

## **NEWSOM THREATENS LAW-ABIDING GUN OWNERS WITH FRIVOLOUS LAWSUITS FOLLOWING SUPREME COURT RULING ON TEXAS ABORTION LAW**

Governor Newsom [announced](#) on Saturday that he intends to work with the California Legislature and Attorney General to draft a bill that would allow private individuals to sue anyone who manufactures, distributes, or sells “assault weapons” or “ghost gun kit or parts” in California. This latest attack on law-abiding California gun owners is Newsom’s response to a recent Supreme Court ruling regarding a Texas state law prohibiting abortion.

The Supreme Court’s ruling, from a case titled *Whole Woman’s Health v. Jackson*, involves a challenge to the Texas law which, instead of criminal penalties, allows private citizens to sue violators for statutory damages. The Plaintiffs sued several Texas state officials as defendants whom they believed poised to enforce the law. But those same defendants sought and obtained a motion to dismiss on the grounds that they were not the ones who would ultimately enforce the law. Plaintiffs appealed, and the Supreme Court granted review to determine if the lawsuit could proceed to be enforced.

Importantly, the ultimate question of whether the Texas law is constitutional was not before the Supreme Court. Instead, the issue focused on whether the law could be challenged “pre-enforcement,” meaning without having to wait for someone to be sued by a private individual for a violation. In issuing its decision, the Supreme Court held that the Plaintiffs could bring a challenge against some of the named Texas state officials, but not all of them. And practically speaking, that is all the Supreme Court decision really says. For now, the case goes back down to the lower courts for litigation.

Any decision on the merits of the lawsuit will undoubtedly be closely watched in the media and could potentially have significant repercussions for abortion-related issues nationwide. But such a decision is still months away, if not more.

Regarding Governor Newsom’s reaction and subsequent press release, he is undoubtedly frustrated by CRPA’s successes in federal court and thwarting Proposition 63, Newsom’s own prior attempt at restricting Second Amendment rights. Clearly, he intends to use any means necessary to continue his efforts by using the recent Supreme Court decision as a template.

Although it is still unknown what law Newsom and his fellow anti-gun politicians will come up with, there are some obvious peculiarities with Newsom’s press release. First, California already generally prohibits the manufacture, distribution, and sale of so-called “assault weapons” under threat of criminal prosecution. In other words, Newsom would only be further restricting what is already prohibited.

Likewise, “ghost guns” are also generally prohibited in California. The term “ghost gun” is a politically driven one, usually referring to a home-built firearm that is perfectly legal to build

and own under federal law. But with the passage of Assembly Bill No. 857 in 2016, all home-built firearms in California must now obtain a DOJ-approved serial number prior to completion. The theory behind the requirement being a serial number will make the firearm easier to “trace” if recovered at the scene of a crime. What many anti-gun politicians and like-minded law enforcement agencies fail to mention, however, is that the ability to “trace” a firearm’s origin often has nothing to do with how that firearm was used illegally. And to CRPA’s knowledge, a “trace” of a firearm recovered at the scene of a crime has never been used to break a case and obtain a criminal conviction. In fact a recent study showed that most law enforcement agencies do not report crime guns so tracing can even be conducted.

Restrictions on so-called “ghost guns” in California don’t end there. Because “ghost guns” are made from unfinished frames or receivers, California naturally sought to restrict the sale of such items as well. Beginning July 1, 2022, the sale or transfer of any “firearm precursor part” in California will require a background check similar to that required for the sale or transfer of ammunition. But DOJ has yet to produce a workable, legal definition for the term “firearm precursor part,” despite already proposing licensing regulations for the sale of such items. We simply still don’t know what will require a license because it seems even DOJ is having difficulty defining such a term with particularity and accuracy. For similar reasons, we also do not know what Newsom means by the phrase “ghost gun parts” as used in his own press release. It is unlikely we will ever know for certain.

If Newsom really believes the legislature should pass anti-gun legislation along the lines of the Texas law, it would be an unprecedented escalation of California’s hostility to firearms rights and the 2A community. Such an action would also likely be unconstitutional given the court’s *Heller* precedent and other precedent in the 9<sup>th</sup> Circuit that firmly establishes the constitutional protection that attaches to the sale of firearms and related accessories. There is also the federal Protection of Lawful Commerce in Arms Act, and the pending Supreme Court decision in the New York carry case which could drastically change Second Amendment legal framework in the Ninth Circuit in favor of Second Amendment rights.

Law-abiding gun owners and businesses are not the cause of criminal misuse of firearms. Yet Newsom and other anti-gun politicians seem to believe the threat of frivolous lawsuits will somehow address their own failures.

Be sure to subscribe to CRPA alerts to stay up to date on Newsom’s latest attempts to further restrict Second Amendment rights and future developments in this and other important Second Amendment related issues.