

107TH CONGRESS  
2D SESSION

# S. 2268

To amend the Act establishing the Department of Commerce to protect manufacturers and sellers in the firearms and ammunition industry from restrictions on interstate or foreign commerce.

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## IN THE SENATE OF THE UNITED STATES

APRIL 25, 2002

Mr. MILLER (for himself and Mr. CRAIG) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To amend the Act establishing the Department of Commerce to protect manufacturers and sellers in the firearms and ammunition industry from restrictions on interstate or foreign commerce.

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 “Protection of Lawful  
5       Commerce in Arms Act”.

6       **SEC 2. AMENDMENT TO ORGANIC ACT.**

7       The Act entitled “An Act to establish the Department  
8       of Commerce and Labor”, approved February 14, 1903

1 (15 U.S.C. 1501 et seq.), is amended by redesignating sec-  
2 tion 13 as section 14 and by inserting after section 12  
3 the following:

4 **“SEC. 13. RESTRICTION ON COMMERCE.**

5       “(a) SECRETARY OF COMMERCE LIST.—The Sec-  
6 retary of Commerce shall establish and maintain a list  
7 consisting of each person that notifies the Secretary under  
8 subsection (b) that it is a manufacturer or seller in inter-  
9 state or foreign commerce of a firearm or ammunition  
10 product or is a trade association representing such manu-  
11 facturers or sellers. The list shall contain the name of the  
12 person, the chief executive officer of the person, and the  
13 address and location of the headquarters of the person.  
14 The Secretary shall maintain and update the list and may  
15 publish the list in the Federal Register.

16       “(b) NOTIFICATION.—Each person that—

17               “(1) is a manufacturer in interstate or foreign  
18 commerce of a firearm or ammunition product, and  
19 is licensed to engage in business as such manufac-  
20 turer to the extent required under chapter 44 of title  
21 18, United States Code,

22               “(2) is a seller in interstate or foreign com-  
23 merce of a firearm or ammunition product, and is li-  
24 censed to engage in business as such seller to the ex-

1       tent required under chapter 44 of title 18, United  
2       States Code, or

3               “(3) is a trade association representing such  
4       manufacturers or sellers,

5       may notify the Secretary of its existence and provide to  
6       the Secretary the information described in subsection (a).

7       “(c)   FREEDOM   FROM   RESTRICTION.—Conduct  
8       that—

9               “(1)(A) is carried out by a manufacturer in  
10       interstate or foreign commerce of a firearm or am-  
11       munition product, involves such firearm or ammuni-  
12       tion product, and is described in paragraph (4) of  
13       subsection (d);

14              “(B) is carried out by a seller in interstate or  
15       foreign commerce of a firearm or ammunition prod-  
16       uct, involves a firearm or ammunition product, and  
17       is described in paragraph (6) of subsection (d); or

18              “(C) is carried out by a trade association in the  
19       course of organizing, advising, or representing its  
20       members who are manufacturers in interstate or for-  
21       eign commerce of a firearm or ammunition product,  
22       or who are sellers in interstate or foreign commerce  
23       of a firearm or ammunition product, with respect to  
24       conduct of such manufacturers or sellers described

1 in paragraph (4) or (6) of subsection (d), as the case  
 2 may be; and

3 “(2) is lawful under chapter 44 of title 18,  
 4 United States Code, or under applicable State law;  
 5 shall not be a basis for imposing a restriction on interstate  
 6 or foreign commerce on a person on the list described in  
 7 subsection (a) as a result of harm caused by the criminal  
 8 or other unlawful misuse of such firearm or ammunition  
 9 product by any other person.

10 “(d) DEFINITIONS.—In this section:

11 “(1) AMMUNITION PRODUCT.—The term ‘am-  
 12 munition product’ means ‘ammunition’ as defined in  
 13 section 921(a)(17) of title 18, United States Code,  
 14 and includes a component part of such ammunition  
 15 product that has been shipped or transported in  
 16 interstate or foreign commerce.

17 “(2) FIREARM PRODUCT.—The term ‘firearm  
 18 product’ means ‘firearm’ as defined in subparagraph  
 19 (A) or (B) section 921(a)(3) of title 18, United  
 20 States Code, and includes any ‘antique firearm’ as  
 21 defined in section 921(a)(16) of such title, and in-  
 22 cludes a component part of such a firearm that has  
 23 been shipped or transported in interstate or foreign  
 24 commerce.

1           “(3) INTERSTATE OR FOREIGN COMMERCE.—

2           The term ‘interstate or foreign commerce’ has the  
3           meaning given that term in section 921(a)(2) of title  
4           18, United States Code.

5           “(4) MANUFACTURER.—The term ‘manufac-  
6           turer in interstate or foreign commerce of a firearm  
7           or ammunition product’ means—

8                   “(A) a person who, in the course of a busi-  
9                   ness in interstate or foreign commerce to im-  
10                  port, make, produce, create, assemble, design,  
11                  or formulate a firearm or ammunition product,  
12                  imports, makes, produces, creates, assembles,  
13                  designs, or formulates a firearm or ammunition  
14                  product, or engages another person to import,  
15                  make, produce, create, assemble, design, or for-  
16                  mulate a firearm or ammunition product;

17                   “(B) a seller in interstate or foreign com-  
18                   merce of a firearm or ammunition product  
19                   made by another person, but only with respect  
20                   to an aspect of the firearm or ammunition  
21                   product that the seller makes, produces, cre-  
22                   ates, assembles, designs, or formulates; and

23                   “(C) any seller in interstate or foreign  
24                   commerce of a firearm or ammunition product  
25                   on which, or on the packaging of which, the

1 seller is also represented as the manufacturer of  
 2 the firearm or ammunition product.

3 “(5) RESTRICTION ON INTERSTATE OR FOR-  
 4 EIGN COMMERCE.—The term ‘restriction on inter-  
 5 state or foreign commerce’—

6 “(A) means—

7 “(i) civil damages or equitable relief,  
 8 or

9 “(ii) any other limitation or condition,  
 10 awarded or ordered by a Federal, State, or local  
 11 court, that restricts the ability of a person list-  
 12 ed under subsection (a) to freely engage in  
 13 interstate or foreign commerce with respect to  
 14 firearm or ammunition products, or of a trade  
 15 association listed under subsection (a) to freely  
 16 engage in lawful activities on behalf of its mem-  
 17 bership; and

18 “(B) does not include any damages, equi-  
 19 table relief, or other limitation or condition aris-  
 20 ing from—

21 “(i) breach of contract or warranty in  
 22 connection with the purchase of a firearm  
 23 or ammunition product; or

24 “(ii) physical injuries or property  
 25 damage resulting directly from the failure

1 to function or improper functioning of a  
2 firearm or ammunition product, when used  
3 as intended, due to a defect in design or  
4 manufacture.

5 “(6) SELLER.—The term ‘seller in interstate or  
6 foreign commerce of a firearm or ammunition prod-  
7 uct’ means a person who—

8 “(A) in the course of a business conducted  
9 in interstate or foreign commerce for such pur-  
10 pose, sells, distributes, rents, leases, prepares,  
11 blends, packages, labels, or otherwise is involved  
12 in placing a firearm or ammunition product in  
13 the stream of commerce; or

14 “(B) in the course of a business conducted  
15 in interstate or foreign commerce for such pur-  
16 pose, installs, repairs, refurbishes, reconditions,  
17 or maintains an aspect of a firearm or ammuni-  
18 tion product.

19 “(7) STATE.—The term ‘State’ includes the  
20 District of Columbia, the Commonwealth of Puerto  
21 Rico, and any territory or possession of the United  
22 States.

23 “(8) TRADE ASSOCIATION.—The term ‘trade  
24 association’ means any association or business orga-  
25 nization (whether or not incorporated under the laws

1 of any State), 2 or more members of which are man-  
2 ufacturers or sellers in interstate or foreign com-  
3 merce of a firearm or ammunition product.

4 “(e) LIMITATION ON USE OF LIST.—No officer,  
5 agency, or instrumentality of the United States may use  
6 the list established and maintained under this section for  
7 any purpose other than the enforcement of the provisions  
8 of this section, nor shall the list be used or allowed to  
9 be used in any way that would result in the creation of  
10 any registry of firearms, firearm owners, or firearm pur-  
11 chasers by the United States, or by any State or any polit-  
12 ical subdivision thereof.”.

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