



POSITION STATEMENT

A4615, A4725/S3162, A5503, A6433 & A9006A/S5932A REGULATION OF AMMUNITION SALES

CONCEPT

The stated purpose is to restrict access to ammunition to authorized individuals and to facilitate the investigation of firearms related incidents by providing an investigative link to any possible purchasers of the type of ammunition used. Each of these four bills seeks to impose some form of restriction and/or record keeping requirement for the purchase of ammunition. Each proposal has somewhat different provisions:

A4615 amends the General Business Law (G.B.L.) to prohibit the sale of ammunition to anyone not having a pistol permit. The proposal defines ammunition as “anything hurled by a weapon”. Evidence of a violation would require the Attorney General to seek a judgment enjoining continuance and a civil penalty.

As the definition of “weapon” is fairly broad, this proposal could conceivably prohibit the purchase of arrows by other than a pistol permit holder. It would certainly exclude the purchase of rifle and shotgun ammunition by other than permit holders.

A4725/S3162 & A9006A/S5962A replace the existing Penal Law (P.L.) article dealing with fireworks and dangerous fireworks. They carry forward a section from the current law prohibiting the sale of any “ammunition designed exclusively for use in a pistol or revolver to any person not authorized to possess a pistol or revolver.”¹

The problem with this section is that, given the cross use of ammunition between rifles and handguns, there is virtually no ammunition “designed exclusively for use in a pistol or revolver”.

A5503 adds a new section to the G.B.L. that would require a person purchasing ammunition for any type of firearm to present a driver license or a non-driver photo identification card, provide detailed personal information, and describe the firearm for which the ammunition is intended. The dealer would be required to forward the information to the Secretary of State who would enter it in a statewide database.

Both the Secretary of State and the dealer would incur significant costs. This system would also be de facto registration of rifles and shotguns.

A6433 amends the existing P.L. article covering firearms licenses² by adding a new section that would provide for an “application for the purchase of bullets”. An applicant wishing to purchase ammunition for any firearm would have to complete an application

¹ P.L. § 270.00(5)

² P.L. § 400

requiring extensive personal data and information on the firearm for which the ammunition is being purchased. Two forms of identification would be required. Copies would be sent to “all law enforcement agencies of the state”. While no specific state agency is charged with administering this system, it would pose an enormous economic and bureaucratic burden on both the agency selected and on the dealer. As with A5503, it would impose de facto registration of rifles and shotguns.

OUR POSITION

The registration of ammunition sales has been tried on a nationwide basis and has been found wanting. It provides no deterrent to the criminal classes and does not provide even exploratory leads to assist in the investigation of firearms incidents. It merely adds costs that are ultimately paid by the consumer with utterly no economic or social benefit.

The addition of reporting sales to the State and the establishment of databases compounds the folly by adding expense with no benefit to anyone to the State budget at a time of severe financial stress.

We can see only two purposes in this legislation. First, it would initiate firearms registration for rifles and shotguns through the back door when the front door has been legally shut. The specific firearm owned by a citizen should have no bearing on his or her eligibility to purchase ammunition. The stated purpose of keeping ammunition out of ineligible hands or assisting investigators is purely cosmetic.

Second, since the proponents of this type of legislation have not been able to achieve their fundamental goal of banning all private firearms, they strive to make it as difficult as possible for those who wish to own firearms to enjoy their use.

This is “d  j   vous all over again”. The registration of ammunition sales has been tried on a national basis and rejected.

Registration of ammunitions sales was instituted by the Gun Control Act of 1968 (GCA68). Record keeping for rifle and shotgun ammunition was repealed in December 1969. All record keeping requirements for retail ammunition sales were eliminated with the passage of the Firearm Owners Protection Act of 1986. The record keeping requirement was determined to have served no useful purpose in keeping ammunition out of the hands of ineligible persons or in providing information to investigators dealing with firearms incidents. There is no reason to believe that this has changed.

Current Federal law provides adequate restrictions on the sale of ammunition.

Federal law establishes a minimum age of 18 for any purchase of ammunition and a minimum age of 21 for the purchase of ammunition for firearms “other than rifles or shotguns”.³ Purchasers are also required, under Federal law, to meet the same requirements as those requisite for the purchasers of firearms.⁴

Further restrictions and record keeping requirements at the state level would serve no useful purpose. Felons are not likely to be deterred from obtaining ammunition. They will use their normal methods of theft and guile and, if all else fails, go out of state.

³ 18 U.S.C.   922(b)(1)

⁴ 18 U.S.C.   922(d)

Extensive record keeping will provide no investigative assistance because, as stated above, felons don't shop at retail dealers. If a statewide registration system were to be implemented, the size of the database would be so massive as to preclude any query from producing a response of manageable size.

Some of these bills provide for de facto registration of rifles and shotguns.

A5503 and A6433 require the submission of detailed descriptions of the firearms for which the ammunition is being purchased. By then storing it in State operated databases, these proposals would implement de facto registration of rifles and shotguns. Registration of long guns is not authorized by state law and is specifically prohibited in the legislation implementing Federal firearms regulations⁵. This legislation would permit the State to do through the back door what it not been authorized to do through the front.

These bills suffer from “definitional distress”.

The primary target of these bills appears to be handgun ammunition. It is, however, virtually impossible to define clearly what is handgun ammunition; cartridges originally designed for use in handguns are frequently utilized in light rifles. Conversely, many handguns are chambered for cartridges that were originally intended for use in rifles.

The use of words or terms either poorly or not specifically defined makes it extremely difficult to evaluate the potential impact of the legislation. A4615 defines ammunition as “anything hurled by a weapon” but does not define “weapon”. A6433 uses the term “application to purchase bullets”. In addition to definitional problems, the proposal suffers from a lack of specificity as to methodology and administrative responsibility.

RECOMMENDATION

History has seen this before. In 1906, Mississippi passed legislation requiring retailers to maintain a record of ammunition sales and to make such records available for inspection on demand. This was the prelude to “confiscation through registration”, targeted, quite openly, at minorities.

This tactic is used by prohibitionists to this day. Unable to ban the sale of alcohol, they have endeavored to make it needlessly complex through legislation and bureaucratic regulation; all this is done in the name of “protecting children” or “promoting healthy choices”. For example, the New York wine industry never received the research and development support received by California wineries because, while the California university system fostered oenology degree programs and agricultural research, the “antis” in New York were able ban such support, to the economic detriment of the State.

With respect of A4615, A5503, and A6433, the legislation should not be enacted.

With respect to A4725/S3162 and A9006A/S5962A, P.L. § 271.35 should be included and P.L. § 271.40 should be struck. The remainder of this bill is outside of our purview.

⁵ 18 U.S.C. § 926