

Union Calendar No. 215

103D CONGRESS
1ST SESSION

H. R. 3098

[Report No. 103-389]

A BILL

To amend title 18, United States Code, to prohibit the possession of a handgun or handgun ammunition by, or the private transfer of a handgun or handgun ammunition to, a juvenile.

NOVEMBER 20, 1993

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 21, 1993

Mr. GLICKMAN (for himself and Mr. CASTLE) introduced the following bill;
which was referred to the Committee on the Judiciary

NOVEMBER 20, 1993

Additional sponsors: Mrs. MALONEY, Mr. FRANK of Massachusetts, Mr. FOGLIETTA, Ms. BYRNE, Mr. FILNER, Mr. BACCHUS of Florida, Mr. MANN, Mr. LIPINSKI, Mr. JEFFERSON, Mr. GOSS, Mrs. SCHROEDER, Mr. STARK, Mr. DEUTSCH, Ms. MARGOLIES-MEZVINSKY, Mr. BEILENSON, Mr. GIBBONS, Mrs. MEEK, Mr. JOHNSTON of Florida, Mr. HASTINGS, Mr. DIAZ-BALART, Mr. BERMAN, Ms. VELÁZQUEZ, Ms. ENGLISH of Arizona, Mr. SHAYS, Mr. KLUG, Mr. VISCLOSKY, Mr. MANTON, Mr. HOUGHTON, Mr. MARKEY, Mr. BARRETT of Wisconsin, Mrs. JOHNSON of Connecticut, Mr. TORKILDSEN, Mr. MENENDEZ, Mr. SLATTERY, Mr. ROEMER, Mr. FARR of California, Mr. CALVERT, Ms. HARMAN, Mr. LAZIO, Mr. GUTIERREZ, Mr. COPPERSMITH, Mr. BATEMAN, Mr. LEVIN, and Ms. FURSE

NOVEMBER 20, 1993

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on September 21, 1993]

A BILL

To amend title 18, United States Code, to prohibit the possession of a handgun or handgun ammunition by, or the private transfer of a handgun or handgun ammunition to, a juvenile.

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. FINDINGS AND DECLARATIONS.**

4 *The Congress finds and declares that—*

5 (1) *crime, particularly crime involving drugs*
6 *and guns, is a pervasive, nationwide problem;*

7 (2) *problems with crime at the local level are ex-*
8 *acerbated by the interstate movement of drugs, funds,*
9 *and criminal gangs;*

10 (3) *firearms and ammunition, and handguns in*
11 *particular, move easily in interstate commerce, as*
12 *documented in numerous hearings in both the Judici-*
13 *ary Committee of the House of Representatives and*
14 *Judiciary Committee of the Senate;*

15 (4) *in fact, even before the sale of a handgun, the*
16 *gun, its component parts, ammunition, and the raw*
17 *materials from which they are made have consider-*
18 *ably moved in interstate commerce;*

19 (5) *while criminals freely move from State to*
20 *State, ordinary citizens may fear to travel to or*
21 *through certain parts of the country due to the con-*

1 cern that violent crime is not under control, and for-
2 eigners may decline to travel in the United States for
3 the same reason;

4 (6) just as the hardened drug kingpins begin
5 their life in the illicit drug culture by exposure to
6 drugs at a young age, violent criminals often start
7 their criminal careers on streets where the ready
8 availability of guns to young people results in the ac-
9 ceptability of their random use;

10 (7) violent crime and the use of illicit drugs go
11 hand-in-hand, and attempts to control one without
12 controlling the other may be fruitless;

13 (8) individual States and localities find it im-
14 possible to handle the problem by themselves; even
15 States and localities that have made a strong effort to
16 prevent, detect, and punish crime find their effort
17 unavailing due in part to the failure or inability of
18 other States and localities to take strong measures;

19 (9) inasmuch as illicit drug activity and related
20 violent crime overflow State lines and national
21 boundaries, the Congress has power, under the inter-
22 state commerce clause and other provisions of the
23 Constitution, to enact measures to combat these prob-
24 lems; and

1 (10) the Congress finds that it is necessary and
2 appropriate to assist the States in controlling crime
3 by stopping the commerce in handguns with juveniles
4 nationwide, and allowing the possession of handguns
5 by juveniles only when handguns are possessed and
6 used for legitimate purposes under appropriate condi-
7 tions.

8 **SEC. 2. PROHIBITION OF THE POSSESSION OF A HANDGUN**
9 **OR AMMUNITION BY, OR THE PRIVATE TRANS-**
10 **FER OF A HANDGUN OR AMMUNITION TO, A**
11 **JUVENILE.**

12 (a) *DEFINITION.*—Section 921(a) of title 18, United
13 States Code, is amended by adding at the end the following
14 new paragraph:

15 “(29) The term ‘handgun’ means—

16 “(A) a firearm that has a short stock and is de-
17 signed to be held and fired by the use of a single
18 hand; and

19 “(B) any combination of parts from which a
20 firearm described in subparagraph (A) can be assem-
21 bled.”.

22 (b) *OFFENSE.*—Section 922 of title 18, United States
23 Code, is amended by adding at the end the following new
24 subsection:

1 “(s)(1) It shall be unlawful for a person to sell, deliver,
2 or otherwise transfer to a juvenile, or to a person who the
3 transferor knows or has reasonable cause to believe is a juve-
4 nile—

5 “(A) a handgun; or

6 “(B) ammunition that is suitable for use only in
7 a handgun.

8 “(2) It shall be unlawful for any person who is a juve-
9 nile to knowingly possess—

10 “(A) a handgun; or

11 “(B) ammunition that is suitable for use only in
12 a handgun.

13 “(3) This subsection does not apply—

14 “(A) to a temporary transfer of a handgun or
15 ammunition to a juvenile, or to the possession or use
16 of a handgun or ammunition by a juvenile, if the
17 handgun and ammunition are possessed and used by
18 the juvenile—

19 “(i) in the course of employment, in the
20 course of ranching or farming related to activi-
21 ties at the residence of the juvenile (or on prop-
22 erty used for ranching or farming at which the
23 juvenile, with the permission of the property
24 owner or lessee, is performing activities related
25 to the operation of the farm or ranch), target

1 *practice, hunting, or a course of instruction in*
2 *the safe and lawful use of a handgun;*

3 “(ii) *with the prior written consent of the*
4 *juvenile’s parent or guardian who is not prohib-*
5 *ited by Federal, State, or local law from possess-*
6 *ing a firearm;*

7 “(iii) *with the prior written consent in the*
8 *juvenile’s possession at all times when a hand-*
9 *gun is in the possession of the juvenile; and*

10 “(iv) *in accordance with State and local*
11 *law;*

12 “(B) *during transportation by the juvenile of an*
13 *unloaded handgun in a locked container directly from*
14 *the place of transfer to a place at which an activity*
15 *described in subparagraph (A)(i) is to take place, and*
16 *transportation by the juvenile of that handgun, un-*
17 *loaded and in a locked container, directly from the*
18 *place at which such an activity took place to the*
19 *transferor;*

20 “(C) *to a juvenile who is a member of the Armed*
21 *Forces of the United States or the National Guard*
22 *who possesses or is armed with a handgun in the line*
23 *of duty;*

1 “(D) to a transfer by inheritance of title (but not
2 possession) of a handgun or ammunition to a juve-
3 nile; or

4 “(E) to the possession of a handgun or ammuni-
5 tion by a juvenile taken in defense of the juvenile or
6 other persons against an intruder into the residence
7 of the juvenile or a residence in which the juvenile is
8 an invited guest.

9 “(4) A handgun or ammunition, the possession of
10 which is transferred to a juvenile in circumstances in which
11 the transferor is not in violation of this subsection shall
12 not be subject to permanent confiscation by the Government
13 if its possession by the juvenile subsequently becomes unlaw-
14 ful because of the conduct of the juvenile, but shall be re-
15 turned to the lawful owner when such handgun or ammuni-
16 tion is no longer required by the Government for the pur-
17 poses of investigation or prosecution.

18 “(5) For purposes of this subsection, the term ‘juvenile’
19 means a person who is less than 18 years of age.

20 “(6)(A) In a prosecution of a violation of this sub-
21 section, the court shall require the presence of a juvenile
22 defendant’s parent or legal guardian at all proceedings.

23 “(B) The court may use the contempt power to enforce
24 subparagraph (A).

1 “(C) The court may excuse attendance of a parent or
2 legal guardian of a juvenile defendant at a proceeding in
3 a prosecution of a violation of this subsection for good cause
4 shown.”.

5 (c) *PENALTIES.*—Section 924(a) of title 18, United
6 States Code, is amended—

7 (1) in paragraph (1) by striking “paragraph (2)
8 or (3) of”; and

9 (2) by adding at the end the following new para-
10 graph:

11 “(5)(A)(i) A juvenile who violates section 922(s) shall
12 be fined under this title, imprisoned not more than 1 year,
13 or both, except that a juvenile described in clause (ii) shall
14 be sentenced to probation on appropriate conditions and
15 shall not be incarcerated unless the juvenile fails to comply
16 with a condition of probation.

17 “(ii) A juvenile is described in this clause if—

18 “(I) the offense of which the juvenile is charged
19 is possession of a handgun or ammunition in viola-
20 tion of section 922(s)(2); and

21 “(II) the juvenile has not been convicted in any
22 court of an offense (including an offense under section
23 922(s) or a similar State law, but not including any
24 other offense consisting of conduct that if engaged in
25 by an adult would not constitute an offense) or adju-

1 *licated as a juvenile delinquent for conduct that if*
2 *engaged in by an adult would constitute an offense.*

3 *“(B) A person other than a juvenile who knowingly*
4 *violates section 922(s)—*

5 *“(i) shall be fined under this title, imprisoned*
6 *not more than 1 year, or both; and*

7 *“(ii) if the person sold, delivered, or otherwise*
8 *transferred a handgun or ammunition to a juvenile*
9 *knowing or having reasonable cause to know that the*
10 *juvenile intended to carry or otherwise possess or dis-*
11 *charge or otherwise use the handgun or ammunition*
12 *in the commission of a crime of violence, shall be*
13 *fined under this title, imprisoned not more than 10*
14 *years, or both.”.*

15 *(d) TECHNICAL AMENDMENT OF JUVENILE DELIN-*
16 *QUENCY PROVISIONS IN TITLE 18, UNITED STATES*
17 *CODE.—*

18 *(1) SECTION 5031.—Section 5031 of title 18,*
19 *United States Code, is amended by inserting “or a*
20 *violation by such person of section 922(s)” before the*
21 *period at the end.*

22 *(2) SECTION 5032.—Section 5032 of title 18,*
23 *United States Code, is amended—*

24 *(A) in the first undesignated paragraph by*
25 *inserting “or (s)” after “922(p)”;* and

1 (B) in the fourth undesignated paragraph
2 by inserting “or section 922(s) of this title,” be-
3 fore “criminal prosecution on the basis”.

4 (e) *TECHNICAL AMENDMENT OF THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974.*—Sec-
5 tion 223(a)(12)(A) of the Juvenile Justice and Delinquency
6 Prevention Act of 1974 (42 U.S.C. 5633(a)(12)(A)) is
7 amended by striking “which do not constitute violations of
8 valid court orders” and inserting “(other than an offense
9 that constitutes a violation of a valid court order or a viola-
10 tion of section 922(s) of title 18, United States Code, or
11 a similar State law)”.

13 (f) *MODEL LAW.*—The Attorney General, acting
14 through the Director of the National Institute for Juvenile
15 Justice and Delinquency Prevention, shall—

16 (1) evaluate existing and proposed juvenile
17 handgun legislation in each State;

18 (2) develop model juvenile handgun legislation
19 that is constitutional and enforceable;

20 (3) prepare and disseminate to State authorities
21 the findings made as the result of the evaluation; and

22 (4) report to Congress by December 31, 1994,
23 findings and recommendations concerning the need or
24 appropriateness of further action by the Federal Gov-
25 ernment.