

Government Regulatory Action in the Firearms Industry  
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### **The Nature of the Firearms Industry in the United States**

The right to bear arms has long been considered a foundational aspect of American society. From the revolution up to the 21st century, American citizens have been able to access and own firearms. This industry has not only been present since the foundation of the country, but — contrary to population belief — has been regulated since then as well. Government intervention and regulation in the firearms industry has occurred in America for a variety of reasons; including power, safety and as a result of politicians desire for reelection. Regardless of the reason for government regulation, “the United States has always had gun laws in place, though the levels of enforcement have shifted dramatically over time,” (Bellesiles, 2001, p. 139).

The prominence of firearm sales in the United States today is evident, as “the 2023 firearm sales total of nearly 15.9 million is only slightly lower than the 2022 total of 16.4 million,” (Bellesiles, 2001). These sales have a large impact on the economy of the United States with an estimated annual revenue of \$18.6 billion, meaning government regulation impacts the economy as well. Understanding the motivation for, and implementation of regulations in this industry is crucial when viewing the industry’s function overall.

### **The History of Regulation in the Industry**

American citizens in favor of gun ownership have long cited the Second Amendment, which states, “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,” (Van Alstyne, 1993, p. 1236). However, many scholars believe the Second Amendment should be read with an understanding of the social context it was written in. Unlike current belief, the right to bear arms was not a right given to all citizens when this amendment was put in place, rather it was regulated based on who was considered a part of a “dangerous group” based on race or socioeconomic status (Bellesiles, 2001, p. 148). Not only did the federal government regulate the firearms industry in its earliest stages, but “every state had gun control legislation on its books at the time the Second Amendment was approved. Every state continued to pass such legislation after the Second Amendment became the law of the land,” (Bellesiles, 2001, p. 155). Additionally, the Second Amendment’s restriction of firearm regulation is not intended to impact smaller government organizations, as it “does not restrict state action; it operates only against the federal government,” (Brabner-Smith, 1933, p. 570). Since the establishment of the United States, both the federal government and states have played a role in firearm regulation.

State regulation of firearms following the wartime demand in the country during the early 1900’s can be broken down regionally, with regulatory patterns in northern and western states differing from patterns present in southern states. Northern and western states approached

firearm regulation from a safety standpoint, while southern states focused primarily on the exclusionary possibilities of regulation regarding African Americans' access to firearms (Bellesiles, 2001). Firearm regulation continued loosely until the assassination of President Kennedy in 1963.

This event brought with it “much public pressure on legislative bodies for increased firearms regulation,” (Brabner-Smith, 1933, p. 569). The resulting ideology regarding regulation of the industry was that “there are two main motivating factors in the drive for increased firearm regulation: the prevention of crime and the prevention of accidents,” (Brabner-Smith, 1933, p. 569). Federal regulation laws established are the National Firearms Act of 1934 and the Gun Control Act of 1968, however the majority of regulation of the firearms industry is in state regulation.

Regulation of the firearms industry became a ‘hot topic’ following the rise in school shootings during the 2010’s. A Gallup survey conducted in 2012 found that “58% of Americans supported stricter gun laws,” (WEBSTER et al., 2013, p. 239). Although many Americans are seeking stricter regulations, “33% of Americans reported having guns in their home or garage,” (WEBSTER et al., 2013, p. 241). Modern day government regulation in the firearms industry is primarily the result of popular public opinion and safety concerns.

### ***Social regulation theory and the Private Interest Model applied to the Firearm Industry***

Firearm regulation is most discussed when government official’s opinions on the issue are believed to be a tool for gaining public support. Although the topic of regulation of the firearm industry has been prevalent in recent years, “At the national level, gun control policy has remained essentially unchanged for the past twenty years,” (Vizzard, 2014, p. 880). This leaves the majority of regulation of the firearm industry to the local and state levels. Both the private interest model and social regulation theories apply to the government regulation in this industry at the state and local level.

The social regulation theory establishes a form of regulation targeted at the safety and equality of consumers and citizens involved in market activity. Regulations of the firearm industry fall under this category, as “environmental health, safety and homeland security regulation tends to be aimed at reducing risk of sickness, death, or injury,” (Dudley & Brito, 2012, p. 80). A study conducted by Yale’s Journal of Law established that public safety in the context of regulation in the firearm industry extended beyond a person’s desire for personal protection. The researchers recognized public safety as “the physical safety of citizens to free them to participate, without intimidation, in a wide variety of domains and activities (family, education, political protest, prayer, commerce, travel, voting),” (Blocher & Siegel, 2020, p. 11). While many Americans believe the right to bear arms is a necessity for public safety, statistically, government regulation of the firearm industry may be a necessary intervention as there were 627 mass shootings in the United States in 2023 (Alfonseca, 2023). This paradox between firearms as protection and firearms as dangerous weapons plays into the revolving door beliefs on gun control policy and the correct regulations of the firearm industry.

In addition to the need for government regulation, popular demand for intervention in the firearm industry adds another form of motivation for politicians to push gun control policies; this reflects the private interest model. The private interest model argues that “regulation is supposed in response to the demands of interest groups acting to maximize their own well-being... legislator’s behavior is driven by their desire to stay in office, which requires that they maximize political support,” (Dudley & Brito, 2012, p. 16). The political nature of firearm regulation leads politicians to promise regulatory action in exchange for reelection. Pew Research found that,

“Republicans and Republican-leaning independents are more than twice as likely as Democrats and Democratic leaners to say they personally own a gun,” (Schaeffer, 2023). With the 2024 election approaching, former President Trump has promoted his campaign by vowing to remove regulations President Biden put in place, while President Biden vows to keep the current regulations as they are (Layne, 2024).

### **Current application of firearm regulation**

The history of firearm regulation in the United States has shaped current policy and public opinion in many ways. The loose definition presented in the Second Amendment has created a wide range of public opinion of government regulation in the firearm industry, and as a result, federal, state and local governments all play different roles in this regulation. Additionally, major events in the history of the United States have shaped this regulation. The assassination of President Kennedy marked an era of emphasis on stricter regulation, while the 2010’s school shootings resulted in the topic of firearm regulation evolving into a more political issue than merely a public safety concern.

While little has changed federally in the past 20 years regarding firearm regulation, states have continued to alter gun policy. State opinion of government regulation in this industry, as well as state law on the issue, vary widely, and many states are beginning to follow suit of trailblazers in the area of firearm regulation — both loose regulation and strict regulation laws and policies. Federal regulation is controlled by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). State regulatory agencies differ by state, however many states have established departments that oversee firearm regulation.

#### **Federal Regulation of the Firearm Industry**

The only federal government division permitted to regulate the firearms industry is the National Firearms Act Division. The first regulatory federal law for the firearms industry was the National Firearms Act of 1934. This act imposed a tax on the sale of firearms, as well as an income tax for individuals who were involved in the manufacturing and distribution of firearms. Additionally, the NFA of 1934 “requires the registration, with the federal government, of fully-automatic firearms (termed “machine guns”), rifles and shotguns that have an overall length under 26 inches, rifles with a barrel under 16 inches, shotguns with a barrel under 18 inches, and firearm sound suppressors (termed “silencers”),” (Nra, n.d.). This original act was amended with the Gun Control Act of 1968 (GCA), which established that Individuals would be able to register unregistered firearms, as well as expanding the definition of a firearm to include “Destructive devices” (National Firearm Act, n.d.), thus placing these devices under the NFA Division agency’s regulations. Additionally, in 1944, “ the Treasury Department placed revolving-cylinder shotguns and one semi-automatic shotgun under the NFA,” (Nra, n.d.).

Businesses who fail to comply with the NFA Division regulations are subject to both fines and jail time. When failing to comply with NFA regulation, individuals and businesses, “upon conviction, [may] be sentenced to imprisonment for not more than 10 years or fined. Although the fine specified in the statute is an amount not exceeding \$10,000, an amendment to Federal law provides for a fine of not more than \$250,000 in the case of an individual or \$500,000 in the case of an organization,” (Chapter 15, n.d., 88). Additionally, a criminal violation of the GCA is broken down into both felonies and misdemeanors; “For misdemeanors, the fines would be not more than \$100,000 for individuals or \$200,000 in the case of organizations. The criminal provisions of the NFA are found in 26 U.S.C. § 5871. As in the case of NFA offenses, fines for violation of the felony provisions would be not more than \$250,000 in the case of an individual or \$500,000 in the case of an organization,” (Chapter 15, n.d., 88).

## **Range of State Regulation of the Firearm Industry**

State regulation varies widely, however two states representing either extreme include Alaska and California. To better understand the scope of state regulation, these two states display the potential contrast in individual state regulatory agencies and laws established for the firearms industry.

Alaska is one of the least restrictive states regarding the ownership and sale of firearms. The industry is regulated by the Alaska Department of Public Safety. Firearm sales can be made both privately and through an organization or business. Firearms can be sold to any citizen over the age of 21, however disqualification from eligibility is possible with specific convictions or warrants, mental illness, and dishonorable military discharge. Additionally, the Alaska House Bill number 186 established the Alaska Firearm Freedom Act (AFFA), which nullified federal regulation of firearms that were manufactured in, and remain in, the state of Alaska. The AFFA “initiated Alaska's attempted divorce from the federal gun control regime,” (Hill, 2016, p. 126). Alaska is one of nine states to establish a law dismissing federal regulation of the firearm industry. Alaska has no laws requiring firearm distributors to obtain state licensing or permits to sell guns, and they do not require any further background check than what the federal government requires. Alaska statute 11.61.200 states it is a misconduct involving weapons in the third degree if an individual or organization knowingly sells a firearm to an individual who is disqualified from eligible gun ownership, or sells a prohibited weapon (Alaska Statutes And Regulations, 2014). This is a class C felony, and is punishable by up to 10 years in jail or a \$10,000 fine.

California, on the other hand, represents the opposing extreme of strict firearm regulation. The state of California's Department of Justice established the Bureau of Firearms as a division for regulating the firearm industry. This Bureau “serves the people of California through education, regulation, and enforcement actions regarding the manufacture, sales, ownership, safety training, and transfer of firearms,” (California Bureau Of Firearms, n.d.). In California, the firearm industry's transactions are closely regulated, requiring that “only licensed California firearm dealers who possess a valid Certificate of Eligibility (COE) are authorized to engage in retail sales of firearms. These retail sales require the purchaser to provide personal identifier information for the Dealer Record of Sale (DROS) document that the firearm dealer must submit to the DOJ,” (Bonta, 2021, 4). Additionally, private sales are not permitted unless they go through a licensed business, and businesses cannot sell firearms to anyone who has not obtained a Firearm Safety Certificate (FSC), passed a safe handling demonstration with a DOJ instructor, and purchased a Firearm Safety Device (FSD). All firearms sold must have California certification, and no person may be sold more than one firearm in a 30 day period. Any firearm sale without the proper license is a misdemeanor under California Penal Code 26500 PC (Code 26500 Pc, n.d.). If convicted of illegal firearm transfer in California, this crime is “punishable by up to 6 months in jail and up to \$1000 in fines. However, that penalty counts for each firearm you sell or transfer without a permit,” (Code 26500 Pc, n.d.).

California and Alaska represent two differing state actions regarding government regulation in the firearms industry. There are many states that fall between the extremes these two states represent, however the comparison between Alaskan and Californian regulatory policy models the wide range of differing beliefs and action between states.

### **Effectiveness of Firearm Regulation and Industry Response**

With the regulation of the firearm industry being different in each state, researchers are able to compare and contrast the effectiveness of strict or loose regulations on the goal the

regulations are designed to achieve. Most firearm regulation is a form of social regulation focused on the safety of the public, and its effectiveness can be measured by the number of deaths or injuries due to firearms in states with loose and strict regulation.

### **Firearm regulation and violent crime correlation**

Advocates for greater firearm regulation hold the belief that there is a positive correlation between regulation of the industry and violent crime. The pursuit and implementation of stricter regulation is an effort to reduce crime and establish safe environments, however “the available evidence is compatible with the assertion that guns are as likely to inhibit aggression as to stimulate it” (Kleck, 1986, p. 36), which indicates that regulation itself does not alter the goal of increased safety. Additionally, gun saturation varies between communities, and research shows “the prevalence of gun ownership has no discernible effect on the overall volume of violent crimes,” (Wilson, 2001, p. 258). Researchers with the *Journal of Quantitative Criminology* also found that “gun-control laws are generally ineffective in reducing violent crime and presumably the same is true with respect to the availability of guns to those likely to use them to commit crimes” (Kleck & Patterson, 1993, p. 393), and continued to argue that regulation of the firearm industry is not effective in its effort to reduce violence rates.

One local government took an opposing stance on firearm regulation, and created a law requiring citizens to own a firearm. Kennesaw, Georgia, has a law mandating every citizen to own a gun. This law was put in place as a political statement in opposition to the increase in ‘gun control’ conversation in political settings, however the result indicates that loose firearm regulation actually has the result government officials are seeking with the implementation of firearm regulation policy. Although local police say this law is not enforced, Kennesaw, “a town of about 33,000 people, has had one murder in the last six years and a violent crime rate of below 2%,” (Jimenez, 2018). While this is a rare effort at strict regulation in favor of firearm ownership, the resulting decrease in crime indicates that regulatory action in the firearm industry may be not only ineffective, but also pushing the United States further away from the government's goal of safety in this social regulation.

### ***Industry response to regulation***

Firms across states have differing responses to firearm regulatory policy. Individuals in the industry believe ‘gun control’ laws do little regarding stopping criminals, rather they mostly prevent law-abiding citizens from purchasing firearms (Gopnik, 2013). While many owners in the industry oppose additional regulation, firms respond submissively when new laws and statutes are passed adding new regulation. In addition to firms' input on firearm regulation, business trade associations have been established in the firearm industry, and actively speak on such laws and statutes.

There are two different business trade associations that are heavily involved in the regulation of the firearm industry. The first is the National Shooting Sports Foundation (NSSF) which represents manufacturers, distributors, retailers, and ranges in the United States. This trade association “leads the way in advocating for the industry and its business and jobs, keeping guns out of the wrong hands, encouraging enjoyment of recreational shooting and hunting and helping people better understand the industry’s lawful products,” (Nssf, n.d.). The NSSF has a Government Relations team, which works directly with all branches of the government to help establish the most beneficial regulation of the firearm industry. Not only does the NSSF work with government officials to establish proper regulation, but the trade association also works with distributors and manufacturers in the industry to ensure they are following regulations in place. A large part of their work with firms involves education, and states that “whether it’s

providing information for ATF inspection preparedness, Straw Purchase awareness, improving store security, OSHA lead & noise compliance, marking standards, reporting requirements and much more... education is a key component of our combined success,” (Nssf, n.d.).

The second association is the National Rifle Association (NRA), which is most commonly known for its activity in favor of gun rights advocacy. The NRA identifies themselves as “a major political force and as America’s foremost defender of Second Amendment rights,” (Nra, n.d.). The NRA has also, since its establishment, been recognized as a leading association for firearm education around the world. In contrast to the NSSF, the NRA is politically organized, and can often be found opposing government intervention for firearm regulation. They coined the phrase ‘guns don’t kill people, people kill people’ and have an established Political Victory Fund in which they endorse candidates whose views are in favor of loose firearm regulation. This association has roughly 4 million members, so candidate endorsement follows the private interest model of regulation, as candidates endorsed by the NRA have high probability of success in campaigns with the republican party.

### **Conclusion**

The firearms industry has been regulated since before the establishment of the Second Amendment, however this regulation has looked different in different time periods. This industry is regulated by the federal, state, and local governments, and as a result regulation differs by state and even city. In America’s history, regulation of the firearm industry has become more prevalent during political unrest, such as World War 1, the Kennedy Assassination, and more recently the 2010’s rise in school shootings. Politicians and government officials often speak on ‘gun control’ and firearm regulation to gain public support, which aligns with the private interest model of regulation. Public opinion, both in favor and opposed to, firearm regulation is often in an attempt to secure public safety. The regulatory policies for this industry, therefore, follow social regulations as the goal is to decrease violent crime and increase citizen safety.

Despite the intention of promoting safety through regulation of this industry, research suggests that there is no correlation between regulatory policy and decreased violent crimes, which shows the regulation is ineffective at reaching the goal it is intended to achieve. One town in Georgia took the opposite position on the regulation of the firearm industry and made it law (loosely enforced) for all citizens to carry a firearm and crime rates dropped drastically, which suggests that not only are traditional regulations ineffective in promoting safety, but that they could potentially have a negative effect. While federal regulation through the ATF with laws such as the NFA and GCA are intended to regulate all states, states like Alaska have gone so far as to nullify the federal regulation to establish as lenient regulatory intervention from the government as possible. Other states like California not only adhere to federal regulation, but also have their own Bureau of Firearms through the Department of Justice that brings with it additional state specific regulation.

Firms in each state frequently voice opposition to stricter regulation, claiming that law-abiding citizens will struggle to purchase a firearm while criminals will continue purchasing through black market suppliers. Despite this opposition to regulation, firms comply with regulatory policy in place, as failure to comply could result in jail time, large fines, and the loss of a license to do business. Again on the national level, business trade associations like the NSSF and NRA not only work to change and improve policy, but also to educate citizens and firms on the regulations and the reality of the industry. The regulation of the firearms industry is ever changing, and the public opinion of firearms regulation shifts with the events of the time. There

have been periods in American history with both stricter and looser firearm regulation, and the future will most likely continue to see this ebb and flow of regulation.

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