

## **PUSHING THE ENVELOPE: SMITH & WESSON SETTLEMENT WITH CITIES & COUNTIES SUING THE GUN INDUSTRY**

The settlement reached by Smith & Wesson and the some of the cities suing the gun industry is a significant step toward comprehensive reform of the gun industry. The assertions made by some that the agreement requires no more from the company than existing law are flatly untrue. In this agreement, Smith & Wesson has made unprecedented commitments which far exceed the mandates of federal law and the current practices of the gun industry.

### **SALES AND DISTRIBUTION**

Before this agreement, gun makers had argued that they had neither the ability nor the responsibility to monitor or supervise the sales and distribution of their products to prevent criminals, juveniles, or other irresponsible persons from obtaining guns. The cities that have filed suit against the gun industry insisted that gun makers can and should do much more to make sure guns don't end up in the wrong hands. **Smith & Wesson's agreement proves that the cities were right.** Under the agreement:

*Smith and Wesson will only allow their guns to be sold by authorized dealers and distributors, who must abide by a set of terms and conditions governing who they can sell guns to, who can sell guns, where those guns can be sold, etc.* These conditions are well beyond what is required by law, or what is currently done by the industry. Under the agreement, if a dealer or distributor wants to sell Smith & Wesson guns, they must agree to the following – none of which are being done by any gun maker, distributor or dealer:

- **Make no sales of any guns to anyone until that person has passed a background check – regardless of how long the check takes.** Under current law, if the check is not completed within 72 hours, the gun is sold anyway. In effect, Smith & Wesson has agreed to indefinite waiting periods for sales by its dealers.
  - **Make no sales at gun shows unless all sales at the show are completed after a background check – regardless of how long it takes to complete the check.** This is, in effect, an indefinite waiting period for gun show sales. Under current law background checks are not required at all for private sales at gun shows, and even the strongest provisions pushed by Democrats in the Senate-passed Juvenile Justice bill now under debate on Capital Hill only mandate a 72 hour background check.
  - **Make no sales to anyone who has not passed a certified firearms safety course or exam.** Safety training is not required to buy a gun under federal law. In effect, Smith & Wesson has agreed to adopt a de facto licensing system for its dealers.

- **Employees of Smith & Wesson dealers must first attend annual training and pass a comprehensive exam** on how to recognize suspect sales and how to promote safe handling and storage. No such requirement exists under federal law.
- **Not sell a disproportionate number of guns that used in crime.** Smith & Wesson will terminate supplies to any dealer who sells a disproportionate number of guns that used in crime, as that term is defined by the Oversight Committee (the enforcement body under the agreement). Under current law, dealers suffer no penalty simply for selling guns later used in crime.
- **Implement specific security procedures to prevent gun thefts.** Not required by current law.
- **Not sell guns that do not meet the design criteria set forth in the Agreement** (discussed below).
- **Not sell multiple guns until 14 days have passed after the first gun is sold.** Current law permits buyers to purchase any number of guns at any time.
- **Not allow children under 18 access** to gun stores or sections of stores where guns are sold without an adult. Current law imposes no restrictions on minors in gun stores.
- **Maintain an electronic record of crime gun traces and report them to manufacturer on a monthly basis.** Manufacturers now claim ignorance of traces of their guns to criminal activity.
- **Not sell weapons attractive to criminals, such as large capacity magazines or semi-automatic assault weapons, regardless of the date of manufacture.** There is no such requirement under current law, nor is this required by manufacturers, distributors or dealers.

## DESIGN

Before this agreement, virtually all gun manufacturers had maintained that they had neither the ability or the responsibility to make guns that would minimize the risk that children or irresponsible adults could shoot themselves or others. By agreeing to implement specific safety features into their guns, under a strict timetable, Smith & Wesson has rejected that position. **None of these safety features are required across the nation; most are not required anywhere.** Under the agreement, Smith & Wesson agrees to the following design and safety standards – and dealers who sell Smith and Wesson guns must only sell guns that adhere to these criteria:

- **Internal locking devices** on all guns within 2 years. This is not a reference to “trigger locks,” which are applied by the owner to the gun. **This is commitment by Smith & Wesson to redesign every gun it sells.**

- **Personalized/authorized technology** on all new gun designs within 3 years (except curios and collectors' models). Smith & Wesson also commits to spend 2% of its revenues on developing this technology. This promising technology is not yet used by any gun makers, and none have committed to implementing it in new designs – until now. Nor is it required by law.
- **Chamber loaded indicators** on all pistols within 1 year. No gun manufacturer has previously committed to install this safety feature in all its guns. This feature will prevent many unintentional shootings in which the user – often a child or teenager – does not realize that a round is in the chamber.
- **Child safeties (so that guns cannot be readily fired by children under 6) in all guns within 1 year.** No gun manufacturer has previously committed to install this safety feature in all its guns. This feature will prevent many unintentional shootings in which a young child gains access to a loaded gun.
- **Second “hidden” serial numbers** must be on all guns, to prevent criminals from obliterating serial numbers to prevent detection.
- **Magazine disconnect safeties** must be available on all pistols for customers who want them within 1 year. This will prevent many unintentional shootings by users who do not realize that the chamber is loaded when the magazine is removed.
- **Stringent warnings** about the danger of improper storage and handling (including statistics about the numbers of gun thefts, suicides, and children's access to guns) must be included with all guns within 6 months.
- **Performance tests** must be passed by all guns, to ensure safety and quality.
- **Drop tests** must be passed by all tests, to prevent certain accidental firings.
- **External locking devices** must be sold with all guns within 60 days. This is one requirement that is already being done by many gun makers; however, the agreement makes that voluntary action mandatory and enforceable.

### **Other Requirements**

Additionally, Smith & Wesson has agreed to other changes, none of which are required or done currently by any gun manufacturer, including providing quarterly sales data to the ATF; not marketing guns particularly attractive to juveniles or criminals; and not advertising near schools, high crime zones, and public housing.