

# S.C.O.P.E. Legal Update

## May, 2022

### Everytown for Gun Safety's Antigun lobbying update

Here's their current list of proposed gun-related bills:

- A-449A, Establishes a ten business day waiting period from contact of the National Instant Criminal Background Check System (NICS) before a firearm, shotgun or rifle may be delivered to a person.
- A-837, Requires the creation and imposition of restrictive commercial practices and stringent recordkeeping and reporting to prevent gun and ammunition sales to individuals with a criminal record.
- A-4331/S-1991, Provides a civil action for deprivation of rights which is caused by any person or public entity.
- A-5455/S-5026, Requires police officers to take temporary custody of firearms when responding to reports of family violence.
- A-7926/S-4116, Requires semiautomatic pistols manufactured or delivered to any licensed dealer in this state to be capable of microstamping ammunition.
- A-8131/S-7456, Requires the Division of Criminal Justice Services to establish and maintain a database of information relating to the sale or use of microstamped guns in the state.
- A-8619A/S-7573, Expands eligibility for victims and survivors of crime to access victim compensation funds.
- A-9000B/S-8000B, State operations budget.
- A-9003B/S-8003B, Aid to localities budget.
- A-9004B/S-8004B, Capital projects budget.
- A-9563/S-8415, Relates to an excise tax on the sale of ammunition.

<http://www.gunpoliticsny.com/?p=25066>

### Setting up the microstamping bill

The Daily News has [an] op-ed calling for the legislature to enact microstamping.

It will effectively block all sales of new pistols as the tech doesn't work and cannot be implemented.

Current bill numbers are A-7926A and S-4116A.

<http://www.gunpoliticsny.com/?p=25199>

### S-8780, restrictive commercial practices introduced in Senate

S-8780, Requires the creation and imposition of restrictive commercial practices and stringent recordkeeping and reporting to prevent gun and ammunition sales to individuals with a criminal record, has been introduced to Codes. Companion to A-837B.

Section 875-b requires gun dealers to adopt reasonable measures to prevent unlawful sales and transfers to criminals to keep guns from being diverted from the legal stream of commerce to individuals who are not legally entitled to purchase or possess such weapons. This section also requires action by the superintendent of state police to thwart illegal gun trafficking.

Section 875-c requires gun dealers to implement a security plan for securing firearms, rifles and shotguns, including providing for the display and storage of weapons and ammunition in a secure manner, and requiring an alarm system installed and maintained by an alarm company operator properly licensed pursuant to state law. Gun dealers would be required to equip their business with video recording devices at various locations within the business.

Section 875-d requires that retail dealers exclude persons under eighteen from the portions of the premises where firearms, rifles and shotguns or ammunition are stocked or sold, unless the minor is accompanied by a parent or guardian.

Section 875-e provides that a dealer shall sell or otherwise dispose of firearms, rifles and shotguns only at the location listed on the dealer's federal firearms license or at gun shows.

Section 875-f provides that all employees or other personnel engaged in the retail sale of firearms, rifles and shotguns must be at least 21 years of age and shall not participate in the sale or disposition of firearms, rifles or shotguns without receiving the training required by this section. The section requires the retail dealer to provide the training specified.

Section 875-g sets forth record keeping requirements for gun dealers, and requires submission to the New York State Police every April and October.

Section 875-h requires gun dealers to establish internal compliance procedures, and to certify to the superintendent of the state police compliance with the requirements of this new Article 39-BB on an annual basis. The section also requires the superintendent of state police to promulgate regulations establishing periodic inspections of the premises of dealers to determine compliance by the dealer with the requirements of this article. Every dealer shall provide the division of state police full access to such dealer's premises for such inspections.

Section 875-i authorizes the superintendent of state police to promulgate additional rules and regulations to prevent firearms, rifles and shotguns from being diverted from the legal stream of commerce.

<https://www.nysenate.gov/legislation/bills/2021/s8780>

## **New York: Senate Committee Adds Gun Control to The Agenda**

On Monday, April 25, the Senate Codes Committee (was) scheduled to hear another pair of gun bills...

S.6659 by Sen. Shelley Mayer (D) is nothing more than an attack on concealed carry. This legislation would allow Westchester County to set its own fees for pistol permits. New York City and Long Island already do this, and we've witnessed the widespread abuse and exorbitant fees and bureaucracy that are simply designed to deter citizens from even applying in the first place. Ironically, this is all happening with the Supreme Court's decision in *NYSRPA v. Bruen* pending. This case is challenging the state's "proper cause" standard, and this latest legislative effort is yet another example of New York's multi-pronged attack on the Second Amendment.

S.8164 by Sen. Anna Kaplan (D) is even worse. This bill turns crime victims into felons. Mandatory storage bills do nothing except render self-defense in one's own home impossible by tipping the scales in favor of home invaders. Sen. Kaplan believes that if your guns are stolen and a criminal uses them, YOU should be convicted as a felon! This is akin to somebody stealing your car, killing someone with it, and then you are sentenced to do the time for someone else's crime. Of course, this type of rationale falls perfectly in line with the Progressive penchant for coddling criminals.

<https://www.nraila.org/articles/20220422/new-york-senate-committee-adds-gun-control-to-the-agenda-next-week>

## **Rep. Torres To Introduce New Federal Legislation To Combat Distribution Of Ghost Guns**

Rep. Ritchie Torres (NY-15) was joined by gun safety advocates and cure violence organizations to announce that he will introduce federal gun legislation that will allow individuals and families impacted by ghost guns to file lawsuits against manufacturers.

<https://ritchietorres.house.gov/posts/rep-torres-to-introduce-new-federal-legislation-to-combat-distribution-of-ghost-guns>

## **Jacobs, Stefanik back bill to exempt firearms from bankruptcy proceedings**

Reps. Chris L. Jacobs and Elise M. Stefanik are working together on a bill that would allow people to keep their guns in the event of a bankruptcy.

The Protecting Gun Owners in Bankruptcy Act... would allow anyone undergoing bankruptcy proceedings to keep up to \$3,000 worth of firearms out of their bankruptcy estate.

By exempting those firearms from the estate, they cannot be sold by the trustee appointed by the court to sell the bankrupt person's possessions in order to clear debts.

The bill is co-sponsored by ... 16 other Republican members of Congress, including Reps. Claudia M. Tenney, R-Utica and Andrew R. Garbarino, R-Sayville.

[https://www.nny360.com/news/government/jacobs-stefanik-back-bill-to-exempt-firearms-from-bankruptcy-proceedings/article\\_1de48d6a-3a45-5ff4-8394-01baee5ed6ae.html](https://www.nny360.com/news/government/jacobs-stefanik-back-bill-to-exempt-firearms-from-bankruptcy-proceedings/article_1de48d6a-3a45-5ff4-8394-01baee5ed6ae.html)

### **Ammunition should not be taxed to fund gun violence research, legislators say**

A majority of St. Lawrence County legislators do not think tax should be levied on ammunition sales to help study gun violence.

The resolution cites legislation proposed in March by State Sen. Andrew Gounardes, D-Bay Ridge, and Assemblywoman Patricia Fahy, D-Albany, that would create an excise tax on ammunition production in New York. All of the revenue from the tax — between 2 cents and 5 cents per pound of ammunition sold — would support gun violence research and prevention.

“The goal of the tax is not to disincentivize the purchase of ammunition, but to put some of that money back into the community,” the bill’s justification section reads.”

The resolution, introduced by Legislator Rick Perkins, R-Potsdam, describes the implied impact of the bill as reducing the amount of ammunition and weapons sold within the state.

The resolution states that gun ownership, and therefore ammunition purchases, are long associated with the traditional way of life in upstate New York, and that this tax would restrict free exercise of the Second Amendment.

The lone dissident, Legislator Margaret G. Haggard, D-Potsdam, argued that the Second Amendment is not sacrosanct, and supported the idea of funding research on gun violence.

[https://www.nny360.com/news/stlawrencecounty/ammunition-should-not-be-taxed-to-fund-gun-violence-research-legislators-say/article\\_6fe55152-3261-5969-9e86-d5f50f3fb458.html](https://www.nny360.com/news/stlawrencecounty/ammunition-should-not-be-taxed-to-fund-gun-violence-research-legislators-say/article_6fe55152-3261-5969-9e86-d5f50f3fb458.html)

### **Brooklyn Subway Shooting Could Show Up In SCOTUS Second Amendment Ruling**

The Brooklyn subway shooting could make its way into the opinion of an upcoming SCOTUS ruling in the first major Second Amendment case the court has taken up in over a decade.

Last November, justices heard oral arguments in a case challenging New York's gun permit law, which currently requires a person to demonstrate "proper cause" to carry a gun outside their home.

While the line of questioning from the bench suggested the Supreme Court was ready to strike down the law, both liberal and conservative justices seemed concerned about how restrictions on guns might be imposed in "sensitive places," like the New York City subway.

"The idea of proliferating arms on the subway is precisely, I think, what terrifies a great many people," Justice Elena Kagan told attorney Paul Clement, who was representing

petitioners Robert Nash, Brandon Koch and the New York State Rifle and Pistol Association.

(The) shooting in Sunset Park materialized those fears when a gunman opened fire on a subway train and shot 10 people, injuring another 19, on their morning rush-hour commute.

UCLA law professor Adam Winkler told Newsweek that while the shooting will likely not have any impact on the justice's decision on the law, the incident could be mentioned in the opinions of justices who "would point to this shooting as highlighting the problem with allowing people to carry guns indiscriminately on the streets of New York."

<https://www.newsweek.com/brooklyn-subway-shooting-could-show-scotus-second-amendment-ruling-1698064>

### **Biden announces crackdown on 'ghost guns,' reveals new ATF pick**

President Biden on Monday announced rules to curtail the production of unlicensed "ghost guns" and nominated former federal prosecutor Steve Dettelbach to lead the Bureau of Alcohol, Tobacco, Firearms and Explosives as he renewed a push for gun restrictions.

One of the new regulations requires that so-called "buy build shoot" kits be produced by licensed gun manufacturers and include serial numbers. Commercial sellers of the kits must also receive a federal license and run background checks on buyers.

The president also announced that he would nominate Dettelbach, a former US attorney for the Northern District of Ohio, to serve as ATF director, a position that requires Senate confirmation

The White House is also requiring all federally licensed firearms dealers to keep key records of sales until they close their business — after which they must give the document to the ATF, a move the feds say will make it easier to trace firearms found at crime scenes. Dealers previously could destroy most records after 20 years.

Biden also called on Congress to pass laws to ban what he called assault weapons and high-capacity magazines and to mandate background checks for all private gun transfers. He also said Congress should impose a blanket ban on owning guns without serial numbers and repeal liability protections for gunmakers.

Biden repeatedly referred to the ATF as the "AFT" during the Rose Garden event, mistakenly using the acronym for the American Federation of Teachers union.

<https://nypost.com/2022/04/11/biden-cracks-down-on-ghost-guns-amid-latest-gun-violence/>



## **The Biden Administration's Latest Attempt to Create a De Facto National Gun-Owner Registry**

When Congress passed the Firearm Owners' Protection Act of 1986, which revised many provisions of the Gun Control Act of 1968, they prohibited the creation of a federal gun registry. Yet the Biden administration is taking steps to create a backdoor registry anyway. This is part of a new rule the Biden administration's Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) wants to institute by expanding the definition of what legally constitutes a firearm.

The new rule would also require gun dealers to keep records of sales forever. Under current law, firearm transaction records can be destroyed after 20 years. Also under current law, a gun store that is going out of business must send all of its gun sales records to the ATF. This rule change would mean that, because records must be kept indefinitely, more records would likely be sent to the ATF when a dealer decides to no longer be a dealer. These additional records could then be used by the federal government if it chooses to build a registry of gun owners.

<https://www.americas1stfreedom.org/content/the-biden-administration-s-latest-attempt-to-create-a-de-facto-national-gun-owner-registry/>

## **Gun Control Groups Push FTC to Equate Gun and Tobacco Advertisements**

A number of gun control groups have banded together and are asking the Federal Trade Commission (FTC) to regulate gun advertisements like tobacco advertisements.

Gabby Giffords' gun control group, March for Our Lives, the Brady Campaign Against Gun Violence, and other gun control groups "are petitioning the Federal Trade Commission [on April 7, 2022] to investigate and regulate the firearms industry as it has with tobacco, alleging that gun manufacturers use deceptive advertising practices."

National Shooting Sports Foundation's Larry Keane responded to gun controllers' attempt to treat Smith & Wesson like Philip Morris by tweeting, "Antigun groups have a problem w/ the 1st and 2d Amendments[.] Commercial speech is protected speech[.] This is old antigun play run unsuccessfully in 80s and 90s."

<https://www.breitbart.com/politics/2022/04/07/gun-control-groups-push-ftc-equate-gun-tobacco-advertisements/>

## **California Democrats Fight to Suppress Firearm Advertising/Marketing**

The legislation being pushed, AB 2571, is sponsored by California State Assembly members Rebecca Bauer-Kahan (D) and Mike Gipson (D). It would:

Prohibit a person or entity that publishes materials directed to minors in this state in any medium from marketing or advertising firearms in that material, as specified, and would prohibit a person or entity that publishes a marketing or advertising communication from publishing or disseminating marketing or advertising for firearms that is attractive to

minors, as specified. The bill would also prohibit the use, disclosure, or compilation of a minor's personal information if it is intended to market or advertise a firearm to that minor, as specified.

National Shooting Sports Foundation's Managing Director of Public Affairs Mark Olivia spoke to Breitbart News about California Democrats' push against firearm advertisements, saying, "California's gun control lawmakers aren't satisfied with infringing on Second Amendment rights. They are intent on destroying First Amendment rights too. Commercial speech is protected speech. This legislation could potentially make it a violation not just for each and every single digital or print advertising that they deem targets a minor, but also youth-sized apparel that bears firearm and ammunition manufacturer logos. Advertising imagery of parents hunting with their children would become illegal under this proposed bill."

In fact, on September 12, 2018, CBS News reported that U.S. Judge Troy Nunley struck down a "1923 [California] law [which] banned any handgun ads at gun shops that were visible from outside the store."

<https://www.breitbart.com/politics/2022/04/20/california-democrats-fight-suppress-firearm-advertising-marketing/>

### **Even the original colonies had gun laws ... with a twist**

Those who lived in the original New England colonies thought differently about guns and the responsibility of their citizens.

The Massachusetts Bay colony "required" that every able-bodied man (adult male) own a weapon. In 1632 a Plymouth colony statute ordered that "every free man or other inhabitant of this colony provide for himself ... a sufficient musket ... 2 pounds of powder and 10 pounds of bullets with a fine of 10 shillings per person who was not armed."

By 1636 people in the colonies were also required to bring their guns to church.

By 1650, every Connecticut resident above the age of 16 was required to be armed.

<https://www.wnd.com/2022/04/even-original-colonies-gun-laws-twist/>