



# GUN OWNERS OF AMERICA

8001 Forbes Pl Suite 202, Springfield VA 22151  
703-321-8585 / gunowners.org

October 13, 2017

The Honorable Donald Trump  
1600 Pennsylvania Ave., NW  
Washington, DC 20500

Dear Mr. President:

The push to outlaw “bump stocks,” “trigger cranks,” and similar accessories through regulation is much more dangerous than Republicans could ever imagine.

In fact, in our opinion, it could deal a body blow to the Second Amendment.

## **FIRST, BANNING BUMP STOCKS BY REGULATION IS ILLEGAL AND UNCONSTITUTIONAL.**

First of all, it would be illegal and contrary to statute to ban these devices through regulation.

Federal statutes make it clear that “machinegun” -- which has come to mean “fully automatic firearms” -- means: In 18 U.S.C. 921(a) (23) and 26 U.S.C. 5845(b), which it references, a “machinegun” must “shoot, automatically more than one shot, without manual reloading, by a single function of a trigger.”

Under the Hughes amendment (18 U.S.C. 922 (o)), a retrofit which newly (post May, 1986) makes a firearm function in this manner is unlawful.

However, the “bump stock” does not do this.

A “bump stock” allows a trigger to function much more rapidly than would otherwise be the case. But this function of the firearm remains the same! The trigger must function for each round to be discharged.

Thus, under 18 U.S.C. 921 (a) (28), the firearm with the “bump stock” remains a semi-automatic firearm because there is a “separate pull of the trigger to fire each cartridge.”

So there is no statutory authority to ban a “bump stock,” “trigger crank,” or any similar device.

Some have talked about “Chevron deference.” This doctrine allows the courts to defer to an agency with respect to the interpretation of its own statute. But it doesn’t allow the agency to ignore or violate the statute. And this is what is being proposed with respect to “bump stocks.”

If, in fact, the government has the residual, non-statutory authority to ban a device which allows a semi-automatic to function more efficiently as a semi-automatic, then it has the residual authority to ban semi-automatics entirely -- or handguns -- or even all guns.

Clearly, this is not the case.

**SECOND, PROPOSED LEGISLATIVE LANGUAGE TO OUTLAW “BUMP STOCKS” WOULD ALSO OUTLAW HIGH-CAPACITY MAGAZINES -- AND IT IS HARD TO IMAGINE THAT REGULATIONS WOULD NOT DO THE SAME.**

S. 1916 makes it illegal to “possess” any firearm accessory which “functions to accelerate the rate of fire of a semiautomatic rifle...”

Everyone agrees that this language would outlaw lighter trigger pulls, accelerated hammer drops, polished bolts, and any other device used by a competitive shooter to accelerate the rate of fire of his semi-automatic firearm.

But it is equally clear that high-capacity magazines are intended by Feinstein to be covered by her language -- and could, in fact, be outlawed, perhaps immediately.

Outlawing magazines has been a long-time goal of Feinstein and the anti-gun Left. And yet, all of the current legislation in Congress right now to ban bump stocks -- even the bills introduced by Republicans -- would open this door to banning high-capacity magazines.

It is difficult to conceive of how the Trump administration will navigate between this Scylla and Charybdis -- regulating bump stocks without also using a definition that can apply to high-capacity magazines.

And the day a Democrat gets elected to the White House, there is a 100% complete-and-total absolute certainty that high-capacity magazines will be retroactively outlawed by the anti-bump stock language. And they will not be grandfathered.

In fact, with embedded bureaucrats, career Assistant U.S. Attorneys, Clinton and Obama judges, crusading Leftist states’ attorneys general, and Bloomberg-financed lawsuits, we may not have to wait until the end of the Trump administration to see this come to pass.

So what does it mean when the Feinstein language bans a device which could “accelerate the rate of fire”? The obvious conclusion is that, if there is a tenth-of-a-second interval between the discharge of rounds, rather than a half-second, that represents an “acceleration.” And it certainly does.

But what if a larger magazine allows the gun to fire 20 rounds in 20 seconds, rather than the 22 seconds required if the shooter has to change the magazine? Is the ability to fire 20 rounds in 20 seconds, rather than 22 seconds, an “accelerated” rate of fire? Again, it is clear that it is.

But what about the ridiculous argument -- one can foresee the anti-gun left making -- that rather than putting one round at a time into a rifle, a magazine helps “accelerate the rate of fire” of a semi-auto?

Certainly, that argument would endanger all magazines, no matter what the size.

**THIRD, POLITICALLY AND SUBSTANTIVELY, IT IS A FAR DIFFERENT PROPOSITION FOR THE TRUMP ADMINISTRATION TO ATTACK THE SECOND AMENDMENT THAN FOR SOME DEMOCRATIC ADMINISTRATION TO DO SO.**

The electorate expects a Democrat administration to attack the Second Amendment. They don't expect a Republican administration to do so.

Pursuing an infringement of the Second Amendment -- in regard to bump stocks -- would place the Trump administration to the left of Obama's ATF.

One of the major pillars of your support has been the pro-gun community. To compromise here could inflict irreparable damage to your base.

Besides, lawsuits will inevitably follow. And if gun rights supporters have to sue the Trump administration, it is going to seriously change the base going into the 2018 elections.

In Liberty,



Erich Pratt  
Executive Director

cc: The Honorable Jeff Sessions