

From: Sept. 1969  
Outdoor Life

# Keeping Up with the Gun Control Act of 1968

By JACK O'CONNOR

THE GUN CONTROL ACT of 1968 has now been the law of the land since the middle of December. Understanding of it has not come like a blinding flash of light. Now that a new hunting season is at hand, it seems appropriate to review the law in the light of the interpretations put upon it by the Alcohol, Tobacco and Firearms Division of the Internal Revenue Service, whose job it is to enforce it.

It's quite a document. Just as the Eighteenth Amendment and the Volstead Act were pushed through during the hysteria of World War I, this was rammed down the throats of the public during the wave of shocked revulsion following the assassination of Senator Robert F. Kennedy.

The result of all this is that the person who gets it in the neck is not the criminal, not the psychotic individual, not the hired killer, but the law-abiding, tax-paying sportsman who shoots clay targets and birds, hunts deer and other big game now and then, and possibly has a collection of guns. The assassins of President John F. Kennedy, of Martin Luther King, or of Senator Kennedy can by no stretch of imagination be called normal gun users.

When then President Lyndon B. Johnson signed the bill he said, "Today we begin to disarm the criminal, the careless, and the insane." He made it plain that he looked on the bill as only a beginning and that the ultimate aim of the anti-gun lobby was licensing of all firearms, registration, and eventual confiscation through refusing permits or making fees prohibitive.

The present restrictions, which I will discuss farther on, are annoying and hampering, but no one should kid himself that the anti-gun bloc will be content with them. They are just the beginning. The hard core of the anti-gun lobby are people who have a neurotic fear of guns and despise hunters, target shooters, trapshooters, and all other gun users. What can sportsmen do now?

In following the progress of the anti-gun agitation, I have been impressed by how willing most people are that others be deprived of things they themselves are not interested in. Guns, although used by millions of hunters and target shooters, are still used by a minority, and most people couldn't

This new federal law is complicated,

care less if someone else's hobby is made illegal or difficult. Senator Thomas J. Dodd of Connecticut stated the attitude of a great many people when he said, "I have never seen any sense to guns anyway."

The law is a very strange hodgepodge. Presumably the purpose was to make it difficult for psychotic and criminal individuals to get firearms for use in various crimes including assassination. I doubt whether this law will have any effect in reducing crime at all. If some petty crook is offered a small fortune to do in some public figure, he'll find a way to secure a firearm. If some maniac wants to take a potshot at some public official, he will get a gun somehow. There are many millions of firearms in the United States and many more across the borders in Mexico and in Canada.

Outside of turning this country into a police state, searching every house, and confiscating every firearm, there is no way to keep this great mass of firearms from circulating. The law will be as difficult to enforce as the Eighteenth Amendment was.

IN LARGE AREAS OF THE UNITED STATES, and certainly in the thinly populated states west of the Mississippi River, the public is overwhelmingly against this law. In my home state of Idaho, at least, law-enforcement officers passed a resolution against the law, said it would do no good.

The law makes it illegal for any holder of a federal firearms license to ship a firearm, ammunition, ammunition components (powder, metallic cartridge cases, primers, bullets), or even rifle actions in interstate commerce except to another holder of a federal firearms license. Furthermore, non-license-holders cannot give a gun to anyone who lives in another state or trade guns with him unless the guns pass through the hands of a dealer. I live in Idaho, three of my children in Washington. If I should give one of them a gun and the Feds should find out about it we would both be subject to a \$5,000 fine and a prison sentence. Furthermore, according to the law, neither of us would be allowed to own a gun from then on!

One way such a transfer could be made lawfully is for me to ship or carry the gun to a licensed dealer in Washington, who would then turn it over to one of my children. This is the correct procedure. Some regional agents have ruled that the gun would have to be turned over to a licensed dealer in the donor's state, who would then ship it to another licensed dealer in the recipient's state, who would in turn deliver it to the person supposed to receive it. This is not correct.

However, should an individual order a gun by mail from a licensed dealer in another state, the dealer would have to ship it to a licensed dealer in the state of the person who ordered the gun. If he is qualified he can then get the gun.

I recently had a letter from a dealer saying he thought the dealer should receive 10 percent of the value of a firearm for transferring it. For a custom sporter valued at \$750 the fee would be \$75—pretty steep. Most dealers charge \$5 to \$10 to take care of the paper work involved in such transfers, I have been told.

The other way that I, or any other gun owner, can give a firearm to a relative or friend in another state is to die and will it to him.

The man who does not live in a large metropolitan area and owns a firearm of oddball caliber—a 7 x 64 Mauser, a .404 Jeffery, a .416 Rigby, or anything of the sort has just about had it. Formerly he could order ammunition in odd calibers from large sporting-goods stores like Abercrombie & Fitch in New York and have it sent by express. He can no longer do so. He can, however, buy the ammunition over the counter in another state if he finds a dealer that stocks it. The great majority of dealers, certainly those in smaller cities, simply cannot afford to stock odd and slow-moving calibers.

## confusing, almost unenforceable—yet it is only the beginning. What next?

It is possible for the individual to get a "collector's" license, but the only arms a collector can freely collect are "curios and relics." To be recognized as curios or relics, firearms or ammunition must fall within one of these three categories: be 50 years old; be recognized by the curator of a federal, state, or municipal museum to be of museum interest; or be in some way novel, rare, bizarre, or associated with some figure or period of history.

Antique firearms (including muzzle-loaders) are exempt from the act. The Alcohol, Tobacco and Firearms Division of the Internal Revenue Service has decided to interpret the section of the law defining an antique by making 1898 the cut-off point. If any conventional firearm was made in or before 1898, it is an antique and no need to check further.

A firearm made after 1898 is classified an antique if it meets the following three requirements: 1) the firearm is a replica of one made in or before 1898; 2) ammunition for it is not currently manufactured in the United States; 3) ammunition for it is not stocked by the average licensed gun dealer and not readily available in ordinary channels of commercial trade. If a firearm fails to meet any of these three requirements, it is not an antique and is subject to the Gun Control Act.

In a panel discussion at the convention of the National Rifle Association held in Washington last spring and attended by ATF Division Director Harold A. Serr, staff members said that a Model 1886 Winchester rifle even if chambered for the currently manufactured .45/70 cartridge is an antique if manufactured in the year 1898 or before.

Manufacture of the Winchester Model 1873 rifle began in 1873. Manufacture of the model for centerfire cartridges was discontinued in 1919. Approximately 720,610 were made, with the last rimfire rifles being assembled in 1924 and 1925. The '73 was chambered for the .44/40, .38/40, and .32/20 cartridges and for the .22 short and .22 long rimfire cartridges. All of these cartridges are currently manufactured. Whether a '73 is an antique or not depends on the manufacturing date. The only way this can be told is by the serial numbers. Anyone with any doubt about the status of a firearm should request a ruling by his Assistant Regional Commissioner.

**T**HERE ARE ALSO MANY HOBBYISTS who collect fine modern arms—Parker, Winchester Model 21 shotguns, Purdey and Holland shotguns and rifles, high-grade Italian and Belgian shotguns. Some get creative pleasure out of having fine modern hunting rifles made by skillful gunsmiths, stockers, and engravers. Many of these men seldom shoot these beautiful rifles and never hunt with them. They get their kicks out of owning them and looking at them.

Often these collectors have many thousands of dollars tied up. But if the collector of modern arms who is not in the gun business wants to dispose of part of his collection he must either do so within his own state or ship or carry the firearms to a dealer in some other state for disposal. Heirs to such a collection could not dispose of items to individuals outside the state in which they live but would have to make any transfer through a licensed dealer in the state of the purchaser. In the case of a large collection the cost to the heirs of commissions to dealers might be considerable.

The sportsman going on a hunting trip to another state can ship a rifle or a shotgun to himself at his destination via Railway Express Agency or the U.S. Post Office, but if sent through the mails it must be marked "FIREARM." This marking is a postal regulation promulgated by the Postmaster General of the Johnson Administration. Presumably it could be changed. In any event, it has increased firearms thefts. And since no firearm sent by parcel post can be insured for more than \$200 the shipper faces a real loss if one of the more expensive guns is stolen.

You can also ship a gun by air freight or air express to

yourself at your point of arrival, but you are supposed to notify the chief law-enforcement officer at your destination by letter in advance. The regulations state that anyone traveling by public carrier with a gun must turn it over to the conductor of a train or the pilot of a plane.

Not only is it now illegal for anyone to ship ammunition across a state line to an individual but it is likewise illegal to ship most components for handloading—powder, bullets, primers, even empty unprimed cartridge cases. However, black powder, unprimed shotgun shells, and shot may be shipped.

**T**HE ANTI-GUN CRUSADERS are a strange collection. Some are people of good will who think all of man's failings can be corrected by law. Others are sentimentalists of the How-Can-You-Shoot-the-Innocent-Little-Deer-with-Their-Lovely-Brown-Eyes school. Many are cynical opportunists. Of these some are politicians who see a chance for votes and publicity by associating their names with what they think is a popular cause. Others are journalists who have seen an opportunity to make money and increase circulation by peddling sensational half-truths to readers. Others are arrogant intellectuals who hate guns and people who hunt. A widely quoted professor of sociology said he could see no reason why a citizen of a democracy should own a gun.

Some of those who favor restrictions on the sale, ownership, and use of firearms are themselves gun users. They feel that no matter what happens they can keep their own guns but they would like to see others disarmed. In most European countries restrictions on the ownership and use of arms go back to the Middle Ages. Then the possession and the use of arms and the right to hunt was the privilege of the gentry and the nobility. This is still true in most European countries, as the ordinary man cannot own firearms and has no place to hunt. Some Americans would like to see the same situation here.

The anti-gun campaign has been truly astounding. It has distorted statistics and has invented statistics. The author of a widely circulated anti-gun book made the statement that more people had been killed in civilian life by firearms than had been killed in all of the wars fought by the United States. The statement has no basis in fact, as statistics have not been kept until recently. Nevertheless the statement has been repeated over and over again even though it was pulled out of thin air.

The anti-gun editorial cartoonists have done their utmost to stir the public up against the gun owners. In their cartoons those who own and use guns appear as low-brow degenerates with gorilla fangs or as slack-jawed morons. They are shown with arms full of bombs and machine guns. Every effort has been made to paint the gun owner and the hunter as a vicious, irresponsible, and homicidal moron.

**N**OT ONLY DOES THE NEW LAW harass the tax-paying sportsman but it also puts an almost intolerable burden on the dealer. He now must keep not only a record of every firearm he sells and of extensive data on the purchaser, but also a record of the sale and the buyer of every box of ammunition, every pound of powder, every box of primers, even every box of unprimed cartridge cases.

In some instances the recording of serial numbers and names of buyers might be of assistance in tracing a weapon used in a crime. However, listing purchasers of ammunition serves no useful purpose that I can think of. A dealer of my acquaintance says he has had to put on an extra man to do the busy work the law demands.

I live in Idaho across the Snake River from Washington. The town on the Idaho side is larger than the one on the Washington side. Pal of mine who runs a sporting-goods store in Idaho has lost about one-third of his gun and ammunition business—that which he (continued on page 74)

## SHOOTING

Jack O'Connor



# Keeping Up with the Gun Control Act of 1968

continued from page 69

did with people across the river.

**EXAMPLE:** A young woman who lives on the Washington side and who likes to hunt decided she wanted a Browning automatic rifle in .270 caliber. She asked the sporting-goods dealer on the Idaho side to order her one. He did, but before he could get delivery the Gun Control Act went into effect. Now he cannot legally sell the rifle to her. The law says that a resident of one state may purchase firearms from dealers in contiguous states after a seven-day waiting period and notification of the law-enforcement officials of the purchaser's community. But the Department of the Treasury has ruled that before this can be done the purchaser's state must enact enabling legislation.

The results are that my friend the sporting-goods dealer has a Browning automatic .270 in stock with no purchaser in immediate prospect and the lady hunter doesn't have her dream rifle.

During the 1969 session of the Idaho legislature, Idaho passed enabling legislation. Washington, however, did not pass a contiguous-state bill in its regular session but was considering such a bill in its special session. Consequently, until Washington passes enabling legislation, a resident of Washington who lives close to an Idaho gun store but a long way from one in Washington still cannot legally buy a firearm in Idaho.

Gun users should press for enabling legislation by their state legislatures. If your state has not passed a contiguous-state bill, you may want to look at a free copy of a model bill, which is available by writing: National Shooting Sports Foundation, 1075 Post Road, Riverside, Connecticut 06878.

As of this writing, at least 21 states have enacted laws permitting residents to purchase rifles and shotguns in contiguous states: Alaska, Arkansas, Colorado, Georgia, Idaho, Iowa, Maine, Maryland, Massachusetts, Minnesota, Montana, Nevada, New Mexico, North Carolina, Oregon, Oklahoma, South Dakota, Tennessee, Texas, Vermont, and Wyoming.

The ordinary sportsman can no longer import a firearm from another country or buy one abroad and bring it back with him when he returns. Such a gun must be imported by the holder of an importer's license.

The purpose of this provision is no doubt to keep weapons out of the hands of the irresponsible and psychotic, but it will be costly indeed to the man interested in European firearms. Ameri-

can retail prices for European guns generally run from two to three times those in Europe.

Surplus military weapons generally can no longer be imported. Much of the surplus stuff that came in was junk foisted off on the unwary. However, some was good and usable. Various obsolete military rifles were the source of strong Mauser actions that became the basis of excellent sporters. Many a man on a restricted budget has cobbled himself up a usable deer rifle from a 6.5 Swedish Mauser, an 8 mm. German or Czech Mauser, a 7 mm. Mexican or South American Mauser, or a .303 British Enfield.

Nevertheless the gun user does retain a few privileges. He can ship his own shotgun or his hunting rifle, as long as the carrier is notified in writing, and pick it up at his destination. He is allowed to take it across state lines in his automobile. The gun owner is also allowed to send his gun across state lines to be repaired, altered, restocked, and engraved.

If a gun owner loses his gun or has it stolen when he is hunting in a state of which he is not a resident, he will be allowed to buy one to replace it after a suitable amount of red tape. He can ship air guns or CO2 guns and reloading equipment, unprimed shot shells, and shot. And so far he doesn't have to register his firearms. The owner of a gun can still sell it to another unlicensed individual in his own state without red tape. An unlicensed individual can take with him as accompanying baggage three firearms to be used on an overseas hunt without an export permit, but if he ships more than that he must obtain a permit from the Department of State. Even American-made guns should be registered with customs before they leave the country to avoid difficulties upon their return.

The law will probably be amended and interpreted for years, but as far as I can make out the person taking a gun on an overseas hunt cannot ship it ahead but must take it with him. On a long overseas shipment the difference between air freight and excess baggage amounts to important money. If three or four guns are shipped to Africa or India, the difference could amount to several hundreds of dollars.

In its essentials the Gun Control Act prohibits any individual from transferring, selling, trading, giving, transporting, or delivering a firearm to any person whom the transferor knows resides in another state (except a licensee). Violators are liable to heavy pen-

alties. If, for instance, you visited your dear old grandmother across the state line and she slipped you grandpaw's DHE grade Parker shotgun, the law says you could both be fined up to \$5,000, do a stretch in the Big House, and be forever denied the privilege of owning a gun. Don't forget it!

How is the law going to work?

If the actual purpose of the law is to keep guns out of the hands of irresponsible or dangerous individuals, it is not going to work at all. Hold-up men, hijackers, revolutionists, and those planning an assassination will ignore it. A pistol or revolver can be easily concealed, and unless automobiles are stopped and inspected at state lines (which they undoubtedly will not be) rifles and shotguns will continue to move from state to state. Real enforcement of the law would require baggage inspection between states, the opening of freight, express, and parcel post packages, and a staff of half a million men.

If Joe Jones wants to swap his .270 with Mike Smith, who lives across the state line, for Mike's shotgun, he probably will do so. He may get caught now and then, but catching him will be difficult. If Sam Smith, who lives in one state, wants to sell his shotgun to Fred Finnegan, who lives in another, the transaction will probably take place and nothing will be said about it. Likewise the crook who wants a pistol to use in knocking off a service station or a liquor store or in holding up a bank will find some way to get one. So will anyone bent on assassination.

In short, the present law is complicated, difficult to understand, and almost impossible to enforce. It has made neither the gun users nor the anti-gun people happy. Bills have been introduced into the present congress to amend the law in various ways. Some want to do away with record-keeping on the sale of ammunition. Others want to permit the shipment of such reloading components as unprimed cartridge cases and bullets.

On the other hand, bills have been introduced to require registration of all firearms, licensing of all firearms owners, and in general to make the ownership, exchange, and use of firearms more difficult and more burdensome. Compared with some of the bills introduced, the 1968 Gun Control Act, as complicated and annoying as it is, is mild.

If sportsmen are to head off legislation that will make it even more difficult for the law-abiding citizen to enjoy

nebago.  
 r you park it,  
 ething else.

otor home is a seaside cottage. In the  
 let. On a visit to Grandma, it's a week-  
 ark it, it's something else.

thing else to drive and live in. Bucket  
 sion, full-size beds, shower, stove, re-  
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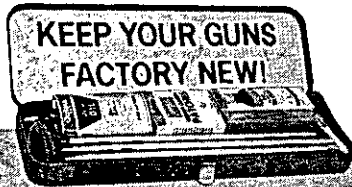
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his legitimate pursuits while it does  
 nothing to curb the criminal, they have  
 some hard decisions to make.

I believe with those who feel the  
 states have all the federal controls  
 necessary to enforce their own laws  
 (the original intent of the federal leg-  
 islation), and that if a state feels addi-  
 tional controls are needed they should  
 be passed at the state level.

No one would be happier to see fire-  
 arms kept out of the hands of criminals,  
 psychotics, and the careless than the  
 legitimate gun-using, tax-paying sports-  
 man. But registration will not do it,  
 and the very cost of trying would be  
 prohibitive for all tax-payers.

If the decision must favor more legis-  
 lation in any one state, serious thought  
 should be given to an identification-card  
 (ID) system for firearms owners.

Massachusetts has passed such a li-  
 censing law for those who own long  
 guns. A card costs \$2 and is good for  
 five years. Applications must be ap-  
 proved or rejected within 30 days.  
 Applicants for long-gun permits are  
 not photographed or fingerprinted, but  
 applicants who own handguns are. Cer-  
 tain persons are prohibited from ob-  
 taining identification cards—those who  
 have been released from state or federal  
 prisons within the past five years, al-  
 coholics, narcotic addicts, minors under  
 15, and minors from 15 to 18 unless  
 they have the written consent of their  
 parents.

New Jersey and Illinois also have ID  
 laws. There are good points and bad  
 points in all three. Further, several  
 other states are considering model ID  
 bills. Unfortunately, however, just call-  
 ing them model bills doesn't necessarily  
 make them so. If any state feels it  
 wants an ID bill, it has access to a  
 "blueprint" bill that affords the sports-  
 man every possible protection: a model  
 starter ID bill drafted by the National  
 Shooting Sports Foundation. The model  
 bill incorporates the best features of  
 the laws of Illinois, New Jersey, and  
 Massachusetts, but avoids the bad fea-  
 tures. I think it should be examined.  
 A free copy of the model ID bill is  
 available by writing: National Shooting  
 Sports Foundation, 1075 Post Road,  
 Riverside, Connecticut 06878.

I do not think that the extreme fringe  
 of the anti-gun crowd will ever be  
 content with less than registration of  
 all firearms and severe restrictions on  
 their use. I am convinced that the  
 future holds unending legislative bat-  
 tles against unreasonable and arbitrary  
 restrictions. However, the licensing of  
 gun users as is done in a model ID bill  
 should demonstrate the gun owners'  
 willingness to cooperate, and it should  
 also disarm all but the most unreason-  
 able of the anti-gun people.

The identification cards issued by the  
 various states would be similar to  
 drivers' licenses. Then if the licensee  
 misused a gun his license could be  
 lifted, just as the license is taken from  
 an automobile driver who is convicted  
 of drunk driving, reckless driving, and  
 so on. Anyone with a gun would have  
 to be able to show that he was licensed.

If not he would face arrest and the  
 confiscation of his gun.

Such a licensing system would not  
 unduly penalize and annoy the law-  
 abiding and the responsible, but it could  
 make licenses difficult to obtain by dope  
 addicts and those with criminal records.

Of course all those who use and love  
 firearms would be well advised to work  
 for a system of licensing gun owners  
 with safeguards that would prevent the  
 licensing agency from refusing permits  
 on whim.

The right to own and use firearms  
 has long been thought to be an inalien-  
 able right of American citizens, one  
 guaranteed by the constitution. But no  
 one should fool himself. We are now  
 in the process of losing it. If we do not  
 make our wishes felt in our state leg-  
 islatures and in congress, this right  
 will be stripped from us piece by piece!

—Jack O'Connor.

## Golden Eagle Passport Dead?

Four years ago Congress enacted  
 the Land and Water Conservation  
 Act of 1965, which authorized the  
 Interior Department's Bureau of  
 Outdoor Recreation to issue the  
 Golden Eagle Passport. For a yearly  
 fee of \$7, the passport gives its pur-  
 chaser, and passengers in his private  
 automobile, the right to enter and  
 enjoy any and all of the several  
 thousand recreation areas in our  
 national parks, forests, wildlife ref-  
 uges, seashores, and other federal  
 areas.

Every dollar derived from the sale  
 of these passports is earmarked for  
 deposit in the Land and Water Con-  
 servation Fund for use in acquiring  
 and developing more federal recrea-  
 tion lands and waters, and through  
 dollar-for-dollar matching funds to  
 the states to help them buy and  
 develop similar outdoor recreation  
 areas.

Early in its current session Con-  
 gress enacted Public Law 90-401,  
 an amendment to the 1965 law that  
 discontinues the issue of Golden  
 Eagle Passports after March 31,  
 1970.

Whatever else the cause of this  
 surprising Congressional about-face  
 may have been, it wasn't the failure  
 of the Golden Eagle Passport project  
 to produce results. In the less than  
 five years of its operation, close to  
 1½-million passports were sold and  
 more than \$10 million derived from  
 their sale was turned over to the  
 Land and Water Conservation Fund  
 to help buy and develop additional  
 federal and state outdoor-recreation  
 areas.

Obviously several Congressmen  
 were not among those present when  
 Public Law 90-401 was enacted.

If you want to help keep the  
 Golden Eagle flying, write to your  
 senators and representative and tell  
 them so.—A. G.