

103^D CONGRESS
1ST SESSION

H. R. 737

To provide for the manufacturer or importer of a handgun or an assault weapon to be held strictly liable for damages that result from the use of the handgun or assault weapon, and to amend the Internal Revenue Code of 1986 to increase the excise tax on firearms and use a portion of the revenues from such tax to assist hospitals in urban areas to provide medical care to gunshot victims who are not covered under any health plan.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 2, 1993

Mr. REYNOLDS (for himself and Mr. TUCKER) introduced the following bill; which was referred jointly to the Committees on the Judiciary and Ways and Means

A BILL

To provide for the manufacturer or importer of a handgun or an assault weapon to be held strictly liable for damages that result from the use of the handgun or assault weapon, and to amend the Internal Revenue Code of 1986 to increase the excise tax on firearms and use a portion of the revenues from such tax to assist hospitals in urban areas to provide medical care to gunshot victims who are not covered under any health plan.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Strict Liability for
3 Safer Streets Act of 1993”.

4 **TITLE I—STRICT LIABILITY OF**
5 **MANUFACTURERS AND IM-**
6 **PORTERS OF HANDGUNS AND**
7 **ASSAULT WEAPONS**

8 **SEC. 101. CAUSE OF ACTION; FEDERAL JURISDICTION.**

9 (a) IN GENERAL.—Any person suffering bodily in-
10 jury, death, or property damage, as a result of the dis-
11 charge of a handgun or an assault weapon may bring an
12 action in any United States district court against any per-
13 missible defendant for damages and such other relief as
14 the court deems appropriate.

15 (b) PERMISSIBLE DEFENDANTS.—The following per-
16 sons are permissible defendants in an action brought
17 under subsection (a) with respect to a handgun or an as-
18 sault weapon:

19 (1) Any manufacturer of the handgun or as-
20 sault weapon.

21 (2) Any importer of the handgun or assault
22 weapon.

23 **SEC. 102. STRICT LIABILITY.**

24 (a) IN GENERAL.—Each defendant in an action
25 brought under section 101(a) shall be held strictly liable
26 in tort, without regard to fault or proof of defect, for all

1 direct and consequential damages that arise from bodily
2 injury, death, and property damage, proximately resulting
3 from the discharge of the handgun or assault weapon with
4 respect to which the defendant is a permissible defendant,
5 except as provided in subsection (b) of this section.

6 (b) DEFENSES.—

7 (1) INJURY WHILE COMMITTING A FELONY.—

8 There shall be no liability under subsection (a) if it
9 is established by a preponderance of the evidence
10 that the plaintiff suffered the bodily injury, death, or
11 property damage, while committing a crime punish-
12 able by death, or by imprisonment for life or for any
13 term of years.

14 (2) SELF-INFLICTED INJURY.—There shall be
15 no liability under subsection (a) if it is established
16 by a preponderance of the evidence that the plain-
17 tiff's bodily injury or death was self-inflicted, or that
18 the property damage was caused by the plaintiff.

19 (3) INJURY BY LAW ENFORCEMENT OFFICER.—

20 There shall be no liability under subsection (a) if it
21 is established by a preponderance of the evidence
22 that the injury was suffered as a result of the dis-
23 charge, by a law enforcement officer in the perform-
24 ance of official duties, of a handgun or assault weap-
25 on issued by the United States or any department

1 or agency thereof, or any State or any department,
2 agency, or political subdivision thereof.

3 (4) INJURY BY MEMBER OF THE UNITED
4 STATES ARMED FORCES.—There shall be no liability
5 under subsection (a) if it is established by a prepon-
6 derance of the evidence that the injury was suffered
7 as a result of the discharge, by a member of the
8 Armed Forces of the United States in the perform-
9 ance of military duties, of a handgun or assault
10 weapon issued by the United States or any depart-
11 ment or agency thereof.

12 (5) INJURY BY SECURITY GUARD.—There shall
13 be no liability under subsection (a) if it is estab-
14 lished by a preponderance of the evidence that the
15 injury was suffered as a result of the discharge, by
16 an individual within the scope of employment as a
17 security guard, of a handgun or assault weapon is-
18 sued by the employer of the individual.

19 (c) AUTHORITY TO AWARD A REASONABLE ATTOR-
20 NEY'S FEE.—In an action brought under section 101(a),
21 the court may, in its discretion, allow the prevailing party
22 a reasonable attorney's fee as part of the costs.

1 **SEC. 103. STATUTE OF LIMITATIONS.**

2 An action may not be brought under section 101(a)
3 after the 2-year period that begins with the date the injury
4 described therein is discovered.

5 **SEC. 104. APPLICABILITY.**

6 This title shall apply only to handguns and assault
7 weapons manufactured in or imported into the United
8 States after the effective date of this Act.

9 **SEC. 105. NO EFFECT ON OTHER CAUSES OF ACTION.**

10 This title shall not be construed to limit the scope
11 of any other cause of action available to a person who suf-
12 fers bodily injury, death, or property damage, as a result
13 of the discharge of a handgun or an assault weapon.

14 **SEC. 106. DEFINITIONS.**

15 As used in this title:

16 (1) **HANDGUN.**—The term “handgun” means a
17 firearm which, at the time of manufacture, had a
18 barrel of less than 12 inches in length.

19 (2) **ASSAULT WEAPON.**—The term “assault
20 weapon” means—

21 (A) a firearm—

22 (i) which—

23 (I) has a barrel of 12 or more
24 inches in length; and

1 (II) is capable of receiving am-
2 munition directly from a large capac-
3 ity ammunition magazine;

4 (ii) which is a semiautomatic firearm
5 which is—

6 (I) not generally recognized as
7 particularly suitable for, or readily
8 adaptable to, sporting purposes; or

9 (II) concealable on a person; or

10 (B) a firearm which is substantially func-
11 tionally equivalent to a firearm described by
12 clause (i) or (ii) of subparagraph (A).

13 (3) LARGE CAPACITY AMMUNITION MAGA-
14 ZINE.—The term “large capacity ammunition maga-
15 zine” means a detachable magazine, belt, drum, feed
16 strip, or similar device which has, or which can be
17 readily restored or converted to have, a capacity of
18 15 or more rounds of ammunition.

19 (4) SEMIAUTOMATIC FIREARM.—The term
20 “semiautomatic firearm” means any repeating fire-
21 arm which utilizes a portion of the energy of a firing
22 cartridge to extract the fired cartridge case and
23 chamber the next round, and which requires a sepa-
24 rate pull of the trigger to fire each cartridge.

1 (5) LAW ENFORCEMENT OFFICER.—The term
2 “law enforcement officer” means any officer, agent,
3 or employee of the United States, or of a State or
4 political subdivision thereof, who is authorized by
5 law to engage in or supervise the prevention, detec-
6 tion, investigation, or prosecution of any violation of
7 law.

8 (6) OTHER TERMS.—The terms “firearm”,
9 “importer”, and “manufacturer” shall have the
10 meanings given such terms, respectively, in para-
11 graphs (3), (9), and (10) of section 921(a) of title
12 18, United States Code.

13 **SEC. 107. EFFECTIVE DATE.**

14 This title shall apply to conduct occurring after the
15 date of the enactment of this Act.

16 **TITLE II—REPORT TO VICTIMS**
17 **ON FEDERAL CRIMES COM-**
18 **MITTED WITH FIREARMS**

19 **SEC. 201. REPORT TO VICTIMS ON FEDERAL CRIMES COM-**
20 **MITTED WITH FIREARMS.**

21 Within 30 days after a conviction is obtained in any
22 Federal court of a crime during or in relation to which
23 an individual was injured or killed by a firearm (as defined
24 in section 921(a)(3) of title 18, United States Code), the

1 United States attorney prosecuting the case shall report,
2 on whether title I of this Act applies to the firearm, to—

3 (1) the individual; or

4 (2) if the individual is dead—

5 (A) the closest relative of the individual; or

6 (B) if there is no such relative, the estate
7 of the individual.

8 **TITLE III—REVENUE** 9 **PROVISIONS**

10 **SEC. 301. INCREASE IN TAX ON FIREARMS.**

11 (a) IN GENERAL.—Section 4181 of the Internal Rev-
12 enue Code of 1986 (relating to imposition of tax on fire-
13 arms) is amended to read as follows:

14 **“SEC. 4181. IMPOSITION OF TAX.**

15 “There is hereby imposed a tax on the sale by the
16 manufacturer, producer, or importer of any firearm, shell,
17 or cartridge a tax equal to—

18 “(1) in the case of firearms, 20 percent of the
19 price for which so sold, and

20 “(2) in the case of shells and cartridges, 11
21 percent of the price for which so sold.”

22 (b) EFFECTIVE DATE.—The amendment made by
23 subsection (a) shall take effect on the 1st day of the 1st
24 calendar month beginning more than 30 days after the
25 date of the enactment of this Act.

1 (c) FLOOR STOCKS TAX.—

2 (1) IMPOSITION OF TAX.—In the case of any
3 firearm on which tax was imposed under section
4 4181 of the Internal Revenue Code of 1986 before
5 the tax-increase date and which is held on such date
6 for sale by any dealer, there is hereby imposed a
7 floor stocks tax on such firearm.

8 (2) AMOUNT OF TAX.—The amount of tax im-
9 posed by paragraph (1) with respect to any firearm
10 shall be equal to the amount of tax imposed under
11 section 4181 of such Code with respect to such fire-
12 arm before the tax-increase date.

13 (3) LIABILITY FOR TAX AND METHOD OF PAY-
14 MENT.—

15 (A) LIABILITY FOR TAX.—Any dealer hold-
16 ing any firearm on the tax-increase date to
17 which any tax imposed by paragraph (1) applies
18 shall be liable for such tax.

19 (B) METHOD OF PAYMENT.—The tax im-
20 posed by paragraph (1) shall be paid in such
21 manner as the Secretary of the Treasury or his
22 delegate shall prescribe by regulations.

23 (C) TIME FOR PAYMENT.—The tax im-
24 posed by paragraph (1) shall be paid before the

1 close of the 6-month period beginning on the
2 tax-increase date.

3 (4) DEFINITIONS.—For purposes of this sub-
4 section—

5 (A) TAX-INCREASE DATE.—The term “tax-
6 increase date” means the 1st day of the 1st cal-
7 endar month beginning more than 30 days after
8 the date of the enactment of this Act.

9 (B) FIREARM.—The term “firearm” has
10 the same meaning as when used in section 4181
11 of such Code.

12 (5) OTHER LAWS APPLICABLE.—All provisions
13 of law, including penalties, applicable with respect to
14 the taxes imposed by section 4181 of such Code
15 shall, insofar as applicable and not inconsistent with
16 the provisions of this subsection, apply to the floor
17 stocks taxes imposed by paragraph (1), to the same
18 extent as if such taxes were imposed by such section
19 4181.

20 **SEC. 302. HOSPITAL GUNSHOT COST RELIEF TRUST FUND.**

21 (a) IN GENERAL.—Subchapter A of chapter 98 of the
22 Internal Revenue Code of 1986 (relating to trust fund
23 code) is amended by adding at the end thereof the follow-
24 ing new section:

1 **“SEC. 9512. HOSPITAL GUNSHOT COST RELIEF TRUST**
2 **FUND.**

3 “(a) CREATION OF TRUST FUND.—There is estab-
4 lished in the Treasury of the United States a trust fund
5 to be known as the ‘Hospital Gunshot Cost Relief Trust
6 Fund’, consisting of such amounts as may be appropriated
7 or credited to such Trust Fund as provided in this section
8 or section 9602(b).

9 “(b) TRANSFERS TO TRUST FUND.—

10 “(1) IN GENERAL.—There are hereby appro-
11 priated to the Hospital Gunshot Cost Relief Trust
12 Fund amounts equivalent to 50 percent of the net
13 revenues received in the Treasury from the firearms
14 tax.

15 “(2) NET REVENUES.—For purposes of para-
16 graph (1), the term ‘net revenues’ means the
17 amount estimated by the Secretary based on the ex-
18 cess of—

19 “(A) the firearms taxes received in the
20 Treasury, over

21 “(B) the decrease in the tax imposed by
22 chapter 1 resulting from the firearms taxes.

23 “(3) FIREARMS TAX.—For purposes of this sec-
24 tion, the term ‘firearms tax’ means the tax imposed
25 by section 4181 with respect to firearms (within the
26 meaning of such section).

1 “(c) EXPENDITURES FROM TRUST FUND.—Amounts
2 in the Hospital Gunshot Cost Relief Trust Fund shall be
3 available, as provided in appropriation Acts, only for pur-
4 poses of making expenditures to assist hospitals located
5 in urban areas in defraying the costs incurred in providing
6 medical care to gunshot victims who are not covered under
7 any health plan.”

8 (b) CLERICAL AMENDMENT.—The table of sections
9 for such subchapter A is amended by adding at the end
10 thereof the following new item:

“Sec. 9512. Hospital Gunshot Cost Relief Trust Fund.”

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