



Why treating guns like cars might not be such a bad idea.

David B. Kopel | Nov. 1, 1999 12:00 am

Should we treat guns like cars? Handgun Control Inc. has been saying so for years, and this summer Vice President Al Gore agreed. "We require a license to drive a car in this nation in order to keep unsafe drivers off the road," Gore said. "As president, I will fight for a national requirement that every state issue photo licenses [for handgun buyers]. We should require a license to own a handgun so people who shouldn't have them can't get them." Prospective licensees should have to "pass a background test and pass a gun safety test." Gore predicted that his plan would cause the gun lobby to "have a fit."

Actually, if Gore follows through on his promise to treat guns like cars, he will oversee the most massive decontrol of firearms in America since 1868, when the 14th Amendment abolished the Southern states' Black Codes, which prevented freedmen from owning guns. Although anti-gun lobbyists who use the car analogy are pushing for additional controls, laws that really did treat guns like cars would be much less restrictive, on the whole, than what we have now.

The first thing to go would be the 1986 federal ban on the manufacture of machine guns for sale to ordinary citizens. We don't ban cars like Porsches just because they are high-powered and can drive much faster than the speed limit. Even though it's a lot easier to go 50 miles per hour over the highway speed limit in a Porsche than in a Hyundai, we let people own any car they want, no matter what its potential for abuse.

After getting rid of the machine gun ban, the next step toward treating cars like guns would be repealing the 1994 federal "assault weapon" ban and its analogs in California, Massachusetts, New Jersey, and a few other jurisdictions. So-called assault weapons are actually ordinary guns that fire just one bullet each time the trigger is pressed, but they happen to look like machine guns. Just as we don't ban powerful Porsches (which actually can go very fast), we don't ban less-powerful vehicles that simply look like high-performance cars.

Likewise, we don't ban autos because they are underpowered, or because they're made with low-quality metal. If you want a Yugo, you can buy one. So the state-level bans on inexpensive guns (a.k.a. "junk guns" or "Saturday night specials") will have to go, along with the federal rules against the import of cheap guns.

Also slated for elimination under the treat-cars-like-guns rule are thousands of laws regulating the purchase of firearms and their possession on private property. The simple purchase of an automobile is subject to essentially no restrictions. When you show up at the dealer's showroom, he will not conduct a background check to find out if you have a conviction for vehicular homicide, or if you've been arrested for drunk driving, or even if you have a driver's license. All you need is money.

The only "waiting period" to buy a car runs from the time you pay for it (with cash, a certified check, or a loan document) to the time the salesman hands you the keys. This waiting period tends to run from 30 seconds to five minutes. In contrast, firearms are the only product in this country for which FBI permission (via the national background check) is required for every single retail purchase.

If you keep your automobile on private property, there are virtually no restrictions. Even though your driver's license was revoked last week, you can drive your Jeep on your ranch as much as you want. Indeed, you can drink a case of beer before you go driving around your ranch, and enjoy the ride knowing that you are not violating a single law. (Of course, if any form of negligent or reckless conduct with your auto on your own property results in injury to an innocent person or to someone else's property, you will be financially responsible, and you may be prosecuted for violating laws against reckless endangerment.)

Thus, we can get rid of all the laws concerning gun storage in the home, together with the laws that ban possession of guns by various persons on private property. Current federal law outlaws gun possession, on private as well as public property, by anyone who has ever been convicted of a felony (even a nonviolent one), anyone with a misdemeanor involving domestic violence (such as two brothers who had a fistfight on their front lawn 30 years ago), anyone who has been dishonorably discharged from the military, any alcoholic, any illegal drug user (defined by regulation as anyone who has used drugs in the last year), any illegal alien, and various other "prohibited persons." Some states, such as Massachusetts, go even further, making all gun possession presumptively illegal, except for persons with special licenses. Once we really treat guns like cars, all of these laws will be swept away.

Most cities do prohibit property owners from storing their cars in an unsightly manner (say, on cinder blocks in the front yard), or from parking too many cars on the public street in front of their homes. Fair enough. Gun owners will have to accept laws against leaving nonfunctional guns strewn about their front yard, and they will not be allowed to leave excessive numbers of guns on the street. (Anti-gun groups frequently complain that there are "too many guns on the street.")

If you have a car on your own property, you can hitch it to a trailer, have it pulled to someone else's property, and drive the car on his property (assuming you have his permission). As long as your car is just being towed, you don't need a driver's license or plates. Thus, gun owners should be allowed to transport their unloaded guns to private property (a shooting gallery, for example) for use on that property. Jurisdictions such as New York City would no longer have the power to require a separate "target permit" just to take a gun to the local pistol range.

But now suppose that you want to use your car on public property, such as a street or an old logging trail in a national forest. Then a licensing system does come into play--but only because the car will be used in public. For a license that allows you to drive a car anywhere in public, most states require that you 1) be at least 15 or 16 years old; 2) take a written safety test that requires an IQ of no more than 75 to pass; and 3) show an examiner that you know how to operate a car and how to obey basic safety rules and traffic signs.

Your license may be revoked or suspended if, while driving in public, you violate certain safety rules or cause an accident. Except in egregious cases (such as killing someone while driving with extreme recklessness), first or second offenses do not usually result in license revocations. Once the driver's license is issued, it is good in every state of the union.

These driver's license requirements seem to be what Gore has in mind for handguns, although he fails to recognize that the requirements apply only to cars used in public, not cars possessed in private. The vice president's mistake is understandable, given his lack of driving experience in the years since the taxpayers have been paying for his full-time chauffeur. (In July, Gore warned that the 2000 election is "no time to take a far-right U-turn." He apparently did not realize that on American roads, it is impossible to make a U-turn to the right.)

The guns-like-cars licensing system touted by Gore is already in effect in 30 states, where adults with a clean record can obtain a permit to carry a concealed handgun for lawful protection. (Vermont requires no permit.) Making the concealed handgun licensing system exactly like the driver licensing system would involve a few tweaks, namely: 1) reducing the minimum age for a license (21 or 25 in most states); 2) reducing the fees (which can run over \$100 in many states); 3) mandating a written exam in the minority of states that do not currently have one; 4) adding a practical demonstration test, which most states do not currently have (but which Texas does); and 5) making the licenses valid everywhere, instead of just in the issuing state. And of course, the 19 states that currently don't give handgun carry permits to every person with a clean record would have to change their laws.

A few states already require licensees to register one or two specific guns that will be carried. Under the treat-guns-like-cars rule, every gun carried in public would have to be registered, and the owner would have to pay an annual or semiannual registration tax. The registration would also apply to hunting or target shooting guns used on public lands.

Once you get a driver's license, you can drive your car anywhere that is open to the public. Thus, we will have to repeal all the laws against carrying guns within 1,000 feet of a school, or in bars, or on government property.

Although legislative bodies regulate gun design (through laws banning machine guns, "assault weapons," and inexpensive guns), no federal agency has the authority to impose new design standards on firearms. In contrast, federal regulators do impose a wide variety of safety rules on automobiles. Some of these rules, such as mandatory passenger-side air bags, end up killing people.

So the one major way in which treating guns like cars would lead to more-restrictive gun laws would be to allow federal regulators to impose design mandates on firearms. Some of these regulations will, like automobile safety rules, cause the deaths of innocent people. Certain kinds of trigger locks, for example, can cause a loaded gun to fire when it is dropped, and a "magazine disconnect" can prevent a gun owner from firing his weapon when he is attacked. But if we accept death from regulation for cars, then perhaps we will have to accept it for guns as well.

Faced with the prospect of really treating guns like cars, gun prohibitionists tend to change their minds. They begin arguing that there are important differences in dangerousness between guns and cars. This is true. Cars are much more dangerous.

The Independence Institute's Robert Racansky points out that in 1994 (the last year for which data are available), there were

32 auto deaths for every 100,000 autos in the United States. The same year, there were 16 firearm deaths for every 100,000 firearms in the United States. Put another way, in any given year, the average car is twice as likely as the average gun to cause a death.

And more than 95 percent of gun deaths are intentional (suicide or homicide), while most auto deaths are accidents. This shows how dangerous cars really are: They are twice as likely to kill as guns are, even though the killer behind the wheel does not intend to take a life. Plus, most people who die from guns are suicides who choose to die, but almost none of the people who die in car crashes choose to die.

Another argument against treating guns like cars, of course, is that gun ownership is explicitly protected by the U.S. Constitution and by 44 state constitutions, while car ownership has no such special status. On the other hand, if the groups that call for treating guns like cars followed their own advice, they would immediately disband. There are no major Washington lobby groups arguing that people should be able to buy a car only if the government decides they need one, or that people should use only public transportation, instead of private vehicles, during life-threatening emergencies.

Yet Handgun Control Inc.'s Sarah Brady favors "needs-based licensing" for firearms. "To me," she told the *Tampa Tribune*, "the only reason for guns in civilian hands is for sporting purposes." In response to the question of whether there are legitimate reasons for owning a handgun, Brady's husband and fellow anti-gun activist, Jim Brady, told *Parade* magazine: "For target shooting, that's OK. Get a license and go to the range. For defense of the home, that's why we have police departments."

Even if the anti-gun groups did not disband, they would have to change their style dramatically. People who own cars, and who belong to pro-car lobbying groups (such as the American Automobile Association), are treated respectfully by those who disagree with them. They are not routinely denounced when a criminal with a car kills someone.

A few days after the Columbine High School murders last April, Steve Abrams deliberately drove his Cadillac onto a playground in Costa Mesa, California, killing a 3-year-old and a 4-year-old. No one showed up on television to claim that General Motors, car owners in general, or anyone other than Steve Abrams was responsible for this crime. Politicians did not try to use Abrams' murderous act to create a campaign issue or stir up support for restrictions on law-abiding car owners. If gun owners were treated like car owners, they would not be vilified by smug moral imperialists with the energetic assistance of the president and most of the national news media. Sad to say, that would be progress.

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