



Written by [James Heiser](#) on February 20, 2015

New Jersey Man Faces Felony Charge for Antique Firearm

A controversy over a firearm old enough to have been used in America's Revolutionary War is demonstrating how far the nation has departed from the rights enumerated in the Bill of Rights.

Gordon van Gilder (shown), a retired New Jersey public schoolteacher, is facing felony charges which could send him to prison for his possession of an unloaded, 18th-century flintlock pistol. Van Gilder is a collector of 18th-century memorabilia and had the pistol wrapped in cloth in his glove compartment when he was pulled over for a minor traffic violation last November. As a courtesy, van Gilder informed the deputy of the presence of the unloaded antique firearm. Although van Gilder was not arrested at that time, four police officers arrived at his home the next day to take him into custody on a charge of "[criminal possession of a handgun](#)" — a crime that carries a mandatory minimum sentence of 3.5 years and could land the 72 year old man in prison for as long as 10 years.



Under [New Jersey's restrictive gun laws](#), "It is unlawful to knowingly possess any handgun, including any antique handgun, without first having obtained a Permit to Carry," and before a citizen can be issued such a permit, "The applicant must meet the requirements of the Permit to Purchase and FID, be fingerprinted, prove his familiarity with the use of handguns, and have a 'justifiable need to carry a handgun.'" While the U.S. Constitution recognizes the justifiable need is an inalienable right bestowed by the Creator, the federal government and the governments of the states have pressed time and again to redefine the word "inalienable."

Under federal law, and the laws of many states, van Gilder's antique flintlock pistol is not, legally-speaking, a firearm. According to federal law as it was amended by the Gun Control Act of 1968, 18 U.S.C 921 (a) (16) firearms which were manufactured prior to 1898 are specifically [excluded from the legal definition of a "firearm"](#):

The term "firearm" means (A) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or firearm silencer; or (D) any destructive device. Such term does not include an antique firearm.

Some states specifically designated that weapons manufactured prior to 1899 are not, legally speaking, even firearms. For example, [Texas designates that](#) "an antique or curio firearm manufactured before



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1899; or, a replica of an antique or curio firearm manufactured before 1899, but only if the replica does not use rim fire or center fire ammunition” are not classified as “firearms” under state law.

Legal complications regarding the definition of a “firearm” aside, the tragic situation confronting Gordon van Gilder is that his possession of an unloaded 18th-century flintlock may be used by a prosecutor to destroy his life. Van Gilder’s pension for 34 years of teaching will be taken away if he is convicted of a felony. And a felony conviction would also strip him of other rights — in addition to the loss of his rights guaranteed by the Second Amendment, van Gilder would not even be able to vote against the politicians who continue to criminalize behavior that is supposedly protected by the Bill of Rights. [In van Gilder’s words](#): “Beware of New Jersey. Don’t come here. Don’t live here. Here I am, a retired teacher coming out of his house in handcuffs, who had a flintlock pistol and now I’m charged as a felon. It’s unbelievable. It’s outrageous. It’s an insult to decent people.”

Meanwhile, [according to the Washington Times](#), the prosecutor in van Gilder’s case has made the pending trial even more of a farce by asking for a ballistics test of van Gilder’s antique flintlock — a test that could easily damage an antique that was manufactured over two and a half centuries ago. And, given the fact that the pistol was manufactured at a time before rifling was common in handgun barrels, the test would be meaningless.

Photo of Gordon van Gilder: NRA News via YouTube



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