

107TH CONGRESS
1ST SESSION

S. 1253

To protect ability of law enforcement to effectively investigate and prosecute illegal gun sales and protect the privacy of the American people.

IN THE SENATE OF THE UNITED STATES

JULY 26, 2001

Mr. SCHUMER (for himself, Mr. KENNEDY, Mrs. FEINSTEIN, Mrs. CLINTON, Mr. TORRICELLI, Mr. CORZINE, Mrs. BOXER, and Mr. REED) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To protect ability of law enforcement to effectively investigate and prosecute illegal gun sales and protect the privacy of the American people.

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 Sale Anti-Fraud
5 and Privacy Protection Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1 (1) illegal gun sales and illegal gun purchases
2 contribute substantially to crime in the United
3 States;

4 (2) many persons who sell and buy guns cross
5 State lines to do so and transport guns across State
6 lines for the purpose of reselling guns and for use
7 in criminal activity;

8 (3) those intent on selling and purchasing guns
9 illegally are adept at making sales and purchases ap-
10 pear to be legal and maintenance of records of sales
11 facilitates law enforcement's ability to investigate il-
12 legal sales;

13 (4) these illegal sales and the uses to which the
14 illegally sold guns are put have an effect on inter-
15 state commerce;

16 (5) law enforcement's access to records col-
17 lected over a reasonable length of time is essential
18 to law enforcement's ability to investigate and limit
19 illegal gun sales;

20 (6) the National Instant Background Check
21 System (NICS) is the primary law enforcement tool
22 for preventing illegal gun sales and purchases by
23 federally licensed firearms dealers to felons, fugi-
24 tives, the mentally ill, and other prohibited pur-
25 chasers;

1 (7) NICS was designed to include an audit log
2 which acts not as a gun registry, but as a device es-
3 sential to effectively investigating and identifying in-
4 stances in which NICS is being defrauded or abused;

5 (8) these instances of fraud and abuse that the
6 NICS audit log protects against include the use of
7 false or stolen identification purchase guns, straw
8 purchases, and circumstances where dealers are vio-
9 lating individuals' privacy rights by running back-
10 ground checks on people other than actual gun
11 transferees;

12 (9) without the ability to employ the audit log
13 in legitimate law enforcement investigations, there is
14 no way to adequately ensure the integrity of the sys-
15 tem, including guaranteeing that Federal firearm li-
16 censees or other unauthorized users are not access-
17 ing a system that contains a substantial amount of
18 criminal history, mental health, and other personal
19 information that should not be accessed except in
20 connection with appropriate background checks; and

21 (10) Congress has the power pursuant to the
22 Interstate Commerce Clause, and other provisions of
23 the Constitution to ensure, by enactment of this Act,
24 that gun dealers and buyers do not fraudulently sell
25 and purchase firearms and to guarantee that indi-

1 viduals' privacy rights are not violated by misuse of
2 NICS.

3 **SEC. 3. GUN SALE ANTI-FRAUD AND PRIVACY PROTECTION.**

4 (a) PREVENTION OF FRAUD AND ABUSE.—Section
5 922(t)(2)(C) of title 18, United States Code, is amended
6 by inserting before the period at the end the following:
7 “consistent with the responsibility of the Attorney General
8 under section 103(h) of the Brady Handgun Violence Pro-
9 tection Act to ensure privacy of the system and to prevent
10 system fraud and abuse, but in no event fewer than 90
11 days after the date on which the licensee first contacts
12 the system with respect to the transfer”.

13 (b) INTERAGENCY COOPERATION.—Section 922(t)(2)
14 of title 18, United States Code, is amended by inserting
15 at the end the following:

16 “During the period that records are maintained pursuant
17 to subparagraph (C), the Department of Justice and its
18 divisions including the Federal Bureau of Investigation
19 shall make those records available to the Department of
20 Treasury and its divisions including the Bureau of Alco-
21 hol, Tobacco, and Firearms, for the purpose of conducting
22 system audits to detect fraud and misuse of the system
23 and to protect the privacy and security of the system. The
24 Department of Treasury shall maintain and destroy those

1 records in accordance with all statutory requirements im-
2 posed on the Department of Justice.”

3 **SEC. 4. EFFECTIVE DATE.**

4 This Act and the amendments made by this Act shall
5 take effect 180 days after the date of enactment of this
6 Act.

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