

108TH CONGRESS  
1ST SESSION

# H. R. 276

To repeal section 658 of Public Law 104–208, commonly referred to as the Lautenberg amendment.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 8, 2003

Mr. GOODE (for himself, Mr. JONES of North Carolina, and Mr. PAUL) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To repeal section 658 of Public Law 104–208, commonly referred to as the Lautenberg amendment.

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 “States’ Rights and Sec-  
5       ond and Tenth Amendment Restoration Act of 2003”.

6       **SEC. 2. FINDINGS AND PURPOSE.**

7       (a) CONGRESSIONAL FINDINGS:

8               (1) Domestic Violence remains a very serious  
9       problem in the United States. It is a dangerous

1 crime and should be punished as such, including,  
2 where appropriate, as a felony.

3 (2) Many States have classified Domestic Vio-  
4 lence crimes as misdemeanors, others as felonies.  
5 States are the proper authority, rather than the  
6 Federal Government, to classify Domestic Violence  
7 offenses.

8 (3) Where appropriate, States should classify  
9 Domestic Violence offenses as a felony.

10 (4) Section 658 of Public Law 104–208, com-  
11 monly referred to as the Lautenberg amendment,  
12 oversteps Federal authority, violating States’ rights,  
13 because no nexus has been shown to exist between  
14 Domestic Violence and interstate commerce.

15 (5) The Lautenberg amendment does not deal  
16 with a subject delegated to Congress under article I,  
17 section 8 of the Constitution of the United States  
18 and is therefore unconstitutional under the tenth  
19 amendment to the Constitution, as interpreted by  
20 United States v. Lopez.

21 (6) The Lautenberg amendment oversteps  
22 Congress’s power to regulate commerce as delineated  
23 by the Commerce Clause of the United States Con-  
24 stitution.

1           (7) Some of the strictest gun control laws are  
2       found in cities where the number of incidents of  
3       guns being used in violent crimes is the highest.  
4       Therefore, the Lautenberg amendment does not re-  
5       duce incidents of domestic violence.

6           (8) State and Federal judges already have the  
7       power to deny persons convicted of misdemeanors  
8       the right to possess firearms as a condition of proba-  
9       tion or parole.

10          (9) The Lautenberg amendment is an unfunded  
11       Federal mandate because States are liable for the  
12       costs of monitoring those citizens who have been  
13       banned for life from owning a firearm. Many times  
14       this lifetime ban is a result of a misdemeanor, not  
15       a felony.

16          (10) Section 658 of the Treasury-Postal portion  
17       of Public Law 104–208 violates all notions of con-  
18       stitutional due process and constitutes an ex post  
19       facto law because it imposes a criminal penalty on  
20       crimes which were not subject to that penalty at the  
21       time of the Act.

22          (11) Law-abiding citizens use guns to defend  
23       themselves against criminals as many as 2.5 million  
24       times every year. Of these self-defense cases, as

1       many as 200,000 are by women defending them-  
2       selves against sexual assault.

3           (12) Section 658 of the Treasury-Postal portion  
4       of Public Law 104–208 will, if allowed to stand, re-  
5       sult in the disarming of millions of citizens, includ-  
6       ing women, on account of misdemeanor offenses  
7       which, in many cases, were committed long before  
8       the effective date of that Act.

9           (13) Section 658 of the Treasury-Postal portion  
10      of Public Law 104–208 will, in many cases, disarm  
11      battered women who need access to firearms in  
12      order to protect themselves from their battering  
13      spouses as well as from common criminals.

14          (14) Section 658 of the Treasury-Postal portion  
15      of Public Law 104–208 will, if allowed to stand, im-  
16      pose a lifetime gun ban on persons who committed  
17      acts so minor that they were not even entitled to a  
18      jury trial prior to conviction.

19          (15) Section 658 of the Treasury-Postal portion  
20      of Public Law 104–208, will, if allowed to stand, re-  
21      sult in the disarming and dismissal of a significant  
22      number of law enforcement officers and American  
23      servicemen, on account of misdemeanors, which in  
24      many cases, were committed long before the effective  
25      date of that Act.

1           (16) Section 658 of the Treasury-Postal portion  
2           of Public Law 104–208 ignores the real problem  
3           surrounding domestic violence in that truly violent  
4           offenders are allowed to plea-bargain down to mis-  
5           demeanors.

6           (b) PURPOSE.—It is the purpose of this Act to re-  
7           store States’ rights, the tenth amendment, and second  
8           amendment freedoms.

9   **SEC. 3. REPEALER.**

10          Section 658 of the Treasury-Postal portion of Public  
11          Law 104–208 is repealed and is null and void as if it had  
12          not been enacted, and all provisions of law amended by  
13          such section are restored as if section 658 had not been  
14          enacted.

15   **SEC. 4. EFFECTIVE DATE.**

16          This Act shall take effect as if included in the Treas-  
17          ury-Postal portion of Public Law 104–208. Any liability,  
18          penalty, or forfeiture incurred by any person by reason  
19          of the application of any amendment made by section 658  
20          of the Treasury-Postal portion of Public Law 104–208 is  
21          hereby extinguished, and any action or prosecution for the  
22          enforcement of any such liability, penalty, or forfeiture  
23          shall not be sustained.

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