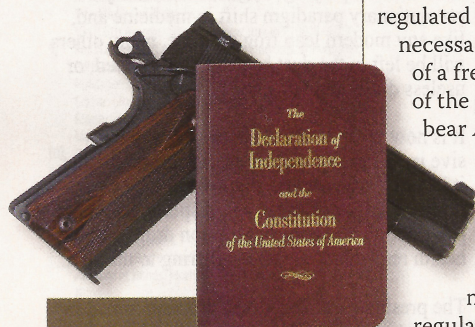


LET'S TALK LIMITS

Do certain firearms regulations really constitute infringement?



"The fact is, all constitutional rights are regulated."

THE SECOND AMENDMENT TO THE CONSTITUTION OF THE United States reads, "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." Note carefully: Those last four words say "shall not be infringed." They do not say "shall not be regulated." "Well regulated" is, in fact, the initial criterion of the amendment itself.

I bring this up because way too many gun owners still seem to believe that any regulation of the right to keep and bear arms is an infringement. The fact is, all constitutional rights are regulated, always have been, and need to be. Freedom of speech is regulated. You cannot falsely and deliberately shout, "Fire!" in a crowded theater. Freedom of religion is regulated. A church cannot practice human sacrifice. Freedom of assembly is regulated. People who don't like you can't gather an "anti-you" demonstration on your front lawn without your permission. And it is illegal for convicted felons or the clinically insane to keep and bear arms.

But many argue that any regulation at all is, by definition, an infringement. If that were true, then the authors of the Second Amendment themselves should not have specified "well regulated." The

question is, when does regulation become infringement?

From 1976 through 1990 I wrote the "Firearms Law" column in our sister publication, "Shooting Times." During those same years I worked with U.S. Senator Jim McClure, Congressman Harold Volkmer and NRA-ILA Executive Director Neal Knox to draft the 1986 Volkmer-McClure Firearm Owners Protection Act; testified before Congress (and numerous state legislatures) on firearms law issues; and taught college seminars on the history of constitutional law.

I also received bags of mail every year, much of it from readers who were upset that I advocated the passage of additional state concealed carry laws. These readers typically argued (I'm paraphrasing) that "The Second Amendment is all the authority we need to carry anywhere we want to" or "The government doesn't have the right to tell me whether I'm qualified to carry a gun." I wondered whether those same people believed that just anybody should be able to buy a vehicle and take it out on public roadways without any kind of driver's training, test or license.

I understand that driving a car is not a right protected by the Constitution, but to me the basic principle is the same. I firmly believe that all U.S. citizens have a right to keep and bear arms, but I do *not* believe that they have a right to use them irresponsibly. And I do believe their fellow citizens, by the specific language of the Second

Amendment, have an equal right to enact regulatory laws requiring them to undergo adequate training and preparation for the responsibility of bearing arms.

I've seen too many examples of unsafe behavior on too many shooting ranges to believe otherwise. And we've all read too many accounts of legally armed individuals dealing with the consequences of not being properly trained or prepared when confronted with a bad situation.

This year, my Illinois homeland became the 50th state to enact a CCW statute. It's a "shall issue" law, but it requires 16 hours of training to qualify for a license. Many say that's excessive — an inherent infringement. I don't. But I'd like it to be *good* training.

I write this on the day the Illinois Supreme Court in *People v. Aguilar* voided the arrest of a man in his friend's yard in Chicago because he was holding a pistol. The Court's ruling ended by saying, "Of course, in concluding that the Second Amendment protects the right to possess and use a firearm for self-defense outside the home, we are in no way saying that such a right is unlimited or is not subject to meaningful regulation. That said, we cannot escape the reality that, in this case, we were dealing not with a reasonable regulation but with a comprehensive ban."

I don't think that requiring 16 hours of training to qualify for a concealed carry license is infringement in and of itself.

But that's just me ... **G&A**

To comment on this essay or suggest a subject for a future one, please contact the author directly at backpage@imoutdoors.com.