

103^D CONGRESS
2^D SESSION

H. R. 5232

To ensure that only persons eligible to receive a firearm may purchase and possess firearms, and to prevent felons and persons adjudicated mentally incompetent from obtaining firearms from firearms dealers by providing for a system for identifying persons prohibited from possessing firearms through a magnetic strip affixed to driver's licenses and other identification documents.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 6, 1994

Mr. McMILLAN introduced the following bill; which was referred to the
Committee on the Judiciary

A BILL

To ensure that only persons eligible to receive a firearm may purchase and possess firearms, and to prevent felons and persons adjudicated mentally incompetent from obtaining firearms from firearms dealers by providing for a system for identifying persons prohibited from possessing firearms through a magnetic strip affixed to driver's licenses and other identification documents.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Firearms Licensing
5 Act of 1994".

1 **SEC. 2. INDUCEMENT FOR STATES TO ESTABLISH A SYS-**
2 **TEM FOR IDENTIFYING PERSONS PROHIB-**
3 **ITED FROM POSSESSING FIREARMS**
4 **THROUGH A MAGNETIC STRIP AFFIXED TO**
5 **DRIVER'S LICENSES AND OTHER IDENTIFICA-**
6 **TION DOCUMENTS.**

7 (a) IN GENERAL.—The Director of the Bureau of
8 Justice Assistance shall reduce by 25 percent the annual
9 allocation to a State for a fiscal year under title I of the
10 Omnibus Crime Control and Safe Streets Act of 1968 un-
11 less the State has in effect laws and procedures which,
12 in substance, provide the following:

13 (1) RECORDS CHECK REQUIRED BEFORE ISSU-
14 ANCE OF DRIVER'S LICENSE AND IDENTIFICATION
15 DOCUMENTS; USE OF MAGNETIC STRIPS TO IDEN-
16 TIFY PROHIBITED PERSONS.—Before the State
17 transportation agency issues, reissues, or reinstates
18 a license, the agency shall—

19 (A) conduct a record check to determine
20 whether the applicant therefor is a prohibited
21 person by examining the State list referred to
22 in paragraph (4) of this subsection and the na-
23 tional list referred to in subsection (c)(1); and

24 (B) affix to the license of the person a
25 magnetic strip on which is encoded information
26 that—

1 (i) identifies the licensee as a prohib-
2 ited person or as a nonprohibited person;
3 and

4 (ii) may be discerned only through the
5 use of an electronic device that—

6 (I) is read only;

7 (II) does not have storage or
8 communication capabilities; and

9 (III) signals the user of the de-
10 vice with—

11 (aa) a green light if the de-
12 vice reads a magnetic strip that
13 does not identify the person as a
14 prohibited person; and

15 (bb) a red light if the device
16 reads a magnetic strip that iden-
17 tifies the person as a prohibited
18 person.

19 (2) EFFECTS OF FELONY CONVICTION OR AD-
20 JUDICATION OF MENTAL INCOMPETENCY.—

21 (A) SEIZURE AND VOIDING OF DRIVER'S
22 LICENSE.—If a State court convicts a person of
23 a crime punishable by imprisonment for a term
24 exceeding 1 year or adjudicates a person as
25 mentally incompetent, the court shall seize any

1 license issued to the person by the State trans-
2 portation agency, and any such license shall be
3 void.

4 (B) MAGNETIC STRIP IDENTIFYING LI-
5 CENSEE AS A PROHIBITED PERSON TO BE AT-
6 TACHED TO FUTURE LICENSES.—The State
7 transportation agency shall affix to any license
8 issued to a prohibited person a magnetic strip
9 of the type described in paragraph (1)(B) that
10 identifies the licensee as a prohibited person.

11 (3) FUNDING OF RECORDS CHECKS BY IN-
12 CREASING FINES IMPOSED UPON CONVICTED FEL-
13 ONS.—Any person convicted in the State of a crime
14 punishable by imprisonment for a term exceeding 1
15 year shall, in addition to any sentence imposed
16 under any other provision of State law, be fined an
17 amount sufficient to cover the expenses of criminal
18 records checks conducted pursuant to paragraph
19 (1)(A), taking all such convictions into account on
20 an annual basis.

21 (4) REQUIREMENT TO MAINTAIN AND UPDATE
22 COMPUTERIZED LIST OF PROHIBITED PERSONS.—
23 The State shall create and maintain a computerized
24 list of all persons who are prohibited persons by rea-
25 son of a conviction or adjudication in the State, and,

1 within 2 years after the date of the enactment of
2 this Act, shall achieve and maintain at least 80 per-
3 cent currency of case dispositions in the computer-
4 ized list for all cases in which there has been an
5 entry of activity within the then immediately preced-
6 ing 5 years.

7 (b) DEFINITIONS.—As used in this section:

8 (1) LICENSE.—The term “license” means a li-
9 cense or permit to operate a motor vehicle on the
10 roads and highways of the State, and any identifica-
11 tion document issued by a State transportation
12 agency solely for purposes of identification.

13 (2) PROHIBITED PERSON.—The term “prohib-
14 ited person” means a person who—

15 (A) has been convicted of a crime punish-
16 able under Federal or State law by imprison-
17 ment for a term exceeding 1 year;

18 (B)(i) has been adjudicated mentally in-
19 competent; and

20 (ii)(I) has not been restored to capacity by
21 court order; or

22 (II) has been so restored to capacity for
23 less than 5 years; or

24 (C) is an unlawful user of or addicted to
25 any controlled substance (as defined in section

1 102 of the Controlled Substances Act (21
2 U.S.C. 802).

3 (3) STATE TRANSPORTATION AGENCY.—The
4 term “State transportation agency” means the State
5 agency responsible for issuing a license, permit, or
6 identification document described in paragraph (1).

7 (c) DUTIES OF THE ATTORNEY GENERAL.—The
8 Attorney General of the United States shall—

9 (1) create a national, computerized list of pro-
10 hibited persons;

11 (2) incorporate State criminal history records
12 into the Federal criminal records system maintained
13 by the Federal Bureau of Investigation;

14 (3) develop hardware and software systems to
15 link State lists referred to in subsection (a)(4) with
16 the national list referred to in paragraph (1) of this
17 subsection; and

18 (4) provide any responsible State agency with
19 access to the national list, upon request.

20 (d) PROCEDURES FOR CORRECTING ERRONEOUS
21 RECORDS.—

22 (1) REQUEST FOR INFORMATION.—Any person
23 identified as a prohibited person in records main-
24 tained under this section may request the Attorney

1 General of the United States to notify the person of
2 the reasons therefor.

3 (2) COMPLIANCE WITH REQUEST.—Within 5
4 days after receipt of a request under paragraph (1),
5 the Attorney General shall comply with the request.

6 (3) SUBMISSION OF ADDITIONAL INFORMA-
7 TION.—Any person described in paragraph (1) may
8 submit to the Attorney General information to cor-
9 rect, clarify, or supplement records maintained
10 under this section with respect to the person.

11 (4) CONSIDERATION AND USE OF ADDITIONAL
12 INFORMATION.—Within 5 days after receipt of such
13 information, the Attorney General shall consider the
14 information, investigate the matter further, correct
15 any and all erroneous Federal records relating to
16 such person, and notify any Federal department or
17 agency or any State that was the source of the erro-
18 neous records of the errors.

19 (e) JUDICIAL REVIEW.—Any person erroneously
20 identified as a prohibited person in records maintained
21 pursuant to this section may bring an action in any United
22 States district court against the United States, or any
23 State or political subdivision thereof which is the source
24 of the erroneous information, for damages (including con-
25 sequential damages), injunctive relief, and such other re-

1 lief as the court deems appropriate. If the person prevails
2 in the action, the court shall allow the person a reasonable
3 attorney's fee as part of the costs.

4 **SEC. 3. LICENSED FIREARMS DEALERS REQUIRED TO**
5 **CHECK MAGNETIC STRIP ON DRIVER'S LI-**
6 **CENSE OF ANY PERSON ATTEMPTING TO**
7 **PURCHASE A FIREARM.**

8 (a) PROHIBITION.—Section 922 of title 18, United
9 States Code, is amended by adding at the end the follow-
10 ing:

11 “(y)(1) It shall be unlawful for a person to possess
12 a firearm unless the person is carrying an identification
13 document, issued to the person by the transportation
14 agency of the State in which the person resides, affixed
15 to which is a magnetic strip of the type described in sec-
16 tion 2(a)(1)(B) of the Firearms Licensing Act of 1994 on
17 which is encoded information that identifies the licensee
18 as a person who is not a prohibited person.

19 “(2) It shall be unlawful for any licensed dealer
20 knowingly to—

21 “(A) transfer a firearm to any person not li-
22 censed under section 923, unless the licensed dealer
23 has used an electronic device described in section
24 2(a)(1)(B)(ii) of the Firearms Licensing Act of 1994
25 to read the magnetic strip affixed to an identifica-

1 tion document issued to the person by the transpor-
2 tation agency of the State in which the premises of
3 the licensed dealer is located; or

4 “(B) fail to notify local law enforcement au-
5 thorities, within 72 hours, of any person attempting
6 to purchase a firearm who is identified as a prohib-
7 ited person through the use of such a device.

8 “(3) As used in this subsection:

9 “(A) The term ‘identification document’
10 means a license or permit to operate a motor
11 vehicle, and any identification document issued
12 solely for purposes of identification.

13 “(B) The term ‘prohibited person’ means
14 a person who—

15 “(i) has been convicted of a crime
16 punishable under Federal or State law by
17 imprisonment for a term exceeding 1 year;

18 “(ii) (I) has been adjudicated mentally
19 incompetent; and

20 “(II) (aa) has not been restored to ca-
21 pacity by court order; or

22 “(bb) has been so restored to capacity
23 for less than 5 years; or

24 “(iii) is an unlawful user of or ad-
25 dicted to any controlled substance (as de-

1 fined in section 102 of the Controlled Sub-
2 stances Act (21 U.S.C. 802).

3 “(C) The term ‘transportation agency’
4 means the agency responsible for issuing com-
5 mercial or noncommercial identification docu-
6 ments.”.

7 (b) PENALTIES.—Section 924(a) of such title is
8 amended by adding at the end the following:

9 “(6)(A)(i) Subject to this subparagraph, a person
10 who knowingly violates section 922(y)(1) shall be impris-
11 oned not less than 6 months and not more than 1 year.

12 “(ii) Upon conviction of a violation of section
13 922(y)(1), the court shall offer the defendant the oppor-
14 tunity to seek enlistment or appointment in the Armed
15 Forces.

16 “(iii) If the defendant immediately accepts the offer
17 described in clause (ii), the court shall, in lieu of imposing
18 any other sentence on the defendant, impose a probation-
19 ary sentence on the defendant, with at least the following
20 conditions:

21 “(I) The defendant shall immediately seek en-
22 listment or appointment in the Armed Forces.

23 “(II) The defendant shall become enlisted or
24 appointed in the Armed Forces within 60 days after
25 imposition of such sentence.

1 “(III) The defendant shall complete the mini-
2 mum period of obligated active service required
3 under the enlistment or appointment.

4 “(iv) The court may not modify or reduce any of the
5 conditions set forth in clause (iii) of a sentence of proba-
6 tion imposed under this subparagraph.

7 “(v) Subsections (c) and (d) of section 3564, and sec-
8 tion 3565(b), shall not apply to a sentence of probation
9 imposed under this subparagraph.

10 “(B) A licensed dealer who knowingly violates section
11 922(y)(2) shall be fined under this title in an amount that
12 is not less than \$15,000, imprisoned not less than 1 year
13 and not more than 3 years, or both.”.

14 **SEC. 4. EFFECTIVE DATE.**

15 This Act and the amendments made by this Act shall
16 take effect at the end of the 2-year period that begins with
17 the date of the enactment of this Act.

○