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Firearms Prohibitions and Domestic Violence Convictions: The Lautenberg Amendment

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Summary

The Lautenberg Amendment to the Gun Control Act of 1968 establishes a comprehensive regulatory scheme designed to prevent the use of firearms in domestic violence offenses. To this end, the Amendment prohibits the possession of firearms by persons convicted of a misdemeanor crime of domestic violence, and, relatedly, prohibits the knowing sale or disposition of any firearm or ammunition to a domestic violence misdemeanant. Furthermore, the Lautenberg Amendment alters the traditional public interest exception to the possession of firearms under the Gun Control Act by making the prohibition applicable to any individual convicted of a domestic violence misdemeanor, including federal, state, and local law enforcement officers.

The provisions of the Lautenberg Amendment have been challenged on three primary grounds. First, opponents of the law maintain that it violates the Commerce Clause by classifying as a federal offense activity that does not have an effect on interstate commerce as required by the Supreme Court's decision in *United States v. Lopez*. It has also been argued that the law violates the Equal Protection Clause by punishing domestic violence misdemeanors more harshly than other misdemeanor offenses, by punishing misdemeanor but not felony offenses, and by excluding law enforcement officers convicted of misdemeanor domestic violence offenses from the public interest exception of 18 U.S.C. §925(a)(1). Furthermore, the law has been attacked as a violation of the Ex Post Facto Clause on the basis that it prohibits the possession of a firearm by a domestic violence misdemeanant even if the predicate offense occurred prior to its enactment.

Reviewing courts have rejected these challenges to the Lautenberg Amendment, determining that its provisions fall within acceptable constitutional parameters. Regarding the Commerce Clause, courts have held that the law contains an express jurisdictional element requiring a finding that the firearm in question was possessed in or affecting commerce, or was received after having been shipped or transported in interstate or foreign commerce, obviating the concerns at issue in *United States v. Lopez*. Equal Protection Clause challenges have been rejected upon the determination that Congress rationally concluded that misdemeanor domestic violence offenders should not possess firearms. Finally, the courts have held that the law does not violate the Ex Post Facto Clause in that it prohibits post-enactment possession and does not criminalize conduct occurring before its enactment.

Contents

Firearms Prohibitions and Domestic Violence Convictions: The Lautenberg Amendment

Introduction

This report provides an overview of the provisions of the Lautenberg Amendment to the Gun Control Act of 1968, which establishes a scheme prohibiting the possession of firearms by individuals who have been convicted of a misdemeanor crime of domestic violence. In addition to outlining the elements of the prohibition on firearm possession and statutory defenses available to such a charge, this report discusses the disposition of legal challenges to the constitutional validity of the Amendment's proscriptions.

The Gun Control Act of 1968

The Gun Control Act of 1968 (GCA) established a comprehensive scheme regulating the manufacture, sale, transfer, and possession of firearms and ammunition.[1] Section 922(g) of the GCA delineates nine classes of individuals who are prohibited from shipping, transporting, possessing, or receiving firearms or ammunition in interstate commerce. The individuals targeted by this provision include: (1) persons convicted of a crime punishable by a term of imprisonment exceeding one year; (2) fugitives from justice; (3) individuals who are unlawful users or addicts of any controlled substance; (4) persons legally determined to be mentally defective, or who have been committed to a mental institution; (5) aliens illegally or unlawfully in the United States, as well as those who have been admitted pursuant to a nonimmigrant visa; (6) individuals who have been discharged dishonorably from the Armed Forces; (7) persons who have renounced United States citizenship; (8) individuals subject to a pertinent court order; and, finally, (9) persons who have been convicted of a misdemeanor domestic violence offense.[2]

The GCA, as enacted and amended, contains a public interest exception for all but one of the aforementioned disqualification categories. Specifically, except for 18 U.S.C. §922(g)(9), 18 U.S.C. §925(a)(1) exempts from prohibition "any firearm or ammunition imported for, sold or shipped to, or issued for the use of, the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof." The practical effect of this exception is to allow for the possession of firearms in an official capacity, irrespective of criminal record. As is discussed in greater detail below, this provision provided a blanket exception to the

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[1] *See* 18 U.S.C. §922.

[2] 18 U.S.C. §922(g)(1)-(9).

disqualification provisions of the GCA prior to enactment of the Lautenberg Amendment.

The Lautenberg Amendment

In September, 1996, as part of the Omnibus Consolidated Appropriations Act of 1997, Congress amended the criminal provisions of the GCA, adding a ninth disqualification category. Commonly referred to as the "Lautenberg Amendment," this provision makes it unlawful for "any person...who has been convicted of a misdemeanor crime of domestic violence" to ship, transport, possess, or receive firearms or ammunition in or affecting commerce.[3] Relatedly, the Lautenberg Amendment prohibits the knowing sale or other disposition of any firearm or ammunition to a domestic violence misdemeanant.[4] Furthermore, the Lautenberg Amendment alters the traditional public interest exception to the firearms disqualification provisions of the GCA, in that it applies to any individual who has been convicted of a domestic violence misdemeanor, including federal, state, and local law enforcement officers.[5]

A. Elements of the Offense.

Pursuant to the amendment, a misdemeanor conviction triggers the firearm possession prohibition only if the underlying offense includes an element requiring proof of the use or attempted use of physical force, or the threatened use of a deadly weapon against the victim.[6] The offender must be a current or former spouse, parent, or guardian of the victim; a person with whom the victim shares a child; a person with whom the victim has cohabitated or is cohabitating as a spouse, parent, or guardian; or a person "similarly situated" to a spouse, parent, or guardian of the victim.[7] This provision appears to cover an exhaustive range of domestic relationships, except that the text prevents children from being classified as offenders in the event that they commit a misdemeanor offense against a parent or guardian. The Bureau of Alcohol, Tobacco and Firearms (BATF) has clarified the language of the statute, stating that it covers common law marriages, irrespective of whether the relationship is recognized under state law, and situations where two persons share a domicile in an

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[3] 18 U.S.C. §922(g)(9).

[4] 18 U.S.C. §922(d)(9).

[5] 18 U.S.C. §925(a)(1).

[6] 18 U.S.C. §921(a)(33)(A)(i).

[7] 18 U.S.C. §921(a)(33)(A)(ii). In full, the definition is as follows: "the term 'misdemeanor crime of domestic violence' means an offense that: (i) is a misdemeanor under federal or state law; and (ii) has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim."

intimate relationship.[8] Specifically, the ATF has stated that the "similarly situated to a spouse" language does not require the establishment of a common law marriage relationship. Rather, such individuals must simply be involved "in more than a 'dating' relationship."[9] As with the other classifications of domestic relationships, individuals in a relationship "similarly situated to a spouse" fall under the purview of the prohibition if they were "domiciled in an intimate relationship with the victim of the offense either at the time of, or at any time prior to, the offense."[10]

It is important to note that a predicate offense is not required to contain an explicit element referring to domestic violence. According to the BATF, the term "misdemeanor crime of domestic violence" refers to "all misdemeanors that involve the use or attempted use of physical force (e.g., simple assault, assault and battery) if the offense is committed by one of the defined parties. This is true whether or not the State statute or local ordinance specifically defines the offense as a domestic violence misdemeanor."[11] A similar conclusion was reached by the Court of Appeals for the Eight Circuit, which held that "while §921(a)(33) requires proof of a domestic relationship, it requires the predicate misdemeanor to have only one element: the use or attempted use of physical force (or its alternative, the threatened use of a deadly weapon...)."[12]

B. Statutory Defenses.

18 U.S.C. §921(a)(33) establishes two statutory defenses to the application of the possession prohibition, extending procedural protections that are generally only available to individuals charged with felonies to those charged with misdemeanor crimes of domestic violence. Specifically, §921(a)(33)(B) provides that the underlying misdemeanor offense may not be used as a predicate to a violation of §922(g)(9) unless: (1) the individual in question was represented by counsel in the case, or knowingly and intelligently waived the right to counsel, and, (2) in the instance that the individual was entitled to a trial by jury, the case was indeed tried by jury, or the individual in question made a knowing and intelligent waiver of the right.

Given that few misdemeanor offenses imbue defendants with the right to a trial by jury, the second of the aforementioned statutory defenses has had no discernible impact on court decisions regarding convictions pursuant to §922(g)(9). It does

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[8]27 C.F.R. §178.11; *See also*, Bureau of Alcohol, Tobacco and Firearms, "Federal Firearms Regulations Reference Guide," ATF P 5300.4, p. 152 (2000).

[9]*Id*.

[10]*Id*.

[11]Bureau of Alcohol, Tobacco and Firearms, Open Letter to All State and Local Law Enforcement Officials, http://www.atf.treas.gov/firearms/domestic/opltrleo.htm. *See also*, *United States v. Lewitzke*, 176 F.3d 1022, 1025 (7th Cir. 1999).

[12]*United States v. Smith*, 171 F.3d 617, 620 (8th Cir. 1999); *See also, United States v. White*, 258 F.3d 374 (5th Cir. 2001) (holding that convictions under Texas statutes criminalizing reckless conduct and terroristic threats were not convictions of a "crime of domestic violence" as they did not contain the aforementioned required elements, precluding their use as predicate convictions for a violation of §922(g)(9)).

appear, however, that the requirement concerning legal representation could serve to limit the application of §922(g)(9). Specifically, given that there is no constitutional right to counsel in misdemeanor cases, it has been surmised that many domestic violence misdemeanants appeared without representation and likely did not make a knowing and intelligent waiver of that right, thereby significantly limiting the universe of individuals against whom the possession ban may be enforced.[13] The Court of Appeals for the Ninth Circuit addressed just such a situation in *United States v. Akins*, holding that the evidence was insufficient to establish that the defendant had validly waived his right to counsel prior to pleading guilty to an underlying state misdemeanor domestic violence charge, as required to establish a violation of §922(g).[14]

At issue in *Akins* was the defendant's contention that the indictment charging him with violating §922(g)(9) was faulty in that it failed to allege an underlying misdemeanor crime of domestic violence as defined in §921(a)(33), given that he had not knowingly and intelligently waived his right to counsel prior to a 1989 misdemeanor conviction. Addressing this argument, the court explained that in order to make a knowing and intelligent waiver of the right to counsel, a "defendant must be made aware of (1) the nature of the charges against him; (2) the possible penalties; and (3) the dangers and disadvantages of self representation."[15] The court went on to stress that this standard applies to both misdemeanor and felony charges.[16] Analyzing the facts of the case, the court determined that the defendant's original waiver consisting of a written statement was insufficient, as it merely recited some of the possible consequences of a guilty plea and did not at any point apprise the defendant of the "dangers and disadvantages of proceeding without council."[17] Additionally, the court found it significant that there was no evidence to indicate that the trial court provided the defendant with any warnings apart from those contained within the waiver. The court also determined that there was no evidence as to the defendant's background and conduct that would allow a conclusion that his waiver of counsel was knowing and intelligent irrespective of the noted deficiencies. Accordingly, the court

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[13]*See* CRS Report 97-68, *Gun Ban For Persons Convicted of Misdemeanor Crime of Domestic Violence: Ex Post Facto Clause and Other Constitutional Issues*, by Dorothy Schrader. Additionally, it is important to note that while the Supreme Court's decision in *Gideon v. Wainwright*, 372 U.S. 335 (1963) established that persons charged with a felony are entitled to counsel, the Court has also established that a convicted felon cannot challenge the validity of a predicate conviction as a defense to a firearms charge under 18 U.S.C. §922(g), even if the individual in question was not represented by counsel. *Lewis v. United States*, 445 U.S. 55 (1980). Rather, a felon must challenge the validity of such a conviction in a collateral proceeding. Thus, by allowing a statutory challenge to a predicate misdemeanor violence conviction during a proceeding pursuant to a violation of the Lautenberg Amendment, §921(a)(33)(B) grants misdemeanants a defense not available to felons charged with the possession of firearms. *Id*.

[14]*United States v. Akins*, 243 F.3d 1199 (9th Cir. 2001).

[15]*Id*. at 1203.

[16]*Id*. at 1203-1204.

[17]*Id*. at 1205.

held that the defendant's waiver of counsel was insufficient, precluding prosecution under §922(g)(9).[18]

Constitutional Challenges

The Lautenberg Amendment has been attacked as impinging upon several different constitutional provisions. While arguments that §922(g)(9) violates the Second and Tenth Amendments and operates as a bill of attainder have been dismissed readily, arguments relating to the Commerce Clause, the Equal Protection Clause, and the Ex Post Facto Clause have received more measured consideration.[19]

A. Commerce Clause.

The validity of §922(g)(9) has been challenged on the basis that it violates the tenets of the Commerce Clause, as delineated in the Supreme Court's decision in *United States v. Lopez*.[20] Specifically at issue in *Lopez* was whether a federal statute prohibiting the mere possession of a firearm on school grounds exceeded congressional authority.[21] In explaining the judicially enforceable limits of the Commerce Clause, the Court delineated three categories of activity that come within its ambit.[22] First, Congress possesses the authority to regulate the use of the channels of interstate commerce.[23] Second, Congress may regulate the instrumentalities of interstate commerce, or persons or things in interstate commerce.[24] Finally, Congress may also regulate activities which have a substantial relation to, and effect on, interstate commerce.[25]

In applying these standards to the case before it, the Supreme Court determined that the statute at issue, 18 U.S.C. §922(q), was neither a regulation of the instrumentalities or channels of interstate commerce, making the determination of the

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[18]*Id*. at 1205-1206. It should be noted that the Court of Appeals for the Eighth Circuit has also ruled on the waiver requirement, holding that evidence of a written waiver, coupled with a prior invocation of the right to counsel, is sufficient for a court to conclude as a matter of law that a defendant has made a knowing and intelligent waiver of the right to counsel. *United States v. Smith*, 171 F.3d 617, 622 (8th Cir. 1999).

[19]*See National Ass'n of Government Employees, Inc. v. Barrett*, 968 F.Supp. 1564 (N.D. Ga. 1997), *aff'd*, 155 F.3d 1276 (11th Cir. 1998); *Fraternal Order of Police v. United States*, 152 F.3d 998 (D.C. Cir. 1998); *United States v. Gillespie*, 185 F.3d 693 (7th Cir. 1999); *United States v. Mitchell*, 209 F.3d. 319, 322-323 (4th Cir. 2000).

[20]514 U.S. 549 (1995).

[21]*Id.*

[22]*Id.* at 557

[23]*Id.* at 558.

[24]*Id.* at 558.

[25]*Id.* at 558.

case hinge on the "substantial effects" test.[26] In conducting its analysis under this category, the Court determined that §922(q) was a criminal statute which, by its terms, had no connection with commerce or any sort of economic enterprise, and did not play an essential role in a larger regulatory scheme.[27] The Supreme Court also found it significant that there was no jurisdictional element in the statute which would ensure that firearm possession affected interstate commerce in a particular case.[28]

To date, every court applying this standard has readily determined that §922(g)(9) meets minimum constitutional requirements under the Commerce Clause. Specifically, reviewing courts have determined that §922(g)(9) contains a jurisdictional element that requires the government to establish that the firearm at issue was possessed in or affecting commerce, or was received after having been shipped or transported in interstate or foreign commerce.[29] Thus, unlike the statute at issue in *Lopez*, the structure of §922(g)(9) requires the establishment of a nexus between the illegal firearm and interstate commerce, limiting the statute's application to a discrete set of firearm possessions that have an explicit connection to interstate commerce, thereby obviating Commerce Clause concerns.[30]

B. Equal Protection.

It has also been argued that §922(g)(9) violates the equal protection clause by punishing domestic violence misdemeanors more harshly than other misdemeanor offenses, by punishing misdemeanor but not felony offenses, and by excluding law enforcement officers convicted of misdemeanor domestic violence offenses from the public interest exception of 18 U.S.C. §925(a)(1).

Determining the level of scrutiny to be applied under the Equal Protection Clause hinges upon an analysis of whether a law negatively impacts a suspect class or a fundamental right. If there is such an impact, the law is subjected to strict scrutiny,

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[26]*Id.* at 559.

[27]*Id.* at 561.

[28]*Id.* at 561-562. In *Lopez*, the Supreme Court adjusted the judiciary's traditional approach to Commerce Clause analysis, maintaining that while the history of Commerce Clause jurisprudence represented an expansive interpretation of federal Commerce Clause power, the judiciary maintained the ability to enforce limits on that power. In addition to its consideration of the issues discussed above, the Court also rejected the argument that possession of a gun in the school environment impacted the economy by contributing to the costs associated with violent crime, curtailing the willingness of individuals to travel to areas seen as unsafe, or by posing a threat to the education of the citizenry, thus comprising the quality of the nation's workforce. *Id.* at 563-564. The Court went on to note that if such remote connections to economic effects were accepted as relevant, it would be almost impossible to identify "any activity by an individual that Congress is without authority to regulate." *Id.* at 565.

[29]*See Fraternal Order of Police v. United States*, 173 F.3d 898, 907-908 (D.C. Cir. 1999); *United States v. Gillespie*, 185 F.3d 693, 704-760 (7th Cir. 1999); *National Ass'n of Government Employees, Inc. v. Barrett*, 868 F.Supp. 1564, 1572 (N.D. Ga. 1997) *aff'd*, 155 F.3d 1276 (11th Cir. 1998).

[30]*See Lopez*, 514 U.S. at 561-563.

requiring the government to prove that the law is necessary to satisfy a compelling governmental interest.[31] In instances where a law does not affect a suspect class or a fundamental right, the court engages in "rational basis" review, requiring only that the law be rationally related to the asserted governmental interest.[32]

Applying these standards, reviewing courts have held that the Lautenberg Amendment does not violate the Equal Protection Clause. In *Hiley v. Barrett*, for instance, the Court of Appeals for the Eleventh Circuit, adopting the opinion of the district court, found that the Lautenberg Amendment passed constitutional muster.[33] The *Barrett* court began its equal protection analysis by noting that the appropriate level of review was the rational basis test, as none of the claims involved a suspect class or fundamental right.[34]

Addressing the argument that the Lautenberg Amendment irrationally categorizes misdemeanor domestic violence offenses more harshly than other misdemeanors, the court first noted that the right to equal protection under the law does not strip Congress of the authority to "'to treat different classes of persons in different ways.'"[35] As such, the court determined that, in light of the Amendment's goal of reducing "'the likelihood that domestic violence will escalate into murder,'" Congress had rationally concluded that misdemeanor domestic violence offenders should not possess firearms.[36]

The court next turned to the assertion that the Amendment unjustifiably discriminates between misdemeanor domestic offenders and convicted felons. This argument centers on the fact that while convicted felons may regain the right to possess a firearm if they receive a pardon, have their conviction expunged, or otherwise have their civil rights restored, many jurisdictions do not deprive misdemeanants of their civil rights. As such, the Amendment creates "an anomaly whereby certain felons may be able to possess firearms, but domestic violence misdemeanants will not."[37] While acknowledging that such an anomaly may indeed come to pass, the court deemed it irrelevant, noting that "courts have rejected equal protection challenges to the gun control laws that rest on anomalies resulting from differing state regimens."[38]

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[31] *See, e.g., City of Cleburne v. Cleburne Living Center*, 473 U.S. 432, 439-40 (1985).

[32] *See, e.g., Heller v. Doe*, 509 U.S. 312, 319 (1993).

[33] 155 F.3d 1276 (11th Cir. 1998). Further discussion regarding this case refers to the decision of the District Court for the Northern District of Georgia in *National Ass'n of Government Employees, Inc. v. Barrett*, 968 F.Supp. 1564 (N.D. Ga. 1997).

[34] *Id*. at 1573.

[35] *Id*. at 1573 (quoting *Johnson v. Robinson*, 415 U.S. 361, 74 (1974)).

[36] *Id*. at 1573 (quoting 142 Cong. Rec. S11227 (daily ed., Sept. 25, 1996) (statement of Sen. Lautenberg)).

[37] *Id*. at 1574.

[38] *Id*. at 1574.

The court then considered the final argument that the Amendment impermissibly discriminates against law enforcement officers who have committed misdemeanor domestic violence offenses. The court rejected this argument, noting that while the ultimate effect §922(g)(9) "may be to bar certain domestic violence misdemeanants of a career that requires the ability to possess a firearm, equal protection concerns are not implicated by the "uneven effects" of a rational classification, absent evidence of discriminatory intent.[39] Applying this rationale to the case at hand, the court determined that there was no evidence of any discriminatory intent towards police officers by Congress, obviating any equal protection concerns.[40]

The Court of Appeals for the Seventh Circuit has also rejected equal protection challenges to the Lautenberg Amendment, employing the same reasoning as the district court in *Barrett*.[41]

The Court of Appeals for the District of Columbia also upheld the Lautenberg Amendment on equal protection grounds in *Fraternal Order of Police v. United States*[42] (FOP II). However, it is important to note that the court originally determined that the Amendment failed rational basis review under the Equal Protection Clause (FOP I).[43] In FOP I, the court focused on the lack of a public interest exception for law enforcement officers, and held that there was in fact no rational basis for the distinction between domestic violence misdemeanants and felons in this context.[44] The court maintained that the Amendment could not be permitted to enable the government to prohibit domestic violence misdemeanants from possessing firearms pursuant to the public interest exception "while it imposes a lesser restriction on those convicted of crimes that differ only in being more serious."[45]

In FOP II, the United States was granted a rehearing by the court, resulting in a reversal of the decision in FOP I. The court began its analysis in FOP II by noting the factors that led to its initial decision determining that the Lautenberg Amendment failed the rational basis test. Specifically, the court stated that "treating misdemeanants more harshly than felons seems irrational in the conventional sense of that term," and that the imposition of a lesser duty on felons raised questions regarding the applicability of the general maxim that Congress "is entitled to address a problem 'one step at a time.'"[46] Upon further review, however, the court qualified this statement, determining that it was "not unreasonable for Congress to believe that existing laws and practices adequately deal with the problem of issuance of official

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[39]*Id*. at 1574-75.

[40]*Id*. at 1574-75.

[41]*See United States v. Gillespie*, 185 F.3d 693 (7th Cir. 1999).

[42]173 F.3d 898 (D.C. Cir. 1999).

[43]*Fraternal Order of Police v. United States*, 152 F.3d 998 (D.C. Cir. 1998).

[44]*Id*. at 1002-1003.

[45]*Id*. at 1004.

[46]173 F.3d 898, 903 (quoting FOP I, 152 F.3d at 1004).

firearms to felons but not domestic violence misdemeanants."[47] The court went on to explain that "nonlegal restrictions, such as formal and informal hiring practices may...prevent felons from being issued firearms" pursuant to the public interest exception, mitigating the apparent disparity created by the Lautenberg Amendment.[48]

The court's reversal in FOP II prevented a split among the circuits regarding the validity of the Lautenberg Amendment in the equal protection context. It should be noted, however, that the FOP cases represent differing but tenable interpretations regarding the effect of the Amendment, leaving open the possibility that future courts may again differ on the proper application of the Equal Protection Clause to the Lautenberg Amendment.

C. Ex Post Facto Clause.

Finally, the Lautenberg Amendment has also been challenged as a violation of the Ex Post Facto Clause, given that it prohibits a domestic violence misdemeanant from possessing a firearm even if the predicate offense occurred prior to its enactment.[49] The district court decision in *National Ass'n of Government Employees, Inc. v. Barrett*, as affirmed and adopted by the Court of Appeals for the Eleventh Circuit in *Hiley v. Barrett*, rejected this argument, stating that the prohibited activity is the post-enactment possession of a firearm, as opposed to a pre-enactment domestic violence misdemeanor.[50] Clarifying this point, the court explained that the Lautenberg Amendment, by prohibiting post-enactment possession, did not criminalize conduct that occurred prior to its effective date.[51] As such, the court held that the Amendment was not retrospective and, therefore, not violative of the Ex Post Facto Clause.[52] This reasoning has also been employed by the Court of Appeals for the Fourth Circuit and various district courts in rejecting ex post facto challenges to the Lautenberg Amendment.[53]

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[47] *Id*. at 903-904.

[48] *Id*. at 904.

[49] A law violates the strictures of the Ex Post Facto Clause if it applies to events that occurred before its enactment and disadvantages an affected offender by altering the definition of criminal conduct or increasing the punishment for a crime. *See Weaver v. Graham*, 450 U.S. 24, 28-29 (1981).

[50] *Barrett*, 968 F.Supp. at 1576.

[51] *Id*. at 1576.

[52] *Id*. at 1576.

[53] *United States v. Mitchell*, 209 F.3d. 319, 322-323 (4th Cir. 2000). *See also, United States v. Boyd*, 52 F.Supp.2d 1233, 1236-37 (D.Kan. 1999); *McHugh v. Rubin*, 49 F.Supp.2d 105, 108 (E.D.N.Y. 1999); *United States v. Hicks*, 992 F.Supp. 1244. 1245-46 (D.Kan. 1997); *United States v. Meade*, 986 F.Supp. 66, 69 (D.Mass. 1997), *aff'd*, 175 F.3d 215 (1st Cir. 1999).

Conclusion

As has been shown, the Lautenberg Amendment establishes a comprehensive federal scheme that is designed to prevent the use of firearms in domestic violence offenses by prohibiting the possession of firearms by persons convicted of a misdemeanor crime of domestic violence, as well as the knowing sale or disposition of any firearm or ammunition to a domestic violence misdemeanant. Furthermore, by altering the traditional public interest exception of the GCA, the Lautenberg Amendment has been made applicable to state and federal law enforcement officials.

While these provisions have been a significant source of legal controversy, reviewing courts have rejected all challenges to the validity of the Amendment, determining that its provisions comport with minimum constitutional requirements. Furthermore, while it is important to remember that there are tenable constitutional arguments that may be raised against the Lautenberg Amendment, the breadth of the decisions discussed above would appear to minimize the possibility of any future rulings invalidating its provisions.