

## Gun Control Laws and the Constitution

Gun rights and gun control are issues that have sparked heated debate for many years throughout the country. At the heart of the matter is the meaning of the 2nd Amendment of the U.S. Constitution, which reads:

*"A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed."*

Whatever the full meaning of this amendment, it is focused mainly on gun rights. However, it does not clearly spell out what the government can and cannot do to regulate gun ownership and gun use. Nor does it clearly spell out whether such regulation is to be decided by the states separately, or by the national government acting for all the states.

In some gun control cases, those favoring tougher action by the national government base their views on the Constitution's Commerce Clause. They say firearms are a commercial product that the Commerce Clause gives Congress the authority to regulate. Or they say gun violence can disrupt society and interstate commerce in ways that allow Congress to act based on the Commerce Clause. Opponents say these arguments stretch the meaning of the Commerce Clause too much and give Congress authority the framers never intended it to have.

The two following brief articles deal with this question of state versus national action to regulate guns.

- J.B. Wogan, "Who Should Regulate Guns?," *Governing: The State and Localities*, June 28, 2013, online at:  
<http://www.governing.com/blogs/fedwatch/gov-who-should-regulate-guns.html>
- Michael De Los Santos, "Gun Control Facts: The Commerce Clause Makes Gun Control a State Question," *Policy.Mic*, January 14, 2013, online at:  
<http://mic.com/articles/22853/gun-control-facts-the-commerce-clause-makes-gun-control-a-state-question>

As you read the articles, pay attention to the kind of argument each writer makes. What, if anything, do the articles say about the right to bear arms itself? What regulations do they seek to impose on that right? What basic argument do they make about state versus national authority over gun regulation? And finally, what constitutional arguments do they make – that is, how well do they identify the expressed, concurrent, and reserved constitutional powers that apply to this issue?

Once you have read both articles, briefly answer the question on the next page.

## Questions

1. Does Michael De Los Santos want gun regulation to be left up to the states or the national government? What are his strongest arguments in favor of his position?
2. Does J. B. Wogan want gun regulation to be left up to the states or the national government? What are his strongest arguments in favor of his position?
3. Do either of these writers mention any of the expressed, concurrent, and reserved powers that apply to this issue? If so, identify the ones each writer mentions.
4. Which writer shows most clearly how the constitutional division of powers justifies his view? Cite details to support your answer.
5. With which author do you agree overall as to whether gun control should be up to states or to the national government? Why?