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U.S. Appeals Court Rejects Challenge To Assault Gun Ban

By Scott Ritter

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WASHINGTON (Dow Jones)--A U.S. appeals court Friday upheld a 1994 U.S. law banning assault-style weapons, rejecting a challenge by two gun makers who said they were unfairly singled out by the ban.

Navegar Inc. and Penn Arms Inc. also argued that Congress had exceeded its powers to regulate interstate commerce when it crafted the statute.

Three weapons specifically banned by the law - the Intratec TEC-9, TEC-DC9 and TEC-22 - were manufactured by Miami-based Navegar. Penn's Street Sweeper and Striker semiautomatic shotguns were also among those banned.

An attorney for the companies, Richard E. Gardiner of Fairfax, Va., said the ruling will likely be appealed to the nation's top court.

"The Supreme Court, particularly in the last several years, has not been loathe to remind Congress that there are limits to its powers," Gardiner said.

The companies challenged the law in 1995, in part arguing that Congress ran afoul of the Constitution's commerce clause by meddling in an area traditionally left to the states. The appeals panel, however, disagreed.

"Congress was well aware that there was significant interstate traffic in semiautomatic assault weapons and that state laws and existing federal firearms regulations were inadequate to control the flow of these weapons across state lines," Circuit Judge Patricia M. Wald wrote for the panel.

The gun makers also argued that the law was an unconstitutional "bill of attainder" because it specifically singled them out for punishment without benefit of a trial.

The obscure constitutional provision was meant to protect against legislative punishments such as a death sentence or imprisonment, and laws that bar certain people - Communist Party members, for example - from specific jobs, the court noted.

"In this case, the ban on semiautomatic assault weapons raises no concern that Congress is singling out (the gun makers) for punishment because they are disloyal or disfavored," Wald wrote. "Congress has rather singled out certain weapons as dangerous and disproportionately linked to crime."

Wald was joined in the opinion by Circuit Judges Laurence H. Silberman and David S. Tatel.

The ban left both companies with big inventories of gun parts for weapons they could no longer make. Navegar held in its inventory more than 40,000 TEC-DC9 and TEC-22 frames and thousands of dollars in parts. Penn, based in Punxsutawney, Pa., was left with \$58,000 worth of parts for its Striker 12 series of shotguns.

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