



## **S. 1431 AND H.R. 2038 WOULD STRENGTHEN AND RENEW THE FEDERAL ASSAULT WEAPONS BAN**

### **Introduction**

In 1994, Congress passed, and President Clinton signed, a ban on the production of certain semiautomatic assault weapons and high-capacity ammunition magazines that hold more than 10 rounds. The 1994 law banned a list of 19 specified assault weapons and other assault weapons incorporating certain design characteristics. This law is scheduled to sunset on September 13, 2004.

Immediately after the 1994 law was enacted, the gun industry moved quickly to make slight design changes in its guns to evade the law. Gunmakers openly boast of their ability to circumvent the assault weapons ban. Their success is described in an August 2001 *Gun World* review of the new Vepr II assault rifle, "In spite of assault rifle bans, bans on high capacity magazines, the rantings of the anti-gun media and the rifle's innate political incorrectness, the Kalashnikov, in various forms and guises has flourished. Today there are probably more models, accessories and parts to choose from than ever before." The industry's efforts have been aided by the fact that not all assault weapons are covered by the 1994 ban. For example, assault weapons with more conventional designs, such as the Ruger Mini-14, were not covered by the 1994 law, although gun experts define them as assault weapons.

There is no doubt that assault weapons continue to be used in murders and other crimes and pose a serious threat to law enforcement officers. For example, 478 Colt AR-15s and 584 MAK-90s were traced to crime scenes in just one year after the ban took effect.

### **What is an Assault Weapon?**

Civilian assault weapons are semiautomatic versions of military weapons designed to rapidly lay down a wide field of fire—often called "hosing down" an area.

Military and civilian assault weapons share key design features. These features were specifically developed so that relatively unskilled conscripted soldiers could inflict maximum casualties despite their poor marksmanship. The most important of these are:

- The ability to accept high-capacity magazines, capable of holding from 10 to more than 100 rounds of ammunition.
- Features that make it easy to simply point (as opposed to carefully aim) the gun while rapidly pulling the trigger. These include pistol grips—or magazines that function as pistol grips—on the fore end of the gun, and

barrel shrouds, ventilated tubes that surround the otherwise too-hot-to-hold barrel, providing an area that is cool enough to be directly grasped by the shooter even after scores of rounds have been fired.

Taken together, these features make it possible for the shooter of an assault weapon to quickly “hose down” a relatively wide area with a lethal spray of bullets. This increased lethality makes semiautomatic assault weapons particularly dangerous in civilian use. It explains why mass murderers, cop killers, and other violent criminals prefer them. It also distinguishes them from true hunting or target guns.

*Military* assault weapons are capable of fully automatic fire. This means that the gun will continue firing as long as the trigger is depressed, until the ammunition magazine is empty. *Civilian* assault weapons fire only in the semiautomatic mode, which means that only one bullet is fired with each pull of the trigger. In spite of this technical difference, civilian assault weapons retain all of the important design features that make assault weapons ideal killing machines.

In fact, firearm experts have long used the term “assault weapon” to describe a discrete category of guns suited to military use, whether they were fully automatic or semiautomatic. Long before civilian semiautomatic assault weapons became the subject of legislative debate, firearm aficionados used, understood, and applied the term “assault weapon” to the civilian versions. Thus, for example, in 1986 firearms expert Duncan Long wrote in his book *Assault Pistols, Rifles and Submachine Guns*:

According to the purists, an assault rifle has to be selective fire [fire in both semiautomatic and fully automatic mode]. Yet, if you think about it, it’s a little hard to accept the idea that firearms with extended magazines, pistol grip stock, etc., cease to be assault rifles by changing a bit of metal...The indiscriminate usage of the term “assault rifle” in the United States has caused it to mean any weapon that looks like an assault rifle and fires something bigger than a pistol round. “Assault rifle” has come to mean a rifle that has an extended magazine, straight-lined stock, and usually the ‘required’ pistol grip, though even that is a little iffy when you start looking at a conventionally designed rifle like the [Sturm, Ruger] Mini-14.

### **Strengthening the Assault Weapons Ban**

It is time for the 1994 assault weapons law to be **strengthened, improved, and renewed**. Legislation (S. 1431 and H.R. 2038) has been introduced to reauthorize the ban and strengthen it to prevent the gun industry from cynically circumventing it. Such an effort is not unprecedented. California significantly improved its state assault weapons ban in 1999 in response to the gun industry’s efforts to evade a law passed in 1989.

Following are key improvements that would make the federal assault weapons ban more effective.

- **The current definition must be improved to capture all assault weapons.** The most critical improvement is to ensure that the term “assault weapon” includes all guns that are, in fact, assault weapons. The definition should include firearms that accept a detachable ammunition magazine and incorporate *one* other assault weapon characteristic such as a pistol grip or folding stock. Currently, the law requires the presence of two such characteristics before a gun is labeled an “assault weapon.” The narrowness of this definition has resulted in a proliferation of post-ban assault weapons, including legal versions of guns—such as the TEC-9 and AR-15—banned by name by the 1994 law. In addition, some discretion should be granted to the Department of the Treasury to determine whether any particular weapon constitutes an “assault weapon.”
- **The list of assault weapon characteristics should be revised to delete some extraneous characteristics and better define others.** For example, bayonet mounts should be deleted from the definition. The ability to attach a bayonet to the barrel of a gun has no bearing on whether the firearm functions as an assault weapon. The term “pistol grip” should be clarified to include so-called “thumbhole stocks,” or any other design feature that performs the same function.
- **The term “firearm” as used in the assault weapons ban should be clarified to include the frame or receiver of a prohibited gun.** The “receiver” of any firearm is its major working part. Receivers and frames are defined by the Gun Control Act of 1968 as “firearms.” The Bureau of Alcohol, Tobacco and Firearms, however, has adopted a different interpretation of this basic federal gun law in the case of assault weapons, determining that the term “firearm” as applied to assault weapons does not include receivers or frames. This interpretation allows gun dealers and wholesalers to sell new receivers of otherwise banned guns. Furthermore, all of the other parts necessary to make an assault weapon are readily available, often sold as “parts kits.” Compounding this problem is the fact that it is legal for an individual to manufacture a firearm for personal use. The definition of “assault weapon” should make it clear that it includes assault weapon receivers and frames.
- **Manufacturers must be prohibited from using pre-ban, high-capacity ammunition magazines in post-ban assault weapons.** Under the 1994 law, no new firearm may be manufactured or sold in the United States with an ammunition magazine that has a capacity greater than 10 rounds. Assault weapon manufacturers are circumventing the law by equipping new guns with “grandfathered” high-capacity magazines of 10 rounds or more. This practice should be prohibited.

- **Importation of high-capacity ammunition magazines must be prohibited.** Currently, ATF regulations allow for the importation of foreign-made high-capacity magazines manufactured prior to the 1994 ban. This not only ensures that there will always be a supply of high-capacity magazines available for sale in the United States, but also dramatically increases the possibility that the manufacture date of new high-capacity magazines can be falsified.

The gun industry has successfully evaded the 1994 law. Therefore, simple renewal of the existing ban will do nothing to address the severe danger that assault weapons pose to public safety. Reauthorization of the ban must include substantial improvements to prevent the gun industry from continuing to flood America's streets with these deadly weapons.