

MEMORANDUM

TO INTERESTED PARTIES

FROM GIFFORDS AND GIFFORDS LAW CENTER TO PREVENT GUN VIOLENCE

DATE MARCH 5, 2018

RE REGULATION OF ASSAULT WEAPONS UNDER THE NATIONAL FIREARMS ACT

Three of the 10 worst mass shootings in modern American history have been carried out with assault weapons in just the past five months. These are weapons specifically designed to kill people quickly, which is why they are consistently used in these horrific public attacks. It's never been clearer that Americans want to protect their kids and their communities from the unique threat these military-style firearms pose. Congress needs to find solutions to restrict the availability of assault weapons in order to keep our communities safer from gun violence. Many of the calls for action since the school shooting at Marjory Stoneman Douglas High School in Parkland, Florida have centered on the renewal of the assault weapons ban that expired in 2004. A February 2018 [Quinnipiac poll](#) showed that a majority of Americans, 67 percent, are in favor of a nationwide ban on the sale of assault weapons. These proposals would regulate both the future manufacture and sale of firearms that meet the definition of an assault weapon and all existing assault weapons that are lawfully possessed at the time of the law's passage.

Giffords proposes that any legislative solution to address assault weapons should require the registration of all existing assault weapons under the National Firearms Act (NFA) while also addressing the future manufacture and/or sale of these firearms. This proposal would utilize an existing regulatory structure that allows law-abiding Americans to legally possess these firearms, while also addressing the public safety concerns of American citizens and law enforcement.

HISTORY OF ASSAULT WEAPONS

Assault weapons are a class of semiautomatic firearms that are designed to kill people quickly and efficiently. The most common variety, the AR-15, is the civilian version of the M16, a combat rifle that made its debut on the [battlefield in Vietnam](#). They are a relatively new class of weapon—during the 1980s, the gun industry sought to reverse a decline in consumer demand for guns by developing and marketing new types of weapons based on [high-powered military designs](#). Such military features clearly distinguish assault weapons from standard sporting firearms; these features are what enable shooters to fire many rounds quickly and accurately, with or without the use of sights, while retaining control of the weapon. For this reason, assault weapons are frequently the guns of choice for individuals who carry out horrific public attacks.

THE LAPSED FEDERAL ASSAULT WEAPONS BAN

In 1994, Congress adopted the Violent Crime Control and Law Enforcement Act of 1994, which made it “unlawful for a person to manufacture, transfer, or possess” a semiautomatic assault weapon. The bill defined the phrase “semiautomatic assault weapon” to include 19 named firearms and copies of those firearms, as

GIFFORDS

well as certain semi-automatic rifles, pistols and shotguns with at least two specified characteristics from a list of features. The federal ban also prohibited the transfer and possession of any new large capacity ammunition magazine.

The law was adopted with a sunset clause, however, and expired in 2004—thus, these styles of weapons that were formerly banned under the federal law are currently legal unless banned by state or local law. Despite its limited duration, studies show that the federal assault weapon ban resulted in a marked decrease in the use of assault weapons and large capacity ammunition magazines in crime. [One study](#) found that in several major cities, the share of recovered crime guns that were assault weapons declined by at least 32% after the federal ban was adopted.

The 1994 act suffered from some notable limitations. The two-feature test and the inclusion of some features that were purely cosmetic in nature created a loophole that allowed manufacturers to successfully circumvent the law by making minor modifications to the weapons they already produced. The law also did not regulate the transfer or possession of assault weapons manufactured before the law's effective date. Manufacturers took advantage of this loophole by boosting production of assault weapons in the months leading up to the ban, creating a legal stockpile of these items.

REGULATING FIREARMS UNDER THE NATIONAL FIREARMS ACT (NFA)

The NFA, enacted in 1934, was the first federal regulation of the manufacture and transfer of firearms. Machine guns, short-barreled rifles, and silencers are currently regulated under the NFA. In order to possess NFA firearms, individuals must undergo a background check process that includes the submission of photo identification and fingerprints and requires the registration of the firearm with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). Individuals must also pay a \$200 transfer tax, an amount that has not changed since the NFA was established in 1934.

In 1986, Congress banned the future manufacture and production of machine guns, but continued to allow the lawful possession and transfer of machine guns that were owned prior to the ban's effective date as long as they were registered in accordance with requirements of the NFA. As of April 2017, over 5 million NFA firearms were registered with ATF. Because of the NFA's effective regulatory regime, the use of these weapons in crime is extraordinarily rare.

LEGISLATIVE SOLUTION

Giffords proposes that Congress require all existing assault weapons to be regulated under the National Firearms Act. This proposal would balance the rights of law-abiding gun owners with the need for increased restrictions on these lethal firearms. Congress must also address the future manufacture of assault weapons, either by prohibiting the manufacture of any further assault weapons (as it did in 1986 with machine guns), or requiring future assault weapons to be registered under the NFA. Additional resources must also be appropriated to ATF so that it can enforce the NFA with respect to these and other NFA weapons, including resources needed to modernize and upgrade its equipment and technologies. While the NFA imposes a \$200 tax on the registration of each NFA weapon, that money currently goes to the U.S. Department of the Treasury's General Fund, not to ATF. That money should be redirected to ATF to fund its responsibilities under the NFA.