



Firearm Laws

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Background

The Second Amendment of the **BILL OF RIGHTS** provides: "A well regulated **MILITIA**, being necessary to the security of the free State, the right of the people to keep and bear Arms, shall not be infringed." The Supreme Court has historically defined the Second Amendment as giving states the right to maintain a militia separate from a federally controlled army. Courts have consistently held that the state and federal governments may lawfully regulate the sale, transfer, receipt, possession, and use of certain categories of firearms, as well as mandate who may and may not own a gun. As a result, there are numerous federal, state, and local laws in existence today, through which a person must navigate in order to lawfully possess a firearm.

There were relatively few laws passed regarding [GUN CONTROL](#) prior to the twentieth century, and in fact, most legislation has been passed in the last fifty years.

- The National Firearms Act of 1934 was passed to hinder machine guns and sawedoff shotguns.
- The Firearms Act of 1938 provided for federal licensing of firearms dealers, regulated firearms transportation across state lines by dealers, outlawed the transportation of stolen guns with the manufacturer's mark eradicated or changed, and outlawed firearms from being carried by fugitives, indicted defendants or convicted felons.
- The National Firearms Act was later amended significantly by the Gun Control Act of 1968, putting more stringent control on licensed sales, buyer requirements, and the importation of sporting guns.
- The Undetectable Firearms Act of 1988 banned plastic and other undetectable guns, prompted by the fear of hijacking.
- The Crime Act of 1994 banned the sale and possession of 19 assault-type firearms and certain high-capacity ammunition magazines.
- The Gun-Free School Zone Act of 1990 outlawed the knowing possession of firearms in school zones, and made it a crime to carry unloaded firearms within 1,000 feet of the grounds of any public or private school. The law was later held unconstitutional in 1995, in *United States vs. Lopez*.
- The 1982 assassination attempt on President Ronald Reagan resulted in the Brady Handgun Violence Prevention Act of 1993. The Brady Bill imposed a five-day waiting period before a handgun could be taken home by a buyer. Though the law also mandated that local law enforcement officers conduct background checks on prospective handgun purchasers buying from federally licensed dealers, this part of the law was struck down by the Supreme Court in 1997 in *Printz vs. United States* as unconstitutional.

Depending on where one lives, a person may only be forbidden to carry a concealed weapon, or may be forbidden to own a handgun at all. People who disobey or are not aware of the laws pertaining to firearms in their local areas and in areas to which they travel may be subject to tough criminal prosecution. It is therefore best to be familiar with the local and national laws before owning a firearm.

Acquisition and Possession of Firearms

Eligibility to Purchase or Own a Firearm

In general, if you are twenty-one years of age or older, you can purchase a firearm from a federally licensed dealer licensed to sell in your state. For the purchase of a rifle or shotgun, you need to be eighteen years or older and may purchase in any state.

However, the following classes of people are ineligible to possess, receive, ship, or transport firearms or ammunition:

- Those convicted of crimes punishable by [IMPRISONMENT](#) for over one year, except state misdemeanors punishable by two years or less
- Fugitives from justice
- Unlawful users of certain depressant, narcotic, or stimulant drugs
- Those deemed legally as incompetent and those committed to mental institutions
- Illegal aliens
- Citizens who have renounced their citizenship
- Those persons dishonorably discharged from the armed services
- Persons less than eighteen years of age for the purchase of a shotgun or rifle
- Persons less than twenty-one years of age for the purchase of a firearm that is other than a shotgun or rifle
- Persons subject to a court order that restrains such persons from harassing, [STALKING](#), or threatening an intimate partner
- Persons convicted in any court of a [MISDEMEANOR](#) crime of domestic violence

Under limited conditions, exceptions may be granted by the U.S. Secretary of the Treasury, or through a [PARDON](#), restoration of rights, or setting aside of a [CONVICTION](#).

Acquiring Firearms

Once a person has made the decision to purchase a gun, a federally licensed dealer will fill out a federal form 4473, which requires identifying and other information about the buyer, and record the make, model, and serial number of the firearm. There is a five-day waiting period during which a background check is run for any information that may disqualify the buyer from owning a firearm. The buyer may purchase the firearm only after the application is approved.

It is unlawful for an individual to purchase a firearm through mail-order from another state. Only licensed dealers are allowed to purchase firearms across state lines from other licensed dealers.

Provided that all other laws are complied with, a person may temporarily borrow or rent a firearm for lawful sporting purposes throughout the United States.

Antique Firearms

Antique firearms and replicas are exempted from the above restrictions. Antique firearms are any firearms manufactured in or before 1898 (including any firearms with a matchlock, flintlock, percussion cap, or similar type of ignition system). Also, any replica of an antique firearm qualifies if the replica is not designed or redesigned for using rimfire or conventional centerfire ammunition; if the replica uses fixed ammunition which is no longer manufactured in the United States and which is not readily available; if the replica is of any muzzle loading rifle, shotgun, or pistol, which is designed to use black powder or a black powder substitute and which cannot use fixed ammunition. (Note: Antiques exemptions vary considerably under state laws).

Prohibited Firearms

The 1994 Omnibus Crime Bill included a provision that prohibited the manufacture and sale to non-military and police, after Sept. 13, 1994, of semi-automatic rifles equipped with detachable magazines and two or more of the following: bayonet lugs, flash suppressors, protruding pistol grips, folding stocks or threaded muzzles. There are similar guidelines on handguns and shotguns. Additionally, the manufacture and sale to non-military or police of "large-capacity" ammunition magazines (holding more than 10 rounds) were also outlawed. "Assault weapons" and "large" magazines manufactured before Sept. 13, 1994, are exempt from the law.

Shipping Firearms

Personally owned rifles and shotguns may be mailed or shipped only to dealers or manufacturers for any lawful purpose, including sale, repair, or customizing. A person may not ship a firearm to another private individual across state lines. Handguns may not be mailed but may be otherwise shipped to dealers or manufacturers for any lawful purpose. Shipping companies must be notified in writing of the contents of any shipments containing firearms or ammunition.

Transporting Firearms in Automobiles

Under federal law, a person is allowed to transport a firearm across state lines from one place where it is legal to possess firearms to another place where it is legal to possess firearms. The firearm must be unloaded and in the trunk of a vehicle. If the vehicle has no trunk the firearm must be unloaded and in a locked container (not the glove compartment or console). This federal law overrides state or local laws.

Many states have laws governing the transportation of firearms. Also, many cities and localities have ordinances restricting their transportation. Travelers must be aware of these laws and comply with the legal requirements in each [JURISDICTION](#). There is no uniform state transportation procedure for firearms. Once you reach your destination, the state law—or, in some areas, municipal law—will control the ownership, possession, and transportation of your firearms.

It must be stressed that as soon as any firearm—handgun, rifle, or shotgun—is carried on or about the person, or placed in a vehicle where it is readily accessible, state and local firearms laws dealing with carrying come into play. If a person wishes to transport firearms in such a manner, it is advisable that he become aware of local laws by contacting the Attorney General's office in each state through which he may travel, or by reviewing an *NRA State Firearms Law Digest*. He should determine whether a permit is needed and how to obtain one. While many states require a permit for this type of carrying, most will not issue such permits to non-residents, and other prohibit such carrying altogether.

Transporting Firearms on Aircraft

Federal law prohibits the carrying of any firearm, concealed or unconcealed, on or about the person or in carry-on baggage while aboard an aircraft. Unloaded firearms not accessible to the passenger while aboard the aircraft are permitted when:

1. The passenger has notified the airline when checking the baggage that the firearm is in the baggage and that it is unloaded.
2. The baggage in which the firearm is carried is locked and only the passenger checking the baggage retains a key.
3. The baggage is carried in an area—other than the flight crew compartment—that is inaccessible to passenger.

Transporting Firearms in Other Commercial Carriers

Any passenger who owns or legally possesses a firearm being transported aboard any common or contract carrier in interstate or foreign commerce must deliver the unloaded firearm into the [CUSTODY](#) of the pilot, captain, conductor, or operator of such common or contract carrier for the duration of the trip. Check with each carrier before your trip to avoid problems.

Bus companies usually refuse to transport firearms. Trains usually allow the transportation of encased long guns if they are disassembled or the bolts removed.

Ammunition

Ammunition may be bought or sold without regard for state [BOUNDARIES](#). Ammunition shipments across state lines by commercial carriers are subject to strict explosives regulations. As with firearms, shipments of ammunition must be accompanied by a written notice of the shipment's contents.

It is illegal to manufacture or sell armor-piercing handgun ammunition.

Firearms in National and State Parks

Generally, firearms are prohibited in national parks. If you are transporting firearms, you must notify the ranger or gate attendant of this fact on your arrival and your firearm must be rendered "inoperable" before you enter the park. The National Park Service defines "inoperable" to mean unloaded, cased, broken down if possible, and out of sight. Individuals in possession of an operable firearm in a national park are subject to arrest. Again, rules in various state park systems vary, so inquiry should be made concerning the manner of legal firearms possession in each particular park system.

Hunters

In many states, game wardens strictly enforce regulations dealing with the transportation of firearms during hunting season. Some states prohibit the carrying of uncased long guns in the passenger compartment of a vehicle after dark. For up-to-date information on these regulations, it is advisable to contact local fish and game authorities.

State and Local Restrictions on the Possession and Transportation of Firearms

Be sure to check with the local authorities outside your home state for a complete listing of restrictions on carrying concealed weapons in that state. Many states restrict carrying in bars, restaurants (where alcohol is served), establishments where packaged alcohol is sold, schools, colleges, universities, churches, parks, sporting events, correctional facilities, courthouses, federal and state government offices/buildings, banks, airport terminals, police stations, polling places, any posted private property restricting the carrying of concealed firearms, etc. In addition to state restrictions, federal law prohibits carrying on military bases, in national parks and the sterile area of airports. National forests usually follow laws of the states in which they are located.

The following states and cities have special laws governing the possession and transportation of firearms by non-residents. Travelers should contact the appropriate government departments for more information prior to traveling:

ARKANSAS: A license to carry a firearm concealed issued to a non-resident by another state will be honored if such state provides a reciprocal privilege.

CALIFORNIA: Before entering the state, a California permit and registration may first need to be obtained for certain semi-automatic rifles, certain semi-automatic pistols, certain shotguns, and any other firearm which is deemed an "assault weapon." Contact the California Department of Justice in Sacramento for additional information.

CONNECTICUT: A permit is required to carry a handgun in a vehicle. Nonresidents may carry handguns in or through the state for the purpose of taking part in firearms competitions or exhibitions, provided they are residents of the United States and have valid permits-to-carry issued by any other states or localities. No permit is required when changing residences, provided the handgun is unloaded and cased or securely wrapped. An "assault weapon" is defined as any selective-fire firearm capable of fully automatic, semi-automatic or burst fire at the option of the user, or any one of over five dozen specified semi-automatics. A person who has been issued a Connecticut certificate of possession of an [ASSAULT](#) weapon may possess it only under certain conditions.

DISTRICT OF COLUMBIA: Transportation of firearms through the city is not permitted unless the travel is to or from lawful recreational firearm-related activity. Firearms transported for this purpose should be carried in accordance with the general rule.

FLORIDA: This state issues a non-resident concealed carry permit. Contact the Department of State, Division of Licensing.

GEORGIA: A license to carry a firearm concealed issued to a nonresident by another state shall be honored if such state provides reciprocal privilege.

HAWAII: Registration is required of all firearms and ammunition with the county chief of police within 72 hours of arrival on the islands. Rifles or shotguns may be transported for target shooting at a range or hunting provided they are unloaded and cased or securely wrapped. If they are transported for hunting, valid state hunting licenses must be procured. Handgun transportation is limited to one's place of sojourn or between the place of sojourn and a target range or going to or from a place of hunting. The handgun must be unloaded and securely wrapped or cased.

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IDAHO: A license to carry a firearm concealed issued to a nonresident by another state shall be honored.

ILLINOIS: A nonresident is permitted to transport a firearm provided it is unloaded, enclosed in a case, and not easily accessible. A nonresident may possess an operable firearm for licensed hunting, or at a Department of Law Enforcement recognized target shooting range or gun show.

CHICAGO: Chicago requires all firearms possessed in the city to be registered. Handguns not previously timely registered in Chicago cannot be registered. Oak Park, Evanston, Morton Grove, Highland Park, Wilmette and Winnetka prohibit the possession of a handgun. Firearms may be transported under the general rule through Chicago for lawful recreational firearm-related activities.

INDIANA: A carrying permit is required to transport a handgun in a vehicle. Nonresidents are ineligible for permits, however, permits from other states are recognized. Transportation of unloaded handguns during a change of residence is exempted. A handgun must be securely wrapped and kept in the trunk or storage area of the car during transportation.

KENTUCKY: A license to carry a firearm concealed issued to a nonresident by another state is honored if such state provides reciprocal privilege.

MAINE: A nonresident concealed carry permit may be obtained from the Chief of State Police.

MARYLAND: The unlicensed transportation of handguns in vehicles is prohibited, except for a variety of lawful purposes, including target shooting. A handgun must be transported unloaded and in an enclosed case or holster with a strap.

MASSACHUSETTS: Nonresidents are allowed to bring personally owned handguns into the Commonwealth for competition, exhibition or hunting. If the handgun is for hunting, a valid hunting license must be procured. Furthermore, the handgun owner must have a valid carrying permit from another state and that state's permit requirements must be the same as in Massachusetts. A person who does not meet these requirements must obtain a temporary handgun permit from the Department of Public Safety.

A nonresident may transport rifles and shotguns into or through Massachusetts if the guns are unloaded, cased, and locked in the trunk of a vehicle.

A nonresident may physically possess an operable rifle or shotgun while hunting with a Massachusetts license, while on a firing range, while at a gun show, or if the nonresident has a permit to possess any firearm in his home state..

A special caution, however, is in order. Massachusetts has enacted one of the most restrictive gun laws in the nation, imposing a mandatory one year jail sentence for anyone illegally possessing a firearm, loaded or unloaded, "on his person or under his control in a vehicle." In all cases, all firearms must be transported as prescribed in the general rule.

BOSTON: Under a vague law, it is unlawful to possess, display, transfer or receive any shotgun with a capacity exceeding 6 rounds; a semi-automatic rifle with a magazine exceeding 10 rounds; any SKS, AK-47, Uzi, AR-15, Steyr AUG, FN-FAL, or FN-FNC rifle; any semi-automatic pistol which is a modification of a proscribed rifle or shotgun; and any magazine or belt which holds more than 10 rounds. An "assault weapons roster board" may add additional firearms to the list of assault weapons. For owners to continue possession of such firearms, a license/registration must have been obtained from the Boston Police

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Commissioner within 90 days of the effective date of the law (12/9/89) or within 90 days of the addition of the firearm to a roster of assault weapons. Otherwise a license/registration cannot be obtained.

The provision does not apply to possession by a nonresident of Boston at a sporting or shooting club, to a person with a Massachusetts license to carry a pistol, or to a person taking part in competition, at a collectors' exhibit or meeting, traveling to or from such an event, or while in transit through Boston for the purpose of licensed hunting, provided that in all cases the weapon is unloaded and packaged and the person has a Massachusetts firearm identification card or has a license or permit to carry or possess firearms issued by another state.

MICHIGAN: This state requires a carrying permit to transport a handgun in a vehicle. Nonresidents are ineligible for permits, however, Michigan does recognize carrying permits from other states. Exempt from the Michigan permit requirements are hunters with valid Michigan hunting licenses and individuals with proof of membership in organizations with handgun shooting facilities in the state, provided the handguns are unloaded, in containers, and locked in vehicle storage areas. Michigan exempts transportation of unloaded handguns in containers during a change of residence.

MISSISSIPPI: A license to carry a firearm concealed issued to a nonresident by another state shall be honored if such state provides a reciprocal privilege.

MISSOURI: Allows carrying a firearm concealed while traveling in a continuous journey peaceably through the state.

NEW HAMPSHIRE: A license to carry a firearm concealed issued to a nonresident by another state shall be honored if such state provides a reciprocal privilege.

NEW JERSEY: A firearm is not permitted to be transported through the state unless the owner of possesses a Firearms Identification Card. Exceptions to this prohibition are: a person traveling to and from a target range or to and from hunting, provided the individual has obtained a valid state hunting license, and "between one place of business or residence and another when moving." In any event, the general rule should be followed.

New Jersey lists more than four dozen specified firearms as "assault firearms." An assault firearm is defined as any semi-automatic rifle with a fixed magazine capacity exceeding 15 rounds, and any semi-automatic shotgun with either a capacity exceeding 6 rounds, an accentuated pistol grip, or a folding stock. Possession of such a firearm requires registration and a New Jersey license. Any ammunition magazine capable of holding more than 15 rounds may only be possessed for a registered and licensed assault firearm.

NEW YORK: The transportation of handguns is prohibited except by a resident with a license to carry. A member or coach of an accredited college or university target pistol team may transport a handgun into or through New York to participate in a collegiate, Olympic or target pistol shooting competition provided that the handgun is unloaded and carried in a separate locked container.

A nonresident target shooter may enter or pass through New York State with handguns for purposes of any NRA-approved competition if the competitor has in his possession a copy of the match program, proof of entry, and a pistol license from his state of residence. The handgun must be unloaded and transported in a fully opaque container.

New York has strict laws governing illegal possession of handguns which can result in a possible seven-year jail sentence for offenders.

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A special caution: New York law presumes that an individual stopped in possession of five or more handguns without a state permit possesses the handguns for illegal sale, thus subjecting this person to an increased sentence.

New York is the only state in the Union that prohibits the transportation of handguns without a license. Citizens should therefore be particularly careful since they face severe consequences should they inadvertently violate the state's myriad, technical, anti-gun provisions.

NEW YORK CITY: A city permit is required for possession and transportation of handguns and long guns. New York State handgun permits are invalid within the city limits; however, New York State residents may transport their licensed handguns unloaded through the city if these are locked in a container and the trip is continuous. Long guns may be kept in the city for only 24 hours while in transit and must be unloaded and stored in a locked container or vehicle trunk.

New York City forbids possession of an "assault weapon," which includes various specific semi-automatic rifles and shotguns or revolving cylinder shotguns. It is unlawful to possess an "ammunition feeding device" capable of holding more than 17 rounds in a handgun, or more than 5 rounds in a rifle or shotgun. In all cases, the general rule should be observed. The New York State law on illegal possession applies to the city as well.

OHIO: Some units of local government, e.g. Brooklyn, Cincinnati, Cleveland, Columbus, and Dayton, forbid the possession of certain semi-automatic firearms and specified shotguns.

OKLAHOMA: A license to carry a firearm concealed issued to a nonresident by a state shall be honored if it has similar requirements to that of Oklahoma.

PENNSYLVANIA: A permit is required to carry a handgun in a vehicle. Permits are available to nonresidents and may be obtained from any county sheriff or chief of police in the major cities. An unloaded, securely wrapped handgun may be carried without a license when changing residences, when going to or from target practice, or to or from one's home to a vacation or recreational home.

RHODE ISLAND: A permit is required to transport a handgun. There are three exceptions to this requirement: (1) A person licensed to carry in another state may transport a handgun during an uninterrupted journey across the state; (2) A person may carry without a permit an unloaded, securely wrapped, and, if possible, broken down handgun to and from a target range; or (3) An individual can transport a handgun, under the previous conditions, without a permit during a change of residence.

SOUTH CAROLINA: A valid out-of-state permit to carry concealed weapons held by a resident of a reciprocal state will be honored.

TENNESSEE: A handgun permit or license issued in another state is valid in this state, according to its terms, if the licensing state provides a reciprocal privilege. The Commissioner of Safety is the sole judge of whether the eligibility requirements in another state are substantially similar to the requirements in this state.

TEXAS: A nonresident can apply for a concealed handgun license if he is licensed in his home state, the home state's licensing requirements are as rigorous as those in Texas, and the home state allows a person with a Texas license to apply for a license there.

VERMONT: No permit is required to carry a concealed weapon.

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VIRGINIA: The Attorney General may enter into reciprocity agreements with other states providing for the mutual recognition of each state's licensing system.

WEST VIRGINIA: A license to carry a firearm concealed issued to a nonresident by another state shall be honored if such state provides reciprocal privilege.

WYOMING: A license to carry a firearm concealed issued to a nonresident by another state shall be honored.

Special Rules Governing Traveling with Firearms in Other Countries

Most countries have special laws governing the possession and transportation of firearms by nonresidents, and in many countries individual possession of firearms is illegal. Travelers should contact the appropriate government departments to learn about the laws prior to traveling. All firearms must be declared and registered with United States Customs on form 4457 or any other registration document when bringing the same firearms back into the United States.

The following are summaries for Canada and Mexico:

CANADA: Canada has very strict laws governing transportation of handguns and "military type" long guns. United States citizens may bring "sporting" rifles and shotguns into Canada. These must be declared to Customs officials when entering Canada. Handguns and other restricted weapons may be brought into Canada if a permit to transport has first been obtained from Canadian authorities. The permit is issued by a local registrar of firearms in a province for a limited period of time. The head of the provincial police can provide information as to where one is located. More information can be obtained from the Canadian Firearms Centre via the Internet at www.cfc-ccaf.gc.ca or by calling the Canadian Firearms Centre information line.

MEXICO: Bringing firearms into Mexico is severely restricted. Mexico allows bringing 2 sporting rifles or shotguns of an acceptable caliber and 50 rounds of ammunition for each for hunting. First, a tourist permit must be obtained from the Mexican Consulate having jurisdiction over the area where the visitor resides. Mexican [IMMIGRATION](#) officials will place a firearms stamp on this permit at the point of entry. A certificate of good conduct issued by the prospective hunter's local police department, proof of citizenship, a [PASSPORT](#), five passport size photos, a hunting services agreement with the Mexican Secretary of Urban Development and Ecology (issued by a Mexican Forestry and Wildlife Office), and a military permit (issued by the Military Post and valid for only 90 days) are all required to be in the hunter's possession while carrying the firearms. For additional information, contact the Mexican Embassy or Consular Office.

Additional Resources

Encyclopedia of Gun Control and Gun Rights. Glen H. Utter, Oryx Press, 1999.

Gun Rights Factbook. Alan M. Gottlieb, Merrill Press, 1998.

Gun Laws of America: Everyday Federal Gun Law on the Books, with Plain English Summaries, Third Edition. Michael P. Anthony and Alan Korwin, Bloomfield Press, 1999.

<http://www.nraila.org>. "Firearm Laws" National Rifle Association Institute for Legislative Action, 2000.

U.S. Code, Title 18: Crimes and Criminal Procedure, Part I: Crimes, Chapter 44: Firearms. U.S. House of Representatives, 1999. Available at http://uscode.house.gov/title_18.html.

Organizations

Center to Prevent Handgun Violence (CPHV)

1225 Eye St. NW, Ste, 1100
Washington, DC 20005 USA
Phone: (202) 289-7319
Fax: (202) 408-1851
URL: <http://www.cphv.org>
Primary Contact: Sarah Brady, Chairperson

Citizens Committee for the Right to Keep and Bear Arms (CCRKBA)

Liberty Park 12500 NE 10th Pl.
Bellevue, WA 98005 USA
Phone: (425) 454-4911
Fax: (425) 451-3959
E-Mail: info @ccrkba.org
URL: <http://www.ccrkba.org>
Primary Contact: Joe Waldron, Executive Director

Gun Owners Action Committee (GOAC)

862 Granite Circle
Anaheim, CA 92806 USA
Phone: (714) 772-4867
Fax: (714) 772-4867
E-Mail: goac @ix.netcom.com
Primary Contact: T. J. Johnston, Executive Officer

Gun Owners Incorporated (GOI)

10100 Fair Oaks Blvd., Ste. I
Fair Oaks, CA 95628 USA
Phone: (916) 967-4970
Fax: (916) 967-4974
E-Mail: guno wnca@aol.com
URL: <http://www.gunownersca.com>
Primary Contact: Sam Paredes, Contact

National Association to Keep and Bear Arms (NAKBA)

PO Box 234
Maple Valley, WA 98038-0234 USA
Primary Contact: Ted Cowan, Secretary-Treasurer

National Rifle Association of America (NRA)

11250 Waples Mill Rd.
Fairfax, VA 22030 USA
Phone: (703) 267-1000
Fax: (703) 267-3989

Toll-Free: 800-672-3888

E-Mail: comm@nrahq.org

URL: <http://www.nra.org>

Primary Contact: Wayne R. LaPierre, Jr., Executive Vice President

Second Amendment Foundation (SAF)

12500 NE 10th Pl.

Bellevue, WA 98005 USA

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Fax: (206) 451-3959

Toll-Free: 800-426-4302

URL: <http://www.saf.org>

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