



# GUIDE TO GUN LAW AND GUN CONTROL FOR AMERICAN JOURNALISTS

There are plenty of articles and video on the internet about what SHOULD be done but it seems that a lot of journalists, gun owners, and people from other walks of life could benefit from understanding what the current laws are and how they apply to the use, sale, and industry of firearms.

Hoping to clarify some of the finer points, while also creating a SIMPLE and Easy to Understand guide for writers, reporters, and journalists of all kinds; what follows is a brief and ACCURATE guide to American Gun Laws that are relevant when reporting on anything to do with gun laws and the gun control efforts in America.

What follows is fact only ... with no editorial or opinion about either side of the gun control debate. Here I stick to the facts so that anyone on either side of the debate can at least understand the TRUTH of our current legal climate.



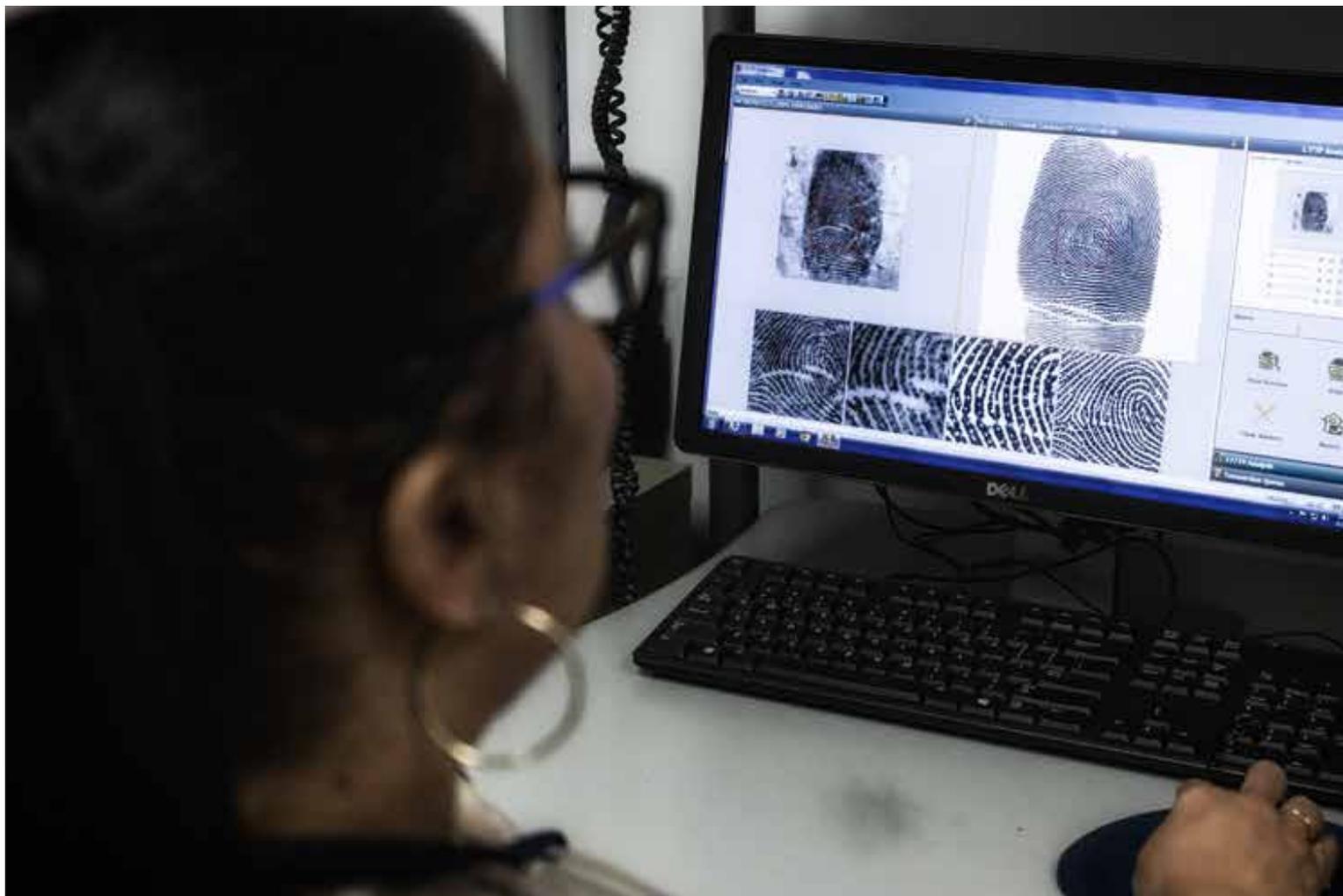
## LETS START WITH BACKGROUND CHECKS - GUN SHOW & ONLINE LOOPHOLES

Federal law requires that anyone who is “in the business” of selling guns obtain a Federal Firearm License which is a license granted and regulated by the ATF. These FFLs (or gun dealers) are required to conduct a background check on any buyer to whom they sell a gun. This background check is conducted via the National Instant Criminal Background Check (NICS) system established in 1998. Anyone with a felony conviction or various other disqualifying history is denied the right to own or purchase a gun.

Private transactions of guns between two private parties who are not “dealers” are not regulated at the federal level and do not require background checks. Some states (12 as of this writing) have laws generally referred to as “Universal Background Check” laws that require that all transfers of guns, regardless of who the sellers are, must include a background check performed by a dealer.

Thus, at a gun show those who are in the business of selling guns still have to conduct a background check on their buyers and those who are not in the business of selling guns can sell one without a background on their buyer unless they live in a state with a “Universal Background Check” law in place.

Online purchases of guns by dealers still require a background check. If the buyer is not local to the online dealer then the dealer must ship the firearm to a dealer local to the buyer so a background check can still be performed. Private sellers advertising guns for sale via a form of online classifieds could still sell a firearm to a local buyer the same way as any other private transaction assuming they live in a state that doesn't have a “Universal Background Check Law.”



## NEXT SOME CLARIFICATION ON GUN REGISTRATION

The Firearm Owner Protection Act (FOPA) of 1986 formally established the illegality of any organization or government entity keeping a database of gun owners and/or their guns. So conceptually the idea of gun registration is illegal, however there are a handful of local jurisdictions that do it anyway either believing that their laws/practices are older than FOPA, or just in complete defiance of Federal law.

New York City is the easiest example of a local jurisdiction which keeps detailed records of firearm serial numbers and the owners of those firearms. Despite NYC's practice, across the vast majority of the US with only a few exceptions (DC & Hawaii are two more) there are no databases of gun owners. Background checks for firearm sales in the NICS system (explained above) don't include the details of the firearms being purchased and these records are required by law to be destroyed by the federal government soon after the background check is completed.

There is an exception for weapons regulated by the NFA ... which is our next subject.



## **WHAT ARE NFA / CLASS 3 / TITLE 2 WEAPONS?**

The National Firearms Act of 1934 regulates certain items and types of weapons. This law was clarified and adjusted in subsequent legislation as well. Currently silencers/suppressors, short barrel rifles & shotguns, and fully automatic firearms can only be owned by a private citizen if that individual pays a “tax stamp” to the ATF of \$200, undergoes a Federal background check (which generally takes 9 to 12 months to complete per item) and obtains the permission of the chief local law enforcement officer. When someone goes to this effort that item is registered to them in a database maintained by the federal government.

There are several proposed bills currently which would remove silencers/suppressors from the NFA controlled items list effectively deregulating them so as to make them obtainable under the same standard background check (NICS) as traditional firearms.

Some states have laws against NFA controlled items even when the gun owner has gone through the ATF fee, background check, etc.

## **WHAT ARE ASSAULT WEAPONS - SEMI-AUTO / FULL-AUTO**

The definition of “Assault” rifle or weapon varies from one state to another where different local governments have passed regulations of bans on firearms that meet a series of definitions. In 1994 a Federal Law was passed which defined and prohibited the manufacture of assault weapons but that law expired and was not renewed in 2004.

Attempts to define Assault Rifle have been difficult and challenging for those attempting to regulate guns because there is little substantial difference between a popular AR-15 carbine rifle and a semi-automatic shotgun when the core functions are broken down and considered. Thus these regulations often require that in order to be considered an “Assault” rifle/weapon the gun must fit 2 or more criteria as established by the law being proposed or passed.

Traditionally, an assault rifle as defined in military practice, and before various states attempted to pass relevant regulations, was a rifle that had selective or fully automatic firing capabilities. To be clear, semi-automatic refers to the function of a firearm to be able to fire one round (bullet) for each time the trigger is pressed. Selective fire refers to the ability of the firearm to fire more than one round each time the trigger is pressed ... and full-automatic (a type of selective fire) allows that with one trigger press rounds will continue to fire until either the firearm runs out of ammunition or the trigger is no longer depressed.

As covered above, any firearm with selective fire capabilities of any form is controlled by the NFA and otherwise illegal to possess.



## OPEN CARRY & CONCEALED CARRY REGULATION

The United States 2008 “Heller” decision clarified that the 2nd amendment protects the right of the individual to own a firearm for personal protection. The 2012 Federal District ruling against the State of Illinois clarified that the state must allow in some form the ability of a citizen that is not disqualified from owning a gun to be able to have it on their person for personal protection when in public.

Today all 50 states have laws that, in theory, allow that private citizens can carry a firearm concealed on or about their person while in public for the purpose of self-defense. 49 States issue a form of a permit or license that when issued allows the gun owner to carry a firearm concealed. Vermont is the exception and doesn't have any sort of permit system.

Without exception, all concealed carry permits require a criminal background check and in most states some form of proof of firearm competency such as prior military service or the completion of a local firearm training course. Required training varies significantly from Virginia where watching online videos is sufficient, to Illinois where the applicant must complete 16 total hours of in-person instruction.

12 States (including Vermont obviously) allow legal gun owners to carry a gun concealed without obtaining any permit at all. These laws are generally referred to as Constitutional Carry or Permitless Carry laws.

10 States, while they have some sort of permit system in place, are considered “May issue” states and require the applicant of the permit prove they have just need or good cause to obtain the permit. In many of those states it is virtually impossible to obtain a permit as the issuing department or entity accepts almost no reason to be good enough to obtain a permit. A lawsuit is active against San Diego county for their unwillingness to issue permits to qualifying applicants, and DC just recently changed to “shall issue.”

30 states allow that a citizen that can legally own guns may carry it openly (opposite of concealed) in certain public places without any license or permit. 15 more states allow that those with “Concealed Carry Permits” can carry both concealed and open. Thus there are only 5 states that do not allow open carry of firearms in any form.

Despite the mostly broad existence of concealed carry across most of the US, the laws that govern where the gun owner may take their gun, how and when they can carry it, if and where they must declare it to law enforcement, and when they may use it in defense of life or property vary significantly by state or in some cases vary by county or city.



## CONCEALED CARRY RECIPROACITY

States decide actively if they will or will not honor, recognize, or have formal reciprocity with other states' concealed carry permits. Thus if one has a concealed carry permit from one's home state it may or may not be honored in any neighboring state. States have various criteria to determine which other state permits they will honor. Many states openly honor all permits from all states and a small handful of states choose to not honor permits from any state at all.

National reciprocity legislation and proposals aim to force all states to honor all permits from all other states. This would, to a small degree, remove the burden of the permitted gun owner from having to wonder what states do and don't honor their permit BUT would not remove the significant variance from one state's laws to another. Put differently, even if New York is forced to recognize Pennsylvania permits; New York may still choose where and how one with a permit may carry their firearm and when and how they can use it in their own defense.



## **CAMPUS CARRY - GUNS IN SCHOOL ZONES**

In 1990 the Gun Free School Zone Act was passed which prohibits firearms nationwide within school zones unless the gun owner is otherwise “permitted” by state law. Thus each state can determine if they will remove the federal prohibition of firearms on their school campuses and if so under what circumstances.

Most states thus prohibit firearms on most school campuses. 4 States actively allow that any permitted individual may carry a firearm per state law on any public college campus. 6 additional states also allow permitted individuals to carry on public college campuses BUT allow that each individual school may pass reasonable regulations about how and where on the campus guns may be carried.

20 other states allow schools to determine if firearms will be allowed or not. The remaining 20 states either don't allow firearms on campus at all or only allow them in locked vehicles in the parking lots.

To date, with over a decade of legal campus carry in some states, there have been zero reported incidents of concealed carry holders committing a crime with a firearm on a college campus which allowed campus carry.

## **CONCLUSION AND A REQUEST**

Well there you have it. If you made it this far you now know more about American Gun Laws than most news publications and journalists. Now share this knowledge and report the facts without bias!