

The Myth of the “Gun Show Loophole”

FAST FACTS

The National Shooting Sports Foundation®, NSSF®, the trade association for the firearms and ammunition industry, represents federally licensed firearms manufacturers, distributors and retail dealers. Proponents of gun control have perpetuated the myth that there is a “gun show loophole” in current law.

Licensed retailers must follow the same regulations and procedures, including conducting criminal background checks, when conducting business at gun shows just as they would if at their store or other place of business.

Claim: There is a gun show “loophole.”

Fact: There is no gun show loophole.

Most of the vendors at gun shows — up to 75 percent — are licensed dealers.ⁱ If you are a licensed firearms dealer, you are allowed to sell at gun shows in your own state. However, all the same rules apply. You must run a federal background check on any individual you sell a firearm to through the FBI’s National Instant Criminal Background Check System (NICS). The same paperwork, recordkeeping, age restrictions, and other rules also apply, as if the sale occurred in the dealer’s place of business.

Further, only a small percentage of tables at gun shows, about 20 to 25 percent, actually sell firearms. The others sell books, accessories or other items.

Claim: The law allows unlicensed dealers to sell guns at gun shows.

Fact: Unlicensed dealers are criminals.

It is true that a background check and other regulations do not apply if you are an individual that wishes to occasionally sell a firearm from your personal collection in a private transaction. This bright line is clearly delineated in current law. If an individual is “engaged in the business” of selling firearms, they must be licensed. This is defined as, “a person who devotes time, attention and labor to dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through the repetitive purchase and resale of firearms.”ⁱⁱ



Under existing law, unlicensed dealers that fit this description and sell firearms at gun shows (or anywhere else) are breaking the law.

In practice, federal law is just the floor of restrictions on gun shows. Many gun show promoters require that all vendors leasing space at a show, including private parties, must agree to run background checks, regardless of whether they hold federal licenses or not. The vast majority of guns sold at gun shows go through federal background checks.

Further, in several states there is another layer of regulation as some states require background checks as part of all private firearms transactions. Background checks for private firearm sales are required in seventeen states.

Claim: Criminals get their guns at gun shows.

Fact: According to a November 2001 study by the U.S. Department of Justice of state and prison inmates, less than one percent (0.7) of criminals that possessed a firearm during their current offense acquired their guns from gun shows.ⁱⁱⁱ By contrast, nearly 40 percent reported acquiring their guns illegally, such as by theft.

This is unsurprising when considering that other research suggests that while imposing additional gun show regulations does reduce the number of gun shows in a state, there is no evidence these laws reduce violent

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crime. In fact, there is some evidence that it is associated with an increase in murder and robbery rates.^{iv}

More recently, a University of Maryland and National Bureau of Economic Research (NBER) study in 2008 found that there is “no evidence that gun shows lead to increases in either gun homicides or suicides.” The study also found that “tighter regulation of gun shows does not appear to reduce the number of firearms-related deaths.”^v

Gun control advocates often point to a 1999 study by the U.S. Justice and Treasury departments as evidence of widespread purchases of guns at gun shows by felons.^{vi} This study, and other similar research, has been deliberately misused by gun control proponents to imply that criminals get their guns at gun shows. This is misleading, as the study only considers cases of criminal behavior related to gun shows that were already under investigation by the ATF. This is analogous to finding higher rates of food poisoning from restaurants that are being investigated for poor food safety practices, and saying the results are true for all restaurants in the country.

What this study does show is that criminals are illegally

selling to criminals. More than half of the investigations reviewed involved individuals engaging in the business without a license – a clear violation of existing law. It also found that felons were buying or selling firearms in more than 46 percent of the investigations, also against the law.^{vii}

Claim: The firearms industry doesn't support background checks at gun shows.

Fact: While there is nothing you can do inside a gun show that you can't do outside a gun show, the firearms industry has never opposed instant background checks at these events. The reason why this has not come to pass is that anti-gun legislators do not support an instant check.

They, along with the gun-ban lobby, have tried to incorporate waiting periods for all buyers at gun shows. Such an action is not only unnecessary, as the FBI National Instant Check System would require only seconds to conduct a federal background check, but must be considered a de facto ban of all gun shows, as implementing a five-day waiting period for a two-day gun show is impossible.

i U.S. Department of Justice, U.S. Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, “Gun Shows: Brady Checks and Crime Gun Traces,” January 1999. p.4 <http://www.atf.gov/publications/download/treas/treas-gun-shows-brady-checks-and-crime-gun-traces.pdf>
ii 18 U.S.C. § 921(a)(11)(A)
iii Caroline Wolf Harlow, Department of Justice, Bureau of Justice Statistics Special Report, “Firearm Use by Offenders: Survey of Inmates in State and Federal Correctional Facilities,” NCJ 189369, November 2001. <http://bjs.ojp.usdoj.gov/content/pub/pdf/fuo.pdf>

iv John R. Lott, Jr., *More Guns Less Crime: Understanding Crime and Gun Control Laws*, Third Edition. Chicago and London: The University of Chicago Press, 2010. pp.329-330
v Mark Duggan, Randi Hjalmarrsson, Brian A. Jacob, “The Effect of Gun Shows on Gun-Related Deaths: Evidence from California and Texas,” September 2008. p. 1 <http://closup.umich.edu/research/workingpapers/oldpapers/gunshows-sept08-final.pdf>
vi U.S. Department of Justice, U.S. Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, “Gun Shows: Brady Checks and Crime Gun Traces,”

January 1999. p.7 <http://www.atf.gov/publications/download/treas/treas-gun-shows-brady-checks-and-crime-gun-traces.pdf>
vii U.S. Department of Justice, U.S. Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, “Gun Shows: Brady Checks and Crime Gun Traces,” January 1999. p.7-8 <http://www.atf.gov/publications/download/treas/treas-gun-shows-brady-checks-and-crime-gun-traces.pdf>



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