

Gun Control Advocates Need to Rethink

There is no reason to rehash the pros and cons of gun control that has been commented on by the media, and political parties

The simple fact is that any form of gun control violates the Second Amendment to our Constitution of the United States. The fact is that there are only two (2) amendments which prohibit any form of government involvement.

First Amendment

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Second Amendment

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.

All of the remaining 25 amendments can be changed. Our Founding Fathers saw fit that in order for our democratic republic is to survive that the first two amendments were essential to the Life, Liberty, and the pursuit of Happiness.

There are however those who wish to violate the Constitution by infringing upon the First and Second Amendments. My answer to them is "Get the hell out of my country!"

Now we all know that they will not leave because they enjoy the freedoms they have. They also recognize that they may not have it so good in another country. So what do they do? The answer is simple they try to control their environment (society) by implementing stupid regulations and laws that cannot really be totally enforced. Such and regulations and laws can easily be compared to a parent telling a child don't do this or that. How well does that work?

The gun control movement is not new. Most researchers date its beginning to 1935 with Al Capone's violent use of firearms. Note that Capon was a criminal. However, gun control dates back even further when the Fourteenth Amendment, 1868, the right of Blacks to own firearms was ratified.

Today's concept of gun control by the left, socialists, and the current administration is firmly geared to the eventual confiscation of firearms. Like the movements and legislation mentioned above, confiscation of weapons is not new. The concept is not even new to the 20th century. The prohibition and confiscation of weapons from spears, swords and knives, through the technological development of new weapons, muskets, revolvers, pistols, and rifles can be traced back to the beginning of civilization. After

every conflict of war, the winner almost always issued edicts prohibiting weapon ownership and confiscation.

The enforcement agency for gun control is the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). Although the ATF was established in 1972, the historical events leading up to its formation dates back to 1862 with the creation of the Office of Internal Revenue.

In 1934 the National Firearms Act was signed into law. Its' purpose was to regulate and tax weapons (machine guns, silencers, sawed-off shotguns) that were preferred by gangsters of that time.

Four years later the act was revised to include the regulation of interstate transportation of firearms and ammunition, prohibiting felons from acquiring such; requiring dealer and manufacturer licensing, and imposed firearms marking and record keeping.

Between 1938 and 1968, other gun control measures were enacted with enforcement assigned to the Alcohol Tax Unit (ATU). In 1968 the ATU was reorganized to become the Alcohol and Tobacco Tax Division (ATTD) and was delegated to enforce of the Gun Control Act of 1968.

In 1972, the Treasury Department transferred the ATTD out of the Internal Revenue Service to report directly to the Treasury Department and was named the ATF. Since its formation the ATF' purview has been expanded with the passing of laws that cover a myriad of crimes involving criminal activity.

Under the Homeland Security Act, the ATF was transferred to the US Department of Justice in 2003 and was given a larger role in national security.

Over its history, the ATF has defined and redefined various terminologies related to firearms. These definitions have become part of US law under 18 U.S. Code § 921 and 27 CFR § 478.11.

According to 18 U.S. Code § 921(a)(3) [2018 edition], a firearm is:

Any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; The frame or receiver of any such weapon; Any firearm muffler or firearm silencer; or. Any destructive device.

Another important term to understand is “destructive device,” found in 18 U.S. Code § 921(a)(4) [2018 edition]. Since the definition is fairly long it will not be presented here but should be read at <https://www.law.cornell.edu/uscode/text/18/921>.

Now that we have a better perspective on the historical aspect of gun control, let's take a look at how stupid, supposedly "enlightened and educated" politicians enact legislation on topics they know little to nothing about.

Currently the Congress and the current administration are working to eliminate your access to firearms or even the ability to make them (80% lowers). This also includes ATF. It should be noted that when a regulatory agency makes a ruling, such rulings become de facto law.

There are many problems law makers have when making law. Three of the major problems are:

1. They do not have sufficient knowledge about the subject of the law they are making.
2. They do not know or understand the consequences and unintended consequences of the law they are making.
3. They do not sufficiently define terms used in the law they are making.

Let's take a close look at four phrases in ATF's definition of "firearm."

Any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; The frame or receiver of any such weapon; Any firearm muffler or firearm silencer; or. Any destructive device.

Any weapon – The term "weapon" has not been legally defined in US Code. Further the term "any" is not specific. While there may be dictionary and social definitions for "weapon," a legal definition is needed. The phrase "any weapon" could mean a knife, pair of scissors, pencil, belt, piece of paper, etc. Almost any item can be used as a "weapon" to attack or defend. Therefore, from the beginning, the definition of "firearm" is flawed.

Expel a projectile – Similar to "firearm" the term "expel" has not been defined. It is assumed that the "action of an explosive" means to expel, but this is not the case. According to the Oxford dictionary, the first meaning of the word is to deprive. The second means is to "force out or eject." This second definition seems to fit the ATF's use of "expel."

The second part of this phrase, "projectile," similarly lacks definition. While Oxford defines projectile as a "missile," the term is used in other areas and can have various meanings. For example according to physics.info, a projectile is, "any object that is cast, fired, flung, heaved, hurled, pitched, tossed, or thrown. " A baseball, for example, is a projectile if it is pitched, batted, or thrown.

Action of an explosive – Just as before, "explosive" is not defined. Let's consider a couple of explosive actions that are not gun related. The breath used in spitting is a form of explosive action. Similarly, throwing up, or violent diarrhea are act of explosive

actions within the body. The momentum of a car striking another car is also an explosive action. There are many definitions that can be applied to this phrase.

Any destructive device – ATF has ambiguously defined “destructive device,” Their definition according to their website is:

- *A missile having an explosive or incendiary charge of more than 1/4 oz.*
- *A combination of parts designed and intended for use in converting a device into a destructive device and from which a destructive device can be readily assembled.*
- *A combination of parts designed and intended for use in converting a device into a destructive device and from which a destructive device can be readily assembled.*

Similar to the other terms/phrases, “destructive” has not been defined. Obviously most publicly available firearms and ammunition do not fall into the first part of this definition.

The second part is totally ambiguous. At the very least ATF needs to provide examples but doing so, will limit the scope of what actions they can take. Ambiguity leaves room for a lot of misguided interpretation.

The third part, is a bit more definable in that it could relate to combining the upper and lower parts of an M-16 carbine, assuming that the M-16 is a destructive device. While it can be argued that a M-16 is such a device if, and only if, the M203 37mm grenade launcher is attached to it. While separately the M203 can be called a destructive device, the M-16 alone cannot.

To understand how stupid government has been in defining “destructive device” we simply need to look at the construction trade. Many carpenters use “powered driven” and “rivet” guns for fastening things together. Many of these devices act in a manner that shoots a fastener through some sort of material, much like a nail gun and then creates a flange or expands to lock the second material into place. Thus an explosive action is used to create the flange or expansion and the guns can be called explosive devices. Another ridiculous analogy of explosive devices is gas or diesel engines. Fuel is injected into the engine’s cylinders and ignited by a spark to create a destructive force that expands to push the cylinders up and down to move the vehicle.

In this commentary we have explored how just about anything can be used as a deadly weapon because of the failure to provide proper and adequate definitions in the various gun control laws. Based on the definition of firearms even a spitball shot from a straw can be considered a weapon and firearm. Similarly devices that use any form of energy (air, water, fossil fuels, etcetera) can be declared a destructive device.

The various laws are so open ended that everyone from a milquetoast individual to the most aggressive and violent person can be charged with violating federal gun laws.