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Team CSSA E-News - May 9, 2017



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COMMENTARY: The CSSA's formal position statement on licensing

In last week's CSSA E-News, we published Tony Bernardo's response to a question from the floor at the CSSA's Annual General Meeting regarding our position on licensing.

His answer caused concern in some corners of the firearm community. This commentary will remove any perceived ambiguity from Tony Bernardo's statement and provide a clear understanding of the CSSA's position.

First, we must define the terms.

In law, words have specific meanings. As firearm owners, it is critical we understand those meanings. It's also critical to understand the law pertaining to firearms. In Canada, firearm laws start with one fundamental but very misunderstood fact:

Possession of a firearm in Canada is a crime.

Section 91 of the [Criminal Code of Canada](#) deals with unauthorized possession of a firearm. The penalty for this crime is imprisonment for a term not exceeding five years.

Section 92 of the [Criminal Code of Canada](#) deals with unauthorized possession of a firearm knowing its possession is unauthorized. The penalty for this crime, on first offence, is imprisonment for a term not exceeding ten years.

Read those sections carefully. Knowledge that you possess a firearm without authorization doubles your maximum sentence.

So what is "authorized possession" of a firearm?

In order to be authorized to possess a firearm you must:

1. Pass the Canadian Firearms Safety Course (and the Canadian Restricted Firearms Safety Course for handguns and other restricted firearms),
2. pass an RCMP background check and
3. be issued a Possession and Acquisition Licence.

The confusion around Canada's firearm laws is understandable. We think buying firearms is legal. Most gun owners don't understand they commit a crime each time they purchase a firearm. They don't understand their legal defense for committing this crime is their valid PAL.

Further adding to the confusion is our lack of understanding of what a licence really means.

Black's Law Dictionary [defines licence](#) this way:

"A permission, accorded by a competent authority, conferring the right to do some act which without such authorization would be illegal, or would be a trespass or a tort."

Sections 91 and 92 of the *Criminal Code of Canada* make possession of a firearm a crime. The "competent authority," in this case the Government of Canada, confers the right to break Sections 91 and 92 by issuing a Possession and Acquisition Licence to those who meet specific criteria.

The gun owner's legal defense for the crime of possessing a firearm is his/her Possession and Acquisition Licence. To use the vernacular of Black's Law Dictionary, a PAL gives gun owners "the right to do some act which without such authorization would be illegal."



The Black's Law Dictionary [definition of certificate](#) is quite different:

"A written assurance, or official representation, that some act has or has not been done, or some event occurred, or some legal formality has been complied with."

In other words, a certificate of competency, as Tony Bernardo suggested, would mean "some act has or has not been done, or some event occurred, or some legal formality has been complied with."

That act or legal formality would include safety training and a background check. While, on the surface, that sounds no different than what we have today, it is worlds apart from a legal perspective. You are not guilty of a crime if Sections 91 and 92 of the Criminal Code are removed from the *Criminal Code of Canada* and your certificate of competency expires.

Under current law, when your Possession and Acquisition Licence expires, you are guilty of a crime under Section 92 – specifically unauthorized possession of a firearm knowing its possession is unauthorized – and subject to a maximum prison term of up to ten years.

Night and day.

The part of Tony Bernardo's statement that caused confusion was the use of the terms "licence" and "certificate" interchangeably. While the essence of what Tony said is correct, by using the word "licence" when he meant "certificate" he inadvertently caused some confusion over the CSSA's position. This was an informal response to a verbal question from a CSSA member at our AGM without regard for the "word police" who would parse his statement word by word.

The following statement, CSSA's official position on licensing, removes any ambiguity or confusion:

The CSSA believes in a Certificate of Firearms Competency for firearm owners, with firearm safety training and an RCMP background check as the proof of that competency.

In law, a licence is your legal defense for the commission of a crime. Our current Possession and Acquisition Licence is the gun owner's legal defense against the crime of unauthorized possession of a firearm.

We must remove Sections 91 and 92 from the *Criminal Code of Canada* so mere possession of a firearm is no longer a criminal offence. With that change, a licence (permission to break the law) is no longer required.

We must then move forward with a Certificate of Firearms Competency. This would include safety training and background checks to ensure firearm owners are competent and have no violent criminal history. In short, the current firearm safety training requirements remain in place. The current RCMP background check remains in place.

The CSSA believes firearm owners should know how to handle firearms safely. The educational component of our current system should accomplish that. The CSSA believes individuals with a violent criminal past should not possess firearms. The background check of our current system accomplishes that to a degree most Canadians find acceptable.

READ THE REST OF THIS EDITION OF CSSA E-NEWS:

<http://myemail.constantcontact.com/In-this-week-s-issue--The-CSSA-s-formal-position-statement-on-licensing-.html?soid=1124731702303&aid=O4rg6G6sjL0>