

116TH CONGRESS  
1ST SESSION

# H. R. 1714

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

MARCH 13, 2019

Mr. JOHNSON of Georgia (for himself, Mr. ESPAILLAT, Mr. GREEN of Texas, Mr. LAWSON of Florida, Mr. LOWENTHAL, Mr. HASTINGS, Ms. OCASIO-CORTEZ, Ms. ADAMS, Mr. LEVIN of Michigan, Ms. ESHOO, Ms. PRESSLEY, Ms. LEE of California, Mr. THOMPSON of Mississippi, Ms. MCCOLLUM, Mr. RUSH, Mr. SCOTT of Virginia, Mrs. WATSON COLEMAN, Mrs. LAWRENCE, Mr. GARCÍA of Illinois, Mr. DANNY K. DAVIS of Illinois, Mr. CICILLINE, Mr. DAVID SCOTT of Georgia, Ms. HAALAND, Ms. DEGETTE, Mr. BEYER, Mr. PAYNE, Mr. EVANS, Mr. BLUMENAUER, Ms. JOHNSON of Texas, Ms. NORTON, Mr. CLEAVER, Ms. WILSON of Florida, Ms. MOORE, Ms. OMAR, Ms. SPEIER, Mr. RASKIN, Ms. SCHAKOWSKY, Mr. NADLER, Mr. MCGOVERN, Mr. GOMEZ, Mr. LEWIS, Mr. SERRANO, Mrs. BEATTY, Mr. AMASH, Ms. BASS, Ms. CLARK of Massachusetts, Mr. CLAY, Ms. ROYBAL-ALLARD, Mr. VEASEY, Ms. FUDGE, Ms. KAPTUR, Mr. DESAULNIER, Mr. POCAN, Mr. TAKANO, Ms. WATERS, Ms. BARRAGÁN, Ms. VELÁZQUEZ, Mr. TONKO, Mr. DEFazio, Ms. JAYAPAL, Ms. TLAIB, Mr. GRIJALVA, Mr. KHANNA, Mr. COHEN, Mr. MCCLINTOCK, Ms. CLARKE of New York, and Ms. LOFGREN) 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:

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

14             (2) New and used material, including mine-re-  
15      sistant ambush-protected vehicles and weapons de-  
16      termined by the Department of Defense to be “mili-  
17      tary grade” are transferred to Federal, Tribal,  
18      State, and local law enforcement agencies through  
19      the program.

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

24             (4) As a result of the wars in Iraq and Afghani-  
25      stan, military equipment purchased for, and used in,

1 those wars has become excess property and has been  
2 made available for transfer to local and Federal law  
3 enforcement agencies.

4 (5) In Fiscal Year 2017, \$504,000,000 worth  
5 of property was transferred to law enforcement  
6 agencies.

7 (6) More than \$6,800,000,000 worth of weap-  
8 ons and equipment have been transferred to police  
9 organizations in all 50 States and four territories  
10 through the program.

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

15 (8) Though the moratorium was widely pub-  
16 licized, it was lifted in October 2013 without ade-  
17 quate safeguards.

18 (9) On January 16, 2015, President Barack  
19 Obama issued Executive Order 13688 to better co-  
20 ordinate and regulate the federal transfer of military  
21 weapons and equipment to State, local, and Tribal  
22 law enforcement agencies.

23 (10) In July, 2017, the Government Account-  
24 ability Office reported that the program's internal

1 controls were inadequate to prevent fraudulent appli-  
2 cants' access to the program.

3 (11) On August, 28, 2017, President Donald  
4 Trump rescinded Executive Order 13688 despite a  
5 July 2017 Government Accountability Office report  
6 finding deficiencies with the administration of the  
7 1033 program.

8 (12) As a result, Federal, State, and local law  
9 enforcement departments across the country are eli-  
10 gible again to acquire free "military-grade" weapons  
11 and equipment that could be used inappropriately  
12 during policing efforts in which people and taxpayers  
13 could be harmed.

14 (13) The Department of Defense categorizes  
15 equipment eligible for transfer under the 1033 pro-  
16 gram as "controlled" and "un-controlled" equip-  
17 ment. "Controlled equipment" includes weapons, ex-  
18 plosives such as flash-bang grenades, mine-resistant  
19 ambush-protected vehicles, long-range acoustic de-  
20 vices, aircraft capable of being modified to carry ar-  
21 mament that are combat coded, and silencers,  
22 among other military grade items.

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 “counterdrug, counterterrorism, and border se-  
9 curity activities” and inserting “counterter-  
10 rorism”; and

11 (B) in paragraph (2), by striking “, the  
12 Director of National Drug Control Policy,”;

13 (2) in subsection (b)—

14 (A) in paragraph (5), by striking “and” at  
15 the end;

16 (B) in paragraph (6), by striking the pe-  
17 riod and inserting a semicolon; and

18 (C) by adding at the end the following new  
19 paragraphs:

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

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

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

3 “(9) 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; and

16 “(10) the recipient has received the approval of  
17 the city council or other local governing body to ac-  
18 quire the personal property sought under this sec-  
19 tion.”;

20 (3) by striking subsection (d);

21 (4) by redesignating subsections (e) and (f) as  
22 subsections (o) and (p), respectively; and

23 (5) by inserting after subsection (c) the fol-  
24 lowing new subsections:

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

6               “(A) has provided to the Secretary documenta-  
7 tion accounting for all controlled property, including  
8 arms and ammunition, that the Secretary has trans-  
9 ferred to the agency, including any item described in  
10 subsection (f) so transferred before the date of the  
11 enactment of the Stop Militarizing Law Enforce-  
12 ment Act; and

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

16       “(2) If the Secretary cannot provide a certification  
17 under paragraph (1) for a Federal or State agency, the  
18 Secretary may not transfer additional property to that  
19 agency under this section.

20       “(e) ANNUAL REPORT ON EXCESS PROPERTY.—Be-  
21 fore making any property available for transfer under this  
22 section, the Secretary shall annually submit to Congress  
23 a description of the property to be transferred together  
24 with a certification that the transfer of the property would  
25 not violate this section or any other provision of law.

1       “(f) LIMITATIONS ON TRANSFERS.—(1) The Sec-  
2 retary may not transfer to Federal, Tribal, State, or local  
3 law enforcement agencies the following under this section:

4           “(A) Controlled firearms, ammunition, bayo-  
5 nets, grenade launchers, grenades (including stun  
6 and flash-bang) and explosives.

7           “(B) Controlled vehicles, highly mobile multi-  
8 wheeled vehicles, mine-resistant ambush-protected  
9 vehicles, trucks, truck dump, truck utility, and truck  
10 carryall.

11          “(C) Drones that are armored, weaponized, or  
12 both.

13          “(D) Controlled aircraft that—

14           “(i) are combat configured or combat  
15 coded; or

16           “(ii) have no established commercial flight  
17 application.

18          “(E) Silencers.

19          “(F) Long-range acoustic devices.

20          “(G) Items in the Federal Supply Class of  
21 banned items.

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



1       “(3) The limitations under this subsection shall also  
2 apply with respect to the transfer of previously transferred  
3 property of the Department of Defense from one Federal  
4 or State agency to another such agency.

5       “(4)(A) The Secretary may waive the applicability of  
6 paragraph (1) to a vehicle described in subparagraph (B)  
7 of such paragraph (other than a mine-resistant ambush-  
8 protected vehicle), if the Secretary determines that such  
9 a waiver is necessary for disaster or rescue purposes or  
10 for another purpose where life and public safety are at  
11 risk, as demonstrated by the proposed recipient of the ve-  
12 hicle.

13       “(B) If the Secretary issues a waiver under subpara-  
14 graph (A), the Secretary shall—

15               “(i) submit to Congress notice of the waiver,  
16 and post such notice on a public Internet website of  
17 the Department, by not later than 30 days after the  
18 date on which the waiver is issued; and

19               “(ii) require, as a condition of the waiver, that  
20 the recipient of the vehicle for which the waiver is  
21 issued provides public notice of the waiver and the  
22 transfer, including the type of vehicle and the pur-  
23 pose for which it is transferred, in the jurisdiction  
24 where the recipient is located by not later than 30  
25 days after the date on which the waiver is issued.

1       “(5) The Secretary may provide for an exemption to  
2 the limitation under subparagraph (D) of paragraph (1)  
3 in the case of parts for aircraft described in such subpara-  
4 graph that are transferred as part of regular maintenance  
5 of aircraft in an existing fleet.

6       “(6) The Secretary shall require, as a condition of  
7 any transfer of property under this section, that the Fed-  
8 eral or State agency that receives the property shall return  
9 the property to the Secretary if the agency—

10           “(A) is investigated by the Department of Jus-  
11 tice for any violation of civil liberties; or

12           “(B) is otherwise found to have engaged in  
13 widespread abuses of civil liberties.

14       “(g) CONDITIONS FOR EXTENSION OF PROGRAM.—  
15 Notwithstanding any other provision of law, amounts au-  
16 thorized to be appropriated or otherwise made available  
17 for any fiscal year may not be obligated or expended to  
18 carry out this section unless the Secretary submits to Con-  
19 gress certification that for the preceding fiscal year that—

20           “(1) each Federal or State agency that has re-  
21 ceived controlled property transferred under this sec-  
22 tion has—

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

1           “(B) been suspended from the program  
2           pursuant to paragraph (4);

3           “(2) with respect to each non-Federal agency  
4           that has received controlled property under this sec-  
5           tion, the State coordinator responsible for each such  
6           agency has verified that the coordinator or an agent  
7           of the coordinator has conducted an in-person inven-  
8           tory of the property transferred to the agency and  
9           that 100 percent of such property was accounted for  
10          during the inventory or that the agency has been  
11          suspended from the program pursuant to paragraph  
12          (4);

13          “(3) with respect to each Federal agency that  
14          has received controlled property under this section,  
15          the Secretary of Defense or an agent of the Sec-  
16          retary has conducted an in-person inventory of the  
17          property transferred to the agency and that 100 per-  
18          cent of such property was accounted for during the  
19          inventory or that the agency has been suspended  
20          from the program pursuant to paragraph (4);

21          “(4) the eligibility of any agency that has re-  
22          ceived controlled property under this section for  
23          which 100 percent of the property was not ac-  
24          counted for during an inventory described in para-  
25          graph (1) or (2), as applicable, to receive any prop-

1       erty transferred under this section has been sus-  
2       pended; and

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

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

8                       “(B) the eligibility of the agency to receive  
9                       property transferred under this section has been  
10                      suspended; and

11               “(6) the Secretary of Defense has certified, for  
12       each Federal agency that has received property  
13       under this section that—

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

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

19       “(h) PROHIBITION ON OWNERSHIP OF CONTROLLED  
20       PROPERTY.—A Federal or State agency that receives con-  
21       trolled property under this section may never take owner-  
22       ship of the property.

23       “(i) NOTICE TO CONGRESS OF PROPERTY DOWN-  
24       GRADES.—Not later than 30 days before downgrading the  
25       classification of any item of personal property from con-

1 trolled or Federal Supply Class, the Secretary shall submit  
2 to Congress notice of the proposed downgrade.

3 “(j) NOTICE TO CONGRESS OF PROPERTY CANNIBAL-  
4 IZATION.—Before the Defense Logistics Agency author-  
5 izes the recipient of property transferred under this sec-  
6 tion to cannibalize the property, the Secretary shall submit  
7 to Congress notice of such authorization, including the  
8 name of the recipient requesting the authorization, the  
9 purpose of the proposed cannibalization, and the type of  
10 property proposed to be cannibalized.

11 “(k) QUARTERLY REPORTS ON USE OF CONTROLLED  
12 EQUIPMENT.—Not later than 30 days after the last day  
13 of a fiscal quarter, the Secretary shall submit to Congress  
14 a report on any uses of controlled property transferred  
15 under this section during that fiscal quarter.

16 “(l) REPORTS TO CONGRESS.—Not later than 30  
17 days after the last day of a fiscal year, the Secretary shall  
18 submit to Congress a report on the following for the pre-  
19 ceding fiscal year:

20 “(1) The percentage of equipment lost by re-  
21 cipients of property transferred under this section,  
22 including specific information about the type of  
23 property lost, the monetary value of such property,  
24 and the recipient that lost the property.

1           “(2) The transfer of any new (condition code  
2       A) property transferred under this section, including  
3       specific information about the type of property, the  
4       recipient of the property, the monetary value of each  
5       item of the property, and the total monetary value  
6       of all such property transferred during the fiscal  
7       year.”.

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

○