Written by **C. Mitchell Shaw** on March 13, 2018

NRA Sues Florida for Law Violating Second Amendment

In the wake of the Valentine's Day school shooting in Parkland, Florida, the Florida state legislature — leaning heavily on emotion to the detriment of logic — passed an unconstitutional bill that bans certain types of weapons and accessories, raises the age to purchase firearms to from 18 to 21, and allows for a "red flag" provision to violate the rights of law-abiding citizens. The National Rifle Association (NRA) has responded with a lawsuit.

The federal lawsuit filed by the NRA specifically addresses the new age restriction for the purchase of rifles and shotguns. The organization filed the lawsuit Friday in the U.S. District Court for the Northern District of Florida after Governor Rick Scott signed the bill into law.

The new law is an entirely emotional response lacking any foundation in either logic or an understanding of either the problem or the Second Amendment's protection of the right to keep and bear arms. Restricting the legal rights of law-abiding gun owners will do nothing to protect students from another school shooting. It will only aid in the erosion of liberty.

As we reported on this when the bill went to the governor's desk, here is how one Republcan legislator, Senate President Joe Negron, explained how he justified his support for it:

> We can never replace the 17 lives that were lost at Marjory Stoneman Douglas High School, and we can never erase the traumatic experience that lives on in the memories of those who survived this horrific attack. However, we will do everything we can to address the failure of government to effectively address the numerous warning signs that should have identified the perpetrator as a danger to others. We can and we will increase the resources available to identify and treat those suffering from mental illness, improve the safety and security of our schools, and ensure those suffering from mental illness do not have access to firearms.

Of course Negron's "reason" for supporting the bill — while emotionally driven — lacks any reference to a legal justification for stripping away from citizens the right to keep and bear arms. Furthermore, both Negron's justification and the bill he justifies fail to address the real issues behind the causes of the Valentine's Day shooting. While promising to "do everything we can to address the failure of government to effectively address the numerous warning signs that should have identified the perpetrator as a danger to others," the new law does nothing of the kind. It merely assists the insatiable desire of the Left to erode the God-given rights of law-abiding citizens. Describing a draconian gun-grab bill as "common-sense gun control" does not make it so.

And it does not make society any safer.

Because the real reason for the shooting that took the lives of 17 people on February 14 is government corruption and greed, not bump stocks, high-capacity magazines, and legal firearm purchases by 18-20 year-olds. As this writer reported on March 2:

> The reality, though, is that the lack of "common-sense gun control" is not to blame for what

> happened in Parkland. That blame appears to rest squarely on the shoulders of local law-enforcement agencies and school administrators who entered into an agreement in 2013 to prevent police from arresting students who break the law. This agreement — the Collaborative Agreement on School Discipline — was designed to game federal school funding programs by circumventing law and order to keep kids in school instead of in jail, even when they committed serious crimes. School enrollment essentially became a "get out of jail free" card — or more accurately, a "never even go to jail" card.

If the safety of students were the real concern of the Florida legislature, if that body actually intended to address "the failure of government," perhaps a good place to start would be to put an end to federal funding of schools that leads to the corruption that actually allowed 17 victims to be murdered.

Instead, the legislature has targeted something that not only will not address the real problem, but is also something they simply haven't the authority to target. And that is where the NRA lawsuit comes in.

The NRA maintains that the law is a direct violation of the Second Amendment. The NRA's 13-page complaint is specifically focused on the section of the law that prevents 18- to 20-year-olds from purchasing rifles and shotguns. It says, in part, "At 18 years of age, law-abiding citizens in this country are considered adults for almost all purposes and certainly for the purposes of the exercise of fundamental constitutional rights." The complaint mentions that "At 18, citizens are eligible to serve in the military — to fight and die by arms for the country. Indeed, male citizens in this age-group are designated members of the militia by federal statute, 10 U.S.C. § 246(a), and may be conscripted to bear arms on behalf of their country, 50 U.S.C. § 3803(a). Yet, newly-enacted Section 790.065(13) of Florida's criminal code prohibits law-abiding adults in this age group from lawfully purchasing a firearm of any kind."

The text of the Second Amendment is clear and unambiguous: "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed."

The Second Amendment states in 27 words — none of them over four syllables and all still in common use — that "the people" have the right to "keep and bear arms" and that that right "shall not be infringed." Since the stated purpose for the value of that right is the fact that a "well regulated Militia" is "necessary to the security of a free State," the NRA is suing Florida for violating that right.

When the clear text of the Constitution is allowed to speak for itself, it becomes obvious that the First Amendment — which protects religion, speech, the press, assembly, and petitioning the government for a redress of grievances — forbids the federal government from legislating in those five areas. The language is specific: "Congress shall make no law."

The Second Amendment — since the "security of a free State" depends on a "well regulated Militia" made up of citizens trained and ready to defend that "free State" — uses language that is at once stronger and less narrowly focused: "shall not be infringed." It does not say Congress shall not infringe. It says no one can; the right is — to coin a word — "uninfringable." And that means the Florida State Legislature can't infringe on it. Period.

The NRA's lawsuit asks the court to enjoin the law. If the court rules in favor of the NRA — and for that matter, in favor of the U.S. Constitution — the law will not take effect. If that happens, Florida will likely repeal the decision and this case will begin winding its way through the courts — possibly making it to the U.S. Supreme Court. In possible anticipation of that eventuality, the NRA complaint cites a

previous Supreme Court decision — *District of Columbia v. Heller*. The complaint quotes the court's decision, saying, "The Second Amendment 'guarantee[s] the individual right to possess and carry' firearms, and 'elevates above all other interests the right of law-abiding, responsible citizens to use arms in defense of hearth and home.'"