

Union Calendar No. 139

107TH CONGRESS
1ST SESSION

H. R. 1007

[Report No. 107–193, Part I]

To limit access to body armor by violent felons and to facilitate the donation of Federal surplus body armor to State and local law enforcement agencies.

IN THE HOUSE OF REPRESENTATIVES

MARCH 13, 2001

Mr. STUPAK (for himself, Mr. HUTCHINSON, Mr. SCOTT, Mrs. MALONEY of New York, Mrs. ROUKEMA, Mrs. MCCARTHY of New York, Mrs. CHRISTENSEN, Mr. ETHERIDGE, Mr. FRANK, Mr. KELLER, Mr. GREENWOOD, Mrs. CAPPS, Mr. PASCARELL, Mr. GILMAN, Mr. LARSON of Connecticut, Mr. MCGOVERN, Mr. FILNER, Mr. WALSH, Ms. RIVERS, Mr. MCHUGH, Ms. MCKINNEY, Ms. KAPTUR, Mr. LIPINSKI, Mr. OXLEY, Ms. MCCARTHY of Missouri, Mr. CLEMENT, Mr. MCINTYRE, Mr. SOUDER, Mr. RAMSTAD, Mr. GORDON, Mr. SMITH of New Jersey, Mr. SHERMAN, Mr. KUCINICH, Mr. FOSSELLA, Mr. BERMAN, Ms. HOOLEY of Oregon, Mrs. MORELLA, Ms. JACKSON-LEE of Texas, Ms. SANCHEZ, Mr. REYES, Mr. HOLDEN, Mr. RODRIGUEZ, Ms. MILLENDER-MCDONALD, Mr. ABERCROMBIE, Mrs. THURMAN, and Mr. VISCLOSKY) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

AUGUST 2, 2001

Reported from the Committee on the Judiciary with an amendment

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

AUGUST 2, 2001

Referral to the Committee on Government Reform extended for a period ending not later than September 21, 2001

SEPTEMBER 21, 2001

Referral to the Committee on Government Reform extended for a period ending not later than September 28, 2001

SEPTEMBER 28, 2001

Referral to the Committee on Government Reform extended for a period
ending not later than October 5, 2001

OCTOBER 5, 2001

Additional sponsors: Mr. GALLEGLY, Mr. DIAZ-BALART, Mr. WOLF, Mr. BLUMENAUER, Mr. PAYNE, Mr. SMITH of Texas, Mr. LANTOS, Mr. BOEHLERT, Mr. LANGEVIN, Mr. SANDLIN, Mr. CUNNINGHAM, Mr. TAYLOR of Mississippi, Mr. MCNULTY, Mr. DOOLEY of California, Ms. LOFGREN, Mr. ENGLISH, Mr. HORN, Mrs. TAUSCHER, Ms. SCHAKOWSKY, Ms. MCCOLLUM, Mr. RUSH, Mr. HALL of Ohio, Mr. WEINER, Mr. CALVERT, Ms. SOLIS, Mr. SHIMKUS, Mrs. NORTHUP, Mr. ROGERS of Kentucky, and Mr. LEVIN

OCTOBER 5, 2001

The Committee on Government Reform discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on March 13, 2001]

A BILL

To limit access to body armor by violent felons and to facilitate the donation of Federal surplus body armor to State and local law enforcement agencies.

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 “James Guelff and Chris*
5 *McCurley Body Armor Act of 2001”.*

6 **SEC. 2. FINDINGS.**

7 *Congress finds that—*

8 *(1) nationally, police officers and ordinary citi-*
9 *zens are facing increased danger as criminals use*

1 *more deadly weaponry, body armor, and other sophis-*
2 *ticated assault gear;*

3 *(2) crime at the local level is exacerbated by the*
4 *interstate movement of body armor and other assault*
5 *gear;*

6 *(3) there is a traffic in body armor moving in*
7 *or otherwise affecting interstate commerce, and exist-*
8 *ing Federal controls over such traffic do not ade-*
9 *quately enable the States to control this traffic within*
10 *their own borders through the exercise of their police*
11 *power;*

12 *(4) recent incidents, such as the murder of San*
13 *Francisco Police Officer James Guelff by an assailant*
14 *wearing 2 layers of body armor, a 1997 bank shoot*
15 *out in north Hollywood, California, between police*
16 *and 2 heavily armed suspects outfitted in body*
17 *armor, and the 1997 murder of Captain Chris*
18 *McCurley of the Etowah County, Alabama Drug Task*
19 *Force by a drug dealer shielded by protective body*
20 *armor, demonstrate the serious threat to community*
21 *safety posed by criminals who wear body armor dur-*
22 *ing the commission of a violent crime;*

23 *(5) of the approximately 1,200 officers killed in*
24 *the line of duty since 1980, more than 30 percent*
25 *could have been saved by body armor, and the risk of*

1 *dying from gunfire is 14 times higher for an officer*
2 *without a bulletproof vest;*

3 *(6) the Department of Justice has estimated that*
4 *25 percent of State and local police are not issued*
5 *body armor;*

6 *(7) the Federal Government is well-equipped to*
7 *grant local police departments access to body armor*
8 *that is no longer needed by Federal agencies; and*

9 *(8) Congress has the power, under the interstate*
10 *commerce clause and other provisions of the Constitu-*
11 *tion of the United States, to enact legislation to regu-*
12 *late interstate commerce that affects the integrity and*
13 *safety of our communities.*

14 **SEC. 3. DEFINITIONS.**

15 *In this Act:*

16 *(1) BODY ARMOR.—The term “body armor”*
17 *means any product sold or offered for sale, in inter-*
18 *state or foreign commerce, as personal protective body*
19 *covering intended to protect against gunfire, regard-*
20 *less of whether the product is to be worn alone or is*
21 *sold as a complement to another product or garment.*

22 *(2) LAW ENFORCEMENT AGENCY.—The term*
23 *“law enforcement agency” means an agency of the*
24 *United States, a State, or a political subdivision of*
25 *a State, authorized by law or by a government agency*

1 to engage in or supervise the prevention, detection, in-
2 vestigation, or prosecution of any violation of crimi-
3 nal law.

4 (3) *LAW ENFORCEMENT OFFICER.*—*The term*
5 “*law enforcement officer*” *means any officer, agent, or*
6 *employee of the United States, a State, or a political*
7 *subdivision of a State, authorized by law or by a gov-*
8 *ernment agency to engage in or supervise the preven-*
9 *tion, detection, investigation, or prosecution of any*
10 *violation of criminal law. Federal sentencing guide-*
11 *lines and the policy statements of the Commission,*
12 *as appropriate, to provide an appropriate sentencing*
13 *enhancement for any crime of violence (as defined in*
14 *section 16 of title 18, United States Code) or drug*
15 *trafficking crime (as defined in section 924(c) of title*
16 *18, United States Code) (including a crime of vio-*
17 *lence or drug trafficking crime that provides for an*
18 *enhanced punishment if committed by the use of a*
19 *deadly or dangerous weapon or device) in which the*
20 *defendant used body armor.*

21 (b) *SENSE OF CONGRESS.*—*It is the sense of Congress*
22 *that any sentencing enhancement under this section should*
23 *be at least 2 levels.*

1 **SEC. 5. PROHIBITION OF PURCHASE, USE, OR POSSESSION**
2 **OF BODY ARMOR BY VIOLENT FELONS.**

3 (a) *DEFINITION OF BODY ARMOR.*—Section 921(a) of
4 title 18, United States Code, is amended by adding at the
5 end the following:

6 “(35) The term ‘body armor’ means any product sold
7 or offered for sale, in interstate or foreign commerce, as per-
8 sonal protective body covering intended to protect against
9 gunfire, regardless of whether the product is to be worn
10 alone or is sold as a complement to another product or gar-
11 ment.”.

12 (b) *PROHIBITION.*—

13 (1) *IN GENERAL.*—Chapter 44 of title 18, United
14 States Code, is amended by adding at the end the fol-
15 lowing:

16 **“§931. Prohibition on purchase, ownership, or posses-**
17 **sion of body armor by violent felons**

18 “(a) *IN GENERAL.*—Except as provided in subsection
19 (b), it shall be unlawful for a person to purchase, own, or
20 possess body armor, if that person has been convicted of a
21 felony that is—

22 “(1) a crime of violence (as defined in section
23 16); or

24 “(2) an offense under State law that would con-
25 stitute a crime of violence under paragraph (1) if it

1 *occurred within the special maritime and territorial*
2 *jurisdiction of the United States.*

3 “(b) *AFFIRMATIVE DEFENSE.*—

4 “(1) *IN GENERAL.*—*It shall be an affirmative de-*
5 *fense under this section that—*

6 “(A) *the defendant obtained prior written*
7 *certification from his or her employer that the*
8 *defendant’s purchase, use, or possession of body*
9 *armor was necessary for the safe performance of*
10 *lawful business activity; and*

11 “(B) *the use and possession by the defend-*
12 *ant were limited to the course of such perform-*
13 *ance.*

14 “(2) *EMPLOYER.*—*In this subsection, the term*
15 *‘employer’ means any other individual employed by*
16 *the defendant’s business that supervises defendant’s*
17 *activity. If that defendant has no supervisor, prior*
18 *written certification is acceptable from any other em-*
19 *ployee of the business.”.*

20 “(2) *CLERICAL AMENDMENT.*—*The analysis for*
21 *chapter 44 of title 18, United States Code, is amended*
22 *by adding at the end the following:*

 “931. *Prohibition on purchase, ownership, or possession of body armor by violent felons.*”.

23 “(c) *PENALTIES.*—*Section 924(a) of title 18, United*
24 *States Code, is amended by adding at the end the following:*

1 “(7) Whoever knowingly violates section 931 shall be
2 fined under this title, imprisoned not more than 3 years,
3 or both.”.

4 **SEC. 6. DONATION OF FEDERAL SURPLUS BODY ARMOR TO**
5 **STATE AND LOCAL LAW ENFORCEMENT AGEN-**
6 **CIES.**

7 (a) *DEFINITIONS.*—In this section, the terms “Federal
8 agency” and “surplus property” have the meanings given
9 such terms under section 3 of the Federal Property and Ad-
10 ministrative Services Act of 1949 (40 U.S.C. 472).

11 (b) *DONATION OF BODY ARMOR.*—Notwithstanding
12 section 203 of the Federal Property and Administrative
13 Services Act of 1949 (40 U.S.C. 484), the head of a Federal
14 agency may donate body armor directly to any State or
15 local law enforcement agency, if such body armor—

16 (1) is in serviceable condition;

17 (2) is surplus property; and

18 (3) meets or exceeds the requirements of National
19 Institute of Justice Standard 0101.03 (as in effect on
20 the date of enactment of this Act).

21 (c) *NOTICE TO ADMINISTRATOR.*—The head of a Fed-
22 eral agency who donates body armor under this section shall
23 submit to the Administrator of General Services a written
24 notice identifying the amount of body armor donated and

1 *each State or local law enforcement agency that received*
2 *the body armor.*

3 *(d) DONATION BY CERTAIN OFFICERS.—*

4 *(1) DEPARTMENT OF JUSTICE.—In the adminis-*
5 *tration of this section with respect to the Department*
6 *of Justice, in addition to any other officer of the De-*
7 *partment of Justice designated by the Attorney Gen-*
8 *eral, the following officers may act as the head of a*
9 *Federal agency:*

10 *(A) The Administrator of the Drug Enforce-*
11 *ment Administration.*

12 *(B) The Director of the Federal Bureau of*
13 *Investigation.*

14 *(C) The Commissioner of the Immigration*
15 *and Naturalization Service.*

16 *(D) The Director of the United States Mar-*
17 *shals Service.*

18 *(2) DEPARTMENT OF THE TREASURY.—In the*
19 *administration of this section with respect to the De-*
20 *partment of the Treasury, in addition to any other of-*
21 *ficer of the Department of the Treasury designated by*
22 *the Secretary of the Treasury, the following officers*
23 *may act as the head of a Federal agency:*

24 *(A) The Director of the Bureau of Alcohol,*
25 *Tobacco, and Firearms.*

1 *(B) The Commissioner of Customs.*

2 *(C) The Director of the United States Secret*
3 *Service.*

4 *(e) NO LIABILITY.—Notwithstanding any other provi-*
5 *sion of law, the United States shall not be liable for any*
6 *harm occurring in connection with the use or misuse of any*
7 *body armor donated under this section.*

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