

California Supreme Court Rejects Ploy to Limit the Legislature's Authority to Enact Technology-Forcing Statutes | 1

In a case I previewed [here](#), the California Supreme Court has been considering a challenge to [a gun control law](#) passed in 2007 that required certain new models of guns use a developing technology called “microstamping” that would enable law enforcement to link a spent cartridge back to the gun that fired it.



California State Capitol (daveynin, Flickr)

The gun lobby, represented by the National Shooting Sports Foundation (NSSF), relied on the California Civil Code’s [maxim of jurisprudence](#) that the law “never requires impossibilities” to argue the gun control statute should be invalidated on the basis that compliance was allegedly “impossible.” In [a bizarre ruling](#), the California Court of Appeal bought this argument, holding that it would be “illogical to uphold a requirement that is currently impossible to accomplish.”

Far from being “illogical,” statutes mandating outcomes that are impossible to meet with existing technology are the bread and butter of technology-forcing frameworks designed to push the state of the art in health and safety. As my colleague Sean Hecht and I noted in our [amicus brief](#) on behalf of California environmental law professors, “requiring manufacturers to develop and deploy new technology more protective of public health than what is currently on the market is not a bug of the technology-forcing system – it is the defining feature.” The Court of Appeal’s opinion would have hamstrung the Legislature by depriving it of one of its most important tools to drive innovation in air pollution control, worker safety, and many other crucial health and safety arenas.

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But in a straightforward [opinion](#) issued this morning, the California Supreme Court made quick work dismantling NSSF's far-fetched arguments through basic statutory interpretation. The court held that the maxim was merely an "interpretive aid that occasionally authorizes an exception to a statutory mandate in accordance with the Legislature's intent behind the mandate," rather than "a ground for invalidating a statutory mandate altogether." And, since "[n]either the text nor the purpose of the [gun control statute] contemplates that a showing of impossibility can excuse compliance with the statutory requirement once the statute goes into effect," the Supreme Court rejected NSSF's challenge to the statute and reversed the Court of Appeal.

While a relatively dry opinion grounded in statutory interpretation that didn't address the broader implications for technology-forcing, the court's decision is nonetheless a clear win for the State, and for Californians.