

LESSON 2

How Has the Second Amendment Been Interpreted?

Americans often get emotional when it comes to “gun control.” Two hundred and fifty years ago, could the Founders have imagined the power of the AK-47? On the other hand, is it a threat to freedom for the government to put any restrictions on owning weapons?

The Supreme Court has not given the Second Amendment as much attention as it has other amendments. Challenges to gun laws depend on how the amendment is read. Does it protect an individual right to own guns? How much government restriction does it permit?

READING TIP:

Try summarizing a paragraph in your own words, and then rereading it to see if your understanding was complete.

How Does the Second Amendment Impact Federal Law?

The Court has said that the Second Amendment restricts the actions of the federal government. It does not say, however, that the government must allow all guns to be available to everyone. In *United States v. Miller* (1939), the Court upheld the National Firearms Act that outlawed sawed-off shotguns. The Court ruled that, “In the absence of any evidence...that possession or use of a [double barrel twelve-gauge Stevens shotgun] at this time has some reasonable relationship to the preservation or efficiency of a well regulated militia, we cannot say that the Second

Amendment guarantees the right to keep and bear such an instrument.” The court said that the federal government had the power to limit the types of weapons allowed.

Can Congress Regulate Guns?

Over the past twenty years, Congress has passed several laws that restricted gun ownership in different ways. Congress said that because it had the constitutional power to regulate commerce (business), it could regulate any business directly or indirectly related to guns. Since schools prepare people for the business world, Congress believed it could regulate guns in school.

The Supreme Court disagreed. In *United States v. Lopez* (1995), the Court ruled that Congress did not have the power to ban firearms in schools. In *Printz v. U.S.* (1997), the Court ruled that Congress cannot force state officials to run gun checks.

What Is the Impact of the Second Amendment on State Law?

The Supreme Court has looked at cases involving state gun laws as well. It ruled that states had the right to control guns in the 1886 case of *Presser v. Illinois*. In this case, it said Illinois could stop people from marching or drilling with firearms unless they were doing so as part of a militia.

Almost a century later in 1981, the Court would not hear *LaGioia v. Morton Grove*.

By not hearing the case, it let stand a town council's effort to outlaw handguns. The future application of the Second Amendment to state and local governments is still uncertain.

Both sides of the gun control debate often quote the Second Amendment.

What Is the Gun Control Debate?

Two main groups make up the gun control debate: those who want government control of gun ownership and those who want little or no government interference. Both sides often quote the Second Amendment.



Gun control supporters argue that the Second Amendment applies only to militias and does not guarantee an individual right to own guns. Some suggest hunters should be allowed to keep rifles, but weapons like assault rifles and automatics should be restricted. They also support restriction of weapons that are easily accessible to criminals or children, like handguns. Some suggest improved weapons tracking with registration of all firearms and licensing of owners. While a small number call for a total ban on private gun ownership, most support what they see as fair rules that balance a right to individual bear arms with the need for public safety.

Those in favor of gun rights argue that the Second Amendment grants an individual the right to own and carry guns. Some say that guns should not have to be licensed. They point out that the primary purpose of the Second Amendment is to save the people's right to be armed against tyranny. The need for this right was shown by the central role of armed citizens early in the American Revolution. They argue that regulation of firearms comes at the price of freedom. They also say people should have the right to defend themselves against criminals. Gun ownership, they say, will decrease crime by keeping criminals in check.

Although the Supreme Court has rarely intervened in the gun control debate, the people have made their views clear through the political process. Gun ownership rules vary greatly throughout the country.