

Calendar No. 266

105TH CONGRESS
1ST Session
S. 191

A BILL

To throttle criminal use of guns.

NOVEMBER 6, 1997

Reported with an amendment

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To throttle criminal use of guns.

IN THE SENATE OF THE UNITED STATES

JANUARY 22, 1997

Mr. HELMS (for himself, Mr. DEWINE, Mr. HATCH, Mr. NICKLES, Mr. ABRAHAM, Mr. FAIRCLOTH, Mr. INHOFE, Mr. HAGEL, Mr. ENZI, Mr. KYL, Mr. THURMOND, Mr. STEVENS, Mr. ASHCROFT, Mr. SESSIONS, Mr. SHELBY, Mr. HUTCHINSON, and Mr. SMITH of New Hampshire) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

NOVEMBER 6, 1997

Reported by Mr. HATCH, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To throttle criminal use of guns.

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. AMENDMENT TO TITLE 18, UNITED STATES**

4 **CODE.**

5 Section 924(e) of title 18, United States Code, is

6 amended—

1 (1) by striking “(c)” and all that follows
2 through “(2)” and inserting the following:

3 “(c) POSSESSION OF FIREARM DURING COMMISSION
4 OF CRIME OF VIOLENCE OR DRUG TRAFFICKING
5 CRIME.—

6 “(1) TERM OF IMPRISONMENT.—

7 “(A) IN GENERAL.—Except to the extent
8 that a greater minimum sentence is otherwise
9 provided by this subsection or by any other pro-
10 vision of law, any person who, during and in re-
11 lation to any crime of violence or drug traffick-
12 ing crime (including a crime of violence or drug
13 trafficking crime that provides for an enhanced
14 punishment if committed by the use of a deadly
15 or dangerous weapon or device) for which a per-
16 son may be prosecuted in a court of the United
17 States, uses, carries, or possesses a firearm
18 shall, in addition to the punishment provided
19 for such crime of violence or drug trafficking
20 crime—

21 “(i) be sentenced to a term of impris-
22 onment of not less than 5 years;

23 “(ii) if the firearm is discharged, be
24 sentenced to a term of imprisonment of
25 not less than 10 years; and

1 “(iii) if the death of any person re-
2 sults, be sentenced to a term of imprison-
3 ment for life or sentenced to death.

4 “(B) EXCEPTION FOR CERTAIN OF-
5 FENSES.—If the firearm possessed by a person
6 convicted of a violation of this subsection—

7 “(i) is a short-barreled rifle, short-
8 barreled shotgun, or semiautomatic assault
9 weapon, the person shall be—

10 “(I) sentenced to a term of im-
11 prisonment of not less than 10 years;
12 and

13 “(II) if the death of any person
14 results, sentenced to a term of impris-
15 onment for life or sentenced to death;
16 and

17 “(ii) is a machinegun or a destructive
18 device, or is equipped with a firearm si-
19 lencer or firearm muffler, the person shall
20 be—

21 “(I) sentenced to a term of im-
22 prisonment of not less than 30 years;
23 and

1 “(H) if the death of any person
2 results, sentenced to a term of impris-
3 onment for life or sentenced to death.

4 “(C) EXCEPTION FOR CERTAIN OFFEND-
5 ERS.—In the case of a second or subsequent
6 conviction under this subsection, a person
7 shall—

8 “(i) be sentenced to a term of impris-
9 onment of not less than 25 years; and

10 “(ii) if the firearm at issue is a ma-
11 chinegun or a destructive device, or is
12 equipped with a firearm silencer or firearm
13 muffler, be sentenced to a term of impris-
14 onment for life.

15 “(D) PROBATION AND CONCURRENT SEN-
16 TENCES.—Notwithstanding any other provision
17 of law—

18 “(i) a court shall not place on proba-
19 tion or suspend the sentence of any person
20 convicted of a violation of this subsection;
21 and

22 “(ii) no term of imprisonment im-
23 posed on a person under this subsection
24 shall run concurrently with any other term
25 of imprisonment imposed on the person;

1 including any term of imprisonment im-
 2 posed for the crime of violence or drug
 3 trafficking crime during which the firearm
 4 was used, carried, or possessed.

5 “(2) DEFINITION OF ‘DRUG TRAFFICKING
 6 CRIME’.—”; and

7 (2) in paragraph (3)—

8 (A) by striking “(3) For” and inserting
 9 the following:

10 “(3) DEFINITION OF ‘CRIME OF VIOLENCE’.—
 11 For”;

12 (B) by indenting each of subparagraphs
 13 (A) and (B) 2 ems to the right.

14 **SECTION 1. AMENDMENT TO TITLE 18, UNITED STATES**
 15 **CODE.**

16 (a) *IN GENERAL.*—Section 924(c) of title 18, United
 17 States Code, is amended—

18 (1) by striking “(c)” and all that follows through
 19 “(2)” and inserting the following:

20 “(c) *POSSESSION OF FIREARM DURING COMMISSION*
 21 *OF CRIME OF VIOLENCE OR DRUG TRAFFICKING CRIME.*—

22 “(1) *TERM OF IMPRISONMENT.*—

23 “(A) *IN GENERAL.*—Except to the extent
 24 that a greater minimum sentence is otherwise
 25 provided by this subsection or by any other pro-

1 *vision of law, any person who, during and in re-*
 2 *lation to any crime of violence or drug traffick-*
 3 *ing crime (including a crime of violence or drug*
 4 *trafficking crime that provides for an enhanced*
 5 *punishment if committed by the use of a deadly*
 6 *or dangerous weapon or device) for which a per-*
 7 *son may be prosecuted in a court of the United*
 8 *States, uses or carries a firearm, or who, in fur-*
 9 *therance of any such crime, possesses a firearm,*
 10 *shall, in addition to the punishment provided for*
 11 *such crime of violence or drug trafficking*
 12 *crime—*

13 *“(i) be sentenced to a term of impris-*
 14 *onment of not less than 5 years; and*

15 *“(ii) if the firearm is discharged, be*
 16 *sentenced to a term of imprisonment of not*
 17 *less than 10 years.*

18 *“(B) EXCEPTION FOR CERTAIN OF-*
 19 *FENSES.—If the firearm possessed by a person*
 20 *convicted of a violation of this subsection—*

21 *“(i) is a short-barreled rifle, short-bar-*
 22 *reled shotgun, or semiautomatic assault*
 23 *weapon, the person shall be sentenced to a*
 24 *term of imprisonment of not less than 10*
 25 *years; and*

1 “(ii) is a machinegun or a destructive
2 device, or is equipped with a firearm si-
3 lencer or firearm muffler, the person shall
4 be sentenced to a term of imprisonment of
5 not less than 30 years.

6 “(C) *EXCEPTION FOR CERTAIN OFFEND-*
7 *ERS.—In the case of a second or subsequent con-*
8 *viction under this subsection, a person shall—*

9 “(i) be sentenced to a term of impris-
10 onment of not less than 25 years; and

11 “(ii) if the firearm at issue is a ma-
12 chinegun or a destructive device, or is
13 equipped with a firearm silencer or firearm
14 muffler, be sentenced to a term of imprison-
15 ment for life.

16 “(D) *PROBATION AND CONCURRENT SEN-*
17 *TENCES.—Notwithstanding any other provision*
18 *of law—*

19 “(i) a court shall not place on proba-
20 tion any person convicted of a violation of
21 this subsection; and

22 “(ii) no term of imprisonment imposed
23 on a person under this subsection shall run
24 concurrently with any other term of impris-
25 onment imposed on the person, including

1 *any term of imprisonment imposed for the*
2 *crime of violence or drug trafficking crime*
3 *during which the firearm was used, carried,*
4 *or possessed.*

5 “(2) *DEFINITION OF ‘DRUG TRAFFICKING*
6 *CRIME’.*—”; and

7 (2) *in paragraph (3)—*

8 (A) *by striking “(3) For” and inserting the*
9 *following:*

10 “(3) *DEFINITION OF ‘CRIME OF VIOLENCE’.*—
11 *For*”; and

12 (B) *by indenting each of subparagraphs (A)*
13 *and (B) 2 ems to the right.*

14 (b) *CONFORMING AMENDMENT.*—*Section*
15 *3559(c)(2)(F)(i) of title 18, United States Code, is amended*
16 *by inserting “firearms possession (as described in section*
17 *924(c));” after “firearms use;”.*