

# **The Lautenberg Amendment: Soldiers Convicted of Domestic Violence**

**OFFICE OF THE COMMAND JUDGE ADVOCATE**

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**I. INTRODUCTION.** The Lautenberg Amendment to the Gun Control Act of 1968 became effective 30 September 1996. It potentially affects any soldier who has been convicted of domestic violence. This document is designed to provide a brief summary of the Amendment and tell you where to go for further answers. It is NOT designed to be a substitute for individual legal advice from a Legal Assistance attorney.

## **II. DISCUSSION.**

**A. Law's Impact.** The Lautenberg Amendment makes it a felony for anyone convicted of a misdemeanor crime of "domestic violence" (e.g., assault or attempted assault on a family member) to ship, transport, possess, or receive firearms or ammunition. There is no exception for military personnel engaged in official duties. The Amendment also makes it a felony for anyone to sell or issue a firearm or ammunition to a person with such a conviction. This includes commanders and NCOs who furnish weapons or ammunition to soldiers knowing, or having reason to believe, they have qualifying convictions.

**B. "Qualifying" Convictions.** The definitions of "domestic violence" and "conviction" are complex. "Conviction" does NOT include, however, Article 15s, summary court-martial convictions, deferred prosecution (or similar dispositions) in civilian courts, or judgments that have been expunged or set-aside. Legal assistance attorneys can help you determine whether you have a conviction covered by the Lautenberg Amendment.

**C. Firearms and Ammunition.** Under DoD policy, major weapon systems and crew-served weapons such as tanks, missiles, and aircraft are not covered by the Amendment. The Amendment does apply, however, to both military and privately owned firearms and ammunition. Commanders must establish procedures to ensure compliance with the law to include procedures for soldiers with qualifying convictions who desire to withdraw their privately owned weapons from unit arms rooms. These procedures must allow soldiers to sell or transfer their weapons to authorized persons directly without taking physical possession of the weapons in violation of the Lautenberg Amendment.

**D. Information for Soldiers Affected.** If you know, or have reason to believe, that you have a qualifying conviction for domestic violence, you should see a Legal Assistance attorney immediately. If you believe you have such a conviction, you need not discuss your case with your commander until after you have seen a Legal Assistance attorney. That attorney will advise you on what you should do in your situation.

**E. Command Responsibilities.** Commanders requesting guidance concerning the Lautenberg Amendment should contact their Trial Counsel or the Administrative Law Division. DOD and Army policy requires the following to implement and enforce the Lautenberg Amendment:

1. Notify soldiers that it is unlawful to possess firearms and ammunition if they have qualifying domestic violence convictions;
2. Check local unit files to determine whether soldiers have qualifying convictions and report soldiers known to have such convictions through command channels to HQDA;
3. Detail soldiers having or believed to have qualifying convictions to duties not requiring the bearing of weapons or ammunition;
4. Prohibit soldiers having or believed to have qualifying convictions from deployments for missions requiring possession of firearms or ammunition;
5. Prohibit soldiers having or believed to have qualifying convictions from attending military schools where instruction in weapons or ammunition is part of the curriculum;
6. Prohibit soldiers having or believed to have qualifying convictions from receiving OCONUS assignments;
7. Transfer – where possible – soldiers having or believed to have qualifying convictions from TOE to TDA units and organizations; and
8. Prohibit soldiers having or believed to have qualifying convictions from re-enlisting.

**III. CONCLUSION.** If you have a qualifying misdemeanor conviction for domestic violence, the Lautenberg Amendment will almost certainly affect your military career. If you believe you have a qualifying conviction, you should immediately seek the assistance of a Legal Assistance attorney. Bring all court documents to your Legal Assistance appointment. If you do not have them, request a copy from the clerk of the court where you received the conviction.

All information compiled from materials provided by the Judge Advocate General's School of the Army and Legal Assistance website, as well as, information provided by other Army Legal Assistance Offices.