

113TH CONGRESS  
2D SESSION

# H. R. 5478

To amend title 10, United States Code, to direct the Secretary of Defense to make certain limitations on the transfer of personal property to Federal and State agencies, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 16, 2014

Mr. JOHNSON of Georgia (for himself, Mr. LABRADOR, Mr. AMASH, Mr. McCLINTOCK, Mr. MORAN, and Mr. CONYERS) introduced the following bill; which was referred to the Committee on Armed Services

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## A BILL

To amend title 10, United States Code, to direct the Secretary of Defense to make certain limitations on the transfer of personal property to Federal and State agencies, and for other purposes.

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 “Stop Militarizing Law  
5 Enforcement Act”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

1           (1) Under section 2576a of title 10, United  
2 States Code, the Department of Defense is author-  
3 ized to provide excess property to local law enforce-  
4 ment agencies. The Defense Logistics Agency, ad-  
5 ministers such section by operating the Law En-  
6 forcement Support Office program.

7           (2) New and used material, including mine-re-  
8 sistant ambush-protected vehicles and weapons de-  
9 termined by the Department of Defense to be “mili-  
10 tary grade” are transferred to local law enforcement  
11 agencies through the program.

12           (3) As a result local law enforcement agencies,  
13 including police and sheriff’s departments, are ac-  
14 quiring this material for use in their normal oper-  
15 ations.

16           (4) The wars in Iraq and Afghanistan have led  
17 to an increase in the transfer of military equipment  
18 to local law enforcement agencies.

19           (5) According to public reports, approximately  
20 12,000 police organizations across the country were  
21 able to procure nearly \$500,000,000 worth of excess  
22 military merchandise including firearms, computers,  
23 helicopters, clothing, and other products, at no  
24 charge during fiscal year 2011 alone.

1           (6) More than \$4,000,000,000 worth of weap-  
2           ons and equipment have been transferred to police  
3           organizations in all 50 states and four territories  
4           through the program.

5           (7) In May 2012, the Defense Logistics Agency  
6           instituted a moratorium on weapons transfers  
7           through the program after reports of missing equip-  
8           ment and inappropriate weapons transfers.

9           (8) Though the moratorium was widely pub-  
10          licized, it was lifted in October 2013 without ade-  
11          quate safeguards.

12          (9) As a result, Federal, State, and local law  
13          enforcement departments across the country are eli-  
14          gible again to acquire free “military-grade” weapons  
15          and equipment that could be used inappropriately  
16          during policing efforts in which citizens and tax-  
17          payers could be harmed.

18          (10) Pursuant to section III(J) of a Defense  
19          Logistics Agency memorandum of understanding,  
20          property obtained through the program must be  
21          placed into use within one year of receipt, possibly  
22          providing an incentive for the unnecessary and po-  
23          tentially dangerous use of “military grade” equip-  
24          ment by local law enforcement.

1 **SEC. 3. LIMITATION ON DEPARTMENT OF DEFENSE TRANS-**  
2 **FER OF PERSONAL PROPERTY TO LOCAL LAW**  
3 **ENFORCEMENT AGENCIES.**

4 (a) IN GENERAL.—Section 2576a of title 10, United  
5 States Code, is amended—

6 (1) in subsection (a)—

7 (A) in paragraph (1)(A), by striking  
8 “counter-drug and”; and

9 (B) in paragraph (2), by striking “and the  
10 Director of National Drug Control Policy”;

11 (2) in subsection (b)—

12 (A) in paragraph (3), by striking “and” at  
13 the end;

14 (B) in paragraph (4), by striking the pe-  
15 riod and inserting a semicolon; and

16 (C) by adding at the end the following new  
17 paragraphs:

18 “(5) the recipient certifies to the Department of  
19 Defense that it has the personnel and technical ca-  
20 pacity, including training, to operate the property;

21 “(6) the recipient submits to the Department of  
22 Defense a description of how the recipient expects to  
23 use the property;

24 “(7) the recipient certifies to the Department of  
25 Defense that if the recipient determines that the  
26 property is surplus to the needs of the recipient, the

1 recipient will return the property to the Department  
2 of Defense; and

3 “(8) with respect to a recipient that is not a  
4 Federal agency, the recipient certifies to the Depart-  
5 ment of Defense that the recipient notified the local  
6 community of the request for personal property  
7 under this section by—

8 “(A) publishing a notice of such request on  
9 a publicly accessible Internet website;

10 “(B) posting such notice at several promi-  
11 nent locations in the jurisdiction of the recipi-  
12 ent; and

13 “(C) ensuring that such notices were avail-  
14 able to the local community for a period of not  
15 less than 30 days.”;

16 (3) by striking subsection (d); and

17 (4) by adding at the end the following new sub-  
18 sections:

19 “(d) ANNUAL CERTIFICATION ACCOUNTING FOR  
20 TRANSFERRED PROPERTY.—(1) For each fiscal year, the  
21 Secretary shall submit to Congress certification in writing  
22 that each Federal or State agency to which the Secretary  
23 has transferred property under this section—

24 “(A) has provided to the Secretary documenta-  
25 tion accounting for all personal property, including

1 arms and ammunition, that the Secretary has trans-  
2 ferred to the agency, including any item described in  
3 subsection (f) so transferred before the date of the  
4 enactment of the Stop Militarizing Law Enforce-  
5 ment Act; and

6 “(B) with respect to a non-Federal agency, car-  
7 ried out each of paragraphs (5) through (8) of sub-  
8 section (b).

9 “(2) If the Secretary cannot provide a certification  
10 under paragraph (1) for a Federal or State agency, the  
11 Secretary may not transfer additional property to that  
12 agency under this section.

13 “(e) ANNUAL REPORT ON EXCESS PROPERTY.—Be-  
14 fore making any property available for transfer under this  
15 section, the Secretary shall annually submit to Congress  
16 a description of the property to be transferred together  
17 with a certification that the transfer of the property would  
18 not violate this section or any other provision of law.

19 “(f) LIMITATIONS ON TRANSFERS.—(1) The Sec-  
20 retary may not transfer the following personal property  
21 of the Department of Defense under this section:

22 “(A) Automatic weapons not generally recog-  
23 nized as particularly suitable for law enforcement  
24 purposes.

1           “(B) Any weapons that are .50 caliber or great-  
2       er.

3           “(C) Tactical vehicles, including highly mobile  
4       multi-wheeled vehicles, armored vehicles, and mine-  
5       resistant ambush-protected vehicles.

6           “(D) Drones that are armored, weaponized, or  
7       both.

8           “(E) Aircraft that—

9               “(i) are combat configured or combat  
10       coded; or

11               “(ii) have no established commercial flight  
12       application.

13           “(F) Grenades and similar explosives, including  
14       flash-bang grenades and stun grenades, and grenade  
15       launchers.

16           “(G) Silencers.

17           “(H) Long range acoustic devices.

18       “(2) The Secretary may not require, as a condition  
19       of a transfer under this section, that a Federal or State  
20       agency demonstrate the use of any small arms or ammuni-  
21       tion.

22       “(3) The Secretary shall take such steps as may be  
23       necessary to ensure that no item referred to in paragraph  
24       (1) is transferred under this section from one Federal or  
25       State agency to another such agency.

1       “(g) CONDITIONS FOR EXTENSION OF PROGRAM.—

2 Notwithstanding any other provision of law, amounts au-  
3 thorized to be appropriated or otherwise made available  
4 for any fiscal year may not be obligated or expended to  
5 carry out this section unless the Secretary submits to Con-  
6 gress certification that for the preceding fiscal year that—

7               “(1) each Federal or State agency that has re-  
8 ceived property under this section has—

9                       “(A) demonstrated 100 percent account-  
10 ability for all such property, in accordance with  
11 paragraph (2) or (3), as applicable; or

12                       “(B) been suspended from the program  
13 pursuant to paragraph (4);

14               “(2) with respect to each non-Federal agency  
15 that has received property under this section, the  
16 State coordinator responsible for each such agency  
17 has verified that the coordinator or an agent of the  
18 coordinator has conducted an in-person inventory of  
19 the property transferred to the agency and that 100  
20 percent of such property was accounted for during  
21 the inventory or that the agency has been suspended  
22 from the program pursuant to paragraph (4);

23               “(3) with respect to each Federal agency that  
24 has received property under this section, the Sec-  
25 retary of Defense or an agent of the Secretary has



1 conducted an in-person inventory of the property  
2 transferred to the agency and that 100 percent of  
3 such property was accounted for during the inven-  
4 tory or that the agency has been suspended from the  
5 program pursuant to paragraph (4);

6 “(4) the eligibility of any agency that has re-  
7 ceived property under this section for which 100 per-  
8 cent of the equipment was not accounted for during  
9 an inventory described in paragraph (2) or (3), as  
10 applicable, to receive property transferred under this  
11 section has been suspended;

12 “(5) each State coordinator has certified, for  
13 each non-Federal agency located in the State for  
14 which the State coordinator is responsible that—

15 “(A) the agency has complied with all re-  
16 quirements under this section; or

17 “(B) the eligibility of the agency to receive  
18 property transferred under this section has been  
19 suspended; and

20 “(6) the Secretary of Defense has certified, for  
21 each Federal agency that has received property  
22 under this section that—

23 “(A) the agency has complied with all re-  
24 quirements under this section; or

1           “(B) the eligibility of the agency to receive  
2           property transferred under this section has been  
3           suspended.

4           “(h) WEBSITE.—The Defense Logistics Agency shall  
5           maintain an Internet website on which the following infor-  
6           mation shall be made publicly available:

7           “(1) A description of each transfer made under  
8           this section, including transfers made before and  
9           after the date of the enactment of the Stop Milita-  
10          rizing Law Enforcement Act, broken down by State,  
11          county, and recipient.

12          “(2) During the 30-day period preceding the  
13          date on which any property is transferred under this  
14          section, a description of the property to be trans-  
15          ferred and the recipient of the transferred items.”.

16          (b) EFFECTIVE DATE.—The amendments made by  
17          subsection (a) shall apply with respect to any transfer of  
18          property made after the date of the enactment of this Act.

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