

106TH CONGRESS
1ST SESSION

S. 443

To regulate the sale of firearms at gun shows.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 23, 1999

Mr. LAUTENBERG (for himself, Mr. SCHUMER, and Mr. DURBIN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To regulate the sale of firearms at gun shows.

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 “Gun Show Account-
5 ability Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) more than 4,400 traditional gun shows are
9 held annually across the United States, attracting
10 thousands of attendees per show and hundreds of

1 Federal firearms licensees and nonlicensed firearms
2 sellers;

3 (2) traditional gun shows, as well as flea mar-
4 kets and other organized events, at which a large
5 number of firearms are offered for sale by Federal
6 firearms licensees and nonlicensed firearms sellers,
7 form a significant part of the national firearms mar-
8 ket;

9 (3) firearms and ammunition that are exhibited
10 or offered for sale or exchange at gun shows, flea
11 markets, and other organized events move easily in
12 and substantially affect interstate commerce;

13 (4) in fact, even before a firearm is exhibited or
14 offered for sale or exchange at a gun show, flea mar-
15 ket, or other organized event, the gun, its component
16 parts, ammunition, and the raw materials from
17 which it is manufactured have moved in interstate
18 commerce;

19 (5) gun shows, flea markets, and other orga-
20 nized events at which firearms are exhibited or of-
21 fered for sale or exchange, provide a convenient and
22 centralized commercial location at which firearms
23 may be bought and sold anonymously, often without
24 background checks and without records that enable
25 gun tracing;

1 (6) at gun shows, flea markets, and other orga-
2 nized events at which guns are exhibited or offered
3 for sale or exchange, criminals and other prohibited
4 persons obtain guns without background checks and
5 frequently use guns that cannot be traced to later
6 commit crimes;

7 (7) many persons who buy and sell firearms at
8 gun shows, flea markets, and other organized events
9 cross State lines to attend these events and engage
10 in the interstate transportation of firearms obtained
11 at these events;

12 (8) gun violence is a pervasive, national prob-
13 lem that is exacerbated by the availability of guns at
14 gun shows, flea markets, and other organized events;

15 (9) firearms associated with gun shows have
16 been transferred illegally to residents of another
17 State by Federal firearms licensees and nonlicensed
18 firearms sellers, and have been involved in subse-
19 quent crimes including drug offenses, crimes of vio-
20 lence, property crimes, and illegal possession of fire-
21 arms by felons and other prohibited persons; and

22 (10) Congress has the power, under the inter-
23 state commerce clause and other provisions of the
24 Constitution of the United States, to ensure, by en-
25 actment of this Act, that criminals and other prohib-

1 ited persons do not obtain firearms at gun shows,
2 flea markets, and other organized events.

3 **SEC. 3. EXTENSION OF BRADY BACKGROUND CHECKS TO**
4 **GUN SHOWS.**

5 (a) DEFINITIONS.—Section 921(a) of title 18, United
6 States Code, is amended by adding at the end the fol-
7 lowing:

8 “(35) GUN SHOW.—The term ‘gun show’ means any
9 event—

10 “(A) at which 50 or more firearms are offered
11 or exhibited for sale, transfer, or exchange, if 1 or
12 more of the firearms has been shipped or trans-
13 ported in, or otherwise affects, interstate or foreign
14 commerce; and

15 “(B) at which 2 or more persons are offering
16 or exhibiting 1 or more firearms for sale, transfer,
17 or exchange.

18 “(36) GUN SHOW PROMOTER.—The term ‘gun show
19 promoter’ means any person who organizes, plans, pro-
20 motes, or operates a gun show.

21 “(37) GUN SHOW VENDOR.—The term ‘gun show
22 vendor’ means any person who exhibits, sells, offers for
23 sale, transfers, or exchanges 1 or more firearms at a gun
24 show, regardless of whether or not the person arranges
25 with the gun show promoter for a fixed location from

1 which to exhibit, sell, offer for sale, transfer, or exchange
2 1 or more firearms.”

3 (b) REGULATION OF FIREARMS TRANSFERS AT GUN
4 SHOWS.—

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

8 **“§ 931. Regulation of firearms transfers at gun shows**

9 “(a) REGISTRATION OF GUN SHOW PROMOTERS.—

10 It shall be unlawful for any person to organize, plan, pro-
11 mote, or operate a gun show unless that person—

12 “(1) registers with the Secretary in accordance
13 with regulations promulgated by the Secretary; and

14 “(2) pays a registration fee, in an amount de-
15 termined by the Secretary.

16 “(b) RESPONSIBILITIES OF GUN SHOW PRO-
17 MOTERS.—It shall be unlawful for any person to organize,

18 plan, promote, or operate a gun show unless that person—

19 “(1) not later than 30 days before commence-
20 ment of the gun show, notifies the Secretary of the
21 date, time, duration, and location of the gun show
22 and any other information concerning the gun show
23 as the Secretary may require by regulation;

24 “(2) not later than 72 hours before commence-
25 ment of the gun show, submits to the Secretary an

1 updated list of all gun show vendors planning to par-
2 ticipate in the gun show and any other information
3 concerning such vendors as the Secretary may re-
4 quire by regulation;

5 “(3) before commencement of the gun show,
6 verifies the identity of each gun show vendor partici-
7 pating in the gun show by examining a valid identi-
8 fication document (as defined in section 1028(d)(1))
9 of the vendor containing a photograph of the vendor;

10 “(4) before commencement of the gun show, re-
11 quires each gun show vendor to sign—

12 “(A) a ledger with identifying information
13 concerning the vendor; and

14 “(B) a notice advising the vendor of the
15 obligations of the vendor under this chapter;
16 and

17 “(5) notifies each person who attends the gun
18 show of the requirements of this chapter, in accord-
19 ance with such regulations as the Secretary shall
20 prescribe;

21 “(6) not later than 5 days after the last day of
22 the gun show, submits to the Secretary a copy of the
23 ledger and notice described in paragraph (4); and

24 “(7) maintains a copy of the records described
25 in paragraphs (2) through (4) at the permanent

1 place of business of the gun show promoter for such
 2 period of time and in such form as the Secretary
 3 shall require by regulation.

4 “(c) RESPONSIBILITIES OF TRANSFERORS OTHER
 5 THAN LICENSEES.—

6 “(1) IN GENERAL.—If any part of a firearm
 7 transaction takes place at a gun show, it shall be
 8 unlawful for any person who is not licensed under
 9 this chapter to transfer a firearm to another person
 10 who is not licensed under this chapter, unless the
 11 firearm is transferred through a licensed importer,
 12 licensed manufacturer, or licensed dealer in accord-
 13 ance with subsection (e).

14 “(2) CRIMINAL BACKGROUND CHECKS.—A per-
 15 son who is subject to the requirement of paragraph
 16 (1)—

17 “(A) shall not transfer the firearm to the
 18 transferee until the licensed importer, licensed
 19 manufacturer, or licensed dealer through which
 20 the transfer is made under subsection (e)
 21 makes the notification described in subsection
 22 (e)(3)(A); and

23 “(B) notwithstanding subparagraph (A),
 24 shall not transfer the firearm to the transferee
 25 if the licensed importer, licensed manufacturer,

1 or licensed dealer through which the transfer is
 2 made under subsection (e) makes the notifica-
 3 tion described in subsection (e)(3)(B).

4 “(d) RESPONSIBILITIES OF TRANSFEREES OTHER
 5 THAN LICENSEES.—

6 “(1) IN GENERAL.—If any part of a firearm
 7 transaction takes place at a gun show, it shall be
 8 unlawful for any person who is not licensed under
 9 this chapter to receive a firearm from another per-
 10 son who is not licensed under this chapter, unless
 11 the firearm is transferred through a licensed im-
 12 porter, licensed manufacturer, or licensed dealer in
 13 accordance with subsection (e).

14 “(2) CRIMINAL BACKGROUND CHECKS.—A per-
 15 son who is subject to the requirement of paragraph
 16 (1)—

17 “(A) shall not receive the firearm from the
 18 transferor until the licensed importer, licensed
 19 manufacturer, or licensed dealer through which
 20 the transfer is made under subsection (e)
 21 makes the notification described in subsection
 22 (e)(3)(A); and

23 “(B) notwithstanding subparagraph (A),
 24 shall not receive the firearm from the transferor
 25 if the licensed importer, licensed manufacturer,

1 or licensed dealer through which the transfer is
2 made under subsection (e) makes the notifica-
3 tion described in subsection (e)(3)(B).

4 “(e) RESPONSIBILITIES OF LICENSEES.—A licensed
5 importer, licensed manufacturer, or licensed dealer who
6 agrees to assist a person who is not licensed under this
7 chapter in carrying out the responsibilities of that person
8 under subsection (e) or (d) with respect to the transfer
9 of a firearm shall—

10 “(1) enter such information about the firearm
11 as the Secretary may require by regulation into a
12 separate bound record;

13 “(2) record the transfer on a form specified by
14 the Secretary;

15 “(3) comply with section 922(t) as if transfer-
16 ring the firearm from the inventory of the licensed
17 importer, licensed manufacturer, or licensed dealer
18 to the designated transferee (although a licensed im-
19 porter, licensed manufacturer, or licensed dealer
20 complying with this subsection shall not be required
21 to comply again with the requirements of section
22 922(t) in delivering the firearm to the nonlicensed
23 transferor), and notify the nonlicensed transferor
24 and the nonlicensed transferee—

25 “(A) of such compliance; and

1 “(B) if the transfer is subject to the re-
2 quirements of section 922(t)(1), of any receipt
3 by the licensed importer, licensed manufacturer,
4 or licensed dealer of a notification from the na-
5 tional instant criminal background check sys-
6 tem that the transfer would violate section 922
7 or would violate State law;

8 “(4) not later than 10 days after the date on
9 which the transfer occurs, submit to the Secretary a
10 report of the transfer, which report—

11 “(A) shall be on a form specified by the
12 Secretary by regulation; and

13 “(B) shall not include the name of or other
14 identifying information relating to any person
15 involved in the transfer who is not licensed
16 under this chapter;

17 “(5) if the licensed importer, licensed manufac-
18 turer, or licensed dealer assists a person other than
19 a licensee in transferring, at 1 time or during any
20 5 consecutive business days, 2 or more pistols or re-
21 volvers, or any combination of pistols and revolvers
22 totaling 2 or more, to the same nonlicensed person,
23 in addition to the reports required under paragraph
24 (4), prepare a report of the multiple transfers, which
25 report shall be—

1 “(A) prepared on a form specified by the
2 Secretary; and

3 “(B) not later than the close of business
4 on the date on which the transfer occurs, for-
5 warded to—

6 “(i) the office specified on the form
7 described in subparagraph (A); and

8 “(ii) the appropriate State law en-
9 forcement agency of the jurisdiction in
10 which the transfer occurs; and

11 “(6) retain a record of the transfer as part of
12 the permanent business records of the licensed im-
13 porter, licensed manufacturer, or licensed dealer.

14 “(f) RECORDS OF LICENSEE TRANSFERS.—If any
15 part of a firearm transaction takes place at a gun show,
16 each licensed importer, licensed manufacturer, and li-
17 censed dealer who transfers 1 or more firearms to a person
18 who is not licensed under this chapter shall, not later than
19 10 days after the date on which the transfer occurs, sub-
20 mit to the Secretary a report of the transfer, which
21 report—

22 “(1) shall be in a form specified by the Sec-
23 retary by regulation;

1 “(2) shall not include the name of or other
2 identifying information relating to the transferee;
3 and

4 “(3) shall not duplicate information provided in
5 any report required under subsection (e)(4).

6 “(g) FIREARM TRANSACTION DEFINED.—In this sec-
7 tion, the term ‘firearm transaction’ includes the exhibition,
8 sale, offer for sale, transfer, or exchange of a firearm.”.

9 (2) PENALTIES.—Section 924(a) of title 18,
10 United States Code, is amended by adding at the
11 end the following:

12 “(7)(A) Whoever knowingly violates section 931(a)
13 shall be fined under this title, imprisoned not more than
14 5 years, or both.

15 “(B) Whoever knowingly violates subsection (b) or (c)
16 of section 931, shall be—

17 “(i) fined under this title, imprisoned not more
18 than 2 years, or both; and

19 “(ii) in the case of a second or subsequent con-
20 viction, such person shall be fined under this title,
21 imprisoned not more than 5 years, or both.

22 “(C) Whoever willfully violates section 931(d), shall
23 be—

24 “(i) fined under this title, imprisoned not more
25 than 2 years, or both; and

1 “(ii) in the case of a second or subsequent con-
2 viction, such person shall be fined under this title,
3 imprisoned not more than 5 years, or both.

4 “(D) Whoever knowingly violates subsection (e) or (f)
5 of section 931 shall be fined under this title, imprisoned
6 not more than 5 years, or both.

7 “(E) In addition to any other penalties imposed
8 under this paragraph, the Secretary may, with respect to
9 any person who knowingly violates any provision of section
10 931—

11 “(i) if the person is registered pursuant to sec-
12 tion 931(a), after notice and opportunity for a hear-
13 ing, suspend for not more than 6 months or revoke
14 the registration of that person under section 931(a);
15 and

16 “(ii) impose a civil fine in an amount equal to
17 not more than \$10,000.”.

18 (3) TECHNICAL AND CONFORMING AMEND-
19 MENTS.—Chapter 44 of title 18, United States
20 Code, is amended—

21 (A) in the chapter analysis, by adding at
22 the end the following:

“931. Regulation of firearms transfers at gun shows.”; and

23 (B) in the first sentence of section 923(j),
24 by striking “a gun show or event” and inserting
25 “an event”; and

1 (c) INSPECTION AUTHORITY.—Section 923(g)(1) is
2 amended by adding at the end the following:

3 “(E) Notwithstanding subparagraph (B), the Sec-
4 retary may enter during business hours the place of busi-
5 ness of any gun show promoter and any place where a
6 gun show is held for the purposes of examining the records
7 required by sections 923 and 931 and the inventory of
8 licensees conducting business at the gun show. Such entry
9 and examination shall be conducted for the purposes of
10 determining compliance with this chapter by gun show
11 promoters and licensees conducting business at the gun
12 show and shall not require a showing of reasonable cause
13 or a warrant.”.

14 (d) INCREASED PENALTIES FOR SERIOUS RECORD-
15 KEEPING VIOLATIONS BY LICENSEES.—Section 924(a)(3)
16 of title 18, United States Code, is amended to read as
17 follows:

18 “(3)(A) Except as provided in subparagraph (B), any
19 licensed dealer, licensed importer, licensed manufacturer,
20 or licensed collector who knowingly makes any false state-
21 ment or representation with respect to the information re-
22 quired by this chapter to be kept in the records of a person
23 licensed under this chapter, or violates section 922(m)
24 shall be fined under this title, imprisoned not more than
25 1 year, or both.

1 “(B) If the violation described in subparagraph (A)
2 is in relation to an offense—

3 “(i) under paragraph (1) or (3) of section
4 922(b), such person shall be fined under this title,
5 imprisoned not more than 5 years, or both; or

6 “(ii) under subsection (a)(6) or (d) of section
7 922, such person shall be fined under this title, im-
8 prisoned not more than 10 years, or both.”.

9 (e) INCREASED PENALTIES FOR VIOLATIONS OF
10 CRIMINAL BACKGROUND CHECK REQUIREMENTS.—

11 (1) PENALTIES.—Section 924 of title 18,
12 United States Code, is amended—

13 (A) in paragraph (5), by striking “sub-
14 section (s) or (t) of section 922” and inserting
15 “section 922(s)”; and

16 (B) by adding at the end the following:

17 “(8) Whoever knowingly violates section 922(t) shall
18 be fined under this title, imprisoned not more than 5
19 years, or both.”.

20 (2) ELIMINATION OF CERTAIN ELEMENTS OF
21 OFFENSE.—Section 922(t)(5) of title 18, United
22 States Code, is amended by striking “and, at the
23 time” and all that follows through “State law”.

1 (f) EFFECTIVE DATE.—This section and the amend-
2 ments made by this section shall take effect 180 days after
3 the date of enactment of this Act.

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