H. R. 38

IN THE SENATE OF THE UNITED STATES

DECEMBER 7, 2017

Received; read twice and referred to the Committee on the Judiciary

AN ACT

To amend title 18, United States Code, to provide a means by which nonresidents of a State whose residents may carry concealed firearms may also do so in the State.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE.

This Act may be cited as the “Concealed Carry Reciprocity Act of 2017”.

TITLE I—CONCEALED CARRY RECIPROCITY ACT OF 2017

SEC. 101. RECIPROCITY FOR THE CARRYING OF CERTAIN CONCEALED FIREARMS.

(a) IN GENERAL.—Chapter 44 of title 18, United States Code, is amended by inserting after section 926C the following:

“§ 926D. Reciprocity for the carrying of certain concealed firearms

“(a) Notwithstanding any provision of the law of any State or political subdivision thereof (except as provided in subsection (b)) and subject only to the requirements of this section, a person who is not prohibited by Federal law from possessing, transporting, shipping, or receiving a firearm, who is carrying a valid identification document containing a photograph of the person, and who is carrying a valid license or permit which is issued pursuant to the law of a State and which permits the person to carry a concealed firearm or is entitled to carry a concealed firearm in the State in which the person resides, may possess or carry a concealed handgun (other than a machinegun or destructive device) that has been shipped
or transported in interstate or foreign commerce, in any State that—

“(1) has a statute under which residents of the State may apply for a license or permit to carry a concealed firearm; or

“(2) does not prohibit the carrying of concealed firearms by residents of the State for lawful purposes.

“(b) This section shall not be construed to supersede or limit the laws of any State that—

“(1) permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property; or

“(2) prohibit or restrict the possession of firearms on any State or local government property, installation, building, base, or park.

“(c)(1) A person who carries or possesses a concealed handgun in accordance with subsections (a) and (b) may not be arrested or otherwise detained for violation of any law or any rule or regulation of a State or any political subdivision thereof related to the possession, transportation, or carrying of firearms unless there is probable cause to believe that the person is doing so in a manner not provided for by this section. Presentation of facially valid documents as specified in subsection (a) is prima
facie evidence that the individual has a license or permit
as required by this section.

“(2) When a person asserts this section as a defense
in a criminal proceeding, the prosecution shall bear the
burden of proving, beyond a reasonable doubt, that the
conduct of the person did not satisfy the conditions set
forth in subsections (a) and (b).

“(3) When a person successfully asserts this section
as a defense in a criminal proceeding, the court shall
award the prevailing defendant a reasonable attorney’s
fee.

“(d)(1) A person who is deprived of any right, privi-
lege, or immunity secured by this section, under color of
any statute, ordinance, regulation, custom, or usage of any
State or any political subdivision thereof, may bring an
action in any appropriate court against any other person,
including a State or political subdivision thereof, who
causes the person to be subject to the deprivation, for
damages or other appropriate relief.

“(2) The court shall award a plaintiff prevailing in
an action brought under paragraph (1) damages and such
other relief as the court deems appropriate, including a
reasonable attorney’s fee.

“(e) In subsection (a):
“(1) The term ‘identification document’ means a document made or issued by or under the authority of the United States Government, a State, or a political subdivision of a State which, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals.

“(2) The term ‘handgun’ includes any magazine for use in a handgun and any ammunition loaded into the handgun or its magazine.

“(f)(1) A person who possesses or carries a concealed handgun under subsection (a) shall not be subject to the prohibitions of section 922(q) with respect to that handgun.

“(2) A person possessing or carrying a concealed handgun in a State under subsection (a) may do so in any of the following areas in the State that are open to the public:

“(A) A unit of the National Park System.

“(B) A unit of the National Wildlife Refuge System.

“(C) Public land under the jurisdiction of the Bureau of Land Management.

“(D) Land administered and managed by the Army Corps of Engineers.
“(E) Land administered and managed by the Bureau of Reclamation.

“(F) Land administered and managed by the Forest Service.”.

(b) Clerical Amendment.—The table of sections for such chapter is amended by inserting after the item relating to section 926C the following:

“926D. Reciprocity for the carrying of certain concealed firearms.”.

(c) Severability.—Notwithstanding any other provision of this title, if any provision of this section, or any amendment made by this section, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, this section and amendments made by this section and the application of such provision or amendment to other persons or circumstances shall not be affected thereby.

(d) Effective Date.—The amendments made by this section shall take effect 90 days after the date of the enactment of this Act.

SEC. 102. Rule of Construction.

Nothing in this title prohibits a law enforcement officer with reasonable suspicion of a violation of any law from conducting a brief investigative stop in accordance with the Constitution of the United States.
SEC. 103. CERTAIN OFF-DUTY LAW ENFORCEMENT OFFICERS AND RETIRED LAW ENFORCEMENT OFFICERS ALLOWED TO CARRY A CONCEALED FIREARM, AND DISCHARGE A FIREARM, IN A SCHOOL ZONE.

Section 922(q) of title 18, United States Code, is amended—

(1) in paragraph (2)(B)—

(A) by striking “or” at the end of clause (vi); and

(B) by redesignating clause (vii) as clause (ix) and inserting after clause (vi) the following:

“(vii) by an off-duty law enforcement officer who is a qualified law enforcement officer (as defined in section 926B) and is authorized under such section to carry a concealed firearm, if the firearm is concealed;

“(viii) by a qualified retired law enforcement officer (as defined in section 926C) who is authorized under such section to carry a concealed firearm, if the firearm is concealed; or”;

and

(2) in paragraph (3)(B)—

(A) by striking “or” at the end of clause (iii);

(B) by striking the period at the end of clause (iv) and inserting a semicolon; and
(C) by adding at the end the following:

“(v) by an off-duty law enforcement officer who is a qualified law enforcement officer (as defined in section 926B) and is authorized under such section to carry a concealed firearm; or

“(vi) by a qualified retired law enforcement officer (as defined in section 926C) who is authorized under such section to carry a concealed firearm.”.

SEC. 104. INTERSTATE CARRYING OF FIREARMS BY FEDERAL JUDGES.

(a) In General.—Chapter 44 of title 18, United States Code, as amended by section 101(a) of this Act, is amended by inserting after section 926D the following:

“§ 926E. Interstate carrying of firearms by Federal judges

“Notwithstanding any provision of the law of any State or political subdivision thereof, a Federal judge may carry a concealed firearm in any State if such judge is not prohibited by Federal law from receiving a firearm.”.

(b) Clerical Amendment.—The table of sections for such chapter, as amended by section 101(b) of this Act, is amended by inserting after the item relating to section 926D the following:

“926E. Interstate carrying of firearms by Federal judges.”.
TITLE II—FIX NICS ACT

SEC. 201. SHORT TITLE.

This title may be cited as the “Fix NICS Act of 2017”.

SEC. 202. ACCOUNTABILITY FOR FEDERAL DEPARTMENTS AND AGENCIES.

Section 103 of the Brady Handgun Violence Prevention Act (34 U.S.C. 40901) is amended—

(1) in subsection (e)(1), by adding at the end the following:

“(F) Semiannual certification and reporting.—

“(i) In general.—The head of each Federal department or agency shall submit a semiannual written certification to the Attorney General indicating whether the department or agency is in compliance with the record submission requirements under subparagraph (C).

“(ii) Submission dates.—The head of a Federal department or agency shall submit a certification to the Attorney General under clause (i)—

“(I) not later than July 31 of each year, which shall address all rel-
evant records, including those that have not been transmitted to the Attorney General, in possession of the department or agency during the period beginning on January 1 of the year and ending on June 30 of the year; and

“(II) not later than January 31 of each year, which shall address all relevant records, including those that have not been transmitted to the Attorney General, in possession of the department or agency during the period beginning on July 1 of the previous year and ending on December 31 of the previous year.

“(iii) CONTENTS.—A certification required under clause (i) shall state, for the applicable period—

“(I) the total number of records of the Federal department or agency demonstrating that a person falls within one of the categories described in subsection (g) or (n) of section 922 of title 18, United States Code;
“(II) for each category of records described in subclause (I), the total number of records of the Federal department or agency that have been provided to the Attorney General; and

“(III) the efforts of the Federal department or agency to ensure complete and accurate reporting of relevant records, including efforts to monitor compliance and correct any reporting failures or inaccuracies.

“(G) IMPLEMENTATION PLAN.—

“(i) IN GENERAL.—Not later than 1 year after the date of enactment of this subparagraph, the head of each Federal department or agency, in coordination with the Attorney General, shall establish a plan to ensure maximum coordination and automated reporting or making available of records to the Attorney General as required under subparagraph (C), and the verification of the accuracy of those records, including the pre-validation of those records, where appropriate, during a 4-year period specified in the plan. The
head of each Federal department or agency shall update the plan biennially, to the extent necessary, based on the most recent biennial assessment under subparagraph (K). The records shall be limited to those of an individual described in subsection (g) or (n) of section 922 of title 18, United States Code.

“(ii) BENCHMARK REQUIREMENTS.—Each plan established under clause (i) shall include annual benchmarks to enable the Attorney General to assess implementation of the plan, including—

“(I) qualitative goals and quantitative measures;

“(II) measures to monitor internal compliance, including any reporting failures and inaccuracies;

“(III) a needs assessment, including estimated compliance costs; and

“(IV) an estimated date by which the Federal department or agency will fully comply with record submission requirements under subparagraph (C).
“(iii)  Compliance  Determination.—Not  later  than  the  end  of  each  fiscal  year  beginning  after  the  date  of  the  establishment  of  a  plan  under  clause  (i),  the  Attorney  General  shall  determine  whether  the  applicable  Federal  department  or  agency  has  achieved  substantial  compliance  with  the  benchmarks  included  in  the  plan.

“(H)  Accountability.—The  Attorney  General  shall  publish,  including  on  the  website  of  the  Department  of  Justice,  and  submit  to  the  Committee  on  the  Judiciary  and  the  Committee  on  Appropriations  of  the  Senate  and  the  Committee  on  the  Judiciary  and  the  Committee  on  Appropriations  of  the  House  of  Representatives  a  semiannual  report  that  discloses—

“(i)  the  name  of  each  Federal  department  or  agency  that  has  failed  to  submit  a  required  certification  under  subparagraph  (F);  

“(ii)  the  name  of  each  Federal  department  or  agency  that  has  submitted  a  required  certification  under  subparagraph  (F),  but  failed  to  certify  compliance  with
the record submission requirements under subparagraph (C);

“(iii) the name of each Federal department or agency that has failed to submit an implementation plan under subparagraph (G);

“(iv) the name of each Federal department or agency that is not in substantial compliance with an implementation plan under subparagraph (G);

“(v) a detailed summary of the data, broken down by department or agency, contained in the certifications submitted under subparagraph (F);

“(vi) a detailed summary of the contents and status, broken down by department or agency, of the implementation plans established under subparagraph (G); and

“(vii) the reasons for which the Attorney General has determined that a Federal department or agency is not in substantial compliance with an implementation plan established under subparagraph (G).
“(I) NONCOMPLIANCE PENALTIES.—For each of fiscal years 2019 through 2022, each political appointee of a Federal department or agency that has failed to certify compliance with the record submission requirements under subparagraph (C), and is not in substantial compliance with an implementation plan established under subparagraph (G), shall not be eligible for the receipt of bonus pay, excluding overtime pay, until the department or agency—

“(i) certifies compliance with the record submission requirements under subparagraph (C); or

“(ii) achieves substantial compliance with an implementation plan established under subparagraph (G).

“(J) TECHNICAL ASSISTANCE.—The Attorney General may use funds made available for the national instant criminal background check system established under subsection (b) to provide technical assistance to a Federal department or agency, at the request of the department or agency, in order to help the department or agency comply with the record submission requirements under subparagraph (C).
“(K) Biennial Assessment.—Every 2 years, the Attorney General shall assess the extent to which the actions taken under the title II of the Concealed Carry Reciprocity Act of 2017 have resulted in improvements in the system established under this section.

“(L) Application to Federal Courts.—For purposes of this paragraph—

“(i) the terms ‘department or agency of the United States’ and ‘Federal department or agency’ include a Federal court; and

“(ii) the Director of the Administrative Office of the United States Courts shall perform, for a Federal court, the functions assigned to the head of a department or agency.”; and

(2) in subsection (g), by adding at the end the following: “For purposes of the preceding sentence, not later than 60 days after the date on which the Attorney General receives such information, the Attorney General shall determine whether or not the prospective transferee is the subject of an erroneous record and remove any records that are determined to be erroneous. In addition to any funds made
available under subsection (k), the Attorney General may use such sums as are necessary and otherwise available for the salaries and expenses of the Federal Bureau of Investigation to comply with this subsection.”.

 SECTION 203. NICS ACT RECORD IMPROVEMENT PROGRAM.

(a) REQUIREMENTS TO OBTAIN WAIVER.—Section 102 of the NICS Improvement Amendments Act of 2007 (34 U.S.C. 40912) is amended—

(1) in subsection (a), in the first sentence—


and

(B) by inserting “is in compliance with an implementation plan established under subsection (b) or” before “provides at least 90 percent of the information described in subsection (e)”;

and

(2) in subsection (b)(1)(B), by inserting “or has established an implementation plan under section 107” after “the Attorney General”.

(b) Implementation Assistance to States.—

Section 103 of the NICS Improvement Amendments Act of 2007 (34 U.S.C. 40913) is amended—

(1) in subsection (b)(3), by inserting before the semicolon at the end the following: “, including through increased efforts to pre-validate the contents of those records to expedite eligibility determinations”;

(2) in subsection (e), by striking paragraph (2) and inserting the following:

“(2) DOMESTIC ABUSE AND VIOLENCE PREVENTION INITIATIVE.—

“(A) Establishment.—For each of fiscal years 2018 through 2022, the Attorney General shall create a priority area under the NICS Act Record Improvement Program (commonly known as ‘NARIP’) for a Domestic Abuse and Violence Prevention Initiative that emphasizes the need for grantees to identify and upload all felony conviction records and domestic violence records.

“(B) Funding.—The Attorney General—

“(i) may use not more than 50 percent of the amounts made available under section 207 of the Concealed Carry Reci-
procity Act of 2017 for each of fiscal years
2018 through 2022 to carry out the initia-
tive described in subparagraph (A); and
“(ii) shall give a funding preference
under NARIP to States that—
“(I) have established an imple-
mentation plan under section 107;
and
“(II) will use amounts made
available under this subparagraph to
improve efforts to identify and upload
all felony conviction records and do-
mental violence records described in
visions (i), (v), and (vi) of section
102(b)(1)(C) by not later than Sep-
tember 30, 2022.”; and
(3) by adding at the end the following:
“(g) TECHNICAL ASSISTANCE.—The Attorney Gen-
eral shall direct the Office of Justice Programs, the Bu-
rean of Alcohol, Tobacco, Firearms, and Explosives, and
the Federal Bureau of Investigation to—
“(1) assist States that are not currently eligible
for grants under this section to achieve compliance
with all eligibility requirements; and

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“(2) provide technical assistance and training services to grantees under this section.”.

SEC. 204. NATIONAL CRIMINAL HISTORY IMPROVEMENT PROGRAM.

(a) State Grant Program for Criminal Justice Identification, Information, and Communication.—Section 102 of the Crime Identification Technology Act of 1998 (34 U.S.C. 40301) is amended—

(1) in subsection (a)(3)—

(A) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively; and

(B) by inserting after subparagraph (B) the following:

“(C) identification of all individuals who have been convicted of a crime punishable by imprisonment for a term exceeding 1 year”;

(2) in subsection (b)(6)—

(A) by striking “(18 U.S.C. 922 note)” and inserting “(34 U.S.C. 40901(b))”; and

(B) by inserting before the semicolon at the end the following: “, including through increased efforts to pre-validate the contents of felony conviction records and domestic violence records to expedite eligibility determinations,
and measures and resources necessary to establish and achieve compliance with an implementation plan under section 107 of the NICS Improvement Amendments Act of 2007"; and

(3) in subsection (d), by inserting after “unless” the following: “the State has achieved compliance with an implementation plan under section 107 of the NICS Improvement Amendments Act of 2007 or”.

(b) GRANTS FOR THE IMPROVEMENT OF CRIMINAL RECORDS.—Section 106(b)(1) of the Brady Handgun Violence Prevention Act (34 U.S.C. 40302(1)) is amended—

(1) in the matter preceding subparagraph (A)—

(A) by striking “as of the date of enactment of this Act” and inserting “, as of the date of enactment of the Concealed Carry Reciprocity Act of 2017,”; and

(B) by striking “files,” and inserting the following: “files and that will utilize funding under this subsection to prioritize the identification and transmittal of felony conviction records and domestic violence records,”;

(2) in subparagraph (B), by striking “and” at the end;

(3) in subparagraph (C)—
(A) by striking “upon establishment of the national system,”; and

(B) by striking the period at the end and inserting “; and”; and

(4) by adding at the end the following—

“(D) to establish and achieve compliance with an implementation plan under section 107 of the NICS Improvement Amendments Act of 2007.”.

SEC. 205. IMPROVING INFORMATION SHARING WITH THE STATES.

(a) IN GENERAL.—Title I of the NICS Improvement Amendments Act of 2007 (34 U.S. 40911 et seq.) is amended by adding at the end the following:

“SEC. 107. IMPLEMENTATION PLAN.

“(a) IN GENERAL.—Not later than 1 year after the date of enactment of the Concealed Carry Reciprocity Act of 2017, the Attorney General, in coordination with the States and Indian tribal governments, shall establish, for each State or Indian tribal government, a plan to ensure maximum coordination and automation of the reporting or making available of appropriate records to the National Instant Criminal Background Check System established under section 103 of the Brady Handgun Violence Prevention Act (34 U.S.C. 40901) and the verification of the ac-
curacy of those records during a 4-year period specified in the plan, and shall update the plan biennially, to the extent necessary, based on the most recent biennial assessment under subsection (f). The records shall be limited to those of an individual described in subsection (g) or (n) of section 922 of title 18, United States Code.

“(b) Benchmark Requirements.—Each plan established under this section shall include annual benchmarks to enable the Attorney General to assess the implementation of the plan, including—

“(1) qualitative goals and quantitative measures; and

“(2) a needs assessment, including estimated compliance costs.

“(c) Compliance Determination.—Not later than the end of each fiscal year beginning after the date of the establishment of an implementation plan under this section, the Attorney General shall determine whether each State or Indian tribal government has achieved substantial compliance with the benchmarks included in the plan.

“(d) Accountability.—The Attorney General—

“(1) shall disclose and publish, including on the website of the Department of Justice—

“(A) the name of each State or Indian tribal government that received a determination
of failure to achieve substantial compliance with
an implementation plan under subsection (c) for
the preceding fiscal year; and

“(B) a description of the reasons for which
the Attorney General has determined that the
State or Indian tribal government is not in sub-
stantial compliance with the implementation
plan, including, to the greatest extent possible,
a description of the types and amounts of
records that have not been submitted; and

“(2) if a State or Indian tribal government de-
scribed in paragraph (1) subsequently receives a de-
termination of substantial compliance, shall—

“(A) immediately correct the applicable
record; and

“(B) not later than 3 days after the deter-
mination, remove the record from the website of
the Department of Justice and any other loca-
tion where the record was published.

“(e) INCENTIVES.—For each of fiscal years 2018
through 2022, the Attorney General shall give affirmative
preference to all Bureau of Justice Assistance discre-
tionary grant applications of a State or Indian tribal gov-
ernment that received a determination of substantial com-
pliance under subsection (c) for the fiscal year in which
the grant was solicited.

“(f) Biennial Assessment.—Every 2 years, the At-
torney General shall assess the extent to which the actions
taken under title II of the Concealed Carry Reciprocity
Act of 2017 have resulted in improvements in the National
Instant Criminal Background Check System established
under section 103 of the Brady Handgun Violence Preven-

“SEC. 108. NOTIFICATION TO LAW ENFORCEMENT AGEN-
CIES OF PROHIBITED PURCHASE OF A FIRE-
ARM.

“(a) In General.—In the case of a background
check conducted by the National Instant Criminal Back-
ground Check System pursuant to the request of a li-
censed importer, licensed manufacturer, or licensed dealer
of firearms (as such terms are defined in section 921 of
title 18, United States Code), which background check de-
determines that the receipt of a firearm by a person would
violate subsection (g) or (n) of section 922 of title 18,
United States Code, and such determination is made after
3 business days have elapsed since the licensee contacted
the System and a firearm has been transferred to that
person, the System shall notify the law enforcement agen-
cies described in subsection (b).
“(b) LAW ENFORCEMENT AGENCIES DESCRIBED.—
The law enforcement agencies described in this subsection are the law enforcement agencies that have jurisdiction over the location from which the licensee contacted the system and the law enforcement agencies that have jurisdiction over the location of the residence of the person for which the background check was conducted, as follows:

“(1) The field office of the Federal Bureau of Investigation.

“(2) The local law enforcement agency.

“(3) The State law enforcement agency.”.

(b) TABLE OF CONTENTS.—The table of contents in section 1(b) of the NICS Improvement Amendments Act of 2007 (Public Law 110–180; 121 Stat. 2559) is amended by inserting after the item relating to section 106 the following:

“Sec. 107. Implementation plan.
“Sec. 108. Notification to law enforcement agencies of prohibited purchase of a firearm.”.

SEC. 206. ATTORNEY GENERAL REPORT ON USE OF BUMP STOCKS IN CRIME.

(a) IN GENERAL.—Using amounts made available for research, evaluation, or statistical purposes, within 180 days after the date of the enactment of this Act, the Attorney General shall prepare and submit to the Committee on the Judiciary of the House of Representatives and the
Committee on the Judiciary of the Senate a written report
that—

(1) specifies the number of instances in which a bump stock has been used in the commission of a crime in the United States;

(2) specifies the types of firearms with which a bump stock has been so used; and

(3) contains the opinion of the Attorney General as to whether subparagraphs (B)(i) and (C)(i) of section 924(c)(1) of title 18, United States Code, apply to all instances in which a bump stock has been used in the commission of a crime of violence in the United States.

(b) Definition of Bump Stock.—In this section, the term “bump stock” means a device that—

(1) attaches to a semiautomatic rifle (as defined in section 921(a)(28) of title 18, United States Code);

(2) is designed and intended to repeatedly activate the trigger without the deliberate and volitional act of the user pulling the trigger each time the firearm is fired; and

(3) functions by continuous forward pressure applied to the rifle’s fore end in conjunction with a linear forward and backward sliding motion of the
mechanism utilizing the recoil energy when the rifle is discharged.

**SEC. 207. AUTHORIZATIONS OF APPROPRIATIONS.**

(a) In General.—There is authorized to be appropriated $100,000,000 for each of fiscal years 2018 through 2022 to carry out, in accordance with the NICS Act Record Improvement Program and the National Criminal History Improvement Program, the activities under—

(1) section 102 of the NICS Improvement Amendments Act of 2007;

(2) section 103 of the NICS Improvement Amendments Act of 2007;

(3) section 102 of the Crime Identification Technology Act of 1998; and

(4) section 106(b) of the Brady Handgun Violence Prevention Act.

(b) Additional Authorizations.—Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. 10261(a)) is amended—

(1) in paragraph (1)—

(A) by striking “$33,000,000” and inserting “$31,000,000”;

(B) by striking “1994 and 1995” and inserting “2018 through 2022”; and
(C) by inserting “, in addition to any amounts otherwise made available for research,
evaluation or statistical purposes in a fiscal year” before the period; and

(2) in paragraph (2)—

(A) by striking “$33,000,000” and inserting “$27,000,000”;

(B) by striking “1994 and 1995” and inserting “2018 through 2022”; and

(C) by inserting “, in addition to any amounts otherwise made available for research,
evaluation or statistical purposes in a fiscal year” before the period.

Passed the House of Representatives December 6, 2017.

Attest:                  KAREN L. HAAS,

                      Clerk.