

115TH CONGRESS
2D SESSION

S. 3211

To ensure greater accountability by licensed firearms dealers.

IN THE SENATE OF THE UNITED STATES

JULY 12, 2018

Mr. MARKEY (for himself, Mr. WHITEHOUSE, Mr. BLUMENTHAL, Mrs. FEINSTEIN, Mrs. GILLIBRAND, Mr. MURPHY, Mr. WYDEN, Ms. SMITH, Mr. DURBIN, Ms. WARREN, Ms. BALDWIN, Ms. HARRIS, Mr. VAN HOLLEN, and Mr. REED) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To ensure greater accountability by licensed firearms dealers.

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 “Keeping Gun Dealers
5 Honest Act of 2018”.

6 **SEC. 2. INCREASING THE NUMBER OF ALLOWED COMPLI-**
7 **ANCE INSPECTIONS OF FIREARMS DEALERS.**

8 Section 923(g)(1)(B)(ii)(I) of title 18, United States
9 Code, is amended by striking “once” and inserting “3
10 times”.

1 **SEC. 3. INCREASING PENALTIES ON FIREARMS LICENSEES.**

2 Section 924(a)(3) of title 18, United States Code, is
3 amended in the matter following subparagraph (B) by
4 striking “one year” and inserting “5 years”.

5 **SEC. 4. SERIOUS RECORDKEEPING OFFENSES THAT AID**
6 **GUN TRAFFICKING.**

7 Section 924(a)(3) of title 18, United States Code, is
8 amended by striking the period at the end and inserting
9 “. If the conduct described in subparagraph (A) or (B)
10 is in relation to an offense under subsection (a)(6) or (d)
11 of section 922, the licensed dealer, licensed importer, li-
12 censed manufacturer, or licensed collector shall be fined
13 under this title, imprisoned for not more than 10 years,
14 or both.”.

15 **SEC. 5. SUSPENSION OF FIREARMS DEALER’S LICENSE AND**
16 **CIVIL PENALTIES FOR VIOLATIONS OF THE**
17 **GUN CONTROL ACT.**

18 Section 923 of title 18, United States Code, is
19 amended by striking subsections (e) and (f) and inserting
20 the following:

21 “(e)(1)(A) The Attorney General may, after notice
22 and opportunity for hearing, suspend or revoke any license
23 issued under this section, or may subject the licensee to
24 a civil penalty of not more than \$10,000 per violation, if
25 the holder of the license—

1 “(i) has violated any provision of this chapter
2 or any rule or regulation prescribed by the Attorney
3 General under this chapter; or

4 “(ii) except as provided in subparagraph (B),
5 fails to have secure gun storage or safety devices
6 available at any place in which firearms are sold
7 under the license to persons who are not licensees.

8 “(B) Subparagraph (A)(ii) shall not apply in any case
9 in which a secure gun storage or safety device is tempo-
10 rarily unavailable because of theft, casualty loss, consumer
11 sales, backorders from a manufacturer, or any other simi-
12 lar reason beyond the control of the licensee.

13 “(2) The Attorney General may, after notice and op-
14 portunity for hearing, suspend or revoke the license of,
15 or assess a civil penalty of not more than \$10,000 on, a
16 dealer who transfers armor piercing ammunition.

17 “(3) The Attorney General may at any time com-
18 promise, mitigate, or remit the liability with respect to any
19 violation of this chapter or any rule or regulation pre-
20 scribed by the Attorney General under this chapter.

21 “(4) The Attorney General’s actions under this sub-
22 section may be reviewed only as provided in subsection (f).

23 “(f)(1) Any person whose application for a license is
24 denied and any holder of a license which is suspended or
25 revoked or who is assessed a civil penalty shall receive a

1 written notice from the Attorney General stating specifi-
2 cally the grounds upon which the application was denied
3 or upon which the license was suspended or revoked or
4 the civil penalty assessed. Any notice of a suspension or
5 revocation of a license shall be given to the holder of the
6 license before the effective date of the suspension or rev-
7 ocation.

8 “(2) If the Attorney General denies an application
9 for a license, or suspends or revokes a license, or assesses
10 a civil penalty, the Attorney General shall, upon request
11 by the aggrieved party, promptly hold a hearing to review
12 the denial, suspension, revocation, or assessment. In the
13 case of a suspension or revocation of a license, the Attor-
14 ney General shall, on the request of the holder of the li-
15 cense, stay the effective date of the suspension or revoca-
16 tion. A hearing under this paragraph shall be held at a
17 location convenient to the aggrieved party.

18 “(3)(A) If after a hearing held under paragraph (2)
19 the Attorney General decides not to reverse the decision
20 to deny an application or suspend or revoke a license or
21 assess a civil penalty, the Attorney General shall give no-
22 tice of the decision to the aggrieved party.

23 “(B) The aggrieved party may at any time within 60
24 days after the date notice is given under subparagraph
25 (A) file a petition with the United States district court

1 for the district in which the party resides or in which the
2 party's principal place of business is located for a de novo
3 judicial review of the denial, suspension, revocation, or as-
4 sessment.

5 “(C) In a proceeding conducted under this para-
6 graph, the court may consider any evidence submitted by
7 the parties to the proceeding without regard to whether
8 such evidence was considered at the hearing held under
9 paragraph (2).

10 “(D) If the court decides that the Attorney General
11 was not authorized to deny the application or to suspend
12 or revoke the license or to assess the civil penalty, the
13 court shall order the Attorney General to take such action
14 as may be necessary to comply with the judgment of the
15 court.”.

16 **SEC. 6. TERMINATION OF FIREARMS DEALER'S LICENSE**
17 **UPON FELONY CONVICTION.**

18 Section 925(b) of title 18, United States Code, is
19 amended by striking “until any conviction pursuant to the
20 indictment becomes final” and inserting “until the date
21 of any conviction pursuant to the indictment”.

22 **SEC. 7. AUTHORITY TO HIRE ADDITIONAL PERSONNEL.**

23 The Director of the Bureau of Alcohol, Tobacco,
24 Firearms, and Explosives may hire at least 80 additional
25 employees for the purpose of carrying out additional in-

1 inspections as provided for in the amendments made by this
2 Act.

3 **SEC. 8. AUTHORITY TO REQUIRE LICENSED DEALER TO**
4 **CONDUCT A PHYSICAL INVENTORY AND PRO-**
5 **VIDE INVENTORY RECORD IF DEALER HAS**
6 **UNLAWFULLY TRANSFERRED A FIREARM OR**
7 **10 OR MORE CRIME GUNS ARE TRACED TO**
8 **THE DEALER.**

9 (a) IN GENERAL.—Section 923(g)(1) of title 18,
10 United States Code, is amended by adding at the end the
11 following:

12 “(E) The Attorney General may require a licensed
13 importer, licensed manufacturer, or licensed dealer to con-
14 duct a physical inventory of the firearms in the business
15 inventory of the licensee, and provide the Attorney General
16 with a detailed record of the physical inventory if—

17 “(i) the licensee has been convicted of transfer-
18 ring a firearm unlawfully; or

19 “(ii) the Attorney General finds that 10 or
20 more firearms used in a crime under Federal, State,
21 or local law have been traced back to the licensee.”.

22 (b) CONFORMING AMENDMENTS.—

23 (1) Section 923(j) of such title is amended in
24 the 6th sentence by inserting “, except as required
25 under subsection (g)(1)(E)” before the period.

1 (2) The matter under the heading “SALARIES
 2 AND EXPENSES” under the heading “BUREAU OF
 3 ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES”
 4 under title II of division B of the Consolidated and
 5 Further Continuing Appropriations Act, 2013 (Pub-
 6 lic Law 113–6; 127 Stat. 247) is amended in the
 7 5th proviso by inserting “, except as required under
 8 subsection (g)(1)(E) of such section 923” before the
 9 colon.

10 **SEC. 9. ISSUANCE OF LICENSES.**

11 Section 923 of title 18, United States Code, is
 12 amended—

13 (1) in subsection (c)—

14 (A) by inserting “(1)” before “Upon”;

15 (B) in the first sentence, by inserting “,
 16 subject to paragraph (2),” after “Attorney Gen-
 17 eral shall”; and

18 (C) by adding at the end the following:

19 “(2) The Attorney General may deny an application
 20 submitted under subsection (a) or (b) if the Attorney Gen-
 21 eral determines—

22 “(A) issuing the license would pose a danger to
 23 public safety; or

24 “(B) that the applicant—

25 “(i) is not likely to comply with the law; or

1 “(ii) is otherwise is not suitable to be
2 issued a license.”; and

3 (2) in subsection (d)(1), in the matter pre-
4 ceding subparagraph (A), by inserting “, subject to
5 subsection (c)(2),” after “shall”.

6 **SEC. 10. LIABILITY STANDARDS.**

7 Section 923 of title 18, United States Code, is
8 amended—

9 (1) in subsection (c), in the third sentence, by
10 striking “willfully”; and

11 (2) in subsection (d), by striking “willfully”
12 each place it appears.

13 **SEC. 11. REGULATORY FLEXIBILITY.**

14 Section 926(a) of title 18, United States Code, is
15 amended, in the matter preceding paragraph (1) by strik-
16 ing “only”.

17 **SEC. 12. REPORT TO THE CONGRESS.**

18 The Director of the Bureau of Alcohol, Tobacco,
19 Firearms, and Explosives shall submit biennial reports to
20 Congress on the implementation of this Act and the
21 amendments made by this Act, which shall include—

22 (1) a statement by the Director as to what ad-
23 ditional resources, if any, are necessary in order to
24 implement this Act and the amendments made by
25 this Act; and

1 (2) any recommendations of the Director for
2 how better to ensure that—

3 (A) firearms dealers are complying with all
4 laws and regulations that apply with respect to
5 dealing in firearms; and

6 (B) noncompliant firearms dealers are sub-
7 ject to appropriate action in a timely manner.

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