

106TH CONGRESS  
2D SESSION

# S. 2270

To prohibit civil or equitable actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others, to protect gun owner privacy and ownership rights, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 22, 2000

Mr. HATCH (for himself, Mr. CRAIG, and Mr. SMITH of New Hampshire) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To prohibit civil or equitable actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others, to protect gun owner privacy and ownership rights, and for other purposes.

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 “Right to Bear Arms  
5       Protection and Privacy Act of 2000”.

1 **SEC. 2. FINDINGS; PURPOSES.**

2 (a) FINDINGS.—The Congress finds the following:

3 (1) Citizens have a right, under the Second  
4 Amendment to the United States Constitution, to  
5 keep and bear arms.

6 (2) Lawsuits have been commenced against  
7 manufacturers, distributors, dealers, and importers  
8 of nondefective firearms, which seek money damages  
9 and other relief for the harm caused by the misuse  
10 of firearms by third parties, including criminals.

11 (3) The manufacture, importation, possession,  
12 sale, and use of firearms and ammunition in the  
13 United States is heavily regulated by Federal, State,  
14 and local laws. Such Federal laws include the Gun  
15 Control Act of 1968, the National Firearms Act,  
16 and the Arms Export Control Act.

17 (4) Businesses in the United States that are en-  
18 gaged in interstate and foreign commerce through  
19 the lawful design, marketing, distribution, manufac-  
20 ture, importation, or sale to the public of firearms  
21 or ammunition that have been shipped or trans-  
22 ported in interstate or foreign commerce are not,  
23 and should not be, liable or otherwise legally respon-  
24 sible for the harm caused by those who criminally or  
25 unlawfully misuse firearm products or ammunition  
26 products.

1           (5) The possibility of imposing liability or other  
2       legal restrictions on an entire industry as a result of  
3       harm that is the sole responsibility of others is an  
4       abuse of the legal system, erodes public confidence  
5       in our Nation's laws, threatens the diminution of a  
6       basic constitutional right, invites the disassembly  
7       and destabilization of other industries and economic  
8       sectors lawfully competing in America's free enter-  
9       prise system, and constitutes an unreasonable bur-  
10      den on interstate and foreign commerce.

11          (6) The liability and equitable actions com-  
12      menced or contemplated by municipalities, cities,  
13      and other entities are based on theories without  
14      foundation in hundreds of years of the common law  
15      and American jurisprudence. The possible sustaining  
16      of these actions by a maverick judicial officer would  
17      expand civil liability in a manner never contemplated  
18      by the Framers of the Constitution. The Congress  
19      further finds that such an expansion of liability  
20      would constitute a deprivation of the rights, privi-  
21      leges, and immunities guaranteed to a citizen of the  
22      United States under the Fourteenth Amendment to  
23      the United States Constitution.

24      (b) PURPOSES.—The purposes of this Act are as fol-  
25      lows:

1           (1) To prohibit causes of action against law-  
 2           abiding manufacturers, distributors, dealers, and im-  
 3           porters of firearms or ammunition products for the  
 4           harm caused by the criminal or unlawful misuse of  
 5           firearm products or ammunition products by others.

6           (2) To preserve a citizen's constitutional access  
 7           to a supply of firearms and ammunition for all law-  
 8           ful purposes, including hunting, self-defense, col-  
 9           lecting, and competitive or recreational shooting.

10          (3) To protect a citizen's right to privacy con-  
 11          cerning the lawful purchase and ownership of fire-  
 12          arms.

13          (4) To guarantee a citizen's rights, privileges,  
 14          and immunities, as applied to the States, under the  
 15          Fourteenth Amendment to the United States Con-  
 16          stitution, pursuant to section five of that Amend-  
 17          ment.

18 **SEC. 3. PROHIBITION ON BRINGING OF QUALIFIED CIVIL**

19 **ACTIONS IN FEDERAL OR STATE COURT.**

20          (a) IN GENERAL.—A qualified civil action may not  
 21          be brought in any Federal or State court.

22          (b) DISMISSAL OF PENDING ACTIONS.—A qualified  
 23          civil action that is pending on the date of the enactment  
 24          of this Act shall be dismissed immediately by the court  
 25          in which the action was brought.

1 **SEC. 4. DEFINITIONS.**

2 In this Act:

3 (1) MANUFACTURER.—The term “manufac-  
4 turer” means, with respect to a qualified product—

5 (A) a person who is lawfully engaged in a  
6 business to import, make, produce, create, or  
7 assemble a qualified product, and who designs  
8 or formulates, or has engaged another person to  
9 design or formulate, a qualified product;

10 (B) a lawful seller of a qualified product,  
11 but only with respect to an aspect of the prod-  
12 uct that is made or affected when the seller  
13 makes, produces, creates, or assembles and de-  
14 signs or formulates an aspect of the product  
15 made by another person; and

16 (C) any lawful seller of a qualified product  
17 who represents to a user of a qualified product  
18 that the seller is a manufacturer of the quali-  
19 fied product.

20 (2) PERSON.—The term “person” means any  
21 individual, corporation, company, association, firm,  
22 partnership, society, joint stock company, or any  
23 other entity, including any governmental entity.

24 (3) QUALIFIED PRODUCT.—The term “qualified  
25 product” means a firearm (as defined in section  
26 921(a)(3) of title 18, United States Code) or ammu-

1        nition (as defined in section 921(a)(17) of such  
 2        title), or a component part of a firearm or ammuni-  
 3        tion, that has been shipped or transported in inter-  
 4        state or foreign commerce.

5            (4) QUALIFIED CIVIL ACTION.—The term  
 6        “qualified civil action” means a civil or equitable ac-  
 7        tion brought by any person against a lawful manu-  
 8        facturer or lawful seller of a qualified product, or a  
 9        trade association, for damages or other relief as a  
 10       result of the criminal or unlawful misuse of a quali-  
 11       fied product by the person or a third party, but shall  
 12       not include an action brought against a manufac-  
 13       turer, seller, or transferor who knowingly manufac-  
 14       tures, sells, or transfers a qualified product with  
 15       knowledge that such product will be used to commit  
 16       a crime under Federal or State law.

17           (5) SELLER.—The term “seller” means, with  
 18        respect to a qualified product, a person who—

19                (A) in the course of a lawful business con-  
 20                ducted for that purpose, lawfully sells, distrib-  
 21                utes, rents, leases, prepares, blends, packages,  
 22                labels, or otherwise is involved in placing a  
 23                qualified product in the stream of commerce; or

24                (B) lawfully installs, repairs, refurbishes,  
 25                reconditions, or maintains an aspect of a quali-

1           fied product that is alleged to have resulted in  
2           damages.

3           (6) STATE.—The term “State” includes each of  
4           the several States of the United States, the District  
5           of Columbia, the Commonwealth of Puerto Rico, the  
6           Virgin Islands, Guam, American Samoa, and the  
7           Commonwealth of the Northern Mariana Islands,  
8           and any other territory or possession of the United  
9           States, and any political subdivision of any such  
10          place.

11          (7) TRADE ASSOCIATION.—The term “trade as-  
12          sociation” means any association or business organi-  
13          zation (whether or not incorporated under Federal  
14          or State law) 2 or more members of which are man-  
15          ufacturers or sellers of a qualified product.

16 **SEC. 5. PROHIBITION OF BACKGROUND CHECK FEE; GUN**  
17 **OWNER PRIVACY.**

18          (a) PROHIBITION OF BACKGROUND CHECK FEE.—

19               (1) IN GENERAL.—Chapter 33 of title 28,  
20          United States Code, is amended by adding at the  
21          end the following:

22 **“§ 540C. Prohibition of fee for background check in**  
23 **connection with firearm transfer**

24          “No officer, employee, or agent of the United States,  
25          including a State or local officer or employee acting on

1   behalf of the United States, may charge or collect any fee  
 2   in connection with any background check required in con-  
 3   nection with the transfer of a firearm (as defined in sec-  
 4   tion 921(a) of title 18).”.

5           (2) CONFORMING AMENDMENT.—The analysis  
 6       for chapter 33 of title 28, United States Code, is  
 7       amended by inserting after the item relating to sec-  
 8       tion 540B the following:

“540C. Prohibition of fee for background check in connection with firearm  
 transfer.”.

9           (b) PROTECTION OF GUN OWNER PRIVACY AND  
 10   OWNERSHIP RIGHTS.—

11           (1) IN GENERAL.—Chapter 44 of title 18,  
 12       United States Code, is amended by adding at the  
 13       end the following:

14   **“§ 931. Gun owner privacy and ownership rights**

15       “(a) IN GENERAL.—Notwithstanding any other pro-  
 16   vision of law, no department, agency, or instrumentality  
 17   of the United States or officer, employee, or agent of the  
 18   United States, including a State or local officer or em-  
 19   ployee acting on behalf of the United States—

20           “(1) shall perform any criminal background  
 21       check through the National Instant Criminal Back-  
 22       ground Check System (referred to in this section as  
 23       the ‘system’) on any person if the system does not  
 24       require and result in the immediate destruction of



1 all information, in any form whatsoever or through  
2 any medium, about any such person that is deter-  
3 mined, through the use of the system, not to be pro-  
4 hibited by subsection (g) or (n) of section 922, or by  
5 State law, from receiving a firearm; or

6 “(2) shall continue to operate the system (in-  
7 cluding requiring a background check before the  
8 transfer of a firearm) unless—

9 “(A) the NICS Index complies with the re-  
10 quirements of section 552a(e)(5) of title 5,  
11 United States Code; and

12 “(B) the agency responsible for the system  
13 and the system’s compliance with Federal law  
14 does not invoke the exceptions under subsection  
15 (j)(2) or paragraph (2) or (3) of subsection (k)  
16 of section 552a of title 5, United States Code,  
17 except if specifically identifiable information is  
18 compiled for a particular law enforcement inves-  
19 tigation or specific criminal enforcement mat-  
20 ter.

21 “(b) APPLICABILITY.—Subsection (a)(1) does not  
22 apply to the retention or transfer of information relating  
23 to—

1           “(1) any unique identification number provided  
 2           by the National Instant Criminal Background Check  
 3           System under section 922(t)(1)(B)(i); or

4           “(2) the date on which that number is pro-  
 5           vided.”.

6           (2) CONFORMING AMENDMENT.—The analysis  
 7           for chapter 44 of title 18, United States Code, is  
 8           amended by adding at the end the following:

“931. Gun owner privacy and ownership rights.”.

9           (c) CIVIL REMEDIES.—Any person aggrieved by a  
 10          violation of section 540C of title 28 or 931 of title 18,  
 11          United States Code (as added by this section), may bring  
 12          an action in the United States district court for the dis-  
 13          trict in which the person resides for actual damages, puni-  
 14          tive damages, and such other relief as the court deter-  
 15          mines to be appropriate, including a reasonable attorney’s  
 16          fee.

17          (d) EFFECTIVE DATE.—The amendments made by  
 18          this section take effect on the date of enactment of this  
 19          Act except that the amendments made by subsection (a)  
 20          shall take effect as of November 30, 1998.

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