

The Gottlieb-Tartaro Report

THE INSIDERS GUIDE FOR GUN OWNERS

Issue 101
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Dear Subscriber,

What's the latest **political ploy** being used by anti-gun senators? A stunt so old it dates back to the Roman Empire: stand in the Forum and **loudly congratulate your opponent for supporting your position (wink, wink)**.

It's the classic divide-and-conquer tactic, and liberal **Senators DIANE FEINSTEIN (D-CA) and CHARLES SCHUMER (D-NY)** are pushing it to the hilt: in a recent press release, **they congratulated President GEORGE W. BUSH for supporting reauthorization of the Assault Weapons Ban.**

**WHIPSAW ON
GUN LAW**

They were referring to a statement last month by BUSH spokesman SCOTT McCLELLAN affirming an election campaign position: "The president supports the current law, and he supports reauthorization of the current law."

Now, a **pro-gun president supporting an anti-gun law** is not the most prudent politics. And President Bush supporting the 1994 CLINTON / FEINSTEIN "assault weapons" monstrosity is imprudent indeed.

However, **the clamor among some gun rights supporters to iDump Bushî** in the next election if he signs a ban reauthorization is understandable but equally imprudent. We're falling into the divide-and-conquer trap Democrats hoped we would. **But we don't need to.**

The gun control crowd desperately wants the ban reauthorized.

Witness MATT BENNETT of Americans for Gun Safety **insistently urging the president to use his political clout to push for Congress to act.**

And FEINSTEIN / SCHUMER giving their **bogus congratulations** to President BUSH.

But the outcome really hinges on **how vigorous the BUSH iupportî is**. Here are five teasing facts:

Item 1: The grossly misnamed "Assault Weapons" Ban, which included no automatic firearms, contained a **ten-year sunset provision**, and is **set to expire in 2004 unless reauthorized** by Congress.

Item 2: In a recent appearance before the Senate Judiciary Committee, Attorney General JOHN ASHCROFT **refused to say whether the administration actually supports an extension**. ASHCROFT cited a 1999 Justice Department report that said **the ban's impact on crime is unclear**.

Item 3: After ASHCROFT's Senate appearance, the president released his support statement - just before the National Rifle Association's annual convention.

Item 4: **The statement may be irrelevant**: Congress writes the laws, not the President.

Item 5: **If Congress does nothing, the ban will simply expire.**

We don't see the BUSH administration rushing up to Capitol Hill pushing for an Assault Weapons Ban extension.

We also don't have a clue **why President BUSH says he supports the extension**. GROVER NORQUIST of Americans for Tax Reform hit it squarely when he remarked, **iThat's lousy politics.î**

Yes it is. So the effective response is for gun rights supporters to **make sure Congress doesn't reauthorize that awful iAssault Weaponsî Ban.**

Then the president will have nothing to sign. Even if he really wanted to.

Also in this issue: ● *Gun control in other nations* ● *Democrats fight lawsuit ban* ● *Federal concealed carry reciprocity bill introduced* ● *Wisconsin's new constitutional right to hunt* ● *Ohio courts busy with gun rights cases* ● *Mixed signals in our Page Eight iParting Shotî*

PAPUA NEW GUINEA: COURT DISMISSES GUN CHARGES AGAINST OFFICIAL

ALOIS KINGSLEY, Papua New Guinea's tourism minister, was suspended from office after police charged him **for allegedly holding a gun to the head** of university professor KENNETH SUMBUK at a rugby match last year.

But gun charges against KINGSLEY were dismissed last month when the police prosecutor and the alleged victim **both failed to show up at the trial**. A victorious KINGSLEY expected to be reinstated as tourism minister.

Politicians in Papua New Guinea are allowed to carry a firearm to defend themselves from criminals, rival tribesmen and disgruntled voters.

AROUND THE WORLD

GERMANY: NEW GUN LAW HIT BY CRITICS

A year after a 19-year-old killed 16 people at a high school in Erfurt, **Germany raised the legal age to own many guns from 18 to 25**. But critics said the government should focus its efforts on stopping criminals from buying guns.

CHRISTIAN PFEIFFER, a former justice minister from the German state of Lower Saxony, said **"the new law will not prevent someone determined to commit a crime from going into some dive and buying an illegal firearm and then carry out his illegal business."**

PFEIFFER said the real question was **"How do you stop people from conjuring up these evil crimes?"** He offered no recommendations.

CANADA: PARTY LEADERSHIP CANDIDATES SAY SCRAP GUN REGISTRY

Candidates for the leadership of Canada's Progressive Conservative party differed on many pressing issues but **all were in solid agreement that the national gun registry should be scrapped**.

Seven candidates are vying to succeed JOE CLARK, with Nova Scotia Member of Parliament PETER MCKAY, the front-runner, announcing that he would refuse to register his gun. MCKAY later backed down, but continued to demand that the gun registry be closed down.

UNITED KINGDOM: NO-JURY TRIALS IN GUN CASES?

U.K. Home Secretary DAVID BLUNKETT has said **the Government will consider trials without juries** and greater protection for witnesses to help police crack the wall of silence surrounding fatal shootings and gun-related crime.

He pledged to introduce **new legislation to crack down on guns and gang culture**. Because of a nearly total ban on private ownership of handguns, the United Kingdom has seen a huge increase in shootings as criminals take advantage of a totally disarmed populace.

SOUTH AFRICA: THE HUNT FOR 200,000 MISSING FIREARMS

National police spokesman ANDREW LESCH said **more than 200,000 guns in South Africa are registered in the names of dead people** countrywide. The guns have vanished into the population. 2.15 million people in the country are licensed to possess 3.7 million firearms.

The Firearms Act that imposed gun control on South Africa has failed.

AUSTRALIA SET TO BAN OLYMPIC SPORT SHOOTING

The National Coalition for Gun Control has demanded that **the government stop Australian shooters from participating in Olympic sporting events that use semi-automatic firearms**, saying the guns might "get into the wrong hands."

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SENATE DEMOCRATS FIGHT BILL TO CURB ANTI-GUN SUITS

After the U.S. House of Representatives recently passed H.R. 1036 - which preempts anti-gunmaker lawsuits - by an overwhelming bipartisan 285-140 vote, **Senate Democrats began plotting to scuttle the Senate version, S. 659.**

California's Sen. DIANE FEINSTEIN vowed a **filibuster against the bill**, which would block most lawsuits against the gun industry for harm caused by others misusing firearms or ammunition.

**ON THE
FEDERAL LEVEL**

The bill is designed to prevent lawsuits from being brought against gun manufacturers by municipalities and others who have not been injured by anyone in the industry and who are using the courts to bankrupt firearms companies.

A House report said that 34 municipalities have filed suit against gun manufacturers, distributors and trade associations, with mixed results.

A day after the House passed its legislation, **Sen. TED KENNEDY (D-MA) offered a strong anti-gun amendment to S. 274** - a weak lawsuit-reform bill - **but it failed** on a vote of 11-7 in the Senate Judiciary Committee.

But a number of Senate Democrats say they would back S. 659, which could spell doom for FEINSTEIN's filibuster if she can't muster the 41 votes she needs to uphold a filibuster. It takes 60 of the Senate's 100 votes to kill a filibuster.

Senate Judiciary Committee Chairman ORRIN HATCH (R-UT), who supports the bill, may bring it to the Senate floor without the customary hearings.

LAUTENBERG GUN CONTROL BILL PRETENDS TO BE HOMELAND SECURITY MEASURE

Sen. FRANK LAUTENBERG (D-NJ) has announced plans to introduce a **gun control bill misleadingly titled the "Homeland Security Gun Safety Act,"** along with fellow New Jersey Democrat Senator JON CORZINE, Sen. EDWARD KENNEDY (D-MA) and Sen. JACK REED (R-RI).

LARRY PRATT, executive director of Gun Owners of America, compared the proposal to the actions of ADOLF HITLER's regime in Nazi Germany.

LAUTENBERG's bill uses the excuse that **any time the Homeland Security Threat Level rises to "elevated" or higher, new restrictions should apply.**

LAUTENBERG's bill would:

- Exempt law enforcement from having to complete mandatory background checks on firearms purchasers within the current three-business-day limit - like the Nazis, **federal agencies could block all gun sales by refusing to complete background checks;**

- Allow law enforcement to **keep a registry of new gun owners indefinitely** instead of the current near-immediate destruction of records if the sale is approved; Nazi gun registry laws allowed the confiscation of guns that rendered the population helpless during the Holocaust;

- Allow **unlimited unannounced inspections of gun dealers** by federal agents, which are currently limited to one per year;

- Make it a federal felony against a gun dealer if a lost or stolen gun is recovered by authorities before the loss or theft is reported;

LAUTENBERG claims his bill would not affect law-abiding gun owners, only reduce criminal violence. But PRATT noted that regulating legal purchases of firearms by law-abiding citizens has no positive impact of crime - criminals rarely use legally obtained firearms.

FEDERAL CONCEALED CARRY RECIPROCITY BILL INTRODUCED

JOHN HOSTETLER (R-IN) has introduced H.R. 990, titled the "Secure Access to Firearms Enhancement (SAFE) Act of 2003," which would establish **reciprocity in every state for any person who holds a valid concealed carry permit in one state.**

The bill currently has 22 co-sponsors and has been referred to the Judiciary Committee.

ARIZONA: TWO IMPORTANT VICTORIES

The Tucson City Council has voted 5-2 to **unconditionally repeal the ordinance** requiring gun show promoters at the Tucson Convention Center to **perform background checks** on private sales of guns. Tucson Mayor Bob Walkup voted for the repeal.

In Phoenix, HB 2353, a bill that **dramatically improves the handgun permit reciprocity statute** in Arizona, passed the full Senate by a vote of 26-3. The bill is now before Governor Janet Napolitano (D) for her consideration.

**IN THE STATES
SPECIAL REPORT**

ARKANSAS: NEW LAWS BOLSTER GUN RIGHTS

Arkansans with concealed handgun permits can now **carry their firearms into restaurants and parks** under a law that recently won Gov. Mike Huckabee's signature.

The Arkansas Senate voted 23-7 for the House-passed bill that removed restaurants and parks from a list of prohibited places where permit-holders can carry their guns.

Also, Gov. Huckabee signed into law HB 1326, which **protects law-abiding firearms and ammunition manufacturers from illegitimate attack lawsuits.**

MINNESOTA GOVERNOR SIGNS CCW BILL

The Citizens Committee for the Right to Keep and Bear Arms (CCRKBA) has congratulated gun owners in Minnesota for reforming the state's concealed carry law, and **applauded Gov. Tim Pawlenty for signing the bill.**

CCRKBA Executive Director Joe Waldron said, "Gov. Pawlenty deserves appreciation for immediately signing this bill. He courageously ignored hysterical rhetoric from anti-gunners in the Democratic Farm Labor party and the press to make Minnesotans safer from crime."

Minnesota becomes the 35th state to adopt a "shall issue" concealed carry statute. States with similar laws have shown significant declines in violent crime, with few, if any, cases of wrongdoing by citizens who have concealed pistol licenses.

NEW MEXICO HAS CONCEALED CARRY LAW

New Mexico's newest law means that its **citizens age 25 and older can be licensed to carry a concealed loaded handgun** next year under legislation signed into law by Gov. Bill Richardson (D).

Gov. Richardson said in a written statement, "This historic legislation will deter criminals and provide our people with additional measures to protect themselves and their families from violent criminal attacks."

To qualify for a permit, New Mexicans must pay a \$100 application fee, complete an approved firearms-training course of at least 15 hours and pass a criminal-background check.

The law prohibits a concealed-handgun license for people with criminal convictions, including drunken driving within the past five years, misdemeanor assault or battery and misdemeanor possession of drugs.

NEBRASKA CONCEALED CARRY BILL PASSES MAJOR HURDLE

Proponents of licensed concealed carry overcame a filibuster to **push LB 265 through its first hurdle**, defeating the efforts of Lincoln, Nebraska Senators Ron Raikes and Dave Landis.

Their alarmist anti-gun rhetoric repeated scenarios heard in over 40 other states that have concealed carry laws: "more guns means more crime," when the facts show that when law-abiding citizens have more guns there is less crime.

Nebraska Gov. Mike Johanns courageously promised to sign the measure if it hits his desk.

The Police Chiefs Association of Nebraska opposed the passage of LB 265 in a strongly worded statement.

The Fraternal Order of Police, which traditionally opposes bills such as LB 265, has remained neutral in this debate.

NEVADA BILLS WOULD RESTRICT GUN RIGHTS

SB199 now being considered by the Nevada Assembly would make it **illegal for someone to knowingly sell a gun to a person who is a convicted felon, takes illegal drugs or has been judged mentally ill by a court.** Anyone convicted of violating the law could be imprisoned for up to 20 years.

IN THE STATES SPECIAL REPORT

SB 40 would make it a crime to maliciously or wantonly fire a weapon inside a house or other structure.

Both bills are being considered by the Assembly Judiciary Committee.

BILL WOULD KEEP CONCEALED HANDGUN OWNERS LIST SECRET

The Texas House has given preliminary approval to a bill that would **protect the names of concealed handgun license holders from public disclosure.**

Under current law, the Department of Public Safety must disclose whether an individual holds a concealed handgun license to any person submitting a written request and a \$5 fee.

The bill by Rep. Suzanna Gratia Hupp (R-Lampassas) passed on a voice vote after no debate. A final vote was expected soon.

MISSOURI SENATE PASSES CONCEALED CARRY BILL AFTER FILIBUSTER

Ending a 12-hour filibuster by Democrats, **the Missouri Senate has approved a bill that would allow qualifying Missourians to carry concealed handguns.**

The debate did not end until Sen. Harold Caskey (D-Butler), handling the bill and a key concealed-carry supporter, used a rare parliamentary move to shut off arguments.

That forced a vote on the bill, which senators approved 23-7. The Senate's action sends the bill back to the House, which already approved its own measure, 108-33. The House can either approve the Senate's changes or request a conference committee.

Democratic Gov. Bob Holden has said he would veto the bill, pointing to a 1999 referendum on concealed carry that voters rejected.

NEW JERSEY BILL WOULD BAN TOY GUNS THAT LOOK TOO REAL

Assemblymen Peter J. Barnes (D-Middlesex) and Gary Guear (D-Mercer) have introduced a bill aimed at banning realistic-looking toy guns.

Under the proposed legislation, **it would be a third-degree crime - punishable by up to \$15,000 in fines and five years in prison - to sell a pellet gun.** Anyone found guilty of possession of a pellet gun would be guilty of a fourth-degree crime, punishable by up to \$10,000 in fines and 18 months in prison.

The assemblymen claimed that pellet guns on the market are fashioned after firearms such as Glock pistol, Berettas or semi-automatic weapons and cannot be identified by an ordinary prudent person as imitation.

WISCONSIN PASSES CONSTITUTIONAL AMENDMENT

Wisconsin voters have overwhelmingly approved a **state constitutional amendment** that says, **"The people have the right to fish, hunt, trap, and take game subject only to reasonable restrictions as prescribed by law."**

The measure passed with greater than an 80% approval rating.

MONTANA BILLS PASS SENATE

The Montana Senate has passed HB 579, **requiring judges to notify people if the court may possibly take some action that could cause a person to lose for life their right to possess firearms under the federal Lautenberg law.** The Senate passed HB 579 by a 44-5 vote and went to Gov. Judy Martz for her signature.

HJ 12 calls on Congress to pass a "Terrorist Free America Act," which would assert the right of citizens to possess firearms to interdict terrorist acts on U.S. soil. The resolution passed the Senate by 38-12 and does not require the Governor's signature.

NAACP LAWSUIT FACTS DON'T INCRIMINATE

A firearms industry told Judge Jack Weinstein's Brooklyn Federal Court that **gun data revealing some of the top retail sources of handguns used in crimes does not prove that the retailers or gun manufacturers did anything wrong.**

"The mere fact a firearm has been traced does not mean that anyone in the chain of distribution has done anything wrong," said Lawrence G. Keane, vice president and general counsel of the National Shooting Sports Foundation (NSSF).

Kane was reacting to federal data disclosed in a suit by the NAACP against scores of gun manufacturers alleging that the industry is negligent in the way it markets its products.

The NAACP rested its case after proving nothing, according to the NSSF. The NAACP's star witness acknowledged that **the vast majority of gunmakers and dealers are honest.** NAACP's president, former Congressman Kweisi Mfume admitted **he did not understand how well regulated the firearm industry is.**

Next, the industry will make its case that the plaintiff's conclusions are flawed, intellectually dishonest, and agenda driven.

ON THE LEGAL FRONT

OHIO: THREE COURTROOM EVENTS

The Ohio Supreme Court has heard oral arguments in **a challenge to the state's ban on carrying concealed handguns.** Ohio law does not prohibit people from carrying guns in plain view, although police admit such behavior invites questioning.

William M. Gustavson, Cincinnati attorney for the Second Amendment Foundation, argued that "If a citizen carries a firearm concealed, they'll be arrested. If they carry a firearm unconcealed, they'll be arrested. The question we pose is simple. If a citizen in Ohio can't carry a firearm concealed and can't carry a firearm unconcealed, how can they exercise their constitutional right?"

A ruling is expected later this year.

In another Ohio case, **the city of Cincinnati is dropping its lawsuit against handgun manufacturers** after a four-year-long legal battle.

Stanley Chesley, the product liability attorney representing the city, recommended withdrawing the case.

He said the political climate has changed dramatically since the case was filed in 1999. Congress is likely to pass a pending bill giving immunity from such lawsuits to the firearms industry.

"Frankly, it's a tough case," Chesley said.

In a Canton, Ohio case, the 5th District Court of Appeals upheld a decision to **throw out a \$600,000 default judgment against the Niles Gun Show.**

James Kordinak won the judgment for injuries suffered when a flare launcher purchased at the gun show exploded in his hand.

However, gun show promoter Richard Walters said he knew nothing about the lawsuit until he read about it in the newspaper.

Judge Sara Lioi agreed that Walters was never properly notified. She ruled to vacate the award and hold a trial.

GUN MAKER FOUND PARTIALLY LIABLE IN CALIFORNIA SHOOTING

An Alameda County jury found Bryco Arms of Costa Mesa, California **10 percent liable** for making a defective .38-caliber handgun that shot Brandon Maxfield in the jaw when a family friend tried to unload it. The case may be appealed.

MICHIGAN COALITION FOR RESPONSIBLE GUN OWNERS (MCRGO) WINS LAWSUIT

MCRGO has won its case in the Michigan Court of Appeals to topple the city of Ferndale's **ordinance prohibiting citizens from carrying their licensed firearms in city buildings.**

While the Circuit Court upheld the ordinance, the appeals court ruled, "Ferndale's ordinance is pre-empted by State law and, consequently, we reverse."

GUN NEWS TICKER - QUICK TAKES ON THE NEWS

● **Los Angeles:** California's murder rate jumped by nearly 11% in 2002, despite some of the harshest gun control laws in the nation. The state's largest cities and counties reported 1,842 killings in 2002, 179 more than in 2001. The figures were for 78 areas with populations of 100,000 or more, which account for about 65 percent of the state's crime.

● **Orlando, Florida:** Governor Jeb Bush thanked the National Rifle Association at its annual convention for helping elect his brother President of the United States in 2000. As keynote speaker, Bush said that, based on exit polls, 48 percent of the voters in the 2000 presidential election were gun owners.

● **Washington, D.C.:** The Bureau of Alcohol, Tobacco and Firearms reported that its Stolen Firearms Program staff received 2,562 reports of theft or loss of firearms from federal firearm licensees (FFLs) with 16,265 firearms reported lost or stolen. It also received 862 reports of firearms missing or stolen from interstate shipments with 1,747 firearms reported lost or stolen. Firearm theft recoveries reported in Fiscal Year 2000 were 18,012.

● **Tempe, Arizona:** The FBI raided the homes of six Muslim students at Arizona State University in search of firearms in an investigation of students who rented guns at a recreational shooting range in violation of federal law that prohibits firearm possession by non-immigrant visa-holders. No guns were found but computer equipment was seized.

● **San Rafael, California:** Marin County supervisors doomed gun shows at the Marin Center after passing an ordinance banning firearms and ammunition on county property. The ordinance did not specifically mention the gun show, which has been held annually since the 1980s, but indirectly prohibited it. In February, the Ninth U.S. Circuit Court of Appeals dismissed a challenge to a similar ordinance approved in Alameda County.

● **Frederick County, Maryland:** The Pick Four Game that raises funds to benefit four fire companies in the county will raffle one gun per day as a prize. State and local officials say the raffle is legal. Raffle winners must claim their guns in a store in Emmitsburg to ensure that all firearm regulations are met.

● **New Martinsville, West Virginia:** The police department of this small town found a world War II-era Thompson submachine gun that had been collecting dust in its weapons room for more than 40 years and tried to sell it. Local people valued it at about \$750, but a computer search on eBay located collector Mike Hensley in Indianapolis, Indiana, who offered \$7,000 for the firearm, which is in like-new condition. The gun was given to the town in 1966 by a former police chief who obtained it from railroad police.

● **Plano, Texas:** This Dallas-area city has become the second in Texas to outlaw fake guns in public places after the City Council voted to prohibit residents from carrying the toy and replica look-alike weapons. The council acted in response to incidents when police drew weapons or fired upon citizens, often children, who had pointed facsimile firearms at them. Carleton is the only other Texas city to pass a similar ordinance.

● **Tallahassee, Florida:** Charles Bronson, the state's agriculture commissioner, has received permission from Capitol police to carry his guns in the Capitol to protect himself. Bronson, a rancher, holds permits for his 9 mm and .40-caliber pistols. He remarked that you can't be too careful when terrorists might attack - particularly if you are a cabinet member.

● **Glynco, Georgia:** The federal law enforcement training center in this town has graduated the first 44 airline pilots in a course enabling them to carry a gun as official federal flight deck officers. The pilots were not allowed to disclose their names or airlines and passengers are not supposed to know whether or not a pilot is armed on any particular flight. Additional pilots will complete their training in the weeks to come.

Parting Shot

MIXED SIGNALS

An armed robbery suspect accosted two men who were getting into their car after leaving a New Orleans Rampart Street club at one in the morning. The robbery suspect held them at gunpoint and demanded money. One of the men got a gun from the car and shot the robbery suspect, killing him.

The two men were questioned and released. No charges were filed.

On the other hand, Kenneth J. Lewis II, an inmate in the Benton County, Arkansas Jail, is seeking \$139,913.32 in damages from Nina Baugh, who shot him after he failed to burglarize her business and then burglarized another next door.

Fayetteville attorney Michael C. Lea filed the suit on behalf of Lewis in Benton County Circuit Court.

Lewis was in jail after pleading guilty to commercial burglary, a class C felony, and aggravated assault, a class D felony. Lewis was sentenced to 12 years in prison with an additional six years suspended after he admitted to Circuit Judge David Clinger that he broke into the Heritage Mobile Home Sales company with the intention of stealing.

According to an affidavit of probable cause, Lewis originally attempted to break into Hobo Joe's Pawn Shop, owned by Nina Baugh and her husband Joe. Lewis was unable to gain entrance, so he entered the neighboring mobile home sales building instead.

The Baughs responded to their shop after their alarm company alerted them to a possible burglary in progress.

Seeing Lewis's car parked in the mobile home sales parking lot, and suspecting the vehicle to be involved in their shop's break-in, the Baugh's followed Lewis as he drove away.

The Baughs followed Lewis onto Arkansas Highway 264, where they reached speeds of 80 to 85 mph.

When Lewis's vehicle drove toward the Baugh's vehicle, Nina Baugh leaped out the driver's side window and fired four rounds from a .22-caliber handgun, which struck the suspect's car.

After being instructed by police to stop chasing the vehicle, the Baughs returned to their shop. Police chased Lewis into Missouri, where they captured and arrested him.

Lewis is seeking \$4,913.32 for the medical expenses related to his shooting and \$15,000 for bodily pain and discomfort. \$120,000 is for punitive damages.

Alan M. Gottlieb

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