
Allegheny County Sportsmen's League Legislative Committee Report

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ALLEGHENY COUNTY SPORTSMEN LEAGUE ON THE INTERNET <http://www.acslpa.org>

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ACSL's Lawsuit Against Gov. Tom Ridge.

There has been no movement in our lawsuit by Commonwealth Court. However, it has been reported to the ACSL Legislative Committee that the Southwest Division of the Pennsylvania Federation of Sportsmen's Clubs has approved a motion from Armstrong county to send a letter to the ACSL supporting the ACSL's lawsuit against Governor Ridge and the Pennsylvania State Police Commissioner Paul Evanko. This is a strong departure from the PFSC who has yet to take a position on the ACSL's lawsuit. It is important to note in that regard that two of the PFSC's officers server as members of the Governor's Sportsmen's Advisory Council. The GSAC has never taken a position on the lawsuit.

Allegheny County Metal Detectors and Firearm Prohibition

We receive the following question from an interest gun owner;

"What is your opinion on the new city policy about no weapons in the City County Building??"

Metal detectors are now in operation at "THE PUBLIC SAFETY BLDG." also.

We, "employees " have been advised in writing that any weapons, if found while entering , will be confiscated and "NOT RETURNED. Only Police officers will be allowed to enter while armed.. I feel cheated,,,all three of my son's are allowed to carry firearms into the bldg. but I, as not only the father of these policemen,,, but a 30 yr employee of the city ,,,, a Captain on the fire dept,,, and a licensed to carry citizen will have my firearm CONFISCATED!!!
GIVE ME A BREAK!!!!!"

This is our reply.

It is becoming obvious that this is an issue we will have to address since 911.

Current law, Section 913, prohibits the possession of a firearm in a Court Facility. Section 6106 governs the carrying of a firearm without a license, and section 6109 governs the issuance of the license to carry a firearm concealed. Both the Court House and City County Building house Court Facilities. A court facility is defined in section 913 as, "*The courtroom of a court of record; a courtroom of a community court; the courtroom of a district justice; a courtroom of the Philadelphia Municipal Court; a courtroom of the Pittsburgh Magistrates Court; a courtroom of the Traffic Court of Philadelphia; judge's chambers; witness rooms; jury deliberation rooms; attorney conference rooms; prisoner holding cells; offices of court clerks, the district attorney, the sheriff and probation and parole officers; and any adjoining corridors*" However, section 913 also provides that these buildings must provide a facility for the checking of firearms. The County Court house has limited space for the checking of a firearm, we use it when the ACSL meets in the County Court House each month. We do not know if the City County Building has such a facility but the law required them to provide one.

The law does not address giving any local government the authority to prohibit firearms in any other facility. In fact, section 6120 of the Pennsylvania Uniform Firearms Act expressly prohibits any local ordinances to control the transportation and possession of a firearm. So such a prohibition would in my opinion be illegal under the law, and any firearms that are confiscated would have to be returned.

We have recently been informed that the Department of Environmental Protection has issue a directive that all

employees of the DEP will be prohibited from possessing a firearm on DEP property, whether they have a license to carry or not. A couple of months ago we were asked to come to Harrisburg by Rep. Teresa Forcier from Crawford county, to meet with the Secretary of the DEP David Hess on this issue. Teresa also invited Professor John Lott to have a private discussion with the Secretary Hess. Professor John Lott you may know conducted the now famous study on concealed carry permits and has published the book *More Guns, Less Crime*.

In spite of all of the facts that we gave the Secretary he nevertheless violated the law and the rights of DEP employees, and issued the directive. His defense is that he was operating under a directive from then Governor Tom Ridge. As a result Rep. Forcier is going to introduce legislation to prohibit such directives.

It looks like we are going to have to deal with another issue. Keep us informed if you learn of any individual who has his firearm confiscated while in possession of a concealed carry permit. Any other possession of a firearm is illegal, whether in a public facility or any other facility other than his/her home or place of business.

If anyone wants a copy of section 913,

Commonwealth Court Decides Against George Venesky

On January 8, 2002 Commonwealth Court of Pennsylvania, in a 6-2 decision with Judge James Kelley and Doris Smith desenting, decided against former Game Commissioner George Venesky. The court ruled on a preliminary objection by the Governor that he, and her alone, had the power to remove a sitting Commissioner. The court ruled that "In the absence of statutory language governing the removal of game commissioner or from which we might infer legislative intent to limit the power of removal, the Governor, as the appointing power, may remove game commissioners at will."

The court referred to that portion of Article 6, Section 7 of the Pennsylvania Constitution that states; "Appointed civil officers, other than Judges of the courts of record, may be removed at the pleasure of the power by which they shall be appointed." In turn the Court agreed with the Governor and the Attorney General's office that any member of the Commission could be remove by the Governor at anytime for any reason. Under this decision, the next Governor of Pennsylvania can remove every member of the Commission

and replace them with his own hand pick members, and thus control the actions of the Pennsylvania Game Commission.

What the court left undecided is Section 301(a) of the Pennsylvania Game Laws that provides for the appointment of Game Commissioners. That provision says that an individual "shall be appointed by the Governor, and by and with the advice and consent of two-thirds of the elected members of the Senate (emphasis added). Under that statutory language the appointing authority is also the Pennsylvania Senate. If the Governor has the power to appoint and remove, the question remains why then is there needed a 2/3rds confirmation by the Senate?

Mr. Venesky has already announced that he will appeal the decision to the Pennsylvania Supreme Court

House Bill 2181

According to a [December 8, 2000](#) news release Vern Ross, executive director of the Pennsylvania Game Commission announced that the Game Commission was to review the Game Lands regulations to "better protect these wild place form misuse and degradation." According to Ross;

"The focus of this review is to identify what uses of state game lands have led to degradation or destruction of wildlife habitat or are having negative impacts on nesting or wintering wildlife populations," Ross said. "The review process may ultimately lead to changes in some regulations governing approved activities on the nearly 1.4 million acres of state game lands, nearly all of which were originally purchased with hunters' dollars.

Ross went on to say;

Ross said the agency's legislatively mandated mission is to protect and manage Pennsylvania's wild birds and mammals and to develop, conserve and preserve critical wildlife habitats. He noted that increased recreational activities not consistent with the agency's legislated mission also may jeopardize its ability to continue receiving federal funds through the Pittman-Robertson program. Last year, the Game Commission received nearly \$7.6 million in Pittman-Robertson funds.

On [January 25, 2001](#) the Pennsylvania Game Commission issued another news release announcing the first meeting of the Game Lands Use Recommendations Ad Hoc Committee.

Members of the ad hoc advisory committee are:

- Andy Mazzanti, a member of the [Governor's Sportsmen's Advisory Council](#), as a representative of hunters and trappers; (To help identify members of the Governor's

Sportsmen's Advisory Council see [GSAC](#) on the ACSL's web site.)

- Ron Freed, of the [Pennsylvania Audubon Society](#), as a representative of wildlife enthusiasts.
- John W. Stein, of the [Keystone Trails Association](#), as a representative of the hikers;
- G. Lowell Morton, of the [Pennsylvania State Snowmobile Association](#), as a representative of snowmobilers;
- Pete Johnson, of the [Pennsylvania Equine Council Inc.](#), as a representative of horse-back riders;
- Paul A. Lyskava, of the state [Department of Agriculture's Hardwoods Development Council](#), as a representative of the forest products industry;
- Rick Dunlap, of the state [Department of Community and Economic Development's Office of Tourism and Marketing](#), as a representative of the state's tourism industry;
- Richard Martin, of the [Keystone Mountain Bike Association](#), as a representative of mountain bikers; and
- Matt Ehrhart, of the [Chesapeake Bay Foundation](#), as a representative of water quality interests.

Other Game Commission ex-officio committee members are Bruce Metz, Southeast Region Land Management supervisor; and Michael Dubaich, Bureau of Law Enforcement Special Operations Division chief.

In addition, Paul Hindmarsh and Franca D'Agostino, of the Governor's Office of Administration Bureau of Management Consulting, served as the facilitators.

According to Clayton VanBuskirk Commission Game Land Planning and Development Division chief and ex-officio member of the advisory committee;

"An expanding human population and urban and suburban sprawl have taken their toll on State Game Lands," VanBuskirk said. "In certain areas, alternate users have negatively impacted State Game Lands by causing soil erosion, disturbance to wetlands or other sensitive areas, disruption of nesting or over wintering wildlife populations, and disruption of lawful public hunting and trapping. In other areas, we have witnessed instances in which such activities were destroying habitat in cultivated openings where grasses, shrubs or trees were planted to provide food or cover for wildlife. That is not to suggest that the

impacts were deliberate. But regardless, they are impacts that must be acknowledged and dealt with."

After that everything went down hill.

The Committee met 5 times and published a report on 11 [recommendations](#) to change Game Commission Regulations on the alternative use of State Game Lands that had preliminary support of the Game Commission Staff. On [August 15, 2001](#) the Game Commission announced a series of [open houses](#) to allow for public input on the recommendations. Then at the final meeting of the Ad Hoc Committee on [November 6, 2001](#) they made a radical departure from the original proposal and made three drastic changes, two of which even the Pennsylvania Game Commission opposed. Those changes would have opened State Game Lands to use by horse back riders, ATV users and snowmobilers even during hunting season.

These final recommendations are being submitted to the Pennsylvania Board of Game Commissioners for their consideration at their next meeting. In his [December 14, 2001](#) letter to Stakeholders, Clayton VanBuskirk announced plans to provide for public comment on the recommendations on Sunday January 13, 2002.

Also accompanying the recommendations is a [December 10, 2001](#) letter from Vern Ross, executive director of the Pennsylvania Game Commission. In his letter Ross objects to the changes in recommendations #5 and #10. However Ross does not object to recommendations #11 which is just as objectionable. Recommendations #11 states: *"It is not the intention of the Pennsylvania Game Commission to eliminate the activities such as riding horses or mountain bikes on game lands, but to limit such uses to maintained roads or routes specifically designated (marked by positive signage) for these uses."* It is the ACSL's position that this usage is in violation of state and federal law. *The members of the Game Lands Use Recommendations Ad Hoc Committee apparently have been lobbying the legislature to open up State Game Lands to secondary usage and has apparently lead to legislation being introduced. A review of their web sites shows that an active lobbying effort is in place. On November 20, 2001 House Bill 2181 was introduced that would require the Game Commission to pass only those regulations, concerning secondary State Game Lands use, through the [Independent Regulatory Review Commission](#). In the preamble of the bill the sponsors make it clear that they hope that their action will wrestle control of secondary use of State Game Lands from the Pennsylvania Game Commission. They fail to recognize that state game laws give control of these lands to the Commission in [Section 721 - Control of Property](#).*

Currently the Game and Fish Commissions are exempt from the [Regulatory Review Act](#). This act requires that all state regulatory agencies must first submit new regulations through the [Regulatory Review Process](#) and get final approval from the Independent Regulatory Review Commission before these regulations can go into effect. This change would not effect other regulations that the Game Commission staff would propose, but land management is a critical function of the authority vested in the Pennsylvania Game Commission. Improvement in habitat, and Quality Deer Management all require land us changes. The Game Commission could be crippled

In order to understand where we are in this debate it is important to understand what has occurred to date, and what state and federal law has to say in regards to secondary use of State Game Lands as it pertains to hunting.

Because of pressure brought on by alternate users of state lands to open up State Game Lands to their use the Pennsylvania Game Commission decided to form an Ad Hoc Committee of those users and have them develop the regulations on how SGL are to be regulated. The ACSL's objection was that no organized sportsmen's group was represented on the Ad Hoc Committee. The hope would be to quell the outcry of these individuals and prevent these users from degrading wild life habitat on SGL. Unfortunately this backfired and now the legislature has gotten into the act and is threatening the independence of the Game Commission by forcing the Game Commission to open up SGLs to secondary usage. This secondary usage would be in violation of state and federal law.

Some time after the passage of the federal Wildlife Restoration Act, the state of Pennsylvania decided to petition the federal government for Pittman-Robinson Act funding. The Pittman-Robinson Act distributes monies collected from an excise tax on handgun, rifle, shotgun and archery equipment. These monies are distributed to the states through a complicated formula in which the Pennsylvania Game Commission is scheduled to receive \$7,823,173 in fiscal year 2002.

According to the section one of the [Wildlife Restoration Act](#) "*.. no money apportioned under this Act to any State shall be expended therein until its legislature, or other State agency authorized by the State constitution to make laws governing the conservation of wildlife, shall have assented to the provision of this Act and shall have passed laws for the conservation of wildlife which shall include a prohibition against the diversion of license fees paid by hunters for any other purpose than the administration of said State fish and game department, except that, until the final adjournment of the first regular session of the legislature held after the passage*

of this Act, the assent of the Governor of the State shall be sufficient."

Pennsylvania agreed and enacted into law what is now [Section 324, Cooperation with Federal Government](#), of Title 34 of the Pennsylvania Game Law. That section reads;

"The Commonwealth assents to the provisions of the Federal Wildlife Restoration Act (16 U.S.C. 669 et seq.) in which the Secretary of the Interior is authorized to cooperate with the states through their respective fish or wildlife agencies in wildlife restoration projects, including a prohibition against the diversion of license fees paid by hunters to purposes other than administration of the wildlife agency. The commission shall perform such acts as may be necessary to the conduct and establishment of these cooperative wildlife restoration projects and in compliance with regulations promulgated thereunder."

In addition to Section 324, [Section 722\(a\)](#) . Use of Property the General Assembly further restricted the use of State Game Lands. That Section reads;

a) General rule.--Except as provided in [section 723](#) (relating to exchange or sale), all or any part of the lands and waters to which title has been acquired for the use of the commission or which have been leased may be used only to create and maintain public hunting and furtaking, game or wildlife propagation areas, farms or facilities for the propagation of game or wildlife, special preserves as provided for in this title or other uses incidental to hunting, furtaking and game or wildlife resource management.

In passing the above provision of state Game Laws the state of Pennsylvania moved in compliance with Title 50, Part 80, [Section 80.21 Assurance](#). That section read;

"The State must agree to and certify that it will comply with all applicable Federal laws, regulations, and requirements as they relate to the application, acceptance, and use of Federal funds under the Acts. The Secretary shall have the right to review or inspect for compliance at any time. Upon determination of noncompliance, the Secretary may terminate or suspend those projects in noncompliance, or may declare the State ineligible for further participation in program benefits until compliance is achieved."

In other words, since the state of Pennsylvania agreed to accept Federal Wildlife Restoration Act money, it can not use Pittman-Robinson funds, nor funds derived from license fees for any purpose other than the administration of the wildlife agency. If the state decides to violate the restriction in the Act it will become ineligible for further participation in the program. It is clear, that regulating secondary usage is a violation of state and federal law.

If we look at Federal Wildlife Restoration Act Regulations

the restriction on secondary usage is even more clear.

Title 50, Wildlife And Fisheries, Part 80, [Section 80.14 Application of Federal Aid funds](#), says in (b) that "*(b) Real property acquired or constructed with Federal Aid funds must continue to serve the purpose for which acquired or constructed.*" In addition section 2 of Section 80.14 says; "*(2) When such property is used for purposes which interfere with the accomplishment of approved purposes, the violating activities must cease and any adverse effects resulting must be remedied.*"

[Section 80.4 Diversion of License Fee](#), puts the final nail in the coffin. That section makes it clear that if the state decides to accept Wildlife Restoration Funds not only is there a prohibition on Pittman-Robinson Funds, but none of its [hunting license fees](#) can be use for purposes other than administration of the State fish and wildlife agency. Section 80.4 reads; "*Revenues from license fees paid by hunters and fishermen shall not be diverted to purposes other than administration of the State fish and wildlife agency.*" Also in 80.4 (b) and (c) further restrictions. *b) For purposes of this rule, administration of the State fish and wildlife agency include only those functions required to manage the fish and wildlife-oriented resources of the State for which the agency has authority under State law. (c) A diversion of license fee revenues occurs when any portion of license revenues is used for any purpose other than the administration of the State fish and wildlife agency. (d) If a diversion of license revenues occurs, the State becomes ineligible to participate under the pertinent Act from the date the diversion is declared by the Director until: (1) Adequate legislative prohibitions are in place to prevent diversion of license revenue.*"

It is clear that state and federal law prohibits secondary usage of State Game Lands for purposes other than administration of state fish and wildlife agencies. So what would be the net effect of HB 2181.

In the preamble of HB 2181 it is stated in part that;

- (4) Regardless of specific funding, these lands are public.
- (5) Hunting must be maintained as the primary usage of these lands.
- (6) New policy and legislation needs to be developed to allow for multiuse recreation opportunities, of such public lands, as an acceptable secondary usage of such lands.

These statements are part of the preamble of the bill and will not become law should the bill pass the General Assembly. What will become law is the underlined changes to section 1

of the Regulatory Review Act. What will change is the exemption that the Game Commission currently enjoys from having their regulations being approved by the Independent Regulatory Review Commission. What would be repealed would be any regulations "*to the extent the Pennsylvania Game Commission promulgates a regulation relating to access and recreation opportunity as a secondary uses of State Game Lands*" and in section 2 of the bill, "*All regulations or parts of regulations and all actions of the Pennsylvania Game Commission relating to access and recreation opportunity as secondary uses of State game lands which are in effect on the effective date of this section and that were not subjected to the provisions of the act are abrogated.*"

In other words, any regulation that the Pennsylvania game Commission would decide to enact must first go through the Regulatory Review Process and obtain approval before the Commission can enforce the regulation. Also, all regulation currently in place at the time of the passage of HB 2181 would be repealed.

The down side of this legislation is that it is a dangerous move toward eliminating the independence of the Pennsylvania Game Commission. It opens up consideration of the use of State Game Land to the wishes of anti-hunters, and it could allow non-hunters to convince the Independent Regulators Review Commission to permit the use of State Game Lands. If that type of regulation would be approved, that decision would make Pennsylvania ineligible for Wildlife Restoration Act funding. Also the process is very long and time consuming, and would delay any use of State Game Lands for Wildlife Habitat improvement for example that should only be considered by hunters and the Board of Commissioners in conjunction with Game Commission biologists.

On the upside it would force the Game Commission to draft regulations in compliance with both state and federal law in regards to State Game Lands use.

Currently the Game Commission regulatory process is as follows. The Commission drafts regulatory changes. The draft must be approved by the office of Attorney General as to fact and law. Finally, the regulatory changes are approved by the Board of Commissioners.

If HB 2181 would pass the following would occur;

The Game Commission would still draft the regulatory changes, but the new regulation(s) would have to go through the Regulatory Review Process. The regulatory review process requires that independent agencies of the state submit

their regulation(s) directly to the Attorney General who has 30 days to complete his review. The proposed regulation is also reviewed by the Governor's General Counsel who may question every aspect of the agency's proposed regulation, either as a matter of policy or as a matter of law. After the Attorney General completes his review the proposed regulation is submitted to the Independent Regulatory Review Commission, appropriate Committees of the House and Senate, and the Legislative Reference Bureau. The Legislative Reference Bureau publishes the regulation in the Pennsylvania Bulletin, and the public comment begins. Anyone may submit comments to the agency, in this case the Game Commission, expressing support or opposition to the regulation. In addition the appropriate House or Senate Committee may also submit comments to the agency within 20 days. The proposed regulations are then considered by the Independent Regulatory Review Commission who must submit comments within 10 days of the Close of the Committees' comment period. In this process it is possible that the Commission can approve a regulation and one or both of the Committees can disapprove the regulations. This process is very time consuming, however, the AG, the Governor, the Senate and House Committees, and the IRRC must all conduct themselves in accordance with state and federal law. With other agencies such as the Pennsylvania State Police this is the only opportunity that the citizens of Pennsylvania have to provide oversight and insure us that the agencies will conduct themselves in compliance with newly enacted legislation. The IRRC is a good thing for the average citizen, and a problem for the agencies. However these other agencies do not have a Board of Commissioner like the Game Commission, so there is no regulatory review process without the IRRC. If we are to protect our rights, all agencies of government must have oversight.

Independent Regulatory Review Commission

Members of the Independent Regulatory Review Commission are appointed. One commissioner is appointed by the Governor to serve at the Governor's pleasure, one by the President pro tempore of the Senate, one by the Speaker of the House of Representatives, one by the Minority Leader of the Senate and one by the Minority Leader of the House of Representatives.

Each member is appointed for three years, and a commissioner may not serve more than two full terms. The commissioner who is elected to serve as chairperson shall receive \$300 per day as compensation for services rendered to the commission. Each other commissioner shall receive \$250 per day as compensation for services rendered.

A commissioner may not be removed during the commissioner's term of office. The Governor may, with the approval of two-thirds of the members of the Senate, upon clear and convincing evidence of misfeasance or malfeasance in office or neglect of duty, remove a commissioner prior to expiration of the commissioner's term. (Governor Ridge and our Attorney General believes that the Governor should be able to remove members of the Board of Game Commissioner at any time, without due process)

Even though the preamble HB 2181 is seeking the opportunity to control secondary usage of State Game Lands, the supporters of this bill are restrained by law and they can not force the Game Commission to open up State Game Lands to Secondary usage.

However the Game Commission is also seeking to open up limited usage of State Game Lands to secondary usage, and they do not agree that state law and the Federal Wildlife Restoration Act prohibits secondary usage of State Game Lands. So it is not clear why HB 2181 was introduced.

It is obvious that the Administration and the Republican leadership are supporting both approaches because neither approach would have gotten this far.

The future of hunting in Pennsylvania is clearly in jeopardy, and hunters better start waking up. The ACSL has raised it voice to the Pennsylvania Game Commission against the Ad Hoc Committee's Recommendations both to the November 6, 2001 changes and the recommendations drafted before that date, which the Commission supports. We have also sent letters to our Commissioner Roxanne Palone. Ms Palone does not agree that the Federal Aid to Wildlife Restoration Act prohibits such use, but the Regulations in [Title 50-- Wildlife and Fisheries](#) tell a different story. Again we believe that this is all a part of the Administration's goal to open up hunting lands to secondary usage.

Attorney General Request Meeting with ACSL

Attorney General Mike Fisher has requested that the ACSL come to Harrisburg to meet and discuss our proposal to reform our reciprocity provision in state law.

In October the attorney general call the ACSL that he had secured two reciprocity agreements. Agreements have been reached with Kentucky and Florida. However, an agreement with Virginia is pending if we can give this a central phone

number of verify the validity of a valid license to carry. The state police refused, and the agreement is dead in the water.

As a result, the ACSL has drafted a proposal that would provide for the attorney general's office to main a list of license numbers of a license.

Hopefully we can get support from the AG for our language and move to get it approved by the General Assembly.

Candidate for Lt. Governor and ACSL to Hold Meeting

Senator Allen Kukovich, a recently announced candidate for Lt. Governor of Pennsylvania has agreed to hold a meeting with officer of the ACSL regarding his record on firearms issue. The meeting is scheduled to take place later in January; a date has yet to be announced.

NRA-ILA FAX Alert

Vol. 8, No. 49

12/14/01

SECTION 1062 ELIMINATED!

Thanks in large part to the efforts of **U.S. Representative Bob Stump** (R-Ariz.), the **House Armed Services Committee Chair, Section 1062 of S. 1438**, the "**National Defense Authorization Act for FY 2002**," was stripped from the House-Senate Conference Committee's final report. Sec. 1062—included at the last minute in the version of the Defense Authorization bill passed by the Senate, but not in the House's version—sought to provide the **Secretary of Defense** with the authority to require "demilitarization" of ny "significant military equipment" that has ever been owned by the **Department of Defense** (DoD). This would include firearms (such as the venerable **M1, M1 Carbine**, and **Model 1911**, as well as all **Civilian Marksmanship Program** rifles, even "sporterized" surplus bolt-action **Springfields!**), firearm barrels, ammunition, and gun powder. "Demilitarization" is the term for rendering such items permanently inoperable. Sec. 1062 would have allowed for this action to be carried out either by the owner or a third party, with the owner paying the cost, or by the DoD. However, if the DoD were to determine it should perform the demilitarization, Sec. 1062 would have also allowed it to determine whether the cost of returning the demilled item is prohibitive. If decreed cost-prohibitive, DoD could then simply keep the item, and

reimburse the owner only for the fair market scrap value of the item.

Representative Stump deserves the thanks of the entire pro-gun community, as do those NRA members and other activists who took the time to contact members of the House-Senate Conference Committee to urge them to strip Sec. 1062 from the "National Defense Authorization Act for FY 2002."

SCHUMER AND KENNEDY MOVE TO REGISTER LAW-ABIDING GUN OWNERS

Exploiting the media frenzy over terrorism, **U.S. Senators Charles Schumer** (D-N.Y.) and **Ted Kennedy** (D-Mass.) have introduced **S. 1788**, legislation that seeks to eviscerate the federal law that prohibits creation of a national firearms registry. Their legislation would make **National Instant Check System** (NICS) records—records on gun purchasers who have cleared the criminal record check—available to "any federal, state or local law enforcement agency in connection with a *civil* or criminal law enforcement investigation." The anti-gun pair introduced a virtually identical bill, S. 1253, in July.

Kennedy and Schumer introduced their latest bill in response to last week's decision by the **Department of Justice** (DOJ) that reaffirmed that the records generated by NICS that do not result in an individual being denied the ability to purchase a firearm cannot be used for anything other than what the **Brady Act**—which established NICS—allows. Current federal law requires that all records of cleared purchases be destroyed, and although the anti-gun **Clinton-Reno** DOJ determined it could keep such records in an "audit log" for as long as six months, it also established regulations that specifically *prohibit* using these records for anything other than auditing NICS. **Attorney General John Ashcroft** ruled earlier this year that the original intent of the Brady Act's record destruction requirement demanded more immediate action than the Clinton-Reno six-month time frame, and he established regulations instructing that destruction of the records must take place no later than 24 hours after the purchase—a decision that resulted in bitter attacks in the media and by anti-gun-rights organizations.

Currently, records of felons, fugitives, illegal aliens, drug users—all persons whose possession or purchase of any firearms is a federal crime, and who are blocked by NICS if they attempt to buy firearms—are statutorily required to be kept indefinitely. Those records are always available to law enforcement. Anti-gun extremists have been attempting for weeks to invoke the specter of terrorists

acquiring firearms as justification for their attempts to end traditional American gun shows (see *NRA-ILA FAX Alerts Vol. 8, Nos. 39, 46, & 48*), and now they are doing the same to promote their attempts to create the mechanism to establish a registry of law-abiding gun purchasers.

NRA Executive Vice President Wayne LaPierre called the Kennedy-Schumer legislation "gun owner registration, plain and simple." He cautioned, "Clearly, this will be the basis of a national firearms-owner computer registry that would profile decent honest citizens, violate their privacy, and provide a locator to assist Kennedy's and Schumer's vision of ultimately banning private ownership of firearms. Of more immediate danger are the 'civil' data sharing provisions in this legislation that will make National Instant Check records on decent law-abiding people available to trial lawyers."

EVP LaPierre went on to ask, "What if **Chicago Mayor Daley** or the **Attorney General in Massachusetts** demanded custody of the entire NICS audit log as part of a 'civil or criminal law enforcement investigation?' You have to think about what a Janet Reno or any future anti-gun-rights Attorney General would do with this power."

Although the Schumer-Kennedy legislation contains provisions for the destruction of NICS audit log records after 90 days, destruction wouldn't apply to records given to other federal, state or local agencies as part of an ongoing civil or criminal probe. Once the personal information is out of the hands of the feds, it could become part of a permanent record elsewhere, perhaps with the reckless city suits designed to bankrupt the firearms industry.

The attacks on Ashcroft began immediately following his refusal to allow the release of the names of tens of thousands of Americans who had cleared extensive background checks for comparison with lists of the individuals, mostly illegal aliens, who were in custody as part of the government investigation of terrorism. While Ashcroft was simply doing what the law required—protecting the rights of innocent persons—the gun-ban lobby formerly known as **HCI** actually suggested that the Attorney General turn his back on enforcing the law, and stated Ashcroft should have willfully violated federal law to allow the privacy of law-abiding citizens be invaded.

Even prior to the passage of the Brady Act, federal law specifically forbid "that any system of registration of firearms, firearms owners, or firearms transactions or dispositions be established," and when the Brady Act was enacted, further restrictions were written into the law to prevent federal agencies from retaining information on gun purchasers *cleared* after a federal/state background check. In fact, other than a unique number referencing a *lawful* firearms transaction, the law demands that the

system (NICS) "destroy all records of the system relating to the person or the (firearms) transfer." But these facts are immaterial to anti-gun extremists, and they and their supporters in the media have launched a nationwide campaign attacking Ashcroft, both personally and professionally, for his efforts to remain within the confines of the law while working to fight terrorism.

NRA-ILA Executive Director James Jay Baker warns: "It is imperative that NRA members and firearms owners counter the media hype and explain to their friends and neighbors that this is not about denying law enforcement any records that bear on criminals or terrorists and guns. This is about preserving the privacy rights of decent innocent people." NRA members and the rest of the pro-gun community must contact their federal lawmakers to object to the passage of S. 1788, the Kennedy-Schumer legislation that would turn NICS into a de facto registration system for law-abiding gun purchasers. [You can reach your U.S. Representative at \(202\) 225-3121, and your U.S. Senators at \(202\) 224-3121. You can also find additional contact information by using our "Write Your Reps" tool.](#)

RENO'S CAMPAIGN LOOKING "ROSIE"

While there was little question regarding former **Attorney General Janet Reno's** (D) anti-gun views, the **Florida** gubernatorial candidate appears to have recruited Hollywood's most shrill anti-gun voice to assist with her campaign to unseat pro-gun **Governor Jeb Bush** (R). The **AP** reports that **Rosie O'Donnell** has agreed to raise money for Reno by hosting an event on December 30. A site for the event has yet to be determined, as Rosie's mansion on Miami Beach's Star Island will be in use at the time. Rosie is well known among the pro-gun community for verbally ambushing actor **Tom Selleck** for being a supporter of NRA—a tirade that helped her to win **E! Entertainment Television Networks' 1999 Tacky Taste Award** as "the tackiest show-biz personality."

BUSH CHOOSES RACICOT TO HEAD RNC

President Bush (R) has asked the **Republican National Committee** (RNC) to select former **Montana Governor Marc Racicot** (R) to be the new RNC Chairman. Racicot, who received the **NRA-PVF** endorsement in 1996, and signed a number of pro-gun reforms into law during his administration, would replace **Virginia Governor Jim Gilmore** (R). Gilmore announced his resignation on November 30. NRA-ILA welcomes Governor Racicot to the post.

GUN-BAN LOBBY CONTINUES TO EXPLOIT FEAR OVER TERRORISM

The gun-ban lobby formerly known as **HCI** is continuing its despicable tactic of exploiting our nation's concerns over terrorism in order to further their attacks on our Right to Keep and Bear Arms. On Wednesday, the group's president, **Michael Barnes**, held a press conference to announce the release of a "comprehensive report" he hopes will help rejuvenate several aspects of his stalled anti-gun agenda. This particular piece of propaganda, however, combines purposeful lies with sloppy fact checking in an amateurish attempt to link a number of anti-gun proposals to the war on terrorism.

The report offers nothing new, though. One aspect includes attacks on traditional American gun shows that consist of little more than a simple regurgitation of the myth that "terrorists" use gun shows to pose a threat to national security—a myth created by the anti-gun organization [Americans for Gun Safety](#) (AGS) that was completely discredited by NRA (see *NRA-ILA FAX Alerts Vol. 8, Nos. 39 & 46*).

Besides the terrorist/gun shows myth that has become widely popular among the anti-gun crowd, the gun-ban lobby's report also promotes renewing the ban on so-called "assault weapons," implementing a firearm rationing scheme, establishing a registration system for all gun purchasers, and it also attempts to justify the reckless lawsuits designed to bankrupt law-abiding gun makers. Besides the terrorist/gun shows myth that has become widely popular among the anti-gun crowd, the gun-ban lobby's report also promotes renewing the ban on so-called "assault weapons," implementing a firearm rationing scheme, establishing a registration system for all gun purchasers, and it also attempts to justify the reckless lawsuits designed to bankrupt law-abiding gun makers.

The report itself is a rather curious document, and in many ways, rather amateurishly constructed. As should be expected, it makes a number of outrageous claims regarding the "need" to pass new anti-gun laws, then tries to "support" them. For example, the report claims that no laws currently exist that prevent "terrorists from quickly amassing arsenals of weapons," although the fact is that there are numerous laws, including federal laws, that prohibit violent criminals from purchasing or possessing a single firearm. But strangely, to justify its claim, the gun-ban lobby's report highlights a case that had nothing to do with a terrorist organization that had amassed an "arsenal." Instead, it discussed a single violent criminal who had knowingly violated current

federal law when he acquired two handguns. And to further justify a firearm rationing scheme, the report also addresses "corrupt gun dealers," but cites three cases that actually showed existing laws worked to uncover criminal activity.

Targeting so-called "assault weapons," the gun-ban lobby boldly lies, claiming anybody can "purchase through the mail every part necessary to make a completed high-capacity, untraceable, assault weapon"—a claim that is absurdly false. And one case cited in the report is more an example of slipshod "research" than anything else. It states that **Mir Aimal Kasi** murdered two CIA employees and wounded three other individuals on January 24, 1997. This crime, however, took place on January 25, 1993, and other inaccurate dates confirm a complete disregard for accuracy.

Wednesday's press conference was attended by the usual crowd of anti-gun lawmakers, including **U.S. Senators Dick Durbin** (D-Ill.), **Dianne Feinstein** (D-Calif.), and **Jack Reed** (D-R.I.), and **U.S. Representative Henry Waxman** (D-Calif.). Also on Wednesday, **Senate Majority Leader Tom Daschle** (D-S.D.) pledged to bring Jack Reed's anti-gun shows bill, [S. 767](#), to the floor early next year. NRA members and the rest of the pro-gun community must continue to contact their federal lawmakers to object to the passage of any anti-gun legislation. Remind your elected officials that the war on terrorism will not be won by attacking the rights of American citizens. [You can reach your U.S. Representative at \(202\) 225-3121, and your U.S. Senators at \(202\) 224-3121. You can also find additional contact information by using our "Write Your Reps" tool.](#)

AMA's SECRET CONFERENCE ON GUNS

When the **American Medical Association's** (AMA) president, **Dr. Richard Corlin**, launched his presidency in June 2001, his inaugural address included the pronouncement that the nation's most well-known doctor's group should openly admit to political activism in the firearm debate. NRA reported on this "new" agenda (AMA has actually been supporting attacks on the Second Amendment for years) both in this publication (see [NRA-ILA FAX Alert Vol. 8, No. 25](#)), as well as in the August 2001 issue of *America's 1st Freedom*. And NRA members responded, inundating both Corlin and the AMA with objections to this aggressive, anti-gun agenda. Apparently, Dr. Corlin took notice.

In the December 17 issue of the *American Medical News*, Corlin revealed in an opinion piece that he had chaired a conference in November he described as including "the whole spectrum of organizations involved with the issue of gun violence," including "representatives of advocacy groups, both pro- and anti-gun." But the accuracy of this statement is highly debatable: NRA—the

largest organization dedicated to promoting the safe, responsible ownership of firearms, public safety, and law and order—was neither present, nor, does it appear, were we invited. In fact, we may simply have to take Dr. Corlin's word that America's approximately 65 million safe, responsible gun owners were well represented. When we asked the AMA who participated in this conference, we were told that such a list is not currently being made public. We may never really know who attended the meeting, who was invited, or what was actually discussed, as the AMA could choose to not make any specific information available to the general public.

Such secrecy, as well as the anti-gun history of Corlin and the AMA, raises serious doubt about the veracity of every claim made in Corlin's December 17 piece regarding this conference, including: the assertion that all participants agreed that physicians and the AMA should be involved in the debate over "gun control," that the AMA is "the one national organization" capable of coordinating efforts to reduce firearm-related fatalities, and that the AMA has the support of members of the pro-gun community. Corlin even makes the claim that one of the "pro-gun participants" stated, "If people outside of this room knew how the AMA conducted the meeting, it would go a long way to changing the perception of the AMA." Unconfirmed reports, however, indicate the "quote" is either a fabrication, or a case of extremely selective, and perhaps intentionally deceptive, editing, or a combination of the two.

But it is not necessary to have attended the meeting to expose Corlin as either intentionally deceptive, grossly incompetent, or a combination of these qualities. His article claims that he did not attack the Second Amendment in his inaugural address—where he referred to the Second Amendment as "a smokescreen." He also claims that his inaugural address comports with the policies the AMA has passed regarding firearms, that these policies do not represent attacks on the Second Amendment, and that AMA's policies do not "call for a ban on guns of any kind." In fact, several firearm-related AMA policy statements do mention supporting bans, while other policies include supporting legislation that would "restrict the sale and private ownership" of affordable handguns and certain semi-automatic firearms. Another specifically supports allowing any municipality to pass any restrictions on firearms it wants, including, one must presume, bans such as those that currently exist in crime-riddled cities such as **Chicago** and **Washington, D.C.** Plus, the AMA is an organizational member of the **HELP Network**, whose goal is an America where it is "socially unacceptable for private citizens to have handguns."

But to Corlin's credit, he does invite people to comment on the AMA's decision to publicly take on issues that fall

outside its purview. We are all concerned over crime, especially when it leads to law-abiding citizens being injured by their criminal attackers—regardless of whether the attacks involve a firearm, knife, club, or other tool used by criminals. But the debate over effective means to address crime should be left to those with expertise. And if the AMA would like to see fewer accidents that involve firearms, it should promote proven safety programs such as those developed by NRA.

NRA's commitment to promoting firearm safety is unsurpassed. We have upwards of 38,000 [NRA Certified Instructors](#) who reach approximately 700,000 people every year with instruction on how to handle firearms safely and responsibly. And our award-winning [Eddie Eagle GunSafe® Program](#) has taught more than 15 million children to avoid firearms when they are not under close, adult supervision. Our safety programs have helped lead to the lowest rate and number of firearms-related fatal accidents in U.S. history, and we will continue to work to drive those numbers even lower.

[If you wish to take Dr. Corlin up on his invitation to submit your comments, you can do so by writing to: Dr. Richard Corlin, President, American Medical Association, 1301 20th St., Santa Monica, CA 90404, or you can send e-mail to: \[richard_corlin@ama-assn.org\]\(mailto:richard_corlin@ama-assn.org\).](#)

ANOTHER PRO-GUN VICTORY AT THE POLLS

On Tuesday, voters in South Carolina's second congressional district overwhelmingly elected pro-gun **State Senator Joe Wilson** (R) in a special election to replace the late **Floyd Spence** (R), who passed away on August 17. The NRA-PVF-endorsed Wilson received 73% of the vote.

H.R. 2037 REACHES 203 COSPONSORS

H.R. 2037, the NRA-supported reckless lawsuit preemption bill introduced by **U.S. Representatives Cliff Stearns** (R-Fla.) and **Chris John** (D-La.), now has 203 cosponsors. This legislation seeks to prevent abuses to the American legal system that have seen firearms and ammunition manufacturers being recklessly sued for the criminal misuse of their lawful products by third parties.

If your U.S. Representative has not yet signed on as a co-sponsor for this much-needed legislation, he needs to hear from you today! To find out if your Representative is a co-sponsor, go to our "[Legislative Updates](#)" section, then use the "[Search for information on THOMAS](#)" link at the top of the page, and type in "H.R. 2037" in the space to search by bill number. If your Representative is not a co-sponsor, you can contact him by calling the U.S. House of Representatives' main switchboard at (202)

225-3121, then asking to be transferred to your Representative's office. For additional contact information, please use our "[Write Your Reps](#)" tool. Be sure to encourage your family, friends, and fellow firearm owners to contact their Representatives as well and encourage them to co-sponsor H.R. 2037!

Vol. 9, No. 1
1/4/02

CHICAGO COURT CASE BUCKS COMMON SENSE TREND

As reported by the New York Times (Jan. 3) and other media outlets, on Monday, an appellate court in Illinois upheld a reckless lawsuit against various gun manufacturers and distributors, claiming they were creating a public nuisance. The claim rests on the bizarre theory that since guns are sold in communities outside Chicago -- which has some of the most restrictive gun laws in the nation -- the gun industry is intentionally flooding that market with guns they know will illegally find their way into the city where they would be used by criminals.

The case involves a Chicago police officer killed in 1998 and four other victims killed in unrelated incidents. Judge William Cousins, Jr. wrote, "A reasonable trier of fact could find that the criminal misuse of guns killing persons were occurrences that defendants knew would result or were substantially certain to result from the defendants' alleged conduct." Such scenarios are a possibility, but to suggest such hypothesis is "reasonable" stretches the bounds of credulity, as well as long-established law.

In September 2000, a previous Chicago suit was dismissed at the trial level (and is on appeal before the same panel) that found the city's public nuisance complaint didn't hold water. Monday's ruling could still be appealed to the Illinois State Supreme Court.

Despite the fact that a majority of these reckless suits have been thrown out on their ears, this latest ruling demonstrates that there are still misguided jurists out there willing to defy both common sense and legal precedent. Further, it should serve as a clarion call for passage of H.R. 2037.

Currently with 203 co-sponsors, H.R. 2037 is the NRA-supported reckless lawsuit preemption bill introduced by U.S. Representatives Cliff Stearns (R-Fla.) and Chris John (D-La.). This legislation seeks to prevent abuses to the American legal system that have seen firearms and ammunition manufacturers being recklessly sued for the criminal misuse of their lawful products by third parties.

If your U.S. Representative has not yet signed on as a co-sponsor for this much-needed legislation, he needs to hear from you today! To find out if your Representative is a co-sponsor, go to www.NRAILA.org, go to the section called "Legislative Updates," then use the "Search for information on THOMAS" link at the top of the page, and type in "H.R. 2037" in the space to search by bill number. For those not on the Internet, you can call NRA-ILA Grassroots at (800) 392-8683. If your Representative is not a co-sponsor, you can contact him by calling the U.S. House of Representatives' main switchboard at (202) 225-3121, then asking to be transferred to your Representative's office. For additional contact information, please use the "Write Your Reps" tool at NRAILA.org. Be sure to encourage your family, friends, and fellow firearm owners to contact their Representatives as well and encourage them to co-sponsor H.R. 2037!

GETTING THE BAND BACK TOGETHER

For a number of former Clinton Administration officials, the thirst for power has yet to be quenched, as a slew of them are fanning out across the country to seek elected office. In the "Sunshine State," former Attorney General Janet Reno is pursuing the Democratic nod to run against Governor Jeb Bush (R). And as reported in a previous FAX Alert (Vol. 8, No. 49) anti-gun hypocrite Rosie O'Donnell has made good on her promise to help her. According to the Associated Press (Dec. 30), the shrill gun ban shill hosted a \$250 per person fundraiser for Reno at the posh waterfront home of Adrienne Arsht, Chairman of the Board of TotalBank. The event hoped to raise \$50,000 for Reno's gubernatorial bid. While the event was closed to the press, O'Donnell and Reno graced reporters with their presence outside the mansion's gate.

Meanwhile, further up the eastern seaboard, former Clinton Chief of Staff, Erskine Bowles, is seeking the Democratic nomination in the race to replace retiring Senator Jesse Helms (R). And north of that, in Massachusetts, ex-Labor Secretary Robert Reich is mulling a gubernatorial bid of his own. Out in the Midwest, one time Clinton anti-gun point man, Rahm Emmanuel, is pursuing a congressional bid. And finally (at least for now!), in the Southwest, former Energy Secretary, Bill Richardson, has announced he's running for Governor of New Mexico. And, of course, all are familiar with the former "co-president" now serving as the junior Senator from New York.