms, ammunition, and self-defense authority, and a pilot. Bowman lives on a rural acreage near the St. Louis, Missouri metropolitan area. There is an abandoned stone quarry on his land which Bowman uses for recreational shooting. Bowman, in the novel, enjoys owning performance automobiles and driving at high rates of speed on interstate highways. In one part of the novel, he races his hot-rodded GMC truck against a rival Porsche, with Bowman winning, driving in excess of 140 mph to win. Bowman also has several forged identities that he uses for various purposes in the novel. Bowman is a proficient skydiver.

Walter (Blackout) Bowman is Henry's father. A skilled pilot and U.S. Navy officer, he trained naval aviators during World War II, retiring at the rank of Lieutenant Commander. He represents the studious, responsible and thoughtful side of the younger Bowman. The author has stated that the elder Bowman is based on his own father.

Max Collins is Bowman's uncle. He is portrayed as a larger-than life character who is an expert marksman, professional gambler and accomplished ladies' man. He served in the airborne troops of D-Day, and killed a German army officer in combat with his sniper rifle. In the novel, at a 1960's Nevada shooting competition, he bets on his nephew Henry's shooting, winning \$10,000. He represents the adventurous, spontaneous and aggressive side of Henry Bowman. The author has stated that Collins is based on his own uncle.

Irwin Mann is a survivor of The Holocaust and the Warsaw Ghetto, and a key participant in the Warsaw Ghetto Uprising. His inclusion in the story permits a study of the use of firearms by average citizens to repel an oppressive government, and connects Nazi gun control measures to U.S. gun control efforts.

Ray Johnson is a New York attorney, originally from Aspen, Colorado, who moves to Africa in 1963 and becomes a big-game safari guide. His return to the U.S. in 1994 serves to illustrate how much U.S. gun owners' freedoms have been eroded, due to legislation and an executive order enacted during his absence. At the airport, the customs officials attempt to confiscate an English double rifle worth some US\$40,000, a Belgian FN FAL semi-automatic rifle, a Smith & Wesson 2" Chief's Special revolver, and his hat which wears a leopard skin hat band. Ray calls his friend Henry, and Henry calls in a favor with a friend who is a high-ranking agent of Customs. Ray is allowed to keep his firearms and enter the United States.

Allen Kane is a major machine gun dealer who is Henry's lifelong friend. A major shift in the novel's plot occurs when Henry finds corrupt ATF agents framing Allen, himself, and another firearms dealer. Allen aids and accompanies Henry in much of the novel.

Cindy Caswell is a victim of childhood abuse and organized crime who becomes important in the freedom struggle as it develops. She is from Rolla, Missouri. She is abducted by mafia thugs during a trip to Chicago, Illinois, who force her to become a sex slave for mafia bosses and leaders. After several years, she escapes and meets Henry Bowman at an Alcoholics Anonymous meeting. She assassinates many pro-gun control and big-government politicians and legislators in the novel. The author has been criticized for creating an "adolescent fantasy" with this character. Ten years after writing the novel, Ross met Tammy Chapman, whose early life shares a resemblance to that of the fictional Caswell. Ross and Chapman now live together in St. Louis.^[1]

Plot summary

The novel's protagonist, Henry Bowman, shows an early proficiency with firearms, practicing whenever he can find the time. Encouraged by his father, he gathers an impressive firearms collection and gains extensive experience in piloting small aircraft. During college, Bowman is robbed, beaten, and sodomized by a rural gang. The incident nearly destroys him and causes him to become an alcoholic for a period.

While at a gun show in Indianapolis, Indiana^[2], with friend Allen Kane, Bowman publicly embarrasses an agent of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Wilson Blair. One of Blair's men was trying to trick and entrap a fellow firearms dealer. Blair takes the offense personally, and with the support of the ATF's director, begins to plan revenge. Several years later, Blair and subordinate agents of the ATF plan to frame Henry and his friends as terrorists, smugglers, and counterfeiters. They plan to plant "evidence" when the men are away on vacation. Unbeknownst to Blair, Bowman delays his departure at the last minute due to a work commitment, and is on a friends' property when the agents arrive. Bowman assumes the agents are burglars and engages in a gun battle with them, killing or capturing all and in the process discovering the truth about the raid.

Bowman realizes that his life has been irrevocably changed. He makes Blair record a video taped confession of his illegal actions, then kills Blair and disposes of all forensic evidence of the agents' presence. Afterwards, he hunts down and kills Blair's remaining subordinates. Bowman and his closest friends begin to systematically kill ATF agents around the nation - whom Bowman views as supporting the infringement of citizen's constitutional rights, and abusing government powers - as well as politicians who had supported unconstitutional gun control legislation. Simultaneously Bowman releases the video tape of Blair to CNN, which claims that Blair and his companions have had a change of heart, realize what they are doing is wrong, and are now dedicated to killing other ATF agents. Amidst the national search for Blair and company, Bowman continues to rack up the body count.

Eventually, as the ATF and FBI are unable to effectively track down those responsible for the killings, the President of the United States is forced to give an address to the nation relating his intent to repeal the unconstitutional laws including the National Firearms Act of 1934 and Gun Control Act of 1968.

Fictionalized accounts of historical events

The story contains several fictionalized accounts of real-life historical events. The author inserts fictional characters, dialog and the unspoken thoughts of real persons into these events. These events are not merely used as settings or backdrops for the action in the novel; instead, detailed treatments of some of these events occupy dozens of pages. In particular, the following events are featured prominently:

- Bonus Army March on Washington, DC (1932)
- Warsaw Ghetto Uprising (1943)
- Battle of Athens, TN (1946)
- Ken Ballew raid (1971)
- MOVE raid in Philadelphia (1985)
- FBI shootout in Miami (1986)
- John Lawmaster raid in Tulsa (ATF) (1991)
- Ruby Ridge incident in Idaho (1992)
- Waco Siege (1993)
- Oklahoma City bombing (1995)

Publication and reception

The book is out of print in its hardcover form. The hardcover edition is available for used purchase. The novel has sold over 60,000 copies over four printings.^[3] The author's web site states that he is working on a shorter sequel that was originally scheduled for publication in 2006. However, this sequel has not yet been released.^[4]

Timothy McVeigh controversy

Timothy McVeigh read the novel while awaiting his trial for the Oklahoma City bombing. He loved the book, and noted that if it had come out a few years earlier, he would have given serious consideration to using sniper attacks in a war of attrition against the government instead of bombing a federal building:^[5]

“If people say *The Turner Diaries* was my Bible, *Unintended Consequences* would be my New Testament. I think *Unintended Consequences* is a better book. It might have changed my whole plan of operation if I'd read that one first.

John Ross has posted a response to Timothy McVeigh's comments on his website:^[3]

“First of all, authors have no control over who decides to admire their work. Remember that when the FBI searched Unabomber Ted Kaczynski's shack (after his brother turned him in), they found only a handful of personal items and just a single, well-read book. What was the one title that the Unabomber felt was so important it was his only reading material? *Earth in the Balance*, by Al Gore.

References

- [1] Author's website (<http://www.john-ross.net/cindy.php>)
- [2] *Unintended Consequences*, sixth printing, page 441
- [3] John Ross.net FAQ (<http://john-ross.net/faq.php>)
- [4] Author's FAQ (<http://john-ross.net/faq.php>)

Sources

- Author's web site (<http://john-ross.net>)
- An interview with the author (http://www.absolutewrite.com/novels/john_ross.htm)

External links

- Author's FAQ on the book (<http://john-ross.net/faq.php>)
 - Publisher's page on the book (<http://www.accuratepress.net/ross.html>)
 - Errata Sheet for the 1st Edition (<http://www.mediafire.com/view/?qnqpc9193tvodt8>)
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United States v. Olofson

<i>US v. Olofson</i>	
	
United States Court of Appeals for the Seventh Circuit	
Argued January 22, 2009 Decided May 01, 2009	
Full case name	<i>United States of America v. David Olofson</i>
Citations	563 F.3d 652; 2009 U.S. App. LEXIS 9433
Prior history	Guilty verdict on May 15, 2008, following jury trial in Case No. 06-CR-320 (E.D. Wis.)
Subsequent history	Certiorari denied, October 13, 2009, in US Supreme Court, Case No. 09–256, <i>David Olofson v. United States</i> .
Holding	
Conviction affirmed. The defendant's proffered jury instruction was not a correct statement of the law, and the district court properly rejected it. Furthermore, the evidence presented at trial was sufficient to sustain Olofson's conviction, and 18 U.S.C. §§ 922(o) and 924(a)(2) are not unconstitutionally vague as applied to the facts of this case. In addition, the district court did not abuse its discretion in either excluding the defendant's firearms expert from the courtroom during the government expert's testimony or in denying Olofson's motion to compel the production of evidence he had requested from the government.	
Panel membership	
Daniel Anthony Manion, Michael Stephen Kanne, and Virginia Mary Kendall	
Case opinions	
Majority by	Manion
Joined by	Kanne and Kendall
Laws applied	
18 U.S.C. § 922(o); 18 U.S.C. § 924(a)(2); 26 U.S.C. § 5845(b); <i>Staples v. United States</i> , 511 U.S. 600	

United States v. Olofson, 563 F.3d 652 (2009), is an appellate decision in the case of David Olofson, who was convicted by a jury of knowingly transferring a machine gun in violation of 18 U.S.C. § 922(o). Olofson was sentenced to thirty months in prison, which he began serving after his appeal to the US Court of Appeals for the Seventh Circuit failed. The US Supreme Court declined to hear a further appeal. Olofson's case was, for a time, a minor cause célèbre in conservative media and among gun rights advocates, attracting support from, among others, Lou Dobbs of *CNN*, Oath Keepers, and legal assistance from Gun Owners of America.^{[1][2][3]}

Facts of Case & Pre-Trial Proceedings

On July 13, 2006, US Army Reservist David Olofson of Berlin, Wisconsin, loaned an AR-15 rifle to Robert Kiernicki, who took the gun to a local shooting range.^{[4][5]} The firing selector switch on the rifle had three positions: "Fire," "Safety," and a third, unmarked position.^[5] While at the range Kiernicki switched the AR-15's firing selector to the third position and pulled the trigger.^[4] The gun discharged three or four rounds and then jammed; Kiernicki did this several times with the rifle jamming each time.^{[4][5]} Following a telephone complaint of automatic gunfire, Berlin police showed up at the range, and after questioning Kiernicki, confiscated Olofson's AR-15 and contacted the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) about the incident.^{[4][5]}

On July 19, 2006, ATF agents, Berlin police officers, and the Green Lake County Sheriff's Department SWAT team carried out a warranted search of Olofson's home.^[6] During the course of the search Olofson spoke with law enforcement officers and acknowledged loaning the AR-15 to Kiernicki.^[5]

Olofson was indicted by a federal grand jury on December 5, 2006, on charges of knowingly transferring a machine gun in violation of 18 U.S.C. § 922(o).^[5] Shortly before the trial began, Olofson filed an evidentiary motion to compel the prosecution to produce documents concerning the ATF's testing procedures, correspondence between the ATF and the manufacturer of Olofson's AR-15 regarding M-16 parts used in such rifles, and the ATF's registration history of AR-15 rifles containing M-16 parts.^[5] The trial court judge denied the motion on the first day of trial, concluding that the information sought was not exculpatory under *Brady v. Maryland*.^[5]

Notes

- [1] Diedrich, John. "Lou Dobbs and machine guns (<http://www.jsonline.com/blogs/news/31891304.html>)."
Milwaukee Journal Sentinel. 14 May 2008. Accessed 06 March 2013.
- [2] Tucker, Bill and Lisa Sylvester. "Freedom Under Fire (<http://edition.cnn.com/TRANSCRIPTS/0807/02/ldt.01.html>)."
CNN: Lou Dobbs Tonight. 02 July 2008. Accessed 06 March 2013.
- [3] Oath Keepers. "The Olofson Firearms Case (<http://oathkeepers.org/oath/2009/10/18/amicus-brief-for-the-olofson-firearms-case/>)."
18 October 2009. Accessed 06 March 2013.
- [4] Diedrich, John. "Automatic gun transfer nets prison sentence (<http://www.jsonline.com/news/wisconsin/29561634.html>)."
Milwaukee Journal Sentinel. 14 May 2008. Accessed 04 March 2013.
- [5] *United States v. Olofson*. 563 F.3d 652 (2009) (http://scholar.google.com/scholar_case?case=59518136409717286). Opinion of the Court.
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- [6] *United States v. Olofson*. "Brief of Appellant (http://www.lawandfreedom.com/site/constitutional/Olofson_Appellant.pdf)."
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External links

- <http://caselaw.findlaw.com/us-7th-circuit/1407580.html>
- http://scholar.google.com/scholar_case?case=59518136409717286
- <http://www.supremecourt.gov/orders/journal/jnl09.pdf> p. 185
- <http://jpfo.org/articles-assd/olofson-vs-us.htm>
- <http://www.gunowners.com/olofson.htm>

Woollard v. Sheridan

Woollard v. Sheridan (Maryland Civil Case L-10-2068), filed in appellate court as *Woollard v. Gallagher* (CA4 Case 12-1437) is a civil lawsuit brought on behalf of Raymond Woollard, a resident of the State of Maryland, by the Second Amendment Foundation against Terrence Sheridan, Secretary of the Maryland State Police, and members of the Maryland Handgun Permit Review Board. Plaintiffs allege that the Defendants' refusal to grant a concealed carry permit renewal to Mr. Woollard on the basis that he "...ha[d] not demonstrated a good and substantial reason to wear, carry or transport a handgun as a reasonable precaution against apprehended danger in the State of Maryland" was a violation of Mr. Woollard's rights under the Second and Fourteenth Amendments, and therefore unconstitutional.^[1] The trial court found in favor of Mr. Woollard, but the Maryland statute was allowed to stand during the appeals process.^[2] The case is currently pending appeal *en banc* to the Fourth Circuit Court of Appeals after a three-judge panel of the Circuit Court reversed the trial court's decision.

The case is notable as being the first direct challenge to a "may-issue" concealed carry firearms law in the United States, and also for being uncommon among challenges to U.S. firearms law in that the plaintiffs were successful in federal District Court, rather than requiring appeal to a Circuit Court of Appeals or the Supreme Court before a decision was handed down in the plaintiffs' favor.

Background

The State of Maryland currently prohibits the carry of firearms, be it concealed or open, without a permit issued to the person by the State. These permits are currently issued on a discretionary basis (so-called "may-issue" licensing), based upon, in part, a finding that the applicant "has good and substantial reason to wear, carry, or transport a handgun, such as a finding that the permit is necessary as a reasonable precaution against apprehended danger."^[1]

In 2002, Raymond Woollard was the victim of a home invasion by his son-in-law, Kris Lee Abbot. Subsequent to this crime, he applied for and was granted a concealed carry permit in 2003, and a renewal was granted in 2006 after Abbot, having violated his probation from the home invasion, was released from prison. However, in 2009, a second renewal application by Woollard was denied on the grounds that Woollard had failed to provide evidence of a continuing threat to his safety. Woollard appealed to the Maryland Handgun Permit Review Board, and was again denied; the Board stating that Woollard "...ha[d] not submitted any documentation to verify threats occurring beyond his residence, where he can already legally carry a handgun."

The suit was filed on June 29, 2010 in United States District Court for the District of Maryland, contesting that "Maryland's handgun permitting scheme is facially violative of both the Second Amendment and the Equal Protection Clause of the Fourteenth Amendment."^[1] The Plaintiffs sought relief in the form of the removal of the "good and substantial reason" requirement of Maryland's firearm laws. As the facts of the case were not in dispute, both parties petitioned the Court for summary judgement on their behalf. Alan Gura, who successfully argued *District of Columbia v. Heller* and *McDonald v. Chicago* before the U.S. Supreme Court, argued the case *pro hac vice* for the plaintiffs.

District Court Decision

In an opinion dated March 2, 2012, District Judge Benson Legg granted summary judgement in favor of the Plaintiffs. The Court declined to consider Plaintiffs' arguments based on the Equal Protection Clause, instead deciding based on the arguments of the Second Amendment violations. The decision refers to *District of Columbia v. Heller*, and to relevant post-*Heller* lower court decisions such as *U.S. v. Chester* (628 F.3d 673, 4th Cir. 2010) and *U.S. v. Masciandaro* (638 F.3d 459, 4th Cir. 2010) and found that application of intermediate scrutiny is called for; "In order to prevail, the State must demonstrate that the challenged regulation is reasonably adapted to a substantial governmental interest."^[1]

The Court found that, under this standard, the Maryland law requiring "good and substantial reason" was overly broad; it did not specifically prohibit persons such as convicted criminals or the mentally ill, or even individuals "whose conduct indicates that he or she is potentially a danger to the public if entrusted with a handgun", as is found in the laws of other "may-issue" states. The law is instead, as the Defendants admitted to in oral arguments, a rationing system intended solely to reduce the number of firearms carried, by restricting the "privilege" based on a demonstrated need beyond a general desire for self-defense. The Court found that while the Defendants articulated many compelling reasons why limiting firearms is in the interest of public safety, the "good reason" requirement did little to combat any of the situations offered; an applicant who has "good reason" to carry a firearm may still have it forcibly removed or stolen from their person, may still cause a negligent discharge or other accidental injury, and may still use the gun in a criminal manner. In fact, Maryland's law, the decision states, "places firearms in the hands of those most likely to use them in a violent situation by limiting the issuance of permits to 'groups of individuals who are at greater risk than others of being the victims of crime.'"^[1]

Summary judgement was entered in favor of the Plaintiffs; however, a temporary stay was granted by the trial court, and Judge Legg heard oral arguments on May 23 ^[3] to determine if that stay will be continued while the State appeals the decision to the 4th Circuit Court of Appeals.^[2] On July 23, 2012 Judge Legg issued an order dissolving the temporary stay on his previous injunction, effective 14 days after the issuance of said order.^[4]

Fourth Circuit Court of Appeals

The appeal was filed by the defendants in the Fourth Circuit Court of Appeals on April 6, 2012, as *Woollard v Gallagher* (12-1437). Denis Gallagher is a member of the Maryland Handgun Permit Review Board and was a co-defendant at the District level. Terrence Sheridan remains a co-defendant/appellant.

On August 2, 2012 the Fourth Circuit granted Maryland's motion for a stay pending the outcome of this appeal. This overruled the District Court's order that would have lifted the stay effective August 7.

Oral arguments in the case were heard on October 24, 2012 beginning at 9:30 before Panel 1 of the Court. During the hearing, questions were posed to both lawyers from the bench about the appropriateness of Woollard filing suit in Federal court challenging a ruling by a state agency, an action subject to the application of the Younger abstention and Rooker-Feldman doctrines. Questions were also posed as to the curiousness of Maryland's statute only prohibiting handguns and not long guns; Appellants asserted that the permitting law was put in place in response to a problem with handgun violence; that handguns were overwhelmingly the weapon of choice for criminals and the law was enacted to control this problem.

On March 21, 2013 the Fourth Circuit unanimously reversed the District Court opinion. ^[5] The Circuit Court found that the trial court's judgement hinged on a finding that the rights of the Second Amendment extend outside one's own home, and that the right is "impermissibly burdened" by the "good and substantial cause" requirement. The Court found that, while the "good cause" requirement does indeed infringe upon Woollard's Second Amendment rights, the requirement nevertheless passes intermediate scrutiny (the standard previously determined applicable in *Masciandaro* and *Chester*, heard by the same Circuit), by holding that Maryland's desire to reduce handgun violence is a "substantial government interest", and that the "good cause" requirement is "reasonably fitted" to this interest in several ways, primarily by reducing the number of guns on the street, which the Court agreed with the Appellants provides several secondary effects that significantly reduce handgun violence and increase the ability of the police to distinguish criminals from law-abiding citizens.

Further action has not yet been taken as of March 28, 2013. Normally, the next appeal is *en banc*, to the full Circuit Court. A similar case, *Kachalsky v. Cacase*, was also proceeding and had been pending *certiorari* to the Supreme Court, but was denied on April 13th. The SCOTUS has not yet granted *certiorari* to a case of this subject matter, but is expected to do so because of conflicting Circuit Court judgments on the matter of firearm carry permits, notably *Moore v. Madigan* in which the 7th Circuit ruled that the co-Plaintiff, Mary Shepard, was denied her Second Amendment right to bear arms in self defense by the State of Illinois, resulting in extensive major injuries sustained

during an assault by a violent criminal.

Related Cases

- *District of Columbia v. Heller* - The SCOTUS held that the rights enumerated in the Second Amendment apply to the individual, and that a ban on the possession of "functional firearms" by a resident of the District of Columbia is unconstitutional.
- *McDonald v. Chicago* - The SCOTUS held that rights enumerated by the Second Amendment apply to all citizens of the United States and equivalently residents of the several States; as such, States may not infringe upon the Second Amendment rights of the People.
- *Kachalsky v. Cacase* - a case similar in subject matter to *Woollard*, where plaintiffs Alan Kachalsky, Christina Nikolov, and the SAF seek an injunction barring the State of New York from enforcing its "good cause" requirement for the issue of concealed carry permits. Alan Gura represented the plaintiffs *pro hac vice* in this case as well, which was recently denied *certiorari* before the Supreme Court.
- *Moore v. Madigan*, a case from Illinois where the Seventh Circuit reversed lower courts and held that the Plaintiffs' Second Amendment right to carry a handgun in self defense was infringed by Illinois' "no-issue" handgun permitting laws.

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- [1] Full text of the District Court decision in *Woollard v Sheridan* (<http://ia700501.us.archive.org/1/items/gov.uscourts.mdd.180772/gov.uscourts.mdd.180772.52.0.pdf>)
- [2] CBS 13 Baltimore - Md. Gun Law Found Unconstitutional (<http://baltimore.cbslocal.com/2012/03/05/md-gun-law-found-unconstitutional/>)
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