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114TH CONGRESS
1ST SESSION

S. 1760

To prevent gun trafficking.

IN THE SENATE OF THE UNITED STATES

JULY 14, 2015

Mrs. GILLIBRAND (for herself, Mr. KIRK, and Mr. DURBIN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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A BILL

To prevent gun trafficking.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Hadiya Pendleton and Nyasia Pryear-Yard Gun Trafficking and Crime Prevention Act of 2015''.

SEC. 2. FIREARMS TRAFFICKING.

(a) IN GENERAL.—Chapter 44 of title 18, United States Code, is amended by adding at the end the following:

"§ 932. Trafficking in firearms

''(a) OFFENSES.—It shall be unlawful for any person, regardless of whether anything of value is exchanged—

''(1) to ship, transport, transfer, or otherwise dispose to a person, 2 or more firearms in or affecting interstate or foreign commerce, if the transferor knows or has reasonable cause to believe that such use, carry, possession, or disposition of the firearm would be in violation of, or would result in a violation of any Federal, State, or local law punishable by a term of imprisonment exceeding 1 year;

''(2) to receive from a person, 2 or more firearms in or affecting interstate or foreign commerce, if the recipient knows or has reasonable cause to believe that such receipt would be in violation of, or would result in a violation of any Federal, State, or local law punishable by a term of imprisonment exceeding 1 year;

''(3) to make a statement to a licensed importer, licensed manufacturer, or licensed dealer relating to the purchase, receipt, or acquisition from a licensed importer, licensed manufacturer, or licensed dealer of 2 or more firearms that have moved in or affected interstate or foreign commerce that—

''(A) is material to—

"(i) the identity of the actual buyer of the firearms; or

"(ii) the intended trafficking of the firearms; and

"(B) the person knows or has reasonable cause to believe is false; or

"(4) to direct, promote, or facilitate conduct specified in paragraph (1), (2), or (3).

"(b) PENALTIES.—

"(1) IN GENERAL.—Any person who violates, or conspires to violate, subsection (a) shall be fined under this title, imprisoned for not more than 20 years, or both.

"(2) ORGANIZER ENHANCEMENT.—If a violation of subsection (a) is committed by a person in concert with 5 or more other persons with respect to whom such person occupies a position of organizer, a supervisory position, or any other position of management, such person may be sentenced to an additional term of imprisonment of not more than 5 consecutive years.

"(c) DEFINITIONS.—In this section—

"(1) the term 'actual buyer' means the individual for whom a firearm is being purchased, received, or acquired; and

"(2) the term 'term of imprisonment exceeding 1 year' does not include any offense classified by the applicable jurisdiction as a misdemeanor and punishable by a term of imprisonment of 2 years or less.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 44 of title 18, United States Code, is amended by adding at the end the following:

"932. Trafficking in firearms.".

(c) DIRECTIVE TO THE SENTENCING COMMISSION.—

(1) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall review and, if appropriate, amend the Federal sentencing guidelines and policy statements applicable to persons convicted of offenses under section 932 of title 18, United States Code (as added by subsection (a)).

(2) REQUIREMENTS.—In carrying out this section, the Commission shall—

(A) review the penalty structure that the guidelines currently provide based on the number of firearms involved in the offense and determine whether any changes to that penalty structure are appropriate in order to reflect the

intent of Congress that such penalties reflect the gravity of the offense; and

(B) review and amend, if appropriate, the guidelines and policy statements to reflect the intent of Congress that guideline penalties for violations of section 932 of title 18, United States Code, and similar offenses be increased substantially when committed by a person who is a member of a gang, cartel, organized crime ring, or other such enterprise or in concert with another person who is a member of a gang, cartel, organized crime ring or other such enterprise.

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