

S.C.O.P.E Legal Update

May, 2021

Schuyler County Proposed Local Law Intro. A Of The Year 2021

A public hearing shall be held upon said proposed Local Law on June 14, 2021 at 6:30 p.m. in Room 120 at the Human Services Complex, 323 Owego Street, Montour Falls, NY.

A Local Law authorizing 12 and 13-year-old licensed hunters to hunt deer with a firearm or crossbow during hunting season with the supervision of an adult licensed...

The intent of this Local Law is to authorize Schuyler County to permit 12 and 13-year-old individuals to participate in the new and safe hunting opportunities in accordance with Environmental Conservation Law § 11-0935. The enacted 2021-2022 New York State Budget, include a pilot program, allowing the opportunity for young hunters, ages 12 and 13, to hunt deer with firearms and crossbow through 2023 if a county authorizes such action within their municipality. Schuyler County is passing this local law as hunting is a valued tradition for many families, and this new opportunity allows experienced, adult hunters to introduce the value of hunting to the next generation. Furthermore, teaching young people safe, responsible, and ethical hunting practices will ensure a rewarding experience for the youth, while providing quality food to families and contributing to important deer management population control practices. This local law has been reviewed and endorsed by the Schuyler County Clerk, County Sheriff, Undersheriff and County Attorney in their official capacities.

<http://www.schuylercounty.us/DocumentCenter/View/1016/Management--Finance-Committee-Meeting-Agenda>

New York State Legislators mount effort on gun industry liability

New York lawmakers are mounting an effort to open gun manufacturers and distributors up to civil liability suits.

A federal statute enacted in 2005, which was drafted as a response to legal threats made by officials such as ... Eliot Spitzer and...Andrew Cuomo, generally grants immunity to the firearms industry.

But that immunity isn't absolute. And State Sen. Zellnor Myrie (D-Brooklyn) has authored a bill that he believes is permissible under the federal law which would significantly extend the state's ability to challenge manufacturers whose products are used illegally.

Myrie's bill would categorize the misuse of guns as a nuisance.

Industry members could be sued for actions that "...contribute to a condition in New York state that endangers the safety or health of the public through the sale, manufacturing, importing, or marketing of" a gun.

New York lawmakers will now try to be the first to actually enact it into law by passing it before session ends on June 10.

<https://www.politico.com/states/new-york/albany/story/2021/04/29/legislators-mount-effort-on-gun-industry-liability-1378679>

A-6762A amended

A-6762A, Relates to the dangers to the safety and health of the public caused by the sale, manufacturing, importing and marketing of firearms, has been amended and resubmitted to Economic Development. Companion to S-1048A. "Legislative findings and intent. The legislature hereby finds that the illegal use of firearms not only constitutes a public nuisance as declared in article 400 of the penal law, but that the effects of such nuisance contribute to the public health crisis of gun violence in this state as declared by the legislature in the 2021-2022 legislative session."

<http://www.gunpoliticsny.com/?p=23642>

Lead hunting ammo ban on NY Assembly Environmental Conservation Cmtee agenda

A-5728, Prohibits the use of lead ammunition in the taking of wildlife on wildlife management areas, state forests, forest preserves, state parks or any other state-owned land that is open for hunting and on land contributing surface water to the New York City water supply. Companion S-5058 on 3rd Reading.

<http://www.gunpoliticsny.com/?p=23673>

Marijuana or guns, you can't have both

Now that marijuana is legal in New York, maybe you've seen this claim on social media.

You might be surprised to learn it is true. Under federal law, you cannot use marijuana and buy or possess a firearm even if state law allows recreational weed.

if you go to buy a gun you'll find a question on the ATF form. It's part of the National Instant Criminal Background Check System (NICS).

Here's the portion of the form we're talking about:

"Are you an unlawful user of, or addicted to, marijuana or any depressant, stimulant, narcotic drug, or any other controlled substance?"

Warning: The use or possession of marijuana remains unlawful under Federal law regardless of whether it has been legalized or decriminalized for medicinal or recreational purposes in the state where you reside."

If they answer 'yes' to that question they'll be denied the right to own or purchase the firearm...Any marijuana user as far as the federal government is concerned should not own or possess a firearm at any time."

So all you have to do is admit you use marijuana and you'll get rejected. You don't have to be charged with a crime and even a doctor's note won't help you.

So what about current gun owners who decide to smoke marijuana now that it's legal in New York? You could still be charged by the feds, but it would be harder for them to prove. If you do get caught, Kuhn says you could face a felony that carries a \$10,000 fine and up to five years in prison.

<https://www.whec.com/news/fact-check-marijuana-or-guns-you-cant-have-both/6075948/?cat=565>

Supreme Court Agrees to Take Up Major Second Amendment Case

The Supreme Court announced Monday that it will take up a major Second Amendment case next term that centers on a New York law which prohibits the concealed carry of handguns in public.

The Supreme Court accepted a bid by two gun owners and a New York subsidiary of the National Rifle Association to challenge the state's rejection of their applications for concealed-carry licenses for self-defense.

In an order released Monday, the justices said they will consider whether "the State's denial of petitioners' applications for concealed-carry licenses for self-defense violated the Second Amendment."

The lawsuit was filed on behalf of complainants Robert Nash and Brandon Koch after New York officials claimed the individuals did not meet the standard of "special need" and "proper cause" to qualify to hold firearms under state law. The state typically reserves concealed carry licenses for security professionals or others who can plausibly claim they face grave threats due to their occupation or public identity. Unlicensed individuals can keep handguns in their homes but are prohibited from traveling with them or carrying them in public.

Nash and Koch contend that the state's limits on concealed carry are an infringement upon their Second Amendment liberty. The plaintiffs argued in their Cert Petition that the law on the books makes it "virtually impossible for the ordinary law-abiding citizen to obtain a license."

Over ten years have passed since the high court heard arguments and released a decision concerning the constitutional right to bear arms. The court will hear the case of NY State Rifle & Pistol Assoc. v. Corlett in the fall.

<https://www.nationalreview.com/news/supreme-court-agrees-to-take-up-major-second-amendment-case/>

Biden creates commission on expanding the Supreme Court

President Biden on Friday will sign an executive order that creates a commission to study adding seats to the Supreme Court.

Many Democrats want to expand the number of justices after former President Donald Trump successfully nominated three justices, tilting the court in a more conservative direction.... But Republicans and legal purists decry the idea as "court-packing" and say it will undo the Supreme Court's historical insulation from politics. Biden previously opposed adding seats.

<https://nypost.com/2021/04/09/biden-creates-commission-on-expanding-the-supreme-court/>

Joe Biden's Gun Lie

Biden is insinuating that once the Federal Assault Weapons Ban sunsetted in 2004, gun violence skyrocketed. It simply wasn't so. The rate of gun homicide continued falling for more than a decade after the ban ended, even though gun ownership exploded. From 2006, overall homicides fell ten out of 14 years. Twenty-one years after a gun violence peaked in 1993, and a decade after the assault-weapon ban ended, homicides by firearms hit a historic low. By that time, the AR-15 had become the most popular rifle in the country. In 2004, there were 14,536 overall homicides in the United States. In 2019, the last year on record, there were 14,185. During that span, Americans bought north of 100 million new guns. That trend has only accelerated the past two years. Even in years gun homicides didn't fall, the spikes had little to do with "assault weapons," since the rifle is used in only fraction of gun crimes. And "assault weapons" had even less to do with gun violence when the ban was passed in the 1990s. Though there is no question mass shooters tend to gravitate towards AR-15s today, there is also no evidence that mass shooting themselves increased after the ban lifted, either.

https://www.nationalreview.com/corner/joe-bidens-gun-lie/?utm_source=recirc-desktop&utm_medium=homepage&utm_campaign=right-rail&utm_content=corner&utm_term=fourth

Former ATF Agent, Now A Gun Control Advocate, Is Biden's Nominee To Lead The Agency

President Biden has vowed to tackle what he calls an epidemic of gun violence in the country. The main agency that enforces federal gun laws is the Bureau of Alcohol, Tobacco, Firearms and Explosives. Biden has tapped David Chipman, a former ATF agent-turned-gun control advocate, to lead the agency.

Over the years, Chipman rose through the ranks at ATF. He held senior positions at headquarters in Washington, D.C., and eventually retired from the agency in 2012. Since then, he's become an outspoken advocate for gun control. He currently works as a senior policy advisor at Giffords, the gun violence prevention group led by former Arizona Congresswoman Gabby Giffords, who was wounded in a 2011 mass shooting.

<https://www.npr.org/transcripts/992122561>

Biden White House tries to craft gun executive orders that can't be undone

Among the topics discussed, according to attendees, were "ghost guns", pushing the DOJ to bring more cases against firearms dealers and manufacturers, limiting exemptions for private sales from background check rules, and alerting local law enforcement when someone fails a federal background check.

<https://www.reuters.com/article/us-usa-guns-analysis-idUSKBN2BP0QI>

California Already Tried Biden's Ghost Gun Ban. It Didn't Work.

California is ahead of Biden's game in banning ghost guns, having since 2018, as the Center for American Progress summed up, "require[d] all self-assembled firearms to contain a unique serial number from the California Department of Justice. Furthermore, owners of newly serialized firearms must provide identification information to the California Department of Justice. Under California law, self-assembled firearms cannot be sold or transferred."

At the same time, California has remained a place media calls on to scare you about the still growing threat of ghost guns, such as the claim made to ABC News last year by Carlos A. Canino, the special agent in charge of the A.T.F. Los Angeles field division, that "Forty-one percent, so almost half our cases we're coming across, are these 'ghost guns.'" Last year was two years after California banned them in just the way Biden plans to. Not a promising sign for the efficacy of his bold initiative.

Various cities have reported scary-sounding percentage increases in captured ghost guns in the past few years as the hobby has spread, though, again, one could eliminate every homemade gun and still have plenty of traditional firearms to go around for both crooks and peaceful citizens....Biden's effort might make life harder on hobbyists and conceivably make punishing someone for a crime already committed easier in some marginal cases, but it can't possibly be expected to make a serious dent in overall gun violence. Likely its only real goal is to satisfy some of Biden's political constituents.

<https://reason.com/2021/04/28/california-already-tried-bidens-ghost-gun-ban-it-didnt-work/>

Ninth Circuit Lifts Ban on 3D-Printed Gun Blueprints

A divided Ninth Circuit panel on Tuesday lifted a court order against two Trump-era rules that make it easier to share untraceable 3D-printed gun blueprints, just as the Biden administration seeks to tighten restrictions on so-called ghost guns.

The appeals court ruling will lift restrictions on exporting specs for 3D-printed guns, but President Joe Biden announced in early April that the Justice Department would issue new rules for ghost guns within 30 days.

The Ninth Circuit's decision Tuesday overturned an injunction issued by a federal judge in Seattle in March 2020. U.S. District Judge Robert Lasnik had blocked two rules that transferred regulatory control of 3D-printed gun files from the State Department to the Commerce Department. The rules also removed ghost gun blueprints from a State Department list of munitions that require a license to export. Twenty-two states led by Washington state sued to prevent the rule changes from taking effect.

<https://www.courthousenews.com/ninth-circuit-lifts-ban-on-3d-printed-gun-blueprints/>

Gun control has a racist past

After the Civil War, a major aspect of the "Black Codes" passed was the prevention of Black gun ownership. The passage of the Civil Rights Act of 1866 declared that many of these "Black Codes" were unacceptable, so racist Southern governments attempted to circumvent the law. Tennessee passed the Army and Navy Law which only permitted expensive military-grade guns to be sold and used — effectively isolating Black Americans from the market. Since they could not afford these military-grade guns, they were not able to protect themselves. Laws like these were commonplace in the South, leaving many Black Americans unarmed to defend against the Ku Klux Klan and other white supremacist hate groups.

The North also overlooked the needs of Black Americans and their need for protection. After a dramatic rise in immigration from Eastern and Southern Europe during the late 19th and early 20th century, only then did serious gun control

measures come to fruition. The first of the widespread restrictions on guns came in New York — the hub of European immigration — as the Sullivan Law in 1911. This law required a permit from the New York City Police Department to own a firearm, but the people who approved these permits were anti-Black and anti-immigrant police..

Up until the 1960s, gun control was mostly a matter for the states. It wasn't until the civil rights movement that the U.S. government passed major national-scale legislation. The rise of the Black Panthers and their call for "black people to arm themselves" reignited the United States' fear of armed and oppressed minorities. The Black Panthers encouraged Black Americans and other racial and religious minorities to take up arms to protect themselves and their communities against a corrupt U.S. government.....Thus, the Gun Control Act of 1968 was born.

<https://nyunews.com/opinion/2021/04/02/gun-control-racist-past/>

Sen. Mike Lee wants to make gun silencers easier to buy

Lee said the steps needed to buy a silencer or suppressor amount to gun control.

"The current, oppressive process required to buy silencers only hurts the eardrums of millions of hunters, sportsmen and marksmen each year, and serves to provide surreptitious gun control," he said in a statement.

Lee said his bill, the Silencers Helping Us Save Hearing Act, would eliminate the "onerous" regulation to make a legal sport safer for millions of Americans. Sens. Ted Cruz, of Texas, and John Cornyn, of Texas, are co-sponsoring the legislation, and Rep. Bob Good, R-Va., introduced a companion bill in the House.

Lee proposed the same legislation in 2017 and 2019.

Proponents of the bill and similar measures claim deregulating silencers is a health issue.

"Streamlining the burdensome process for obtaining a suppressor is important to protect the hearing of hunters and sportsmen across America," Cruz said.

A silencer is a firearm accessory used by hunters and marksmen to make shooting safer by reducing — though not completely silencing — noise, recoil and muzzle blast, according to the senators.

<https://www.ksl.com/article/50146798/why-sen-mike-lee-wants-to-make-gun-silencers-easier-to-buy>

3 Reasons Why Banning 'Assault Weapons' Is a Terrible Idea

1. There is no agreed upon definition of "assault weapon."

2. Banning "assault weapons" won't stop mass shootings.
3. Assault weapons are a crucial self-defense tool.

<https://reason.com/2021/04/14/3-reasons-why-banning-assault-weapons-is-a-terrible-idea/>

4 Reasons an "Assault Weapon" Ban Should Matter to Hunters

1. AR-style rifles are used more and more for hunting and are available in a wide range of good hunting calibers. Thus, banning such rifles would have a negative effect on the hunters who use them regularly.
2. Reduced gun sales result in far fewer dollars earmarked for conservation at the state level.
3. Setting a precedent of banning a gun seldom used in crime just because some people don't like them could lead to other guns being banned for no reason.
4. Passing a ban on so-called assault weapons would give anti-gun legislators momentum and embolden them to push for even more restrictions.

<https://www.nra.org/articles/2021/4/26/4-reasons-an-assault-weapon-ban-should-matter-to-hunters/?fbclid=IwAR3cN454qgol3sjF-lmCoPtoW-lxneQlIbv6qFCCzc-GxQvqrG1YAzYSXkU>

Hunting, gun sports app GoWild seeing rise in ammunition scams

Scammers are increasingly targeting people seeking to buy ammunition and other gun accessories as ammo is in short supply and the market is flooded with first-time firearms buyers, according to hunting and shooting sports forum GoWild.

GoWild, a social media platform created for outdoor sports and shooting enthusiasts, issued a warning to its community earlier this month: "Scammers are aiming for your ammo purchases."

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Scammers appear to be operating from outside the country and are using fake business names, as well as "creating fake logos, addresses and websites to pose as legitimate companies," the press release states.

GoWild asks users to be wary of deals that appear too good to be true and suggests they do not move the conversation to another social media platform. It encourages its community members to pause when asked to pay for products

using payment apps, such as Venmo, Zelle or CashApp, and for users to dig deeper into the business' background and website security indicators.

<https://www.foxbusiness.com/lifestyle/hunting-gun-sports-app-gowild-ammunition-scams>

Montana governor signs bill to protect Second Amendment from federal gun restrictions

Montana Gov. Greg Gianforte signed a bill into law Friday that's intended to protect gun owners in the state from any new federal regulations or bans on firearms.

"Today, I proudly signed Rep. [Jedediah] Hinkle's law prohibiting federal overreach into our Second Amendment-protected rights, including any federal ban on firearms," Gianforte, a Republican, wrote on Twitter. "I will always protect our #2A right to keep and bear arms."

Republicans in the state passed the law amid President Biden's push for federal gun reform measures in the wake of a series of mass shootings across the country this year.

Previous efforts to pass similar legislation in the last decade were thwarted by then-Democratic Gov. Steve Bullock.

<https://www.foxnews.com/politics/montana-governor-signs-bill-to-protect-second-amendment-from-federal-gun-restrictions>