

The Gottlieb-Tartaro Report

THE INSIDERS GUIDE FOR GUN OWNERS

Issue 112

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Dear Subscriber,

The Senate has defeated a measure that included the extension of the so-called assault weapons ban by a vote of 90-8. The ban extension is dead.

BUT - the defeated measure was S. 1805, the bill to protect the firearms industry from frivolous nuisance lawsuits. Once Senate Democrats succeeded in hijacking the pro-gun bill last month by adding the assault weapons ban extension, Senate Republicans decided it would be better to sacrifice the protection bill and hope to pass a clean bill later than to cave in and extend the ban that had never worked to control crime, which was its original purpose.

Thus, Republicans voted against the package with its "poison-pill" amendment. That virtually ends any chance for the frivolous lawsuit prevention bill to make it through Congress this year.

As soon as the Democrats won their amendment, gun control groups, led by the Washington-based Violence Policy Center, revealed their total anti-gun agenda, saying that the extension would do little to keep assault weapons off our streets, and that it was a ban in name only.

Then, two anti-gun groups, the Brady Campaign to Prevent Gun Violence and the Million Mom March, announced they would file a lawsuit against the BUSH administration alleging that "companies are rebuilding and resurrecting unusable pre-ban weapons with the permission of the federal Bureau of Alcohol, Tobacco, Firearms and Explosives."

The ATF supposedly violated the assault weapons ban by granting gun manufacturers permission to replace receivers - the firing mechanism of the gun that the law defines as the gun itself - and give pre-ban guns new serial numbers.

The groups contend that the bureau has no legal right to grant that permission, but ATF officials who asked not to be named said the law does allow for receivers of pre-ban guns to be replaced. See our story on Page 5 for more.

The anti-gun groups acknowledged that even if they win, the victory will be short-lived if the assault weapons ban expires as scheduled Sept. 13.

The whole thing appeared to be an election-year swipe at President BUSH, who said he supported the assault weapons ban during the 2000 campaign, but "has not put pressure on Congress to approve an extension," according to the gun control groups. Gun owners did not approve of BUSH's 2000 campaign rhetoric.

In the House, Rep. JOE WILSON (R-SC) has circulated a "Dear Colleague" letter seeking co-sponsors for a proposed Cockpit Security Technical Corrections and Improvements Act that is intended to remove bureaucratic roadblocks to pilots who wish to arm themselves as part of the Federal Flight Deck Officer's program.

The Transportation Security Administration has made it as hard as possible for pilots to participate, including the imposition of unnecessary standards such as a 14-page psychological evaluation. Captains are given psychological evaluations every six months, making the additional test meaningless.

JOHN SNYDER of the Citizens Committee for the Right to Keep and Bear Arms said his organization fully supports Rep. WILSON's bill. Sen. JIM BUNNING (R-KY) intends to introduce an identical measure in the Senate, SNYDER said.

Also in this issue: ● Florida bans listing of gun owners ● State level assault weapon bans ● Lawsuit against DC gun ban in appeal ● Newark anti-gun lawsuit dismissed ● CCRKBA goes global with London office ● Intruder beware in our Page Eight Parting Shot

**ON THE
FEDERAL
LEVEL**

ALASKA'S CHILD-SUPPORT WORKERS WON'T BE ARMED

The House of Representatives of Alaska has rejected a proposal to allow **child-support investigators to carry weapons** when contacting high-risk "dead-beat" parents to collect money.

Supporters noted that **the state Child Support Enforcement Division already has limited police powers and workers at times wear bulletproof vests**. Rep. ERIC CROFT (D-Anchorage) said, "We are sending them into very high-risk situations. I think it is inappropriate to say you can't have a weapon, even for defense."

The House rejected the measure proposed by CROFT by a 15-24 vote.

CALIFORNIA BILL WOULD ALLOW SCHOOLS TO TEACH GUN SAFETY

Republican Assemblyman BOB DUTTON of Rancho Cucamonga has proposed a bill that **adds an optional firearms safety curriculum for the state's 6.1 million K-12 students**.

"Guns are just a fact of life," Dutton said. "I think it's really important for young people to understand how dangerous they are and what they should do if they come into contact with them."

No opposition has come out against the bill.

**AT THE
STATE LEVEL**

CALIFORNIA COUNTY OFFICIALS BAN SALES OF .50-CALIBER RIFLES

Contra Cost county supervisors have voted 4-0 to **prohibit the sale of .50-caliber rifles** in the county's unincorporated areas. It applies to **just two gun dealers**, neither of which sell the firearm.

FLORIDA SENATE OKAYS GUN RANGE PROTECTIONS

A bill to **protect Florida's 400 shooting ranges against certain lawsuits** has passed the state Senate by a lopsided margin of 32-6. The measure requires range owners to take steps to protect the surrounding environment.

The Senate version now heads to the House, where a similar measure would stop state or local environmental regulators from suing shooting ranges for lead pollution in surrounding land or water. Environmental groups may still sue.

FLORIDA SENATE BANS LISTING OF GUN OWNERS

The state Senate has passed SB 1152, which would **ban government and private lists of gun owners**, levying criminal penalties and a \$5 million fine for violators. The bill differs from the House-passed version and will require another examination by House leaders.

ILLINOIS IN GROWING MOOD AGAINST GUN CONTROL

The Illinois Senate has approved legislation to **allow retired police officers and former military police officers to carry concealed weapons**, which the Chicago Tribune said was "the latest example of a growing mood against gun control in the legislature despite the Democratic takeover of both chambers."

KANSAS SENATE APPROVES CONCEALED CARRY MEASURE

One of the four last states without concealed carry laws came a step closer with **Senate approval of a bill allowing qualified adults to carry concealed handguns**.

Gov. KATHLEEN SEBELIUS said she opposes concealed carry except for retired law enforcement officers, but **stopped just short of pledging a veto**.

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KENTUCKY REMOVES ZONING RESTRICTIONS AGAINST GUN DEALERS

A bill that would remove zoning restrictions against federally licensed gun dealers and manufacturers passed the House on a 77-17 vote, and shortly afterward gained final passage in the Senate on a 34-4 vote.

If Republican Gov. ERNIE FLETCHER signs the bill, **gun dealers could operate alongside any other business**, which was previously impossible.

NEW ORLEANS CARNIVAL PARADE ROUTE MAY BECOME GUN-FREE ZONE

A New Orleans lawmaker, Rep. JEFF ARNOLD (D-Algiers), has filed a bill in the state legislature designed to make Carnival and other parades around the state into **firearms-free zones**.

**AT THE
STATE LEVEL**

The bill would make it **a crime to carry legal firearms within 1,000 feet of a parade route**.

MAINE ANTI-GUN LEGISLATOR SEEKS STATE ASSAULT WEAPONS BAN

Sen. ETHAN STRIMLING, an anti-gun Democrat from Portland has introduced a measure that could lead to **a Maine ban on semiautomatic assault rifles**. With the federal ban due to expire in less than six months and little hope of extending it, STRIMLING is attempting to ban the firearms at the state level. **Seven other states are considering such a state-level ban**.

MARYLAND BILL WOULD PROTECT HOMEOWNERS WHO CONFRONT INTRUDERS

Delegate CARMEN AMEDORI is sponsoring a bill that would give homeowners greater leeway in defending themselves. **People who use deadly force to defend themselves would not be held civilly liable**.

Currently a homeowner can be sued for money damages by a burglar or their beneficiaries if the homeowner hurts or kills the intruder.

In other news, Maryland's state-level "assault weapons" ban has stalled in the Senate, and is likely to die despite feverish anti-gun maneuvering to pass it.

MINNESOTA CONCEALED CARRY LAW UNDER ATTACK

Former Vice President WALTER MONDALE and former Governor ARNE CARLSON are leading a group called "Repeal Conceal" **to repeal Minnesota's new handgun permit law**, a "must-issue" measure allowing any qualified adult to get a permit.

Five Twin Cities advocacy groups have joined a lawsuit to overturn the new concealed carry law. The original lawsuit was filed by 25 religious institutions.

The groups claim the law violates their constitutional rights to free speech and property rights, based on claims the law forces them to allow people to bring guns onto their premises.

Heating up the debate, an anti-gun group claimed that three counties were spending more to process permits than the \$100 cap placed by the Legislature. "Concealed carry is costing taxpayers too much!" was their cry. Rep. LYNDIA BOUDREAU (R-Faribault), chief sponsor of the law, wondered whether the three counties, Dakota, Ramsey and Hennepin - the most anti-gun in the state - **were spending far more time and resources than necessary just to make it look bad**.

MISSOURI SENATE VOTES TO KEEP CONCEALED CARRY PERMITS UNPUBLISHED

State Senators have **rejected an attempt to make public the names of Missourians who receive concealed guns permits**. Missouri's concealed gun law keeps secret the names of people approved for permits.

The attempt came as an amendment to another bill, and lost on a 19-13 vote.

NEW YORK GOVERNOR CALLS FOR MORE GUN CONTROL LAWS

A year after two undercover detectives were shot to death in a gun buy-and-bust operation gone wrong, Gov. GEORGE PATAKI called on lawmakers to toughen the state's gun laws. He used the tired rhetoric of "taking guns off the streets," **a crass way to memorialize two brave law enforcement officers**.

LAWSUIT CHALLENGING DC GUN BAN GOES TO APPEAL

U.S. District Judge Emmet G. Sullivan has issued an opinion in Parker v. District of Columbia, the Cato Institute-sponsored lawsuit challenging the DC gun ban on Second Amendment grounds. He **dismissed the plaintiffs' motion for summary judgment and granted the District's motion to dismiss**, as expected.

Cato Senior Fellow Robert A. Levy said the decision **will be appealed** to the U.S. Court of Appeals for the District of Columbia.

Judge Sullivan's 15-page opinion credited the lawsuit's arguments as "thought-provoking and historically interesting," but he concluded it would be an error to overlook 65 years of Supreme Court precedent "rejecting an individual right to bear arms not in conjunction with service in the Militia."

This, said Levy, is a misinterpretation of the Supreme Court's 1939 case, U.S. v. Miller, and the appeal will give the legal issues independent review.

**ON THE
LEGAL
FRONT**

SUPREME COURT TAKES CASE ON FELON GUN OWNERS

The Supreme Court has agreed to decide whether **people convicted of a crime overseas can be barred from owning a gun in the United States**.

Lower federal courts have disagreed over the issue. The Supreme Court took the case of Gary Sherwood Small, who answered "no" to the felony conviction question on a federal form when he bought a handgun in 1998, shortly after he was paroled from a Japanese prison for violating weapons laws in Japan.

Small was indicted in 2000 for lying on the form and for illegally owning two pistols and 335 rounds of ammunition. He later entered a conditional guilty plea pending the outcome of this case.

The Bush administration did not object to having the issue resolved by the Supreme Court, saying the ATF should be able to enforce federal law uniformly.

NINTH CIRCUIT THROWS OUT SAUDI MAN'S GUN CONVICTION

A Saudi Arabian national, Abdulraouf Shahir Batterjee, has had his **conviction for being an alien in unlawful possession of a firearm overturned** by the Ninth U.S. Circuit Court of Appeals.

Senior Judge Arthur L. Alarcon wrote for the court that Batterjee was entitled to acquittal because of the affirmative defense called "entrapment by estoppel," being misled into believing that he could legally own the gun.

Batterjee bought the gun from a Tempe, Arizona dealer who testified that Batterjee filled out all questions on the federal form truthfully, including answering "no" to the question whether he was a U.S. citizen and indicating that he had lived in Arizona for more than 90 days.

The dealer didn't know the form was outdated and new restrictions forbade a legal immigrant from owning firearms or ammunition.

Another flaw in the government's case was the underlying affidavit, signed by an ATF agent, erroneously asserting that Batterjee was in the country illegally.

PRISON ORDERED IN GUN MAILING CASE

Ohio gun control opponent Francis J. Warin has been convicted for mailing a homemade pistol and silencer to the U.S. Attorney's Office in Toledo.

Warin, 73, had previous convictions for carrying a submachine gun into the Toledo federal courthouse and for calling in a bomb threat to the Sandusky FBI office. In both cases, ATF agents raided Warin's home and found numerous homemade firearms.

Warin, of French descent and an outspoken critic of American gun control laws, was **sentenced to 33 months in federal prison, plus a \$2,500 fine and 2 years supervised release after prison**.

Warin wanted to be brought before a federal court so he could challenge the constitutionality of U.S. firearms laws, and thus mailed the pistol and silencer.

Assistant U.S. Attorney Thomas Weldon said, "We never wanted this prosecution to begin with. It was Mr. Warin who forced this prosecution."

ANTI-GUN GROUP SUES JUSTICE DEPARTMENT OVER ASSAULT WEAPON BAN ENFORCEMENT

The Brady Campaign to Prevent Gun Violence, along with the Million Mom March, has filed a lawsuit accusing the Justice Department of aiding gun manufacturers in violating the 1994 assault weapons act.

**ON THE
LEGAL
FRONT**

The claim is that it is illegal for the Department's Bureau of Alcohol, Tobacco, Firearms and Explosives to allow gunmakers to replace the housing for the firing mechanism on legally owned semiautomatic firearms.

The Brady Campaign said in a statement, "By allowing gun makers to manufacture new receivers, ATF has been allowing the manufacture of new assault weapons, in contravention of the statute."

The suit names the Justice Department, ATF, Attorney general John Ashcroft, and Edgar Domenech, acting director of ATF.

COURT RULES IN FAVOR OF FIREARMS DEALER

Carroll County Circuit Judge Vincent J. Femia has ordered Maryland State Police to return the majority of 100 firearms and accessories they seized from Amir H. Tabassi, a Mount Airy gun dealer arrested after a police search of his home, saying the police acted beyond the scope of the search warrant they executed.

Tabassi's licenses are current and his business legal, the judge ruled. Eighteen machine guns were not to be returned.

JUDGE EXPANDS ORDER ON CHURCHES RIGHTS TO BAN GUNS

Hennepin County District Judge Marilyn Brown Rosenbaum has expanded and extended an injunction that allows churches to ban firearms from their property in spite of the state's concealed-carry gun law.

Judge Rosenbaum ordered that the temporary injunction she ordered in June be continued indefinitely, meaning it will remain in place until the issue is settled at trial.

MISSOURI SUPREME COURT REJECTS CONCEALED GUNS CASE AGAIN

Concealed carry opponents have lost another bid for a state Supreme Court hearing on their claims that the new state law imposes an unfunded mandate on sheriffs responsible for implementing it. The high court turned the appeal away.

The Supreme Court also finalized its February 26 decision upholding the Legislature's right to legalize concealed guns but faulting the law's funding mechanism as being an unfunded mandate.

However, the court majority noted that the plaintiffs had not raised the question of whether the provision for a local fee met the constitutional requirement of "full state financing" for the sheriffs' gun permit process.

Consequently, the majority said it wasn't addressing that issue.

CITY OF NEWARK ANTI-GUN LAWSUIT DISMISSED WITH PREJUDICE

A trial court has dismissed with prejudice a lawsuit filed against Sturm, Ruger & Co. and other gun makers by the city of Newark, New Jersey.

Newark failed to meet the requirements of a prior court order setting a March 1 deadline for application for a reinstatement an earlier complaint by the city.

Because the case was dismissed with prejudice Newark won't be allowed to file the lawsuit again.

MINNESOTA GUN DEALER SUES NEWSPAPER, TV NEWS BROADCASTER

Bill's Gun Shop and Range owner John Monson has filed a lawsuit in Hennepin County District Court against Fox 9 News and the Minneapolis Star Tribune alleging the media outlets falsely and libelously reported about his business.

The issue is coverage of an Americans for Gun Safety Foundation report stating Bill's Gun Shop and Range sold 373 guns that were "recovered from criminals or a crime scene" and had at least one "suspicious trace" between 1996 and 2000.

CCRKBA GOES GLOBAL

The Citizens Committee for the Right to Keep and Bear Arms is opening an office in London - "joining with embattled British citizens in their fight to restore their firearms rights," the group said in a news release.

AROUND THE WORLD

"This is the first time an American firearm civil rights organization has opened an office on foreign soil," said CCRKBA Chairman Alan Gottlieb.

"With the attack on gun rights becoming global, it is important to fight these battles on every continent before we find ourselves isolated from an important human civil right," he said.

The United Kingdom banned privately owned handguns in 1997, but CCRKBA noted that since then, gun crime has nearly doubled. Gottlieb met with Members of Parliament when he traveled to London to open CCRKBA's office there.

IRELAND LEFTISTS WANT BUSH SECRET SERVICE DISARMED DURING VISIT

Left-wing politicians opposed to a planned Dublin visit by President Bush are calling for his Secret Service agents to be disarmed while in Ireland.

The opposition Labor Party denounced the government's confirmation that Bush's bodyguards would be allowed to open fire if deemed necessary to protect the president during a U.S.-European Union June summit.

Irish Justice Minister Michael McDowell stood firm on allowing armed agents to protect President Bush.

AUSTRALIA EXTENDING GUN BUYBACK

The seemingly endless National Handgun Buyback that began last October has been extended another three months in New South Wales, where Australia's largest city, Sydney, is located.

Police Minister John Watkins said an amnesty goes with the buyback so people can surrender their firearms and avoid hefty penalties. Some 5,520 firearms have been surrendered including 3,960 rifles, 1,042 shotguns and 477 handguns, which were all destroyed in bulk incinerators.

NO GUN RIGHTS IN IRAQ CONSTITUTION

Iraq's new interim constitution echoes the themes of the U.S. Constitution in guaranteeing freedom of the people - except for the right to keep and bear arms.

Article 17 says, "It shall not be permitted to possess, bear, buy, or sell arms except on licensure issued in accordance with the law."

This is a transitional administrative law, said Nancy Beck, a spokeswoman with the U.S. State Department. "They're still working on a permanent constitution.

At the same time, Iraqis are complaining that Coalition forces are seizing their licensed weapons and refusing to hand them back.

GUN CONTROL GIVES CANADA CRISIS

An Ontario judge has ruled that Canada's gun registry violates treaty rights of Aboriginal hunters. The judge said Aboriginal people should not be required to have a gun license, but they should still be on a national registry.

Native organization Nunavut Tunngavik hopes the decision will have the federal government rethinking its gun registry. They aren't the only ones.

Garry Breitkreuz, Deputy House Leader of Parliament, says, "We have an ongoing gun crisis, and a law registering firearms has neither deterred these crimes nor helped us solve any of them." MP Breitkreuz offers an alternative plan: "register criminals, not duck hunters."

Others have more radical thinking: Kevin Challman, 42, an oil company representative who runs a drill field operation in Alberta said, "Alberta should have joined the United States 20 years ago."

GUN NEWS TICKER - QUICK TAKES ON THE NEWS

●**Roscommon, Michigan:** Donald O'Guinn, a retired tinsmith who can't quit tinkering, has invented the perfect gun lock. He says, "What good is a gun when you have to fiddle with a lock and key or some other safety device before you can use it?" He can make a gunlock in about 15 minutes using about 16 cents in materials that police can't unlock or fire the gun, yet he can disable the lock and fire the gun in about three seconds. So far, none of the big names in gun manufacturing have shown any interest. He'll keep trying. "Somebody somewhere will like it."

●**New York City:** The New York City Council recently passed a resolution denouncing the National Rifle Association. It called on the Republican National Committee to "repudiate the irresponsible and dangerous policies of the National rifle Association." Several Democrats and three Republicans voted against the resolution, arguing that the legislative process should not be used for such an issue. Democrat Tony Avella said, "This is inappropriate, a slap in the face to our republican colleagues, and partisan politics in the worst way."

●**Boulder, Colorado:** The Second Amendment Sisters (SAS) organized a protest against the current policy making firearms illegal on the University of Colorado Boulder campus. Joined by the College Republicans, the SAS said women should be able to protect themselves, even if it means carrying a gun. Sophomore Chelsea Willey said, "I work on the Rape Crisis Team here and I'm very involved in all that and I think women should be able to defend themselves as well."

●**Salt Lake City:** Since the University of Utah cannot stop guns from coming onto campus, it is considering whether it can ban guns in dorms. One board member, former Senator Jake Gar, said he believes guns should stay out of college dorms. A Utah senator who promoted the campus gun ban says he'll consider the same for dorms if it can be shown there is a need.

●**Washington, D.C.:** The Democrats "largest fund-raising party of all time" featured ex-Presidents Carter and Clinton, former VP Al Gore, candidate John Kerry - and rap duo Outkast, which promotes itself with an image of group member Dre (aka Andre Benjamin) prominently brandishing a gun in his right hand. Talk about mixed messages.

●**New York City:** Mayor Michael Bloomberg addressed an audience at the Union Settlement on east 104th Street, and stepped back from the podium saying, "Let me show you something." He had a gun tucked in his waist. "Anybody want to guess if this is real or a toy?" The gun looked real and felt real to reporters who hefted it, but it was a toy. "This is why the city is cracking down on stores that sell illegal toy guns made to resemble real guns."

●**Los Angeles:** A teenager who was suspended for bringing a plastic air gun to school for use as a prop in an anti-drug video, but parents and other supporters want the district administrators to reinstate the honor student. Paul Houchin, 17, was suspended from Foothill Technology High School, who intended to leave the gun in his car until making the video after school, but forgot and brought it to a class in his backpack. The administration was not convinced and did not reinstate Houchin. His mother and several others resigned the PTA in protest.

●**Southern Pines, Arkansas:** The Town Council has approved a measure allowing a private Christian school to build a firing range on 26 acres downtown. The school owns the land. The unanimous vote changes a town ordinance that prohibited guns of any kind from being fired inside the town limits. The new ordinance allows the discharge of air rifles and BB guns but requires supervision by a certified instructor on a site approved by the town police chief.

●**Holland Township, New Jersey:** Robert B. McManus, 25, of Riegelsville, PA, was charged with possession of imitation firearms, a fourth-degree criminal offense, after being stopped for a traffic violation. The township officer spotted what appeared to be a genuine MP-5 submachine gun in the driver's reach. It was a paintball gun. McManus was released pending a court hearing.

Parting Shot

INTRUDER BEWARE

Melany Yancey, 49, was alone in her Springfield, Ohio home early one recent Sunday morning when two men wearing bandanas kicked in her front door and came upstairs.

Yancey sealed herself in her bedroom, but the two men tried to break in. She took her .40-caliber handgun from the nightstand and fired a shot in the direction of the door. Someone fired back. She ducked.

Then she heard the intruders move into the bedroom of one of her two adult sons, neither of whom were at home.

She ran out of her bedroom, trying to escape, and fired two rounds at the intruders. One of the bullets hit one of the men.

Yancey then ran to neighbor's house where she dialed 911.

Police received a call at 2:50 a.m. and responded to Yancey's home at 346 Chestnut Ave. in Springfield.

Officers found Matthew J. Marino, 21, lying on her driveway with a gunshot wound in his abdomen.

An aid car rushed Marino to Mercy Medical Center where he was pronounced dead at 3:45 a.m.

Springfield police Lt. Michael Hill said, "We anticipate charging another person we believe is involved in this," referring to the second intruder Ms. Yancey described.

Police did not expect to charge Yancey with any crime, Hill said.

It was much the same in Anderson, South Carolina about the same time.

Lance Myers was minding his own business in his apartment just before midnight when an intruder broke into the apartment looking for money and found an axe.

The intruder, Earnest Leroy Miles, 41, of Anderson, came at Myers with the axe and Myers grabbed his gun and shot Miles in the neck.

Police responded to the scene and an aid car took Miles to Anderson Area Medical Center where Miles was pronounced dead.

Detectives said Myers will not face charges.

This month, more than a dozen stories came across our desks telling the same story with different actors in different places. Increasingly, they're ending with the same bottom line as these two: the resident will not be charged in the death of the intruder. Self-defense may be coming back in style.

Alan M. Gottlieb

Joseph D. Tartaro

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