

The Birth of the “Assault Weapons” Importation Ban

By:

Derek Andrew DeBrosse, Esq.

The Law Office of Derek A. DeBrosse, LLC

1161 Bethel Road, Suite 101, Columbus, Ohio 43220

(614) 316 - 7850

Most do not consider why most semiautomatic rifles for purchase are domestically manufactured, however, the truth of the matter is, is that the Gun Control Act makes foreign firearms generally illegal for importation. This article will merely touch on a complex analysis that the Bureau of Alcohol Tobacco Firearms and Explosives (BATFE) has conducted in determining that most foreign manufactured semiautomatic rifles (otherwise known as Assault Rifles) are illegal for importation into the United States.

The Gun Control Act; 18 U.S.C. 925(d)(3)

The Gun Control Act generally forbids the importation of foreign made firearms with four narrow exceptions. One of these narrow exceptions is known as the “sporting purposes test” as specified under 18 U.S.C. 925(d)(3) which mandates the importation of a firearm that is “particularly suitable for or readily adaptable to sporting purposes.” Regarding handguns the analysis is a bit different than it is with rifles as the BATFE uses form 4590 in deciding if the handgun meets the criteria. This article will solely focus on what is commonly referred to as an “assault rifle”.

When determining the eligibility of importation for a semiautomatic rifle the BATFE generally relies on an analysis of the physical features of the firearm on a case by case basis using a list of particular criteria. This criterion includes the firearm’s appearance, design, and magazine capacity among others. So how did the interpretation of 18 U.S.C. 925(d)(3) develop into a ban on importing foreign made “assault rifles”?

Sporting Purpose Test

18 U.S.C. 925(d)(3) received its first true test of interpretation in the 1980s (ATF Rulings 94-1 & 94-2) when the BATFE undertook the “sporting purposes test” for particular shotguns that were being imported. In 1984 a South African shotgun known as the Striker 12 was the specimen the ATF analyzed under the test. The manufacturer of the shotgun had submitted evidence that the firearm was used for police and combat competitions. Likewise in 1986 the Gilbert Equipment Company was manufacturing the USAS 12 shotgun and submitted evidence that its use was for similar purposes. The BATFE in both cases ruled that the firearms failed the “sporting purposes test” under the Gun Control Act and was therefore illegal to import. The BATFE held that neither was used for traditional shotgun uses such as hunting or trap shooting. The Gilbert Company challenged the ruling in court where it was held that the “overall appearance and design of the weapon ... is that of a combat weapon and not a sporting weapon.” *Gilbert Equipment Co.*, 709 F.Supp at 1089.

It was not until 1989 that the BATFE took issue with what they considered “assault rifles” for purposes of the Gun Control Act. In March of that year, after a gunman murdered five schoolchildren at a California school with an AK-47 style firearm, the BATFE suspended all further importation of “assault style rifles”. Along with the suspension the BATFE initiated a working group that issued a report on July 6, 1989 holding that “assault rifles” failed the “sporting purposes test” and were no longer legal for importation into the United States. Essentially the report distinguished between a firearm commonly used for sport and that of one that is common to present modern military assault rifles designed to kill and disable an enemy. Moreover, the report went further giving guidance on the scope of the “sporting purpose test” holding that it should be interpreted narrowly with a focus on traditional sports such as hunting and organized competition shooting.

Through much analysis that consisted of expert opinions, various research and recommended uses of certain firearms the BATFE concluded that “assault style firearms” are not the type generally used for sport and should, therefore, not be authorized for importation into the United States.

Conclusion

In the end, it is important that gun owners understand the history of any foreign made “assault rifles” they own. The history of the Gun Control Act leading up to where the law stands today is much more complex and ridden with politics than what this article touches on. The reader should always contact competent legal counsel if they have any questions as to the legality of their firearms.

Disclaimer: This article is for educational purposes only. The contents represent my own personal opinions, and should not be taken as legal advice. You can find further information on issues such as this in the [Handbook of Ohio Firearms Law](#) available at the [Ohioans for Concealed Carry](#) online store or by calling (614) 306 – 4082 to request a mail order form.