

Shooters Committee on Political Education

Position Paper



Secure Ammunition and Firearms Enforcement Act Chapter 1 of the Laws of 2013

PURPOSE

The stated purpose of this legislation is to protect New Yorkers by reducing the availability of assault weapons and deterring the criminal use of firearms while promoting a fair, consistent and efficient method of ensuring that sportsmen and other legal gun owners have full enjoyment of the guns to which they are entitled.

POSITION

The Shooters Committee on Political Education is strongly opposed to the SAFE Act of 2013 and urges its repeal. This legislation is an example of the politician's syllogism: "Something must be done. This is something. Therefore we must do it." Unfortunately for the citizens of New York, "it" will do nothing to prevent misuse of firearms.

The SAFE Act is an example of feel good, felon friendly legislation. This statement is meant to be neither a glib cliché nor a dismissal of the seriousness of the issue but as a succinct if harsh description of the ineffectiveness of this law in addressing the illegal use of firearms.

We believe that the Governor and the legislature reacted precipitously to a horrific incident without a full understanding of the root causes. The desire to be seen "doing something" overcame taking the preferable path of dispassionate evaluation of the real problems and an objective discussion of solutions. Instead, the Governor and his minions resurrected their litany of anti-firearms proposals – none of which will have any real effect on the perpetrators of violence – and declared war on NRA.

The result is legislation that abridges many of the rights of the law-abiding majority and burdens the exercise of those remaining while producing a minimum of inconvenience to what Sir Arthur Conan Doyle referred to as the "criminal classes."

All of these restrictions are focused on making the legal acquisition and use of firearms by law-abiding citizens difficult. This, of course, has no real impact on criminals. They are called criminals because they break the law. They do not shop in the legal market and the strictures of the Penal Law rarely enter into their day-to-day decision-making process. The same might be said for the increased penalties that will be rarely applied and are most assuredly an abstraction at street level. Hence, this law provides little impediment to the illegal users of firearms.

The real tragedy of this legislation is that it purports to address a serious issue – the emergence of a culture of violence in a segment of our population that desperately needs our help – and offers only draconian restrictions on law abiding citizens that are not part of the problem. Nothing is going to change except to lessen the respect of the populous for the legislative process. To paraphrase one astute legislator: "This is what happens when bad policy meets bad bill drafting and is passed in the dark of night."

Mental Health

The most common characteristic of mass shootings is that they are virtually all carried out by mentally ill individuals who had previously demonstrated a predisposition for violence. Rather than focus on early detection and treatment of mentally troubled individuals, the response is a broad brush reporting system with no accountability. Certainly, people with serious mental issues should not have access to firearms, but this should be done through an adjudicatory process that protects patient rights.

In several of these highly publicized incidents, as well as less well reported non-firearms homicides, the individual had already been through the criminal justice system, a system that is poorly equipped to deal this problem, and released with the admonition to “seek treatment.” This problem has been building since the 1960’s when the mentally ill were deinstitutionalized without the provision of an adequate outpatient treatment infrastructure to support them.

A propensity for violence can be difficult for even a professional to diagnose. Rather than consulting with the mental health community on developing solutions to what is clearly a complex question, the answer put forth by this legislation is a simplistic “we will make a list.”

The Society Which We Have Built

Legislators, political activists and advocacy groups find it convenient to blame gun violence on the presence of firearms and insufficient regulation. This is because it is an easily definable target which they can attack with legislative proposals, ill-conceived though they may be. This allows them to avoid examining their own policies that have left a human condition that accepts violence as an acceptable method of problem resolution. A rampant entitlement culture built on drugs, violence and failed public schools caught in a web of bureaucratic and political inertia has resulted in distorted values.

A society that tells its members that everything bad that happens to them is somebody else’s fault, that they will not be held responsible for their actions and “if it feels good, do it” is bound to incur problems. We are then shocked that this results in individuals with little respect for human life. You cannot blame video games, movies and popular music. They are merely a reflection of the society which we have created, providing the things that we want, as is evidenced by the vast sums of money that we pay them to do it.

Rather than deal with these admittedly difficult issues, many political leader have chosen to substitute their perception of public opinion for the Constitutional rights of the firearms owner. They seemed to have forgotten that rights are constitutionally protected to deal with just such situations. Governments cannot abridge fundamental rights just to show that they “are taking action.” Courts have repeatedly held that governments must have a legitimate and compelling governmental objective when they infringe on our most basic rights. And that their action must demonstrably be the least restrictive way of achieving that objective. This legislation fails to meet those standards.

Interestingly, while liberals press for more restrictive firearms laws, they are also vehemently opposing one of the most effective tools in violence prevention – stop and frisk, or more accurately, stop, question and frisk. One law enforcement authority said that eliminating stop and frisk would be “like asking a doctor to give you a physical without using a stethoscope.” It is a bit ironic that it is somehow acceptable to wipe out the rights of millions of law-abiding citizens across the state but it is not reasonable to question suspicious individuals in high crime areas.

“Assault Weapons” Ban

This legislation proposes to ban whole groups of firearms based on characteristics that the sponsors find objectionable without regard to their functionality and legitimate sporting use. They wish to ban what they perceive as “ugly rifles” on the basis that they are widely used by violent criminals. In fact, long guns of all types are used in less than 3% of criminal homicides – less than blunt objects.

Semi-automatic firearms have been part of the civilian firearms market since their inception and, in fact, civilian use predates any military role. Sporting firearms have for centuries benefited from the interchange of technology between the civilian and military sectors – as have electronics, medicine, aviation, etc. It is hardly surprising that modern sporting firearms employ technological developments that first appeared in military firearms. Government investment in the development of small arms for the military has produced technologies, engineering, and materials that were, not surprisingly, transferred to the civilian sector where accuracy, reliability and durability are equally in demand in sporting firearms.

Semi-automatic and shotguns are widely used for hunting, formal and informal target shooting, and personal defense. Rifles labeled as “assault weapons” are the most commonly used rifles in local and national center fire rifle marksmanship competition. Many of the features that this legislation deems objectionable have been in regular use by hunters and competitive shooters for many years. This law makes no attempt to determine the nature or purpose of specific firearms but makes judgments based solely on appearance, perceptions and personal biases.

These firearms are the working tools for legitimate and often necessary activities. How many there are in the hands the citizenry is hard to tell as this legislation attacks perceptions as much as hardware and a minor aftermarket cosmetic accessory may turn a “legitimate sporting firearm” into a “banned assault weapon.”

Magazine Capacity Limitations

These limitations are based on the fallacious premise that limiting the magazine capacity of a firearm will in some way reduce the illegal use of firearms. Magazine capacity in pistols went over 10 rounds with the introduction of the Browning HiPower in 1935. Virtually every service or sport pistol designed since has a magazine capacity of over 10 rounds. Modern sporting rifle magazines have been produced for over 60 years and have been manufactured on every continent except Antarctica. Over 100 billion have been made. In this context, the term “high capacity” is meaningless.

Private citizens desire maximum magazine capacity for the same reason as law enforcement personnel. The victims of violent crime are always the “first responders.” If imposing an artificial impediment on law enforcement is not acceptable, there can be no justification for applying it to a law-abiding citizen who is likely to face the same risk. This restriction compromises the right of self-defense and may very well cost a victim of a violent assault their life with no demonstrable impact on the illegal use of firearms.

Both handguns and long guns are used for personal defense. Such instances tend to be sudden and violent events that have to be dealt with using the weapon at hand. A full capacity magazine improves the defender’s ability to prevail. Not all shots are hits, nor do all hits stop an attacker and, according to the Justice Department, one third of aggravated assaults and robberies involve more than one assailant. When your life is on the line, more is definitely better.

The stricture that one may only load seven rounds in a ten round magazine is naïve at best. To expect individuals willing to commit violent crimes to feel honor bound by some statutory limit is, to put it mildly, incredulous.

Ammunition Sales Restrictions

The provisions in this legislation to record purchasers and track the sale of ammunition are “déjà vu all over again.” Recording ammunition sales was included in the Gun Control Act of 1968 along with a ban on mail order sales. It was soon determined to be of no substantial law enforcement value. Record keeping for .22 rimfire ammunition was dropped in 1982 and the whole requirement was repealed in 1986. It has been proposed regularly ever since and has been consistently rejected on the merits (or more precisely, the lack thereof).

The civilian ammunition market in the United States is between 9 and 10 billion rounds. This is a fungible, consumable product that does not lend itself to tracking in any practicable way. Violent criminals use ammunition in such small quantities that they would hardly stand out in the crowd even assuming they were to enter the legal market. Serious training and or recreational shooting can easily consume over 2,500 rounds a week. This is a lifetime supply for most criminals.

This requirement will put a financial burden on consumers, dealers and the taxpayers, all to fund a system that has little potential for detecting anything illegal. The Statement in Support for the legislation gives the purpose as “provid(ing) a mechanism to identify individual [sic] who purchase unusually high volumes of ammunition” (whatever that means). It will only succeed in producing, at great cost, a list of the most active target shooters in the state. This process will turn into a CoBIS on steroids.

Universal Background Checks

This requirement sounds great, has a high public approval rating and appears innocuous. The devil is in the detail. The question is what is the cost and what does it accomplish. The answers turn out to be plenty and not much.

Dealers are reluctant to provide a service that they view as having no societal value at a cost that probably exceeds the allowed fee. In addition to the time spent, there is paperwork to be maintained, regulatory penalties for any errors or omissions and liability exposure resulting from involvement in third party transactions.

Universal background checks are particularly useless in New York. The handgun licensing system pretty much guarantees that transactions are between licensed individuals. The existing requirement for checks by dealers and at gun shows leaves only a handful of long gun transactions outside the purview of the regulatory system. Adding a couple of friends at a gun club that decide to trade hunting rifles to the mix is not going to help.

Attempting to compel universal background checks will do virtually nothing to prevent access to firearms by prohibited persons. You end up with universal background checks among the good guys. In the end, criminals are criminals – they just don’t obey the law.

Conclusion

It is a poorly thought out attempt at a solution to what is a real but defectively defined problem. It will achieve none of its objectives and exact a high cost in the process.