

National Shooting Sports Foundation

NSSF & Proposals to Raise Firearm Purchase Age Requirement

White Paper

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"A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed."

- Second Amendment to the United States Constitution

"They that can give up essential liberty to obtain a little temporary safety deserve neither liberty nor safety."

- Benjamin Franklin, Historical Review of Pennsylvania, 1759

Background:

On February 14, 2018, Nickolas Cruz, a 19-year-old former student of Marjory Stoneman Douglas High School, in Parkland, Florida, entered the school with an AR-15 and several 30-round magazines. He murdered 17 people, including students and staff. Since that tragedy, the President of the United States has held listening sessions with victims and relatives of school shootings and a follow-on listening session that included elected and school officials from Florida. During those conversations, President Trump indicated he would support raising the federal minimum age requirement to purchase an AR-15 style rifle to 21 from 18, to align this with the minimum age requirement to purchase a handgun. Several states, including Florida, are proposing similar state laws. In the instance of Florida, the proposal extends to all firearm purchases.

Executive Summary:

The National Shooting Sports Foundation is the firearms industry trade association. As such, NSSF represents nearly 13,000 nationwide members comprised of firearms manufacturers, distributors, retailers, and shooting ranges. NSSF has been a proponent of the legal, safe and responsible operation and storage of firearms by all qualified customers in compliance with federal and state laws. NSSF maintains an active posture in engaging federal and state governments to provide the industry voice in crafting legislation that might affect the ability of our members to conduct Constitutionally-protected lawful business and the ability of our customers to purchase firearms to suit their needs for multiple uses, including self-protection, recreational shooting, hunting and collecting.

When legislative proposals are considered, especially the understandably emotionally-charged environment following a school shooting, NSSF offers informed viewpoints to stakeholders. In the instance of the proposal to raise the federal and state minimum age to purchase firearms, NSSF is compelled to detail the reasons such a consideration is misguided, damaging and potentially unconstitutional.

Points for Discussion:

1. **Firearms ownership is a Constitutionally-protected right.** Individual firearms ownership is a Constitutionally-protected right that was affirmed by the U.S. Supreme Court. Justice Antonin Scalia wrote the majority decision in District of Columbia v. Heller in 2008 affirming the right of individuals to keep and possess firearms for lawful purposes, including the right to self-defense. The court stated that the bans on particular types of firearms were tantamount to a prohibition on an entire class of "arms" Americans overwhelmingly choose for the lawful purpose of self-defense. Further, the court confirmed the Second Amendment included firearms as AR-15s. Though similar to M-16s, they are not classified in the same category as machine guns or other military grade firearms when Justice Scalia wrote, "It may be objected that if weapons that are most useful in military service – M16 rifles and the like – may be banned, then the Second

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Amendment right is completely detached from the prefatory clause. But as we have said, the conception of the militia at the time of the Second Amendment's ratification was the body of all citizens capable of military service, who would bring the sorts of lawful weapons that they possessed at home."

2. **Second Amendment is a full and complete right.** The Second Amendment inclusion in the Bill of Rights establishes this as a fundamental right, upon which the government cannot infringe. Just as the right to exercise free speech, practice religion, or other civil rights including voting rights are available to law-abiding American adults to freely exercise upon their choosing. Denial of the full ability to exercise these rights, or to relegate Second Amendment rights to a second-class status, is a right denied. Supreme Court Justice Clarence Thomas said as much in his recent dissent in a case challenging California's 10-day waiting period for a firearms purchase. In it, he chastised the court for failing to take up the case, which he said reduced the Second Amendment to a "disfavored right." "If a lower court treated another right so cavalierly, I have little doubt that this court would intervene. But as evidenced by our continued inaction in this area, the Second Amendment is a disfavored right in this court."
3. **Clinton-era ban on "assault weapons" didn't increase public safety.** In 1994, President Clinton signed into law the "Assault Weapons Ban." After the ban's 2004 expiration, the Centers for Disease Control — hardly a pro-gun entity — conducted a comprehensive study of the full panoply of gun control measures — including the "assault weapons ban" — and concluded that none could be proven to reduce crime. Homicide statistics demonstrate that the minuscule use of so-called "assault weapons" in crime (less than 1 percent) continued to decrease after the ten-year ban expired in 2004 and their manufacturing and sales resumed. Another study, commissioned by Congress, found "the banned weapons and magazines were never used in more than a modest fraction of all gun murders." The report also noted that so-called "assault weapons" were "rarely used in gun crimes even before the ban." Of the 16 murderers involved in mass shootings in the U.S., only two incidents involved situations where the "assault rifle" was acquired through legal means. In the Columbine shooting, they acquired a semi-auto rifle through a straw purchaser (so illegally) because both were under 18 years of age when the rifle was acquired. The second instance was a deputy sheriff, aged 20, who killed six people using his department-issued AR-15. All others got their guns through theft from a relative, by killing their parent and taking the parent's gun(s) or they bought a firearm of a type not classified as an "assault rifle" (i.e., pump action shotgun).
4. **AR-15s are among the most popularly owned firearms in America.** Semi-automatic rifles, such as AR-15s, have been enjoyed by law-abiding Americans for more than 100 years. Contrary to inaccurate media reports and mischaracterizations perpetuated by anti-gun groups, AR-15s are not "assault weapons" and are not automatic weapons used by the United States military. The "AR" does not stand for "assault rifle," rather it stands for ArmaLite rifle, after the company that developed it in the 1950s. Assault rifles do exist. They are fully automatic machine guns and have been severely restricted from civilian ownership since 1934. AR-15s, or Modern Sporting Rifles, have been available on the commercial market since the early 1960's when Colt Firearms introduced the Colt Sporter. They are increasingly the firearm of choice of today's firearms owner and recreational target shooter. There are nearly 15 million modern sporting rifles owned by law-abiding Americans today who use them for lawful purposes, including self-defense, target shooting and hunting. Many choose this rifle for its ease of use, reduced recoil,

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easy customization to adapt to individuals and familiarity. These rifles function the same way as all other semi-automatic rifles: one bullet is fired for each pull of the trigger. Most objections to Modern Sporting Rifles stem from cosmetic features that have no bearing in the operation of the rifle, the rate of fire or the ammunition used. The fact that a modern sporting rifle looks similar in color and in style to military firearms has no bearing on the functions of each distinct firearm.

5. **18 Year Olds are Adults under U.S. Law.** At 18 years of age, an American may vote, enlist and may be drafted to serve in our military. If an 18 year old is old enough to defend our country with an automatic, military firearm, and to die in service to our country, there is no reason to deny a qualified individual his or her Second Amendment right to own a semi-automatic firearm. Any proposal to raise the purchase age to 21 would subject the same uniform military member who defends these rights from being able freely exercise the same. There are certainly 18 year olds who are prohibited from purchasing a firearm under existing law, just as there are prohibited persons of any age. A blanket prohibition on firearm ownership for those between 18-21 is arbitrary and not supported by evidence that this will have an impact on criminal misuse of firearms. One only needs to consider the impact made by the unconstitutional ban on handgun purchases for those in this age bracket. Data clearly show that gun violence is often committed by prohibited young men involved in gang activity, with illegal handguns as the firearm of choice. The age-restriction does not stop criminals. It only stops those who follow the law, regardless of age.
6. **Age-Bans Carry Unintended Consequences.** While age-based restrictions are not likely to have impact on crime or on the misuse of firearms, there would be unintended consequences of such a law. The popularity of modern sporting rifles has steadily grown over time, even as crimes with firearms have declined. In fact, the Colt AR-15 and Springfield M1A, both labeled “assault weapons,” are the rifles most often used for marksmanship competitions in the United States. And their cartridges are standard hunting calibers, useful for game up to and including deer. Why does this matter? When a firearm or ammunition is purchased, a federal excise tax is paid by the manufacturer that funds wildlife conservation efforts in each state. Setting an arbitrary limit on the size of the legal market will only serve to shrink the conservation dollars that states depend on.
7. **Firearms industry supports practical solutions.** Effective solutions exist that will make our communities safer and to protect children. The key is ensuring unauthorized individuals do not have access to any firearm of any kind at any time. That includes criminals, those deemed mentally unfit, and children. As an industry, we support background checks and stood in favor of the Brady Act requiring all federally licensed firearms retailers to conduct an FBI background check when processing any transaction, whether in a brick and mortar store, at a gun show, or online. However, our members know that a background check is only as good as the records in the database. That’s why the NSSF launched the FixNICS ® campaign in 2013 to encourage states to submit all disqualifying criminal and mental health records to the FBI’s National Criminal Instant Background Check System (NICS). Since its inception, 16 states have changed their policies and submission of disqualifying records increased 170 percent from 1.7 million in 2013 to more than 4.5 million in 2016. NSSF supports U.S. Sen. John Cornyn’s (R-Texas) S. 2135, the FIX NICS Act of 2017, which would provide financial grants to the state to upload records and compel federal agencies, including the Department of Defense, to submit all disqualifying

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records. NSSF recognizes there are other safety measures that must be considered to improve public safety, but this is the most direct means to help ensuring firearms are safeguarded from those who should never possess them.

Conclusion:

In the wake of a tragedy, it is all too easy to apply a band-aid policy change and claim a problem has been solved. However, the gaps that remain in the system would not be addressed by denying lawful ownership to an entire class of citizens, just as existing unconstitutional age-restrictions on handguns have not solved gang-violence among inner-city youth. It is important to remember that the Parkland tragedy did not occur because of the age of the shooter. It occurred because of the mental state of the individual, just as we have seen with other recent tragedies that involved older individuals with mental health problems. The fact remains that in the United States you are an adult when you turn 18. Your constitutional rights are fully vested, including the right to vote and the right to keep and bear arms. Any age-based gun ban would deny young adults their Constitutional right to self-protection without evidence that this would prevent the unlawful misuse of firearms. Raising the minimum age to 21 to purchase a shotgun or a rifle for lawful purposes is an arbitrary infringement on the Constitutional rights of young adults between the ages of 18-20.