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Sloppy Gun Laws Confuse Owners, Law Enforcement

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In Roman times, when rulers needed more slaves to build monuments to themselves, they simply posted new laws too high for citizens to read them. The inevitable violators found themselves at the government's service.

So it has been since the passage of California's 1989 Assault Weapon Control Act. Last month, the California Supreme Court recognized some of the law's flaws and limited its application in a case involving a Delano lawyer who accepted a gun collection in payment for legal services. The decision is a small victory for citizens who understand the dangers of ill-conceived symbolic laws rushed through the Legislature based more on fear than fact.

Although the gun ban lobby continues to suggest that "assault weapons" are fully automatic "machine guns" (effectively outlawed since 1934), the term has no technical meaning. No rational technical or functional distinction can be made between semi-automatic firearms designated illegal "assault weapons" and legal semi-automatic guns.

The original 1989 law listed roughly 70 firearms, generally identified by make and model. So some gun manufacturers modified their designs and created new models to comply with the law. To target some of these new models, the Legislature expanded the law in 1991 to condemn “series” guns. But assuming that gun owners understand the complexities of the historical design basis of their firearm is like assuming that you understand exactly how a watch works if you can tell time. The result? Hundreds if not thousands of unwitting lawbreakers are being dragged through criminal prosecutions.

And because most police, prosecutors, defense attorneys and judges are confused as well, many citizens have been dragged through the system even though their guns were legal. Desert Hot Springs Police Officer Steven O’Connor was arrested and prosecuted by his own department last year for possessing a Maadi RML rifle, incorrectly deemed an AK-47 “series” gun. It took 10 months for the case to be dismissed. O’Connor still hasn’t gotten his job back. Airline pilot Bill Doss actually wrote to the California Justice Department to confirm that his SKS rifle was legal to bring into the state. The department told Doss--and hundreds of others--that the law only applied to one type of SKS rifle and that his was legal. Then a court read the law more broadly and made thousands of people accidental felons because they had relied on the department’s position. An unprecedented retroactive immunity law, which included a multimillion-dollar SKS buy-back program, was passed in 1998.

Then there are problems with registrations. The law requires “assault weapons” to be registered and establishes grace periods. Preferring to know where these guns are and believing the law allowed it, former Atty. Gen. Dan Lungren continued to encourage and accept grace period

registrations through 1998. Handgun Control Inc. sued him. When Bill Lockyer was elected attorney general, he dropped the opposition to the Handgun Control lawsuit. As a result, thousands of registrations were invalidated and owners were “dispossessed” of their guns without any payment. So in California, registration indeed did lead to confiscation.

A California appeals court declared the law irrational and unconstitutional in 1998. That was overturned by the Supreme Court. Nonetheless, the Legislature passed a 1999 amendment that condemns guns based on vaguely identified features. Originally, the 1999 law turned Olympic target pistols into “assault weapons” and junior Olympic shooters into felons. Red-faced legislators fixed that in 2001, over the objections of the original bill’s author, Sen. Don Perata (D-Alameda), who suggested that the affected Olympic shooters move to Texas.

Adding or removing features can cause a gun to morph into an “assault weapon” or, presto, back into a legal gun. So now, in addition to trying to figure out whether a rifle is on the 1989 list or is a “series” gun, owners also have to figure out whether various parts of their guns are prohibited features. Hunters, for example, need to consider whether a court will hold that since the tubular magazines on their semi-automatic duck-hunting shotguns can be removed without tools, the magazines are detachable and the firearms illegal.

Vilifying specific firearms through sloppy laws is not the answer to gun violence. Despite the court’s ruling, the arbitrariness of an “assault weapon” designation continues to disenfranchise gun owners from a legislative and legal system they no longer respect.

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