

103^D CONGRESS
2^D SESSION

H. R. 5284

To provide compensation for victims from persons who unlawfully provide firearms to juveniles, felons, and other disqualified individuals.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 7, 1994

Mr. TORRICELLI introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To provide compensation for victims from persons who unlawfully provide firearms to juveniles, felons, and other disqualified individuals.

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 “Gun Victim Compensa-
5 tion Act”.

1 **SEC. 2. VICTIM COMPENSATION FROM PERSONS WHO UN-**
2 **LAWFULLY PROVIDE FIREARMS TO JUVE-**
3 **NILES, FELONS, AND OTHER DISQUALIFIED**
4 **INDIVIDUALS.**

5 (a) VICTIM COMPENSATION.—Section 924 of title 18,
6 United States Code, is amended by adding at the end the
7 following new subsection:

8 “(o) VICTIM COMPENSATION.—

9 “(1) IN GENERAL.—Any person who sells, deliv-
10 ers, or otherwise transfers—

11 “(A) a firearm in violation of section
12 922(d) or section 922(b)(1); or

13 “(B) a handgun to a person who the trans-
14 feror knows or has reasonable cause to believe
15 is a juvenile, except as provided in paragraph
16 (6) of this subsection,

17 shall be liable for damages caused by a discharge of
18 the transferred firearm by the transferee.

19 “(2) CIVIL ACTION.—An action to recover dam-
20 ages under paragraph (1) may be brought in a Unit-
21 ed States district court by, or on behalf of, any per-
22 son, or the estate of any person, who suffers dam-
23 ages resulting from bodily injury to or the death of
24 any person caused by a discharge of the transferred
25 firearm by the transferee.

1 “(3) DISENTITLEMENT TO RECOVERY.—There
2 shall be no liability under this subsection if it is es-
3 tablished by a preponderance of the evidence that—

4 “(A) the damages were suffered by a per-
5 son who was engaged in a criminal act against
6 the person or property of another at the time
7 of the injury; or

8 “(B) the injury was self-inflicted, unless
9 the plaintiff establishes that, at the time of the
10 transfer, the transferor knew or had reasonable
11 cause to believe that the transferee had not at-
12 tained the age of 18 years or had been adju-
13 dicated as a mental defective or committed to
14 a mental institution.

15 “(4) PERIOD OF LIABILITY.—No action under
16 this subsection may be brought for damages that are
17 caused more than 5 years after the date of the
18 transfer of a firearm upon which an action could
19 otherwise be based.

20 “(5) ATTORNEY’S FEES AND PUNITIVE DAM-
21 AGES.—A prevailing plaintiff in an action under this
22 subsection—

23 “(A) shall be awarded reasonable attor-
24 ney’s fees and costs, and

25 “(B) may be awarded punitive damages.

1 “(6) JUVENILES.—Paragraph (1)(B) does not
2 apply to—

3 “(A) a temporary transfer of a handgun to
4 a juvenile if the handgun is used by the juve-
5 nile—

6 “(i) in the course of employment, in
7 the course of ranching or farming related
8 to activities at the residence of the juvenile
9 (or on property used for ranching or farm-
10 ing at which the juvenile, with the permis-
11 sion of the property owner or lessee, is per-
12 forming activities related to the operation
13 of the farm or ranch), target practice,
14 hunting, or a course of instruction in the
15 safe and lawful use of a handgun;

16 “(ii) with the prior written consent of
17 the juvenile’s parent or guardian who is
18 not prohibited by Federal, State, or local
19 law from possessing a firearm, except—

20 “(I) during transportation by the
21 juvenile of an unloaded handgun in a
22 locked container directly from the
23 place of transfer to a place at which
24 an activity described in clause (i) is to
25 take place and transportation by the

1 juvenile of that handgun, unloaded
2 and in a locked container, directly
3 from the place at which such an activ-
4 ity took place to the transferor; or

5 “(II) with respect to ranching or
6 farming activities as described in
7 clause (i), with the prior written ap-
8 proval of the juvenile’s parent or legal
9 guardian and at the direction of an
10 adult who is not prohibited by Fed-
11 eral, State, or local law from possess-
12 ing a firearm;

13 “(iii) if the juvenile keeps the prior
14 written consent in the juvenile’s possession
15 at all times when a handgun is in the pos-
16 session of the juvenile; and

17 “(iv) in accordance with State and
18 local law;

19 “(B) issuance of a handgun to a juvenile
20 who is a member of the Armed Forces of the
21 United States or the National Guard who pos-
22 sesses or is armed with the handgun in the line
23 of duty;

24 “(C) a transfer by inheritance of title (but
25 not possession) of a handgun to a juvenile;

1 “(D) a delivery of a handgun by a juvenile
2 to be used in defense of the juvenile or other
3 persons against an intruder into the residence
4 of the juvenile or a residence in which the juve-
5 nile is an invited guest; or

6 “(E) a transfer of a handgun for consider-
7 ation if the transfer is made in accordance with
8 State and local law and with the prior consent
9 of the juvenile’s parent or legal guardian who is
10 not prohibited by Federal, State, or local law
11 from possessing a firearm.

12 “(7) RULE OF CONSTRUCTION.—Nothing in
13 this subsection shall be construed to limit or have
14 any other effect on any other cause of action avail-
15 able to any person.”.

16 (b) DEFINITION.—Section 921(a) of title 18, United
17 States Code, is amended by adding at the end the follow-
18 ing new paragraph:

19 “(33) The term ‘juvenile’ means a person who is less
20 than 18 years of age.”.

21 (c) APPLICATION OF AMENDMENT.—The amendment
22 made by subsection (a) of this section shall apply to dam-
23 ages resulting from a firearm that was transferred as de-

- 1 scribed in section 924(o)(1) of title 18, United States
- 2 Code, on or after the date of enactment of this Act.

