Written by Gun Owners
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Some advocates, both in Congress and in the Second Amendment community, have attempted to dismiss the tragic sweeping importance of new federal legislation to create expansive "gun free zones" around every American school. Regarding this sweeping ban, some have claimed that "its effect on gun owners will be minimal" and that in most cases, the new law will "have little effect."

Of course, the anti-gun zealots did not work frantically to pass this gun ban merely because they felt it would have a minimal effect. And EVEN IF the impact of this new law was minimal, gun owners should be outraged by ANY law restricting their rights. The Second Amendment states that the "right to keep and bear arms shall NOT BE INFRINGED." Those words do not leave any room for making compromises.

While some Second Amendment advocates have minimized the significance of the "gun free zones," they further discount its importance by predicting that the act will be declared unconstitutional by the courts. And yet, ironically, REPUBLICANS on the House Judiciary Committee have issued a statement just as confidently predicting that it will be upheld by the courts.

Here are some of the questions that been raised, together with the answers to those questions:

Is this a sweeping piece of legislation?

The "gun free school zone" legislation would create a virtual 1/2 mile wide "gun free" circle around every American school (or a 1,000 foot zone going in any one direction from any school) -- a zone which could possibly include home schools. Anyone carrying a gun within this "gun free zone" would be subject to five years in prison, unless he or she has fulfilled one of the government-ordained exceptions to the law -- these exemptions treating our liberties more as privileges, rather than rights. (More on this below.)

Isn't this the same as the law that was passed in 1990?

The new law is virtually word-for-word the same as the previous law. When the first disastrous "gun free zones" provision was passed in 1990, it was almost immediately challenged. The effective date was January 27, 1991. By the first months of 1992, the events triggering the Lopez case, which ultimately overturned the law in the Supreme Court, had transpired. Aggressive enforcement was held in abeyance while the constitutionality of this language wound its way through the courts.

In this sense, this law was little different from other gun bans in which enforcement was gradually tightened until the full repressive impact of the legislation had been eased into place.

Will this law pass constitutional muster?

Those who rely on the courts to save us from this vast expansion of federal gun laws by declaring the law unconstitutional are playing a very dangerous game. Federal courts have not generally been friends of the Second Amendment.

Furthermore, many analysts, including the REPUBLICAN leadership on the House Judiciary Committee, are predicting that the superficial changes made in the new act cure the constitutional defects that allowed the 1990 safe schools bill to be overturned by the courts in the Lopez decision.

Specifically, the new law requires that the gun "affects interstate and foreign commerce." This "affects commerce" language is so broad that, in one case, a farmer was held to have "affected commerce" by growing and wholly consuming his own crops, on the basis that commerce would be altered if every farmer did the same. Obviously, given this interpretation, there would be no human activity that did not "affect commerce," and the change would have absolutely no impact on the implementation of the unconstitutional 1990 law.

Does this superficial change alter the constitutionality of the unconstitutional 1990 version? Some members of the Second Amendment community believe it does not. Republicans on the House Judiciary Committee argue just as adamantly that it does.

The real answer is that no one knows. It is possible that a court will overturn this statute. BUT, if it does not, we will be stuck with one of the most repressive gun bans on the record books.

Could this law ban gun ownership by home schoolers?

The law bans guns within 1,000 feet from the "grounds" of a "public, parochial or private school..." "School" means "a school which provides elementary or secondary education, as defined under State law."

Contrary to the assertions of the House Judiciary Committee, most -- if not all -- states do recognize that home schools provide "elementary or secondary education" for the purpose of exempting those students from the mandatory attendance requirements of state law.

The act does NOT specifically look to state law with respect to the question of whether a "home school" is a "private school." But there is a substantial danger that courts will make that finding. Webster's Dictionary defines "private" to mean: "2. not open to, intended for, or controlled by the public [a private school]." Obviously, a home school is not open to, intended for, or controlled by the public. Every educated advocate interested in preserving home schools who has reviewed this problem has reached the same conclusion: there is too much of a danger that this act will be interpreted to prohibit the possession of firearms by parents who home school their kids.

In fact, Republicans on the House Judiciary Committee have privately conceded the dangers for home schools, quietly assuring other House Republicans that they would be willing to entertain a "clarification" protecting home schools. Unfortunately, these "assurances" are too-little, too-late.

Aren't there adequate exemptions to protect law-abiding gun owners?

Let's look at these "so-called" exemptions:

THE BOGUS "HUNTER EXEMPTION:" The so-called "hunter exemption" applies only when the school authorities specifically give permission for a hunter to cross their property -- and then only when the gun is unloaded. Assuming that a hunter on the way to a hunting trip would have to cross fifty school zones, that hunter would have to check with all fifty schools -- or risk being a felon if he did not qualify under another exemption.

THE "GUN OWNER REGISTRATION EXEMPTION:" The "gun free zones" law exempts CCW (Carry Concealed Weapon) holders who live in a state that requires a background check before the issuing of a permit. (This means that CCW holders that live in states like Alabama are not exempted under this provision because background checks are not mandated by state law.) What this so-called exemption does is force a citizen to register with the authorities as a gun owner before he can carry a loaded self-defense weapon in his or her car.

While many gun owners have made the choice to register themselves in order to carry concealed, many have decided to keep their names off of any government list. (In fact, the recent abuses in states like Virginia and Pennsylvania -- where newspapers are printing the names of CCW holders -- show how easily this registration information can be abused.) Before this "gun free zones" law, motorists in many states could legally transport a loaded firearm for self-defense, without getting a CCW permit.

For example, Vermont allows any citizen to carry a concealed firearm without a permit. (Vermont law only prohibits the carrying of a concealed firearm with the purpose of committing a crime.) Thus, citizens in Vermont can carry legally without jumping through any government-ordained "hoops" -- there is no registration, license fees or taxes. But now under the federal gun free zones provision, law-abiding motorists from Vermont and other states will have to beware. Those who could previously transport a loaded firearm will be stripped of their right to carry a self-defense firearm within 1,000 feet of a school (unless they qualify under another exemption).

THE USELESS "TRANSPORTATION EXEMPTION:" This extremely limited exemption would ONLY allow a motorist to transport an UNLOADED firearm in a LOCKED BOX or a LOCKED GUN RACK, assuming the motorist does not have a CCW permit as explained above. Even an UNLOADED gun kept in a glove compartment for self-protection would subject the bearer to a five-year prison sentence. Furthermore, this is true even if the person transporting the gun is an OFF-DUTY POLICE OFFICER.

Note: Citizens in states like Virginia and Colorado should beware. While these states allow motorists to carry a firearm in the passenger compartment, an obvious conflict arises now when the motorist comes within 1,000 feet (about 3 blocks) of a school. Many jurisdictions now set up road blocks to give sobriety checks and check for seat belts being worn. Police who conduct these road blocks within a school zone will now have one more "prohibited activity" to inspect for.

THE "PRIVATE PROPERTY" TRAP: While it is true that a person living within a school zone would not automatically have to relinquish his guns, it would be UNLAWFUL for him TO CARRY HIS GUN TO HIS CAR PARKED ON THE STREET OUTSIDE HIS HOUSE. Furthermore, the private property exemption only applies to "private property not part of school grounds." Home schools might not be exempted since these clearly fall within the definition of a school under U.S. Code (18 U.S.C. 921), which defines a "school" as a place which "provides elementary or secondary education as determined under state law."

Don't most states have comparable laws?

No. Many states have laws which, on their face, are much narrower than the federal law and do not create mammoth "gun-free zones." For instance, Indiana and Minnesota prohibit carrying a gun on "school property." States like Arizona, Colorado, New York and Virginia -- to name just a few -- all prohibit guns within "school grounds" or "school buildings" or at "school functions." The fact that the expansive federal law is putting pressure on states to enact equally repressive measures at the state level is a recent development which represents perhaps the most dangerous aspect of the new law. (1)

Aside from that, while a few states, such as New York and Massachusetts, have specialized in firearms repression, most have been considerably less abusive than BATF in interpreting and enforcing anti-gun statutes, even when those statutes may be overbroad. Even if the only impact of this legislation were its massive expansion of BATF authority, this would be a very bad law.

Finally, and obviously, anti-gun zealots did not work frantically to pass this piece of legislation merely because they felt it was redundant of state legislation currently on the books.

Here we go again

Gun owners should not be confused when they hear leaders in the gun community telling them that anti-gun legislation is not that bad, that such a law will "have little effect." Gun owners have heard this song and dance for almost a century.

For years, gun leaders have bargained with Congressmen, giving the wink and nod to anti-gun legislation that is "not too bad."

Consider that in 1934, the executive vice-president of one gun organization testified in Congress that, "You can be just as severe with machine guns and sawed-off shotguns as you desire, and we will go along with you." (2) With this endorsement, Congress subsequently passed the Gun Control Act of 1934.

In 1963, another executive vice-president of the same gun group told Senator Chris Dodd (D-CT) that, "I do not deny you have a problem with mail-order guns, Senator. We want to do everything we can to help you. We will support any reasonable type of legislation to beat that type of business because it is unconscionable." (3) Five years later, the Gun Control Act of 1968 was enacted.

At first, each of these laws may have appeared to "have little effect." But at a minimum, the National Firearms Act of 1934 resulted in Randy Weaver losing his wife almost 60 years later, and gave the "justification" for the raid on the Davidians in Texas. The Gun Control Act of 1968 resulted in the elevation of the BATF to its current status -- an agency which required separate legislation in 1986 to curb many of its abuses.

Indeed, the gun free zones legislation must be repealed. To leave such a slow-ticking time bomb in the federal code only invites the future harassment of gun owners (at best) and future Randy Weaver-type incidents (at worst).

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1. Even many of the states that have "school zone" laws are not as restrictive as the federal law. For instance, while Florida has a law prohibiting firearms within 1,000 feet of a school, it only applies "during school hours" or during the time of a "sanctioned school activity." (The federal law applies 24 hours a day.)
And while Texas contains language regarding firearms within 300 feet of a school, this zone of "300 feet" only enhances penalties for a crime committed within that area. In other words, one can legally carry a firearm within 300 feet of a school in Texas -- the law only gives an enhanced penalty for committing a crime within that same distance. The federal law, of course, extends much further than the Texas law. The federal law applies a ban on the possession of a gun (not just an enhanced penalty for the commission of a crime as in Texas), and the federal statute extends the gun free zone up to 1,000 feet from a school (not just to 300 feet as under Texas law).
2. U.S., Congress, House, National Firearms Act, Hearings, on H.R. 9066, 73d Cong., 2d Sess., 1934, p. 30, cited in Lee Kennett and James La Verne Anderson, The Gun in America: The Origins of a National Dilemma, 1975, p. 210.
3. U.S., Congress, Senate, Dodd Committee, Hearings, 1963, p. 3483, cited in The Gun in

America, p. 229. Joomla SEO powered by JoomSEF